

## Good Evening:

**We would like to provide the supporters of the Charter Challenge with an update on the case.**

As you know, the Divisional Court Charter Challenge appeal (heard this past November in London) was to the constitutionality of certain provisions of the *Environmental Protection Act* which was amended by the *Green Energy and Economy Act*. **In Goderich, in March of 2013, Justice Grace of the Superior Court ruled that Charter and constitutional challenges of the province's wind turbine approval process should be heard at the Environmental Review Tribunal (ERT) level.** In his Decision he also stated the following: "I am acutely aware that some may conclude that this ruling forecloses judicial involvement in the dispute. With respect, it does not do so. The statutory process is in its early stages. A right to appeal to Divisional Court on a question of law is expressly given".

**As directed, the ERT process was followed. The ERT took the position that it lacked the jurisdiction to rule** on whether or not the Ministry of the Environment Director's decision to issue a Renewable Energy Approval (REA) met the constitutional requirements of section 7 of the Charter.

**The next logical step was to go back to Justice Grace's decision and appeal to Divisional Court. The appeal was dismissed.** The panel of judges at Divisional Court (November of 2014) found that the ERT did not err in the way in which it dealt with the families' claims even though Justice Grace of the Superior court was assured by government lawyers in Goderich that the ERT had the right and jurisdiction to hear constitutional and Charter issues. The Appellants were seeking to change the test of how a renewable energy project is approved from "must prove serious harm to human health" to "a project should not be approved where there is a reasonable prospect of serious harm to human health". This issue was not specifically addressed by the Divisional Court in its decision.

The families have now filed a Notice of Motion for Leave to Appeal to the Ontario Court of Appeal. Falconers LLP is preparing a factum in respect of the Motion for Leave to Appeal and will submit it to the Ontario Court of Appeal by March 10, 2015. The Ontario Court of Appeal will review the factum and decide whether or not to hear the appeal. We should know by mid-June what the decision is. If it's a yes, the appeal can move forward.

### **The economics and science of industrial wind turbines is evolving.**

The Charter Challenge is, of course, part of a much broader ongoing discussion across the province on the industrial wind turbine front. Other concerns related to industrial wind turbine developments include:

- the overall economics of the provincial wind energy development regime.
- increased hydro rates for municipal, business and residential customers.
- the impacts on animal health.
- property values (lower property values leading to lower property assessments, a lower tax base and higher mill rates).
- impacts on tourism, source water protection, animal health, wildlife habitats and migratory routes.
- the drain on local extractive resources.
- the loss of longstanding municipal rights and authority and the loss of local democracy.
- the loss of prime agricultural land for food production.
- the loss of future development potential within wind developments.
- the loss of trust among family members, friends and neighbours in our communities.

The following link may be of interest to you as well:

<http://www.owensoundsuntimes.com/2015/01/20/anti-wind-farm-group-seeks-leave-to-appeal-in-charter-fight>

Thank you very much for your support. **If you know anyone who would like to be added to our email contact list, names can be added by sending an email request to [ninerubies@hurontel.on.ca](mailto:ninerubies@hurontel.on.ca).**

Best Regards,

Dave Hemingway, President  
Anita Frayne, Secretary/Treasurer  
Kevin McKee & Deb Morris (HALT)  
Gerry Ryan, Rob Tetu & Tom Melady (HEAT)  
All On Behalf of SWEAR (Safe Wind Energy for All Residents)

P.S. There is an opportunity to view a special pre-screening of the documentary, *Big Wind*. This documentary was produced in association with TVO and touches on the concerns shared by many residents of Ontario with respect to the industrial wind turbine development phenomena in our province. All parties in this discussion – wind developers, municipalities, leaseholders, proponents, opponents and provincial authorities – were included. *Big Wind* will be aired on TVO in late March.

## **1<sup>st</sup> Pre-Screening of Big Wind Documentary**

**When: Feb. 27, 2015, Doors open 6:45 show 7:15**

**Where: St. Helens Hall - 85656 St. Helen's Line at Belfast Rd.**

**EVERYONE ENCOURAGED TO COME & VIEW DOCUMENTARY  
DONATIONS AT THE DOOR**

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## **2<sup>nd</sup> Pre-Screening of Big Wind Documentary**

**When: March 6, 2015, Doors open 6:45 show 7:15**

**(SNOW DATE March 20<sup>th</sup>)**

**Where: Colborne School, 37020 School Rd – 3 km north of  
Benmiller**

**EVERYONE WELCOME -- RSVP: 519-529-7711 or [ninerubies@hurontel.on.ca](mailto:ninerubies@hurontel.on.ca)  
DONATIONS AT THE DOOR**

For information on a possible pre-screening in your area, please make inquiries to your local group. For information on organizing a pre-screening of Big Wind, contact Dave Hemingway at 519-482-7005 or [davehemingway@gmail.com](mailto:davehemingway@gmail.com).

