

Ministry of Agriculture, Food  
and Rural Affairs

Ministère de l'Agriculture,  
de l'Alimentation et des  
Affaires rurales



667 Exeter Road  
London, Ontario N6E 1L3  
Tel: (519) 873-4070  
Fax: (519) 873-4062

667 rue Exeter ouest  
London (Ontario) N6E 1L3  
Tél.: (519) 873-4070  
Télééc.: (519) 873-4062

**ENVIRONMENTAL POLICY AND PROGRAMS BRANCH  
AGRICULTURAL LAND USE UNIT**

August 29, 2005

Mr. Robert Rowland  
Kruger, Energy Group  
3285 chemin Bedford  
Montreal, QC  
H3S 1G5

Dear Mr. Rowland:

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Re: Proposed Wind Project  
Notice of Commencement of an Environmental Screening  
Applicant - Kruger Energy Port Alma Limited Partnership ("KEPA LP")  
Municipality of Chatham-Kent

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Staff of this Ministry have completed a review of the above-noted project in terms of the goals and objectives of this Ministry and the criteria contained in the Provincial Policy Statement, 2005 (PPS), specifically Sections 1.8 and 2.3 - Agricultural Policies. The following technical comments are provided as part of the environmental screening process set out in the "Guide to Environmental Assessment Requirements for Electricity Projects." The environmental screening process includes all phases and components of the project, including construction, operation and retirement of the project. The intent of the process is to identify and mitigate negative environmental effects to the greatest extent possible. Negative environmental effects include the negative effects that a project has, or could potential have, directly or indirectly on the environment. Negative environmental effects include the displacement, impairment, conflict or interference with existing land uses.

It is understood the proposed project would permit the construction of a wind farm in the Municipality of Chatham-Kent on the north shore of Lake Erie in the wards of South and West Kent (former townships of Romney, Tilbury East and Raleigh). The project would be designed to generate 100MW of power and would consist of 40 to 66 wind turbines.

The proposed project could result in the displacement, impairment, conflict or interference with existing agricultural operations. In accordance with the environmental screening process requirements and Section 1.8 of PPS, the Ministry recommends the following be given consideration:



#### Construction of the Project:

- i) Disruption to agricultural operations and agricultural infrastructure, as a result of this project, should be minimized to the greatest extent possible. Agricultural operations should be avoided and negative environmental effects such as noise and vibrations should be mitigated. Disruption of agricultural infrastructure such as field tiles, drainage ditches, culverts, field entrances and fences should also be avoided. If unavoidable, disruption of agricultural infrastructure should be minimized to the greatest extent possible and appropriately repaired;
- ii) The amount of agricultural land to be used should be minimized to the greatest extent possible. Structures for the Kruger Energy Port Alma Limited Partnership (KEPA LP") Wind Project should be sited as to minimize the disruption to agricultural operations. The Ministry suggests structures be located adjacent to lot lines and in proximity to existing entranceways;
- iii) Any work on prime agricultural lands that is in addition to the land needed for this project, needs to be conducted according to appropriate construction standards so that the land is returned to productive agricultural uses.

#### Operation of the Project:

- iv) Noise needs to be appropriately mitigated with respect to agricultural operations. Mitigation measures may include, but are not limited to: increasing the separation distance between the wind towers and agricultural operations; constructing noise barriers and; low speed rotating machines.

#### Retirement of Project:

- v) In the event the Kruger Energy Port Alma Limited Partnership ("KEPA LA") Wind Project ceases to exist, the retirement plan should include restoration of prime agricultural and rural lands to the same grade and average soil quality as the surrounding area. This includes the removal of all structures including towers, above ground footings, concrete pads, anchors, guy wires, fences, fixtures, materials, improvements and personal property. The Ministry recommends that if foundations are proposed to remain in the ground, they should be covered with approximately 1 metre of soil of the same average quality as the surrounding area;
- vi) Existing roads are to be utilized to the greatest extent possible and any additional internal access roads/drives that are constructed need to be removed and the roadbeds rehabilitated to an agricultural use. Any soil compaction that has occurred will need to be mitigated and depending on the type and amount of traffic, this may involve replacement of the topsoil and subsoiling of the roadbeds to a depth of approximately 50 cm. Groundcover crops as trefoil, alfalfa and clover should be planted on the roadbeds to assist in the rehabilitation of the soils.

The following publications contain information that may be helpful in minimizing the impacts on agriculture. The publications are available by calling 1-888-466-2372:

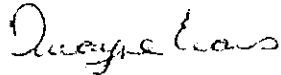
- i) Artificial Drainage Systems Maps
- ii) Canada Land Inventory - Agricultural Capability Rating Maps
- iii) Soils Report: Soil Survey Maps

iv) Agricultural Land Use Systems Maps

Please be advised that the above-noted comments do not represent an overall provincial position on this matter and that there may be comments or concerns of other ministries or agencies that should be considered.

If you have any questions or concerns about these comments, please feel free to contact me at (519) 873-4085.

Sincerely,

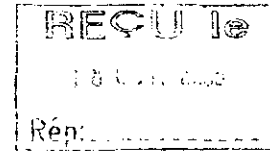


Dwayne Evans, MCIP, RPP  
Rural Planner

cc: David Cooper, Manager, Agricultural Land Use, OMAFRA, Guelph  
Donna Sharp Mundie, Land Use Policy Specialist, OMAFRA, Guelph



Environment Canada / Environnement Canada  
 Environmental Policy & Assessment Division  
 Great Lakes & Corporate Affairs Office  
 Environment Canada, Ontario Region  
 P.O. Box 5050, 867 Lakeshore Rd.  
 Burlington, Ontario L7R 4A6



Our File No.: 2005-068 R

September 29, 2005

Jean Roy  
 Technical Director  
 Kruger, Energy Group  
 3285 chemin Bedford  
 Montreal, Quebec H3S 1G5

Dear Mr. Roy,

**Re: Preliminary Comments on Kruger Energy Wind Farm near Port Alma, Ontario**

Thank you for your letter dated August 16, 2005 advising Environment Canada (EC) of Kruger Incorporated's proposed wind farm near Port Alma along the Lake Erie shoreline. We understand that the proposed project will generate 100 MW, and, depending on the final configuration of the wind turbines, will consist of between 40 to 66 turbines that will be placed over the study area. The proposed project is subject to *Ontario Regulation 116/01* under the *Environmental Assessment Act*, and we understand that you are also aiming to meet the requirements for a screening level study under the *Canadian Environmental Assessment Act* (CEAA). EC has an interest in the project and is pleased to offer the following preliminary comments and advice for consideration in the provincial Environmental Screening Process, as well as in the federal environmental assessment (EA) should CEAA be triggered.

