

Amended Exhibit B-6-1



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March 3, 2011

Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, Suite 2700
Toronto ON M4P 1E4

Dear Madame:

Re: EB-2011-0027 – Summerhaven Wind, LP Leave to Construct Application – Amended Evidence, Exhibit B-6-1

As you are aware, on January 26, 2011 Summerhaven Wind, LP (the “Applicant”) filed an application (the “Application”) for leave to construct a transmission line (the “Proposed Facility”) in Haldimand County. In carrying out development work for the Proposed Facility, it has recently come to the Applicant’s attention that two landowners (the “Additional Landowners”), which were not identified in the original Application, may be affected by the Proposed Facility. In particular, it may be necessary to place a guy wire and pole, as well as obtain an overhang easement on parcels of land (the “Land Parcels”) belonging to the Additional Landowners, respectively. The Additional Landowners have been advised of the Application and have been provided details of the Proposed Facility.

The Applicant has entered into an Option Agreement (as such term is defined in Exhibit B-6-1) with one of the Additional Landowners with respect to the development of the Summerhaven Wind Energy Centre. The Applicant is in discussions with the second Additional Landowner to enter into an easement agreement if necessary. Depending on the pole placement (all within the Transmission Corridor), it may be possible to avoid obtaining the overhang easement altogether.

In furtherance of the foregoing, please find enclosed amended evidence for Exhibit B-6-1, which amended exhibit now includes the particulars of the Land Parcels in the table at paragraph 41. Apart from this amendment, Exhibit B-6-1 remains the same.

Please do not hesitate to contact me should you have any questions or concerns.

Yours very truly,

Signed in the original

McCarthy Tétrault LLP

Per: Kristyn Annis

Encl.

c: Ben Greenhouse, Summerhaven Wind LP
Scott Goorland, Florida Power & Light Company

Doc# 10146727

AMENDED LAND MATTERS

Description of Land, Land Rights

23. The land (the "**Corridor**", further described below) and the land rights that are proposed to be acquired for the construction of the Facility consist of permanent easements and, in the case of temporary construction access, temporary easements or rights of way.
24. With the exception of the easternmost kilometre and one small portion on Concession 4 and Concession 5 (collectively, the "**County Lands**"), which are both located on County right-of-ways, all of the land within the Corridor is freehold, privately held land. For the reasons outlined in paragraph 38 and 39 below, the Applicant is exploring whether it is possible and more economically efficient to place the Transmission Line entirely on private lands, thereby circumventing the County Lands. Circumventing the County Lands would not involve acquiring any additional property rights or changing the proposed route of the Transmission Line, but rather would involve moving one to two poles 20 metres to one side, all within the proposed Corridor.
25. The Applicant has already acquired rights to substantively all of the land needed for the Transmission Line via a standard form license and option agreement (each an "**Option Agreement**") with various landowners. The Option Agreements were entered into for the purpose of developing SWEC and, in addition to the right to develop SWEC, contain permissive language regarding rights to develop ancillary infrastructure, including the Facility. The form of Option Agreement is attached at Schedule 2.
26. In addition to the Option Agreement, Applicant has determined that a form of transmission easement (the "**Transmission Easement**"), a copy of which is attached as Schedule 3, will be entered into along the Corridor, with landowners (the "**Corridor Landowners**") that will be directly affected by the Facility. The Corridor will have a typical width of 25 meters. Typical easement cross sections, not bordering County road right-of-ways, will have the Transmission Line at the center of the easement, with 12.5 meters of Corridor on either side of the pole centerline. If poles are placed within the road right-of-way, an additional aerial overhang easement may be acquired from the adjacent private landowners under certain circumstances.
27. Some of the Corridor Landowners have been approached by the Applicant regarding the Transmission Easement and all have indicated interest in the Facility. Two of the Corridor Landowners have not yet entered into an Option Agreement with the Applicant. Each has been approached by the Applicant and has indicated an interest in executing an Option Agreement and a Transmission Easement.
28. Most construction activities (including road, river crossings, etc) will take place within the Corridor. Some activities, such as conductor pulls, will require additional rigging outside of the Corridor. Temporary pull sites (typically 30 m x 30 m) will be established at major inflection points along the Transmission Line route to set up tensioning and wire reel equipment during the conductor pull process.

29. The Applicant will also enter into an option to purchase (“**Option to Purchase**”) with one of the Corridor Landowners for the land required for the point of interconnection and the Switchyard. An easement (the “**Substation Easement**”) will also be entered into with one of the Corridor Landowners for the land required for the Substation. The form of Option to Purchase and form of Substation Easement are attached hereto as Schedule 4 and Schedule 5 respectively.
30. Care will be taken during detailed design to place poles in the most accessible, upland areas available. Construction crews will utilize existing roads and bridges wherever possible to avoid excessive land disturbance.
31. The table below lists publicly available information that identifies the parcels of land that, as a whole, are required for the proposed Facility. The table includes possible crossings known to the Applicant derived from PIN searches. The Applicant is in the process of surveying the Corridor to discern whether any additional crossings will be necessary.

