

January 26, 2026

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VIA RESS

Mr. Ritchie Murray
Acting Registrar
ONTARIO ENERGY BOARD
P.O. Box 2319, 27th Floor
2300 Yonge Street
Toronto, Ontario
M4P 1E4

Dear Mr. Murray:

Re: EB-2025-0314: BFN Transmission Application for Authority to Expropriate

Grant Lake Comments on Issues List

On behalf of the intervenors Grant Lake Forest Resources Ltd. and Josephine Forest Resources Ltd. (together Grant Lake), we write to provide comments on the proposed issues list included as Schedule B to P.O. No. 1 herein (Proposed Issues List).

Requested Additions to the Issues List

Grant Lake requests the addition of the following issues to the Proposed Issues List:

Has the applicant demonstrated due diligence, and made best efforts, in negotiating settlements with impacted landowners?

Has the applicant made efforts to minimize the disruption to the impacted landowners?

Rationale

The OEB has recognized in past expropriation authorization decisions that “*expropriation is an extraordinary power*”, in accord with the direction to that effect by the Supreme Court of Canada in *Dell Holdings Ltd. v. Toronto Area Transit Operating Authority*:¹

The expropriation of property is one of the ultimate exercises of governmental authority. To take all or part of a person’s property constitutes a severe loss and a very significant

¹ EB-2010-0023, Bruce to Milton Expropriation Authority Application, *Decision & Order*, Marh 15, 2011, page 9, bottom. See also EB-2013-0268, Dufferin Wind Power Inc., *Decision and Order*, May 1, 2014, page 4, first full paragraph.

interference with a citizen's private property right. It follows that the power of an expropriating authority should be strictly construed in favour of those whose rights have been affected.

This recognition has given rise to inclusion in the introduction to the Board's standard *Section 99 Expropriation Issues List* (as included as part of Schedule B to P.O. No. 1, herein) of the express expectation that:

Applicants are expected to make best efforts to negotiate an agreement with landowners before resorting to an expropriation application.

The OEB's *Filing Requirements for Electricity Transmission Applications* expressly include, in respect of expropriation authorization applications, the expectation that²:

The applicant must demonstrate due diligence in negotiating settlements with impacted landowners, relevant lienholders, and other encumbrancers, including a list of issues and explanation(s) of how each issue was resolved or proposed to be resolved.

Grant Lake wishes to test in this application whether the applicant has demonstrated that to be the case.

Grant Lake also wishes to test whether reasonable steps have been taken by the applicant to minimize the impact of the proposed expropriation, including the proposed route, on the subject properties and the owners thereof. This inquiry goes beyond the minimization of the amount of land needed for the project (which is a topic already part of issue 2. on the Proposed Issues List), goes to the fairness of the treatment of the landowners by the party seeking the authority to expropriate, and is an issue that the OEB includes in its filing requirements for applications for authority to expropriate³ and has considered in past applications for expropriation authority.⁴

Yours truly,

Ian A. Mondrow

c. Justin Mak, GRANT LAKE
Jim Tait, BFN TRANSMISSION
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² *Filing Requirements for Electricity Transmission Applications*, Chapter 4, page 50, top.

³ *Filing Requirements for Electricity Transmission Applications*, Chapter 4, page 50.

⁴ EB-2006-0352, *Toyota Woodstock Transmission Interconnection, Decision and Order* July 19, 2007, page 16, middle; *Canadian Renewable Energy Corporation Authority to Expropriate, Decision and Order* July 18, 2008, page 9, last paragraph.