Based on the information in your letter, we have determined that Environment Canada (EC) does not have any obligations that would trigger a federal environmental assessment of this project under the *Canadian Environmental Assessment Act* (CEAA). We recommend, however, that you consult with the Canadian Environmental Assessment Agency as to whether any other federal departments have, or are likely to, trigger an EA of the project under CEAA. The Agency's Ontario Region Office can be contacted at:

55 St-Clair Avenue East, Room 907, Toronto, ON M4T 1M2  
 Tel.: (416) 952-1576, Fax: (416) 952-1573  
 E-mail: [ceaa.ontario@ceaa-acee.gc.ca](mailto:ceaa.ontario@ceaa-acee.gc.ca)

**Environment Canada's Interests**

Regardless of the application of CEAA, we have an interest in the project and wish to participate in the environmental assessment, including review of the baseline monitoring plan and environmental screening report when available.

Environment Canada supports the development of green energy sources such as wind farms and we recognize the environmental benefits they will help to achieve, over certain other forms of energy production, toward meeting federal commitments on air quality and climate change. Nonetheless, it is important that any energy or electricity production project be carried out in a manner that does not result in significant adverse environmental effects; thus, there is the need for proper consideration of such effects through the EA process. In this light, we offer the following comments as guidance in considering potential adverse environmental effects on migratory birds, species at risk, water quality and biodiversity in the EA. As further information is made available for our review, we may provide additional comments and advice on these

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aspects, as well as on any other environmental considerations that become evident later in the EA process.

Please note that EC has a regulatory interest in migratory birds, species at risk and water quality as administrator of the *Migratory Birds Convention Act, 1994*, *Species at Risk Act*, *Canadian Environmental Protection Act, 1999* and subsection 36(3) of the *Fisheries Act*, respectively. The advice in this letter does not relieve proponents from their responsibility for meeting the requirements of these and any other legislation that is applicable to the project. Information and comments should not be construed as a fettering of the federal government's ability to make decisions and/or enforce any applicable regulations.

Please refer to the attached Appendix, which provides further details of legislation and policies that should be consulted in context of our comments and recommendations.

### **Species at Risk**

The EA should consider adverse effects on species of local, regional, provincial or federal concern, including wildlife species listed under the federal *Species at Risk Act* (SARA).

The nature of species at risk may make them particularly sensitive to development projects including wind power projects. Existing background information should be collected to determine whether any species of concern are known or expected to use the site or adjacent lands if they are within the zone of influence of the project. It might be useful to consult the Natural Heritage Information Centre database maintained by the Ontario Ministry of Natural Resources in Peterborough (<http://nhic.mnr.gov.on.ca/MNR/nhic/data.cfm>). EC's species at risk search tool (<http://www.speciesatrisk.gc.ca>) will also assist in determining whether the ranges of any COSEWIC listed species at risk overlap with the site. Should any occurrences or ranges of species at risk overlap with the study area, information on the habitat requirements of the species should be consulted and compared to habitat descriptions for the study area.

We caution that distribution data contained in these databases do not represent an exhaustive and comprehensive inventory of a species' current distribution. Only field inventories can determine with reasonable certainty the presence of species at risk within an area when precise knowledge of the presence / absence of species at risk is required for environmental assessment or for legal purposes (e.g. compliance with the *Species at Risk Act*). Please note also that currently a few species on SARA Schedule 1 (and all species on Schedules 2 and 3, and any assessed species since SARA was proclaimed) do not have a distribution map on the Species at Risk Web Mapping Application at this time, and thus these species are not included in a search of this database. Species without maps are still included in the species table but are indicated with a special icon.

If there is potential for species at risk to occur at a project site (i.e. previous known occurrence, species range overlap and/or known habitat preference exists), information on the habitat preference of the species should be compared with information on the habitats at the project site to determine if the area could support that species. A qualified biologist should conduct a thorough biological inventory of all areas of natural habitat that may be affected by the project and have the potential to support species at risk. A strategy should then be developed to protect any identified species at risk, with a primary focus on avoidance. EC would be interested in reviewing and commenting on the methods used to conduct the biological inventory as well as any measures that are devised to protect and identify species at risk.

In addition to the resources mentioned above that can be consulted regarding the possible locations of SAR, the Canadian Wildlife Service (CWS) has also produced a guide that can be used as a general reference for dealing with SAR in EA. The "Environmental Assessment Best Practice Guide for Wildlife at Risk in Canada" (February 2004) has recently been developed and is available via the Internet on the

CWS website at <http://www.cws.sct.ec.gc.ca/publications/AbstractTemplate.cfm?lang=e&id=1059>. The aforementioned guide is primarily targeted to project proponents and those individuals who are preparing EAs. It outlines the general responsibilities of proponents and EA practitioners for considering wildlife at risk in an EA and promotes more thorough, efficient and consistent gathering and assessment of information regarding wildlife at risk.

### **Migratory Birds**

An important aspect of our review will be the project's potential impacts on migratory birds. We recommend the EA consider impacts on migratory birds and other bird species of concern (i.e., those bird species under provincial jurisdiction), including their habitats, and describe measures to mitigate any adverse environmental effects. Adverse environmental effects could occur through direct mortality or disturbance during construction (including site access, site preparation and equipment staging) or operation/maintenance of the facility, or through habitat loss or impairment. The EA should also consider the potential for such effects from associated project components, such as access roads and transmission lines, if applicable.

### Wind Turbines and Birds EA Guide

The Canadian Wildlife Service developed the guide entitled: *Wind Turbines and Birds: A Guidance Document for Environmental Assessment – Interim Draft*, July 2005 (hereafter referred to as the Guide), and supporting document, *Wind Turbines and Birds: A Background Review for Environmental Assessment*, Draft, May 12, 2005, based on work undertaken by Bird Studies Canada under contract to EC. We have provided electronic copies of those guidance documents with this letter for your use and reference.