PIN	Location	Possible Crossings
382000079	PT LT 9-10 CON 4 WALPOLE PT 1 & 2 18R578 & PT 1 18R732; S/T HC274190; HALDIMAND COUNTY	Possible Crossing with Imperial Gas Lease Registered on title
382000078	PT LT 10 CON 4 WALPOLE AS IN HC168106, PT 1 18R2296 & PT 1 18R1650; HALDIMAND COUNTY	No other easements on title
382000086	PT LT 11 CON 5 WALPOLE AS IN HC150330 EXCEPT HC86879; HALDIMAND COUNTY	No other easements on title
382000088	PT LT 12 CON 5 WALPOLE AS IN HC274910; HALDIMAND COUNTY	Possible Crossing with Glenfield Gas Lease Registered on Title
381970055	S 1/2 LT 13 CON 5 WALPOLE EXCEPT PT 5, HC78086; HALDIMAND COUNTY	No other easements on title
381970058	SW 1/4 LT 14 CON 5 WALPOLE EXCEPT PT 1, 18R1720; S/T INTEREST IN HC137908; HALDIMAND COUNTY	No other easements on title
381970060	SE 1/4 LT 14 CON 5 WALPOLE; HALDIMAND COUNTY	No other easements on title
381970064	S 1/2 LT 15 CON 5 WALPOLE S/T INTEREST IN HC208204; HALDIMAND COUNTY	No other easements on title
381970063	LT 16 CON 5 WALPOLE; SW 1/4 LT 17 CON 5 WALPOLE; PT LT 15 CON 5 WALPOLE AS IN HC116672; HALDIMAND COUNTY	No other easements on title
381970065	PT LT 17-18 CON 5 WALPOLE AS IN HC126370 & HC131932; HALDIMAND COUNTY	No other easements on title

381960051	PT LT 19-20 CON 5 WALPOLE PT 1 18R6107, PT 1 18R5813; HALDIMAND COUNTY	No other easements on title
38197-0061	NW ¼ LT 15 CON 5 WALPOLE; HALDIMAND COUNTY	No other easements on title
382000100	<u>LT 8-10 CON 5 WALPOLE E OF EXPROP PL HC69756 & EXCEPT HC255555 & HC86881 & EXCEPT PT 1 18R6580; HALDIMAND COUNTY</u>	<u>Possible Crossing with Glenfred Gas Lease Registered on Title</u>
382000076	<u>N1/2 LT 11 CON 4 WALPOLE; HALDIMAND COUNTY</u>	<u>No other easements on title</u>

32. Where requested, the Applicant is also willing to execute a damage release form with the Landowners. The form of damage release is attached at Schedule 6.

Corridor land acquisition process

33. The Corridor falls within the boundaries of the Site. The land acquisition process for the Corridor was therefore integral to the land acquisition process for the Site generally. With respect to the Site land acquisition process, land agents representing the SWEC have been working in the County since 2007, and have optioned over 23,000 acres of land for the development of the SWEC pursuant to the form of Option Agreement.
34. When optioning the land for the Site, the Applicant targeted contiguous parcels of land in areas that were projected to have a combination of good wind potential, and available area for construction after taking various setbacks and restrictions into consideration. Owners of these parcels were identified from title, and were subsequently approached by an agent of the Applicant. As part of the land acquisition process, the Applicant agreed to compensate the landowners up to \$1,000 towards the cost of an independent legal review of the Option Agreement.
35. With respect to notification, as part of the permitting process for Summerhaven Project (i.e. the SWEC and the Facility) prescribed by the REA Regulation, landowners in the area were first notified of the proposed Summerhaven Project Facility (i.e. the SWEC and the Facility) in late 2009 by a mass mailing and notices in local papers, and invited to attend the initial public meeting. Corridor Landowners were contacted directly by the Applicant's land agents. The general public were again notified in October 2010 of a final public meeting and the location of documents detailing the Summerhaven Project, including the proposed Facility that is the subject of this application. Final public meetings were held on December 7, 2010 and January 10, 2011 and included maps and descriptions of the proposed Facility, copies of which meeting documents are attached hereto at Schedule 7.
36. As discussed in paragraph 25 of this Application, section 5.1(b) of the Option Agreement gives the Applicant the right to construct ancillary infrastructure on the signatory

landowner's land, including any required transmission facilities. As noted in paragraph 25, the Applicant has approached the Corridor Landowners, all of whom (with the exception of two) have entered into Option Agreements and many of whom have already agreed to host wind turbines, to enter into the form of Transmission Easement. At the time of this application, none of the Corridor Landowners had executed the Transmission Easement; however there is no indication that the Corridor Landowners are unwilling to do so.

37. With respect to the Corridor, the Applicant has received some questions from Corridor Landowners regarding the feasibility of agricultural activities once the Transmission Easement is in place. The Applicant has no objection to Corridor Landowners continuing current agricultural activities within the Corridor, provided that the Applicant continues to have access to the Facility if required throughout the term of the Transmission Easement. Corridor Landowners also raised questions concerning the width of the Corridor (approximately 25 meters), and the rate of compensation provided to Corridor Landowners under the Transmission Easement. The Applicant has, to its knowledge, answered these questions satisfactorily.
38. The Applicant has consulted with the County and Haldimand County Hydro (the "LDC", which is wholly owned by the County) regarding the placement of a portion of the Transmission Line along the County Lands. Parts of the County Lands are greenfield, with no infrastructure currently in place. In a letter to the Applicant dated December 8, 2010, the LDC indicated that it is, generally speaking, opposed to the installation of transmission lines within and along road right-of-ways within the County (other than approximately perpendicular crossing of roadways) and invited the Applicant to meet to discuss the issue. The Applicant and the LDC are continuing discussions.
39. Although the Applicant has a statutory right¹ to construct transmission facilities along municipal right-of-ways, the Applicant believes that a well-designed facility can address any valid concerns raised by the County or the LDC. However, in an attempt to respect the concerns of the LDC and County, the Applicant is examining whether it is feasible to build the Transmission Line in such a way that it will not require use of the Municipal Lands.
40. The Applicant continues to engage with Corridor Landowners, other landowners, the County and the LDC to finalize the land use rights.

¹ Pursuant to section 41 of the *Electricity Act*, 1998, S.O. 1998, Chapter 15, Sched. A the Applicant has the right to construct the transmission lines over, under or on any public street or highway. The consent of the owner (or any other person having interest) of the public street or highway is not required in order to erect the transmission line.