

JAMES & MARIAN BLACK

INTERROGATORY #1

References

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Preamble

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Questions / Requests

Having regard to the various site plan layouts produced by DWPI in connection with the Arbitration, in the electronic documents submitted October 10, 2013 and in Tabs 13 to 33 of the Hammond affidavit dated October 29, 2013, please identify by specific reference to the documents referred to above which site plan layout on each of the Blacks' East and West farms DWPI intends to proceed with in the event it is successful in the arbitration or alternatively, in the event that the Arbitrator makes a decision that is made subject to an amendment to the Renewable Energy Approval dated June 10, 2013 as referred to in paragraphs 11 and 12 of the DWPI Responses to the information request.

Response

As indicated in Exhibit B, Tab 1, Schedule 1 of the pre-filed evidence at pages 8-9, the Applicant is seeking authority to expropriate interests in the Black properties due to uncertainty arising from an arbitration process in which the Blacks have taken the position that their lease agreements with Dufferin Wind are invalid and unenforceable. If it is determined in the arbitration that the lease agreements are valid and enforceable, Dufferin would no longer need to expropriate interests in land from the Blacks.

JAMES & MARIAN BLACK

INTERROGATORY #2

References

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Preamble

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Questions / Requests

Please advise which of the various site plan layouts referred to above DWPI in these expropriation proceedings considers to be the "current site plan layout" for each of the Blacks' East and West farms, are these different from the lands proposed to be expropriated in these proceedings and if so the explanation for such difference.

Response

The site plan layouts being considered under the lease are not relevant to the present application because, as indicated in response to #1 above, Dufferin does not intend to pursue authority to expropriate from the Blacks if the leases are confirmed to be valid. If Dufferin pursues its expropriation request in respect of the Black properties, it will be on the basis as described in the application as filed. The reason for the difference between the expropriation request and any site plans being contemplated under the lease is described in response to Board Staff IR #2(v).

JAMES & MARIAN BLACK

INTERROGATORY #3

References

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Preamble

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Questions / Requests

What is the date on which DWPI first began to prepare the site plan layouts that now show (a) in reference to the Blacks' East farm, no collector line running diagonally across the tile drainage system at the west part of the East farm and instead locating a collector line along the south property line, and (b) in reference to the Blacks' West farm, no collector line running diagonally from turbine T26 to toward the northeast corner of the West farm and instead locating a collector line under the turbine access road, and does DWPI propose to amend its application to expropriate to correspond with these layouts.

Response

As described in response to #2 above, the site plan layouts being considered under the leases are not relevant to the present application. With respect to the plans filed with the Application in support of the request to expropriate interests in the Black properties, such plans were prepared in the period leading up to the filing of the present application.

JAMES & MARIAN BLACK

INTERROGATORY #4

References

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Preamble

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Questions / Requests

Please provide full particulars of all alternate locations for collector lines that would avoid having them cross in whole or in part the Blacks' East and West farms and that are available on other privately owned lands in respect of which DWPI has obtained signed leases that permit collector lines to be located thereon, including the location of such lands, the name of the landowner, a draft site layout of such alternate locations and the estimated costs thereof.

Response

There are no alternate locations for collector lines available on other privately owned lands that would prevent the collector lines from crossing, in whole or in part, the Blacks' East and West Farms.

JAMES & MARIAN BLACK

INTERROGATORY #5

References

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Preamble

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Questions / Requests

Please provide full particulars of all alternate locations for such collector lines that are available on publicly owned lands or roads, a draft site layout of such alternate locations and the estimated costs thereof and what if anything prevents DWPI from relocating the collector lines in whole or in part from their proposed locations to public lands, other than cost if cost is an issue.

Response

The Applicant has the right to use a portion of the municipal right of way (ROW) along the east and west sides of 3rd line running past the Black properties, as per a Road Use Agreement with the Township of Melancthon. A map of this area is attached hereto as **Appendix 'A'**. The estimated costs of installing the collector lines along the ROW are not relevant to this proceeding.

JAMES & MARIAN BLACK

INTERROGATORY #6

References

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Preamble

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Questions / Requests

Please provide full particulars of the costs of locating the collector lines on the Blacks' East and West farms as shown in these proceedings.

Response

This question is not relevant to the proceeding.

JAMES & MARIAN BLACK

INTERROGATORY #7

References

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Preamble

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Questions / Requests

Please provide full particulars of all studies, reports or analyses that DWPI has obtained or has in its possession dealing with the impact of the location of collector lines on the Blacks' East and West farms including their impacts on the Blacks' farming operation and tile drainage systems other than those referred to on the Arbitration.

Response

The Applicant does not have any such documents other than those referred to in the Arbitration.

JAMES & MARIAN BLACK

INTERROGATORY #8

References

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Preamble

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Questions / Requests

Please advise if DWPI conducted or obtained any such studies, reports or analyses before submitting its REA application in 2012.

Response

Site investigation reports and project studies can be found at www.dufferinwindpower.ca. No additional studies or reports on perceived or potential impacts to the Black's tiling or farming operations are available, other than those referred to in the Dufferin Wind Power Inc. and Black arbitration.