The Guide can be used as a pre-assessment tool to identify site and design features that should be considered when selecting turbine locations in order to minimize potential impacts or risk to birds. For example, the Guide and its supporting document can be used to alert developers to important siting considerations, lighting options and basic turbine characteristics that pose the least risk to birds. Early planning to avoid features that potentially lead to high risk can reduce the subsequent level of effort required in the EA. The Guide follows a matrix approach, based on site sensitivity and facility size, to rank the level of concern associated with the proposed project and then identifies baseline information and operational monitoring requirements according to four "level of concern" categories. The Guide and background document are also intended, in conjunction with EC's expert advice, to provide assistance in conducting the EA, including the assessment of cumulative effects, and to identify any follow-up requirements.

We strongly encourage use of the Guide when designing studies to determine a project's potential impacts on migratory birds and for selecting appropriate facility siting, design and operation. **Please note that this draft environmental assessment guide and supporting document are intended for use on an interim basis pending their finalization.** In addition, these documents should not be regarded as exhaustive or restrictive. They should serve as the starting point for discussions with EC on each project and should be used in consultation with EC's regional Canadian Wildlife Service biologists and EA experts when considering site-specific concerns.

### Other Information Sources and Special Considerations

We recommend that the EA specifically consider impacts on breeding birds, using the most up to date data from the Ontario Breeding Bird Atlas (<http://www.birdsontario.org/atlas/atlasmain.html>). The EA should also take into consideration the proximity of the proposed development to any Important Bird Areas (<http://www.ibacanada.com>). We also recommend that The Friends of Rondeau (519-674-1777) be

consulted as another important source of bird information for the project site.

The study area lies within the Carolinian zone, a life zone that has been severely impacted within southern Ontario due to clearing of forests for agricultural and urban uses. Most remnant woodlots in this area of any large size are likely to be very important for their breeding interior forest bird communities, as well as potentially including certain species at risk such as Acadian Flycatcher, Hooded Warbler, Cerulean Warbler and Yellow-breasted Chat. Impacts on these important features should be considered within the EA.

In particular, the project study area lies between two important areas for migratory birds along the Lake Erie shoreline, Rondeau Provincial Park to the east and Point Pelee National Park to the west. The EA should consider how bird movements in relation to these areas may interact with the proposed turbines. The agricultural fields along the north shore of Lake Erie in this area are also known as migration stopover sites for large flocks of migrating shorebirds in the spring, in particular for Black-bellied Plover and American Golden Plover, which also need to be considered in the EA.

The Lake Erie shoreline is one of the most important raptor migration corridors in Ontario during the fall. Fall raptor migration extends continuously all along the Lake Erie shoreline and perhaps up to 1 km inland depending on the winds on any given day. This phenomenon does not just occur at the well known hawk watching stations such as Hawk Cliff, Port Burwell and Holiday Beach; however data from these stations could be used to characterize migration at the proposed turbine sites. On some days the hawks pass by quite high up but there are other days when they are very low (barely above tree top level), especially early in the morning, on cloudy days and on days with strong winds. The EA should provide clear evidence that fall migrating raptors will not be significantly impacted by the turbines, including an analysis of how raptors use the fields where the turbines will be located.

The provincially endangered Bald Eagle is known to nest in this study area, as well as at Rondeau Provincial Park to the east. A search of the MNR's NHIC database (as referred to under the Species at Risk section above) should be conducted to identify and confirm the location of any nests. If necessary, MNR should also be consulted regarding any necessary measures to avoid impacting the nest site.

#### **Consultation with Environment Canada**

Environment Canada administers the *Migratory Birds Convention Act*, 1994 and enforces its regulations. As you are aware, it is therefore important that proponents of projects that have potential to interact with migratory birds, such as wind farms, consult EC as early as possible to determine the necessary level of effort for minimizing adverse impacts. Early consultation may also assist in avoiding project delays due to missed seasonal surveys, and may avoid unnecessary costs where lesser effort or alternative procedures are warranted. If after reviewing the above mentioned guidance documents and information sources it is determined that baseline studies are required, we encourage proponents to consult EC regarding the required level of baseline studies and their design prior to conducting any fieldwork. We would like the opportunity to review any draft monitoring protocol intended to collect information on the use of the study area by migrating, breeding or wintering birds. We caution that planning for baseline studies should take place well in advance of the appropriate season and draft monitoring protocols should be submitted to EC and other review agencies with enough lead time to allow for proper review and modification as necessary. By consulting early and often with EC, as is recommended in the Guide, proponents can help to prevent future delays in project approvals and avoid unnecessary fieldwork.

## Biodiversity

The *Canadian Biodiversity Strategy* was developed by the government of Canada in response to the United Nations Convention on Biological Diversity, which was signed on to by Canada and more than 160 other countries in 1992. According to the *Strategy*, federal, provincial and territorial governments are to implement a number of goals, including the conservation of biodiversity. We suggest that the screening should:

- give full consideration to potential impacts of the wind facility on woodlots, wetlands and other sensitive habitats due to alteration, loss or fragmentation;
- include potential adverse effects on biodiversity, such as the potential for the establishment of exotic invasive plant species and possible effects on genetic and species diversity; and
- describe any ecological restoration efforts, with particular attention to important habitat areas.

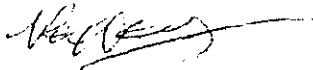
In addition to migratory birds, the EA should consider potential impacts on other wildlife that are particularly sensitive to wind turbine operations, such as raptors and bats. Most raptors and bats in Ontario are protected under the Province's *Fish and Wildlife Conservation Act*, so the proponent should ensure that the staff at the Ministry of Natural Resources (MNR) are consulted on these important species. The MNR also has information on local heritage features, habitat, species at risk and other data that may be of use in preparing the EA.

## Water Quality

The EA should include a consideration of any potential impacts on water quality resulting from the project. Construction, operation or maintenance works over or near watercourses, wetlands or other water bodies (such as watercourse crossings and site grubbing) may impact water quality if there is the potential for the release of deleterious substances (including sediment) into receiving waters. A sediment and erosion control plan should be developed to mitigate potential effects on water quality, and appropriate measures should be adopted to minimize any impacts of accidental spills during construction, operation and maintenance.

I trust that these comments and recommendations will assist you in preparing your environmental assessments of the proposed Kruger Energy Wind Farm Project. I will be EC's main contact for this project and will be coordinating our department's involvement in this review. As indicated above, we would be interested in commenting on any proposed bird monitoring studies, as well as the draft EA reports when available. Any future correspondence or information on this project can be sent to me at the address listed above. If you wish to discuss any matters related to this response, please contact me at (905) 336-4954 or by email at [Rob.Read@ec.gc.ca](mailto:Rob.Read@ec.gc.ca)

Sincerely,



Rob Read  
Environmental Assessment Officer

c.c. R. Dobos, EC  
J. Fischer, EC

## APPENDIX

### Regulatory and Policy Context for Environment Canada's Comments and Advice

Environment Canada's mandate to protect the environment and to actively promote sustainable development extends beyond the Department's legislated responsibilities for undertakings that trigger the *Canadian Environmental Assessment Act* (CEAA). Our review and comments are related, but not limited, to our areas of interest and expertise arising from the following legislation and agreements within the Department's mandate.

