

OAIA Annual Conference 2013

***Science & the Natural
Environment
Under the Renewable Energy
Approvals Process***

EKG

**ERIC K. GILLESPIE PROFESSIONAL CORPORATION
BARRISTERS & SOLICITORS**

The REA Approval Process

Pre- Submission

Construction Plan Report

Consultation Reports

- Communities (public meetings); Aboriginal Communities; Local Roads & Services

Decommissioning Plan Report

Design & Operations Report

If required

- Archeological Assessment; Protected Properties; Heritage Assessment

Natural Heritage Assessment

Water Assessment

Wind Turbine Specifications Report

Application Complete

Completed reports are accepted by the MOE

Posted on Environmental Registry

6 month “Service Guarantee”

REA Approval

Notice is posted to the Environmental Registry

The REA Appeal Process

Strict, short time lines

Appeal - 15 days after notice of decision

From the date of commencement of appeal, you must, within:

- **3 weeks - First Disclosure**
- **4 weeks - Preliminary Hearing**
- **5.5 weeks – Second Disclosure**
- **6.5 weeks - Replies**
- **8 weeks – Hearing starts**

The tribunal must release a decision within **6 months** after receipt of the Appeal Notice.

The Appeal Test

EPA s.142.1(3)

- ***SERIOUS HARM TO HUMAN HEALTH***
- ***SERIOUS & IRREVERSIBLE HARM TO PLANT LIFE,
ANIMAL LIFE OR THE NATURAL ENVIRONMENT***

REA Appeals on Environmental Grounds

- ***Monture v. Director, MOE***, [2012] O.E.R.T.D. No. 12 (QL)
- ***Haldimand Wind Concerns v. Director, MOE***, [2013] O.E.R.T.D. No.12 (QL)
- ***Prince Edward County Field Naturalists v. Director, MOE***, [2013] O.E.R.T.D. No. 40 (QL) (“PECFN”)

PECFN:

***Evidence presented to the ERT submitted
that IWTs had the potential to cause***

SERIOUS & IRREVERSIBLE

HARM TO:



Alvar Ecosystem



Whip-poor-will



Saw-Whet Owl



Purple Martin

Birds



Bats





Monarch Butterfly





Blanding's Turtle



Road Structures





PECFN Decision

“The Tribunal finds that mortality due to roads, brought by increased vehicle traffic, poachers and predators, directly in the habitat of Blanding’s turtle, a species that is globally endangered and threatened in Ontario, is serious and irreversible harm to Blanding’s turtle at Ostrander Point Crown Land Block that will not be effectively mitigated by the conditions in the REA.” (para 363 of ERT decision)

January 20 - 23, 2014
Osgoode Hall – Ontario Divisional Court
PECFN Appeal



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