JAMES & MARIAN BLACK

INTERROGATORY #9

References

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Preamble

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Questions / Requests

Please provide the authority pursuant to which DWPI may proceed contemporaneously with expropriation and arbitration proceedings having regard to the provisions of section 15.07 Arbitration of the Leases for the East and West farms dated April 15, 2011 that provide, inter alia, as follows:

"Whenever there is an unresolved dispute between the Landlord and the Tenant involving any of the terms of this Lease then such dispute shall be resolved by arbitration referred to ..."

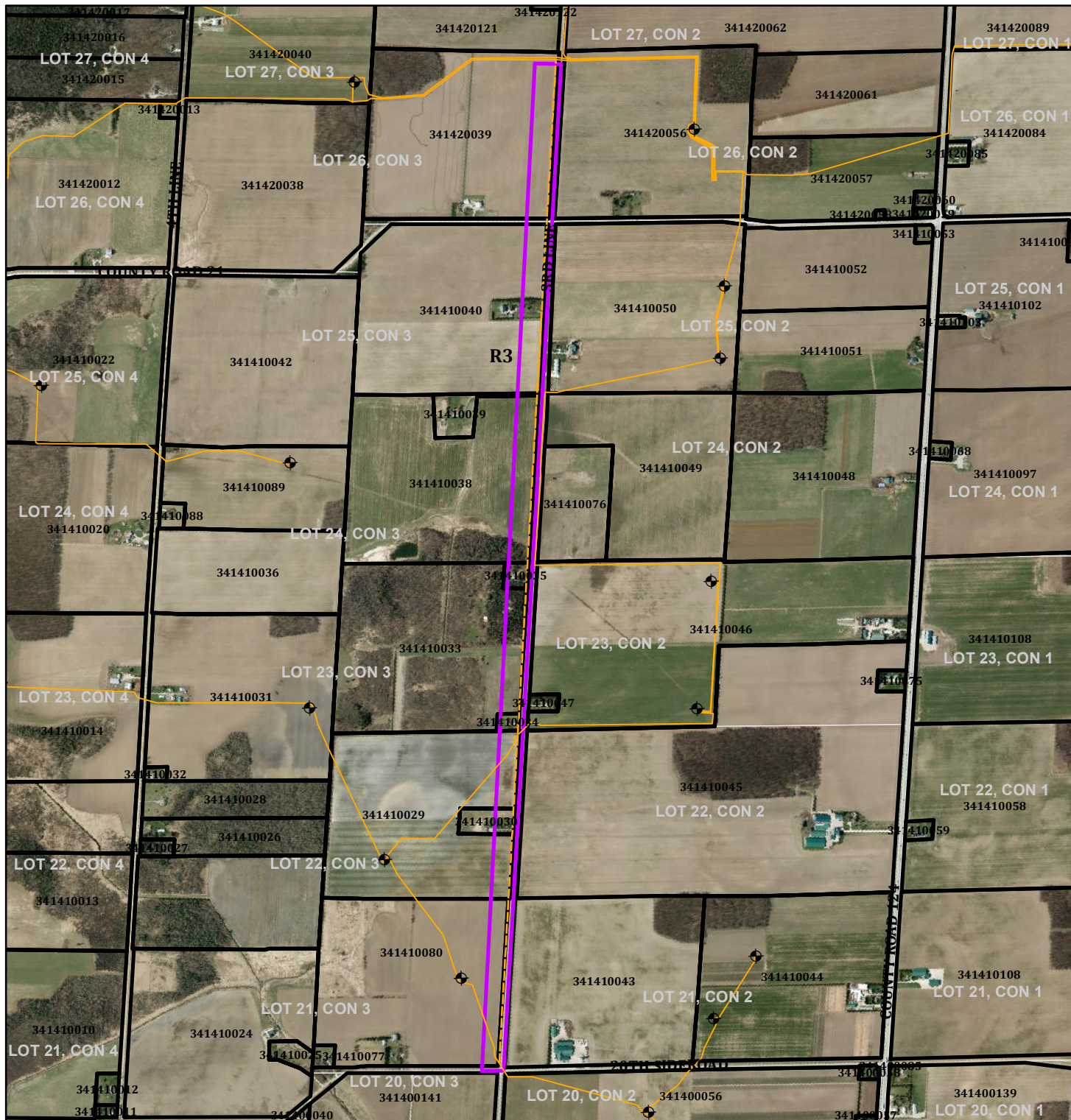
Response

The application for authority to expropriate certain interests in lands from the Blacks is not an unresolved dispute concerning the terms of the leases which would be bound by the terms thereof. Rather, the Applicant has a statutory right to seek authority to expropriate pursuant to section 99 of the Ontario Energy Board Act. Moreover, as described in response to #2 above, Dufferin does not intend to seek authority to expropriate if the leases are found valid. If the leases are found to be invalid, then the Applicant would continue to seek authority to expropriate but section 15.07 of the leases would, in such circumstances, have no effect.

APPENDIX 'A'

MAP FROM ROAD USE AGREEMENT

Black IR #5



Dufferin Wind Power Project

Road Allowance R3

Legend

- R1 Collector Lines within Municipal Road Allowance
- Leased Parcel
- Lots and Concessions

Project Components

- Turbine
- Underground Collector System Path
- Underground Collector Alternate Path



1:20,000
0 150 300 450 m



Created By: SLP
Checked By: DR
Date Created: 11/23/11
Date Modified: 06/06/13
File Path: I:\GIS\115199 - Dufferin Wind\2012\ Mapping\Infrastructure Crossing\091012\R3.mxd
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