#### *Department of Environment Act*

The *Department of Environment Act* provides Environment Canada (EC) with general responsibility for environmental management and protection. Its obligations extend to and include all matters over which Parliament has jurisdiction, and have not by law been assigned to any other department, board, or agency of the Government of Canada as related to: preservation and enhancement of the quality of the natural environment (e.g. water, air, soil), renewable resources including migratory birds and other non-domestic flora and fauna, water, meteorology, and coordination of policy and programs respecting preservation and enhancement of the quality of the natural environment.

The *Department of Environment Act* states that EC has a mandated responsibility to advise heads of federal departments, boards and agencies on matters pertaining to the preservation and enhancement of the quality of the natural environment. This responsibility is reinforced as per subsection 12(3) of CEAA, which states that federal departments must provide specialist and expert information or knowledge to other federal departments or review panels.

#### *Migratory Birds Convention Act*

The incidental take of migratory birds and the disturbance, destruction or taking of the nest of a migratory bird are prohibited under section 6 of the *Migratory Bird Regulations* (MBRs), under the authority of the *Migratory Birds Convention Act, 1994* (MBCA). "Incidental take" is the killing or harming of migratory birds due to actions, such as economic development, which are not primarily focused on taking migratory birds. No permit can be issued for the incidental take of migratory birds or their nests as a result of economic activities.

Under section 5.1 of the MBCA\*, no person shall deposit or permit to be deposited oil, oil wastes or any other substance harmful to migratory birds in any waters or any area frequented by migratory birds.

- \* The amendments in Bill C-15 came into force on June 28, 2005. The pollution prohibition that was formerly contained in s 35(1) of the MBRs was repealed. It is now included as s.5.1 of the amended MBCA, 1994.

#### *Species at Risk Act*

The *Species at Risk Act* (SARA) has resulted in a consequential amendment to CEAA that amends the definition of "environmental effect" to clarify that all federal EAs must always consider adverse effects on listed wildlife species, and the critical habitat or residences of individuals of that species. In addition, section 79(2) of SARA requires that when a federal EA is carried out on a project that may affect a listed species or its critical habitat, adverse environmental effects must be identified, mitigation measures must be taken to avoid or lessen adverse effects, and environmental effects monitoring must be conducted.

One of the purposes of SARA is to manage species of special concern to prevent them from becoming endangered or threatened. In this context, we also recommend that all federal EAs consider potential

impacts on any species listed by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC)

SARA was proclaimed on June 5, 2003 and is intended to provide protection for individuals of wildlife species at risk listed under Schedule 1 of the Act, their residences (dwelling places, such as a den or nest or other similar area that is occupied or habitually occupied by one or more individual during part or all of its life cycle) and critical habitat (that part of areas used or formerly used by the species to carry out their life processes that is deemed essential for survival or recovery). Critical habitat will be identified for each listed species in Recovery Strategies or Action Plans. The prohibitions under SARA came into force on June 1, 2004 and apply to listed endangered and threatened species for all federally protected aquatic species and migratory birds as well as to all endangered and threatened species on federal lands.

Pursuant to Section 79(1) of SARA, if any listed wildlife species, its critical habitat or the residences of individuals of that species may be adversely impacted by the project, the Responsible Authorities for the CFAA assessment must notify the competent Minister responsible for the listed species in writing. Fisheries and Ocean Canada is responsible for aquatic species at risk and can provide advice regarding potential impacts on these species covered under the *Fisheries Act*. Notifications in relation to listed terrestrial species are to be sent to EC, and for this project may be sent to my attention.

#### ***Fisheries Act***

Environment Canada's mandate to advocate for the protection of water quality stems from the pollution prevention provisions of the *Fisheries Act*, which are administered by EC. Please be advised that the Compliance and Enforcement Policy for the Habitat Protection and Pollution Prevention Provisions of the *Fisheries Act* states that compliance with the federal *Fisheries Act* is mandatory. Subsection 36(3) of the *Fisheries Act* specifies that, unless authorized by federal regulation, no person shall deposit or permit the deposit of deleterious substances of any type in water frequented by fish, or in any place under any conditions where the deleterious substance, or any other deleterious substance that results from the deposit of the deleterious substance, may enter any such water. Proponents should note that only a federal regulation under the *Fisheries Act* or another Act of Parliament can authorize a discharge of a deleterious substance; no federal permit, provincial, territorial or municipal regulatory permit or approval allows for exemption from the *Fisheries Act*.

In the application of the *Fisheries Act*, court cases have accepted that a discharge or effluent that is acutely lethal to fish is deleterious. In other words, results of tests designed to determine whether fish will die in an effluent or discharge within a specified time period will determine one aspect of deleteriousness. However, any substance with a potentially harmful chemical, physical or biological effect on fish or fish habitat is also deleterious. For example, substances (such as sediment) that smother nesting areas or spawning grounds, or interfere with reproduction, feeding or respiration of fish at any point in their life cycle are also considered deleterious. In general, any substance with a potentially harmful chemical, physical or biological effect on fish or fish habitat may be considered deleterious.

The act of depositing a deleterious substance should be considered a violation of the *Fisheries Act*, regardless of whether the water itself is made deleterious by the deposit. Subsection 36(3) of the *Fisheries Act* makes no allowance for a mixing or dilution zone. Any measurements or tests to determine whether something is deleterious should be done where the substance is at its highest concentration, typically at the point of discharge to the receiving water.

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Environment

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Toronto, ON M6E 1B5

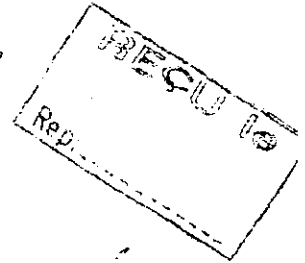
Ministère  
de  
l'Environnement

2, Avenue St. Clair Ouest  
Toronto, ON M6E 1B5



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BR  
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December 2, 2005

Jacques,  
Je prends pour acquis  
que tuiras le permis.  
Bon plaisir

Jean  
8 déc. 05

Mr. Jean Majeau  
Kruger Energy Port Alma Ltd.  
3285 Bedford Road  
Montreal QC H3C 1G5

Dear Mr. Majeau:

I understand your proposed electricity project has been awarded a contract through the Ministry of Energy's Request for Proposal process for renewable energy. The Ministry of the Environment (MOE) is supportive of the government's goal to replace Ontario's coal-fired plants with clean, renewable energy.

