

Blue Highlands Citizens Coalition

~ Wind is a Renewable Resource...our Niagara Escarpment Landscape Isn't ~

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February 26, 2006

SENT VIA E-MAIL

Ken Petersen, Manager
Provincial Planning & Environmental Services Branch
777 Bay Street, 14th Floor
Toronto, Ontario
M4G 2E5

Dear Sirs/Mesdames:

Re: EBR Registry Number: AF05E0001

The Blue Highlands Citizens Coalition (the “BHCC”) wishes to submit the following comments regarding the proposed Bill 51 – Planning and Conservation Land Statute Law Amendment Act, 2005.

By way of background, the BHCC is a group of residents of The Municipality of Grey Highlands and The Town of the Blue Mountains who have for nearly three years been actively involved with the proposal by Brascan Power Wind to construct a large-scale wind power generation facility on and in immediate proximity to lands which are subject to the planning and development controls of the *Niagara Escarpment Plan*. The BHCC’s objectives are to (i) support responsible wind power development, (ii) ensure appropriate protection for the Niagara Escarpment (including the related scenic resource), and (iii) ensure that the issue of wind power development within our community is dealt with by way of a responsible and informed decision-making process.

Clause 23 of Bill 51 would permit the provincial Cabinet, by regulation, to exempt from the *Planning Act* approval process undertakings that relate to energy and which have been approved or exempted under the *Environmental Assessment Act*. That situation is anathema to us. Our principal concerns are as follows:

1. Clause 23 of Bill 51 inappropriately prioritizes energy undertakings over other legitimate local and provincial issues. Land use planning in Ontario is supposed to be characterized by a “comprehensive, integrated and long-term” planning approach “that supports and integrates the principles of strong communities, a clean and healthy environment and economic growth, for the long term” (see the Provincial Policy Statement, Part I). It is not appropriate to implement a planning framework which places a priority on approval for energy undertakings without providing for adequate consideration of not just relevant environmental issues but also other legitimate and credible issues of provincial and local concern.

2. It constitutes an undue impairment of local community rights. Local communities and their residents need to be given the opportunity for meaningful participation in the local planning process. An elimination of the *Planning Act* approval process for energy undertakings impairs a local resident’s democratic right to participate in the local community planning process.

3. The required regulatory framework is already in place. The Provincial Policy Statement has recently been amended by the Government so as to introduce a “shall be consistent with” standard, rather than a “have regard to” standard. The Provincial Policy Statement already includes provisions confirming the Government’s policies which support the availability of adequate energy supply for the Province. The “shall be consistent with” standard is intended to ensure due regard for relevant Provincial interests. It is not necessary (or appropriate) for the Government to also rely on the draconian approach proposed by clause 23 of Bill 51.

4. Local residents place a high value on participating in the local planning process. Ontario’s residents care deeply about their local communities and about planning and development issues which impact on the liveability, character and sustainability of the communities in which they live. An elimination of the right to participate in the democratic process is not consistent with the value which local residents attach to their communities. We have attached as Exhibit A a petition confirming the desire of local residents to participate in the local planning process, free of a provincial override.

5. The environmental assessment process is flawed. The Honourable Leona Dombrowsky, the former Minister of the Environment, has recognized the need for reform to the environmental assessment process by constituting the Minister's Environmental Assessment Advisory Panel. The Executive Group of that Advisory Panel has issued recommendations to the Minister as to the need for that reform. Our comments to the Advisory Panel's Executive Group regarding those recommendations are attached as Exhibit B. We note that the Advisory Panel has recognized the existence of much more effective local resident involvement in the environmental assessment process, the proponent-driven nature of which is recognized to impair the opportunity for meaningful public participation. Given (i) the recognized flaws in the current environmental assessment process, and (ii) the very limited, if any, opportunity for meaningful public participation in that process, it would be entirely inappropriate for the Government to place the high reliance on the integrity and effectiveness of the environmental assessment process which is represented by clause 23 of Bill 51.

6. Clause 23 of Bill 51 unfairly restricts public participation. We have attached at Exhibit C our comments to the Ministry of Energy regarding the Renewables II RFP, together with the response we received from the Ministry of Energy. As you will see, we were told, in response to our assertions as to the importance of due regard for local planning and development issues in the award of renewable energy contracts, that the Renewables II RFP "does not relieve Selected Proponents from environmental and local planning approval requirements". On that basis, local planning and development issues were not considered by the Government at the times at which energy supply contracts were awarded pursuant to the Renewables I RFP and the Renewables II RFP. At that time, however, the Government justified that approach on the basis that various approvals processes, including municipal approval processes, would follow. Through clause 23 of Bill 51, the Government now proposes to simply eliminate the municipal approval process. This is not conducive to the appropriate exercise by local residents of their democratic rights and, in particular, their right to a meaningful role in the local planning and development process.

For the reasons outlined above, as supported by the attached Exhibits, we are strongly opposed to the undemocratic and draconian measures contemplated by clause 23 of Bill 51. We ask that that clause be eliminated from the proposed legislation.

Yours very truly,

THE BLUE HIGHLANDS CITIZENS COALITION

EXHIBIT A

PETITION

See attached.

EXHIBIT B

BHCC LETTER

RE: COMMENTS RE: ENVIRONMENTAL ASSESSMENT REFORM REPORT

See attached.

Exhibit C

BHCC Submission to MOE dated August 1, 2003

See attached.