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## OMB reserves Amaranth turbine decision

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In a hearing that ended at approximately 10 p.m. last Thursday, Ontario Municipal Board hearing officer Norm Jackson reserved his decision on Amaranth Township's 22-turbine share of the Melancthon II wind farm project.

He said he would likely announce his decision within a month. Even then, in accordance with directions arising out of the prior mediation hearings last month, and at the request of parties to the Board's hearing, Mr. Jackson would withhold his order pending - in particular - a resolution of a "buzzing" or "humming" noise from Transformer 1 at Canadian Hydro Developers' sub-station.

Although unrepresented parties had other issues, including setbacks from aerodromes, the transformer noise appeared to be the most troublesome for the hearing officer.

At the conclusion of final arguments last Thursday, Mr. Jackson made note of the difference between the prior hearing into the 67-turbine Melancthon Township portion of the project, at which he had released his decision and delivered his written order within hours.

He said the parties in opposition in Melancthon had been represented by a lawyer who had urged him to approve the development (following acceptance of minutes of settlement), whereas the Amaranth opponents were not represented, and hadn't asked him to approve.

Although Mr. Jackson must rule on aerodrome setbacks as well as on all issues, including the underground transmission line, the most troublesome concern is with residential complaints of noise from the transformer substation.

Mr. Jackson was not impressed that the Ministry of Environment had issued a Certificate of Approval for the first transformer, despite noise complaints. He indicated he would not be comfortable approving a site plan for the second transformer until satisfied that the neighbourhood issues had been resolved.

Whether or not the noise issues would go beyond the transformers was not clear. Joan and John Lever of Melancthon, parties to the Amaranth hearing, presented

turbine noise/health issues from Nina Pierpont, PhD, who is doing research on infrasound.

Dr. Pierpont posits that turbine noises, even if inaudible, can be injurious to health. Mrs. Lever's contention was essentially that there is a growing number of professionals in agreement, although there are other professionals in disagreement.

There was a curious legal disagreement on jurisdiction in setbacks from aerodromes. Michael Mercer, one of two Blakes Cassels Graydon lawyers representing CHD, cited a 1998 Supreme Court ruling to the effect that municipalities do not have jurisdiction over air transport or flight patterns. Jeff Wilker of Thompson Rogers, representing Amaranth, disagreed, and suggested that Mr. Mercer had misread the ruling.

Mr. Wilker submitted that Mr. Jackson did have jurisdiction in accordance with the ruling, based generally on planning for compatibility of land uses.

On that issue, the Transport Canada recommendation was stated as 2.5 km from the ends of the airstrips and 600 metres each side. A possible problem with that would appear to be that the CHD planner said turbine turbulence would extend to 10 times the rotor diameter, or 770 metres.

No evidence was adduced to indicate by what degrees the turbulence reduces within the 770 metres.

It is expected that the project will be approved in accordance with the Provincial Policy Statement, but equally expected that Mr. Jackson would withhold his order pending the resolution of several issues - the greatest of which appears to be the transformer.

Such a decision would be in accordance with the wishes of Amaranth Township and CHD, but wouldn't necessarily satisfy other parties.

*[Note: This document has been formatted in order to create this pdf document]*