The Environmental Assessment and Approvals Branch (EAAB) is responsible for reviewing applications for approval for facilities as well as administering the environmental assessment program. The legislative framework for the assessment and certificates of approval processes at the EAAB includes the *Environmental Assessment Act* (EAA), the *Environmental Protection Act* (EPA), the *Ontario Water Resources Act* (OWRA) and the *Environmental Bill of Rights*, as well as numerous regulations and guidelines. In addition, our Regional Offices issue Permits to Take Water under the OWRA.

Your proposed project is subject to the Ontario EAA, as set out in Ontario Regulation 116/01, and is required to complete an Environmental Screening Process described in the "Guide to Environmental Assessment Requirements for Electricity Projects, March 2001". Other MOE approvals may also be required.

The ministry one-window contact during the environmental assessment process for the proposed project is the Environmental Assessment and Planning Coordinator in the MOE Region where the project is proposed to be located. A list of MOE Regions and contact information is enclosed.



Based on past experience and some recent events, I would like to bring the following to your attention:

- Electricity projects may also have requirements under the federal *Canadian Environmental Assessment Act* (CEAA). If you have not already done so, I strongly recommend that you consult with staff at the Canadian Environmental Assessment Agency to confirm whether federal environmental assessment (EA) requirements are triggered through this proposed project. It is also recommended that if CEAA is triggered for this proposed project that any provincial EA process is coordinated with the federal EA process and that any environmental assessment reports produced meet both legislative requirements.

For further information, I suggest that you contact:

Ms. Louise Knox  
Regional Director  
Canadian Environmental Assessment Agency  
55 St. Clair Ave. East  
Suite 907  
Toronto, ON M4T 1M2

Tel: (416) 952-1575

- The Ministry of Government Services has brought to our attention the potential for wind turbines to interfere with the government of Ontario's Public Safety Network (used for emergency services communication). In order to protect the integrity of this important radio network, I advise you to contact:

Mr. Lou Battiston  
Manager, Technology Liaison  
Government Mobile Communications Office  
iServ Ontario – IT Service Delivery  
155 University Avenue, 14<sup>th</sup> floor  
Toronto, ON M5H 3B7

Tel: (416) 327-0368

Fax: (416) 327-0353

Email: [lou.battiston@mbs.gov.on.ca](mailto:lou.battiston@mbs.gov.on.ca)

I would like to extend an invitation to meet with me and ministry staff that you will likely be communicating with throughout the planning of this proposed project. The purpose of the meeting will be for us to learn more about the proposed project, to describe MOE's approval requirements, processes and roles, and to provide you with details that will assist in proceeding through the provincial environmental assessment and approvals/permits processes associated with this proposed project. Please contact my assistant Cherie Reece at (416) 314-7040 to arrange a future meeting.

I look forward to meeting with you soon.

Yours sincerely,



James O'Mara  
Director  
Environmental Assessment & Approvals Branch

Enclosure

cc: Jane Ireland, Manager, Program Services Section, EAAB  
Marie LeGrow, Senior Program Support Coordinator, Program Services, EAAB  
MOE Regional EA Coordinator  
Victor Low, Supervisor (A), Certificate of Approval (Air and Noise Unit)  
Mohamed Dhalla, Supervisor, Certificate of Approval (Water and Wastewater Unit)  
Paul Heeney, Supervisor, Program Review Unit, EAAB  
Lou Battiston, Manager, Government Mobile Communications Office

**MINISTRY OF THE ENVIRONMENT  
CONTACTS FOR ELECTRICITY PROPONENTS**

**ENVIRONMENTAL ASSESSMENT AND PLANNING COORDINATORS**

NORTHERN REGION	
<p>Paula Allen c/o Sudbury District Office Ministry of the Environment 199 Larch St. Suite 1201 Sudbury ON P3E 5P9</p> <p>Tel: 705-564-3273 Fax: 705-564-4180</p>	<p>Jason Innis c/o Sudbury District Office Ministry of the Environment 199 Larch St. Suite 1201 Sudbury ON P3E 5P9</p> <p>Tel: 705-564-7164 Fax: 705-564-4180</p>
EASTERN REGION	WEST CENTRAL REGION
<p>Vicki Mitchell Kingston Regional Office Ministry of the Environment 133 Dalton Avenue, P.O. Box 820 Kingston ON K7L 4X6</p> <p>Tel: 613-549-4000 x 2614 Fax: 613-548-6908</p>	<p>Cora Sheppard Hamilton Regional Office Ministry of the Environment 119 King Street West, 12<sup>th</sup> Floor Hamilton ON L8P 4Y7</p> <p>Tel: 905-521-7837 Fax: 905-521-7820</p>
SOUTHWESTERN REGION	CENTRAL REGION
<p>→ Craig Newton London Regional Office Ministry of the Environment 733 Exeter Road London ON N6E 1L3</p> <p>Tel: 519-873-5014 Fax: 519-873-5020</p>	<p>Ernie Hartt Air, Pesticides and Environmental Planning Supervisor Central Regional Office Ministry of the Environment 5775 Yonge Street, 8<sup>th</sup> Floor North York ON M2M 4J1</p> <p>Tel: 416-326-4835 Fax: 416-325-6347</p>

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**From:** Clements, Bob (MGS) [mailto:Bob.Clements@mgs.gov.on.ca]  
**Sent:** Tuesday, February 28, 2006 4:05 PM  
**To:** Cookson, Michael  
**Subject:** RE: Port Alma study area

Michael:

BMR is Bell Mobility Radio who is the government's contractor for the mobile radio system across the province for OPP, ambulance, MTO, etc.

The confirmed to me a few minutes ago that there are no microwave hops in our system that are near enough to the Port Alma study area to cause any concerns, so I don't think any further work is necessary (for us anyway).

Thanks for your help on this.

Bob Clements  
Government Mobile Communications Office





Environmental Protection Operations Division -Ontario  
Environmental Assessment and Sustainable Communities Section  
Environment Canada  
P.O. Box 5050, 867 Lakeshore Rd.  
Burlington, Ontario L7R 4A6

File No.: 2005-068-B

April 4, 2006

Peter G. Prier  
Principal, Environmental Management  
Stantec Consulting  
361 Southgate Drive  
Guelph, ON N1G 3M5

Dear Mr. Prier:

**Re: EC Recommendations for Baseline Avian Studies at the KEPA Site**

Thank you for meeting with us on March 29, 2006 to discuss the Kruger Energy Port Alma (KEPA) wind farm project and your plans for collecting baseline avian and bat information at the site. We were encouraged with the amount of thought that your firm and the proponent have put into the assessment and avoidance of potential impacts associated with the project.

As you are aware from our original letter (dated September 29, 2005), EC has a regulatory interest in migratory birds, species at risk and water quality as administrator of the *Migratory Birds Convention Act, 1994*, *Species at Risk Act*, *Canadian Environmental Protection Act, 1999* and subsection 36(3) of the *Fisheries Act*, respectively. Please refer to the attached Appendix, which provides further details of legislation and policies that should be consulted in context of our comments and recommendations. The advice in this letter does not relieve proponents from their responsibility for meeting the requirements of these and any other legislation that is applicable to the project. Information and comments should not be construed as a fettering of the federal government's ability to make decisions and/or enforce any applicable regulations.

As you are aware, most raptors and bats in Ontario are protected under the Province's *Fish and Wildlife Conservation Act*. As a result, the proponent should ensure that the staff at the Ontario Ministry of Natural Resources (MNR) are consulted on these important species. In particular, the advice provided below that relates to the baseline study of Raptors should be reviewed and confirmed by MNR.

We believe that the main concerns in relation to bird and bat concerns at the Kruger Energy Port Alma "KEPA LP" Wind Farm site are:

1. Fall diurnal migrants: Raptors in particular but also jays, crows, starlings, blackbirds, swallows, hummingbirds, etc.;
2. Spring migrant staging shorebirds (plovers, turnstones, Whimbrel, etc.);
3. Breeding birds in forests and other high quality and attractive habitats (e.g. hayfields, ravines, etc.) located within 200 m of turbine locations;
4. Bald Eagles; and
5. Bats, especially fall migrants.

We recommend the following protocols to address these concerns:

**1. Fall Raptors and other diurnal migrants**

Because different raptor species peak at different times, 2 surveys will be required in each of the following time frames for a total of 10 visits:

- o Early to mid September for Merlin, Sharp-shinned Hawk and American Kestrel
- o September 15 to 25 for Broad-winged Hawk and Osprey



- Early October for Peregrine Falcon
- October 8 to 15 for Turkey Vulture, Cooper's Hawk
- Late October to early November for Red-shouldered Hawk, Red-tailed Hawk, Golden Eagle and Northern Goshawk.

All diurnal migrants (species, estimated number of individuals of raptors and other diurnal migrants) should be recorded, including Monarch butterflies.

Flight heights should be recorded as: 1) below the blade sweep; 2) in the blade sweep; 3) above the blade sweep at the point when the birds pass by or overhead; and 4) well above the blade sweep (e.g., as will be the case for most of the Broad-winged Hawks that pass over the study area).

The movement of the birds should also be documented with respect to distance from the Lake Erie shoreline, to give some sense whether most of the birds follow the shoreline, are widely and/or unpredictably dispersed inland from the shoreline, or are concentrated in flight paths that take them over the study area.

## **2. Spring Migrant Staging Shorebirds**

The area between Port Crewe and Wheatley alongside Highway 3 can host 100s and even 1000s of shorebirds from late April to late May. The following survey needs to be undertaken to document this useage:

- Weekly surveys from late April for Golden-Plover to late May for Black-bellied Plover and Ruddy Turnstone. This will be done by roadside surveys with stops to scan fields for flocks.

## **3. Breeding birds**

The proponent should provide a summary of land use features in the study area (e.g. percentage of study area that is intensively cropped, types of crops, presence of old fields or hayfields, number of woodlots and their size, presence of ravines, hedgerows, etc.).

One area search of the study area during the breeding season should be conducted to compile as complete a list of breeding birds in the study area as possible. In addition to the area search the following needs to be considered:

- If the study area consists primarily of intensively cultivated fields, no breeding bird surveys (10 minute point counts) are required. If orientation studies indicate the presence of hayfields, pastures, etc., then 2 point counts, spaced at least a week apart, should be conducted in June.
- Surveys of breeding birds in woodlots are required only if woodlots are >10 ha and only if turbines are closer than 200 m to the edge of the woodlot (measured from the blade tip) or other high quality habitats (e.g. ravines).
- The surveyors should estimate the distance to the birds using a scale of 0-50 m, 50-100 m, and > 100m.

## **4. Bald Eagles**

The proponent should consult the Ontario Ministry of Natural Resources (e.g. Allen Woodliffe of the Chatham office and/or Dan Elliott of the Aylmer office) about Bald Eagles — a provincially regulated species — in the study area and discuss setback and construction constraints around any active and inactive eagle nests in the study area.

## 5. Bats

The proponent should contact the local MNR office for recommendations and advice pertaining to bat surveys.

## 6. Summary

We do not believe that additional surveys are required for:

- Swans and other waterfowl,
- Wintering birds including raptors,
- Spring and fall passerine migrants, or
- Fall staging shorebirds.

We thank you for providing us with the opportunity to meet with you and to review the plans you have developed to conduct baseline surveys for birds and bats at the KEPA Wind Farm site. We trust our comments and recommendations will be useful and we look forward to receiving a revised copy of the proposed baseline surveys for birds and bats when available. If you wish to discuss any of our comments, please do not hesitate to contact me at (905) 336-4954 or via email at [Rob.Read@ec.gc.ca].

Sincerely,



Rob Read  
Environmental Assessment Officer  
Environmental Assessment Unit

cc: R. Dobos, EC  
L. Friesen, CWS  
J. Fischer, CWS  
M. Cookson, Kruger Energy  
A. Sandilands, Stantec  
A. Woodliffe, MNR

## **APPENDIX**

### **Regulatory and Policy Context for Environment Canada's Comments and Advice**

Environment Canada's mandate to protect the environment and to actively promote sustainable development extends beyond the Department's legislated responsibilities for undertakings that trigger the *Canadian Environmental Assessment Act* (CEAA). Our review and comments are related, but not limited, to our areas of interest and expertise arising from the following legislation and agreements within the Department's mandate:

#### ***Department of Environment Act***

The *Department of Environment Act* provides Environment Canada (EC) with general responsibility for environmental management and protection. Its obligations extend to and include all matters over which Parliament has jurisdiction, and have not by law been assigned to any other department, board, or agency of the Government of Canada as related to: preservation and enhancement of the quality of the natural environment (e.g. water, air, soil), renewable resources including migratory birds and other non-domestic flora and fauna, water, meteorology, and coordination of policy and programs respecting preservation and enhancement of the quality of the natural environment.

The *Department of Environment Act* states that EC has a mandated responsibility to advise heads of federal departments, boards and agencies on matters pertaining to the preservation and enhancement of the quality of the natural environment. This responsibility is reinforced as per subsection 12(3) of CEAA, which states that federal departments must provide specialist and expert information or knowledge to other federal departments or review panels.

#### ***Migratory Birds Convention Act***

The disturbance, destruction or taking of a nest, egg, nest shelter, eider duck shelter or duck box of a migratory bird are prohibited under section 6 of the *Migratory Bird Regulations* (MBRs), under the authority of the *Migratory Birds Convention Act, 1994* (MBCA). "Incidental take" is the killing or harming of migratory birds due to actions, such as economic development, which are not primarily focused on taking migratory birds. No permit can be issued for the incidental take of migratory birds or their nests as a result of economic activities.

Under section 5.1 of the MBCA, no person shall deposit or permit to be deposited oil, oil wastes or any other substance harmful to migratory birds in any waters or any area frequented by migratory birds. (Please note that amendments in Bill C-15 came into force on June 28, 2005. This pollution prohibition was previously contained in s.35(1) of the *Migratory Bird Regulations*, which has now been repealed and is included as s.5.1 of the amended MBCA, 1994.)

#### ***Species at Risk Act***

The *Species at Risk Act* (SARA) has resulted in a consequential amendment to CEAA that amends the definition of "environmental effect" to clarify that all federal EAs must always consider adverse effects on listed wildlife species, and the critical habitat or residences of individuals of that species. In addition, section 79(2) of SARA requires that when a federal EA is carried out on a project that may affect a listed species or its critical habitat, adverse environmental effects must be identified, mitigation measures must be taken to avoid or lessen adverse effects, and environmental effects monitoring must be conducted.

SARA was proclaimed on June 5, 2003 and is intended to provide protection for individuals of wildlife species at risk listed under Schedule 1 of the Act, their residences (dwelling places, such as a den or nest or other similar area that is occupied or habitually occupied by one or more individual during part or all of its life cycle) and critical habitat (that part of areas used or formerly used by the species to carry out their life processes

that is deemed essential for survival or recovery). Critical habitat will be identified for each listed species in Recovery Strategies or Action Plans. The prohibitions under SARA came into force on June 1, 2004 and apply to listed endangered and threatened species for all federally protected aquatic species and migratory birds as well as to all endangered and threatened species on federal lands.

One of the purposes of SARA is to manage species of special concern to prevent them from becoming endangered or threatened. In this context, we also recommend that all federal EAs consider potential impacts on any species listed by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC).

Pursuant to Section 79(1) of SARA, if any listed wildlife species, its critical habitat or the residences of individuals of that species may be adversely impacted by the project, the Responsible Authorities for the CEAA assessment must notify the competent Minister responsible for the listed species in writing. Fisheries and Ocean Canada is responsible for aquatic species at risk and can provide advice regarding potential impacts on these species covered under the *Fisheries Act*. Notifications in relation to listed terrestrial species are to be sent to EC, and for this project may be sent to my attention.

### ***Fisheries Act***

Environment Canada's mandate to advocate for the protection of water quality stems from the pollution prevention provisions of the *Fisheries Act*, which are administered by EC. Please be advised that the Compliance and Enforcement Policy for the Habitat Protection and Pollution Prevention Provisions of the *Fisheries Act* states that compliance with the federal *Fisheries Act* is mandatory. Subsection 36(3) of the *Fisheries Act* specifies that, unless authorized by federal regulation, no person shall deposit or permit the deposit of deleterious substances of any type in water frequented by fish, or in any place under any conditions where the deleterious substance, or any other deleterious substance that results from the deposit of the deleterious substance, may enter any such water. Proponents should note that only a federal regulation under the *Fisheries Act* or another Act of Parliament can authorize a discharge of a deleterious substance; no federal permit, provincial, territorial or municipal regulatory permit or approval allows for exemption from the *Fisheries Act*.

In the application of the *Fisheries Act*, court cases have accepted that a discharge or effluent that is acutely lethal to fish is deleterious. In other words, results of tests designed to determine whether fish will die in an effluent or discharge within a specified time period will determine one aspect of deleteriousness. However, any substance with a potentially harmful chemical, physical or biological effect on fish or fish habitat is also deleterious. For example, substances (such as sediment) that smother nesting areas or spawning grounds, or interfere with reproduction, feeding or respiration of fish at any point in their life cycle are also considered deleterious. In general, any substance with a potentially harmful chemical, physical or biological effect on fish or fish habitat may be considered deleterious.

The act of depositing a deleterious substance should be considered a violation of the *Fisheries Act*, regardless of whether the water itself is made deleterious by the deposit. Subsection 36(3) of the *Fisheries Act* makes no allowance for a mixing or dilution zone. Any measurements or tests to determine whether something is deleterious should be done where the substance is at its highest concentration, typically at the point of discharge to the receiving water.





# CONTACT RECORD



## Stantec

NAME(S):

Vallerie Towsley

PROJECT NO.:

0114

REPRESENTING:

LTUCA

TELEPHONE:

519 354 7310

DATE/TIME:

July 28, 3:15pm.

RE:

permitting

RECORDED BY:

Mark K.

CALL RECEIVED

CALL PLACED

MEETING

### NOTES:

*discussed permitting process for drainage crossings.*

NO.	FOLLOW-UP TASK	TIMING	BY	DONE

# CONTACT RECORD



**Stantec**

NAME(S): Ralph Pugliese PROJECT NO.: 0114  
           -> Planning dept. REPRESENTING: MCR  
 TELEPHONE: 360-1998 DATE/TIME: Aug 10 / 5pm  
 RE: development RECORDED BY: M. Kozak

CALL RECEIVED                       CALL PLACED                       MEETING

**NOTES:**

Ralph called to inform me that the only future development within the CEA study area is a potential housing development along the lake between Hwy 4 & Port Rd. This Amendment will be heard by council in Nov. Could result in approx. 80 lots being created.

NO.	FOLLOW-UP TASK	TIMING	BY	DONE

CONTACT RECORD



Stantec

NAME(S): Ron Anderson PROJECT NO.: 0114  
 REPRESENTING: MCK  
 TELEPHONE: 5193511228 x 2032 DATE/TIME: Aug 11 / 3:15 pm  
 RE: Cumulative Effects RECORDED BY: KOZAK

CALL RECEIVED       CALL PLACED       MEETING

NOTES:

Ron stated that he is unaware of any future development within the agricultural area of the study area. Most development along waterfront is all that is planned. Wind farms will be the only development within the area, but none have been planned/approved as of yet.

NO.	FOLLOW-UP TASK	TIMING	BY	DONE



**Stantec**

**CONTACT RECORD**

NAME(S): Ontario Power Authority PROJECT NO.: Port Alma  
TELEPHONE: \_\_\_\_\_ REPRESENTING: OPA  
RE: Release of RFP III DATE/TIME: Aug 16 /06  
RECORDED BY: Kozak

CALL RECEIVED       CALL PLACED       MEETING

**NOTES:**

OPA is unable to comment on a release date for RFP III. However, they believe it will be approved in the future (haven't received indication that it won't).

NO.	FOLLOW-UP TASK	TIMING	BY	DONE

# CONTACT RECORD



**Stantec**

NAME(S): Jake ~~Herdoff~~ <sup>Noordhof</sup>  
 district planner  
 PROJECT NO.: 0114  
 REPRESENTING: MWR - Aylmer District  
 TELEPHONE: 519-773-4750  
 DATE/TIME: Sept 14/06  
 RE: status of project  
 RECORDED BY: M. KOZAK

CALL RECEIVED

CALL PLACED

MEETING

**NOTES:**

Requested info on the status of the project and when the MWR will receive a copy for review. Notified Dave that a draft will be submitted approx end of Sept to MOE and then formal submission to MOE in October.

NO.	FOLLOW-UP TASK	TIMING	BY	DONE

**Ministry  
of the  
Environment**

2 St. Clair Avenue West  
Floor 12A  
Toronto, ON M4V 1L5

**Ministère  
de  
l'Environnement**

2, avenue St. Clair Ouest  
Étage 12A  
Toronto, ON M4V 1L5

Tel: (416) 314-8001  
Fax: (416) 314-8452

Environmental Assessment and Approvals Branch

Thursday, 28 December 2006

MEMORANDUM

TO: Craig Newton, Regional Environmental Planner/EA  
Southwestern Region

FROM: Victor Low, Supervisor – Air & Noise Unit  
Environmental Assessment & Approvals Branch

RE: **Revised Submission ; Noise Review of Environmental Draft Noise Impact Report –Alma Wind Power Environmental Screening,**  
Our file # E-0013-06, Ref File # E-0011-06

---

We have reviewed the information in the “*Environmental Noise Impact Assessment Report*”, for the subject project prepared for *Kruger Energy Port Alma Limited Partnership*, prepared by *Aercoustics Engineering Limited*, dated December 14, 2006.

The report was prepared to respond to concerns raised in our November 21, 2006 letter to your office. The previous report (*designated as Appendix ‘E’ of the Environmental Screening Report was prepared by Aercoustics Engineering Limited and dated September 12, 2006*) was found to be incomplete and to complete our review the following information was requested:

1. A land-use zoning plan(s) of the area surrounding the proposed facility including: definitions of the zoning designations, the property boundaries of the land(s) under the project agreement(s), and the identified Points of Reception and wind turbine locations. Figure 2 in the noise report is not a satisfactory drawing for this purpose.

The drawing is required to ensure that vacant land zoned residential or other noise sensitive designations are identified and assessed. (A scale in the vicinity of 1:10,000 would be suitable.)

2. Section 2.3.3 of the Environmental Screening Report notes that a transformer substation is part of the project. The noise report should be revised such that it:
  - a) identifies the location of the transformer(s) relative to any points of reception,
  - b) provides general specifications of the substation transformer(s),
  - c) describes the potential noise impacts and
  - d) if required proposes suitable noise abatement measures.

3. The scale used in Figures 2 and 3 of the noise report, should be revised to enable a better appreciation of the locations of the wind turbines and the points of receptor. A scale in the vicinity of 1:10,000 would be more suitable.
4. The report should also be revised to include a colour coded scaled site plan of the proposal noting which receptors have a *lease agreement* with the undertaking and which receptors are considered points of reception for the noise assessment. (The diagram is required to ensure that all points of receptions have been addressed. A scale in the vicinity of 1:10,000 would be suitable.)

With the exception of item 2(b) above, the above issues were addressed adequately. Item 2(b) was addressed in Section 4.2 of the December 14, 2006 Report, where it is stated that:

*The manufacturer's data sheet for this transformer indicates a maximum sound emission level of 63 dB(A). It is **assumed** that this sound pressure level was determined in accordance with the IEEE standard C57.12.90-1999, thus this would be the average sound level measured at a distance of 0.3 m. The data sheet is attached in Attachment C.*

*and*

*The vertical area sources have been modeled to have an effective source height of 5.12 m which is the overall height of the acoustical vertical area enveloping the transformer. ATTACHMENT C provides the manufacturer's drawings outlining the physical height of the transformer*

As noted above the data used in the assessment was assumed and in our opinion may be too low. In addition the manufacturers' data sheet and drawings were not found in Attachment C. However, as it is feasible to abate this noise source (if required), it is recommended that this issue be resolved at the Certificate of Approval stage of approval.

Consequently based on the information provided in the December 14, 2006 report, it is concluded that the technical noise review under the Environmental Screening Process is adequately complete, and the proposal is therefore recommended for approval.

As mentioned in our previous correspondence, our technical review at the screening stage will be later utilized during the review of the corresponding application for a Certificate of Approval. Provided that the proposal is not changed and therefore the complete report remains accurate, there is unlikely to be a need for exhaustive technical review during the Certificate of Approval process.

Any changes to the proposal or to the complete report at the time of the application for Certificate of Approval will require further technical review and may delay approval. The applicant is accountable for disclosing any changes that have been made to the complete report at the time of application for Certificate of Approval, and for the accuracy of any information in the application.

Please contact Denton Miller, Senior Noise Engineer, at 416-314-8310 if there are any questions.

---

Victor Low, P.Eng.

DM/