

January 29, 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
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Dear Mr. Murray:

Re: EB-2025-0314: BFN Transmission Application for Authority to Expropriate
Grant Lake Responding Comments on Issues List

We write in response to the January 28th letter from counsel for the applicant objecting to the request from the intervenors Grant Lake Forest Resources Ltd. and Josephine Forest Resources Ltd. (together Grant Lake) to add the following issues to the Proposed Issues List herein:

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?

In his letter counsel has labelled these issues A and B, respectively, for ease of reference. We will do the same.

Issue A

While Mr. Kemerer argues about the precise test to be applied in respect of the requirement that the applicant for expropriation authority make efforts to reach agreements with affected landowners, that very argument necessarily acknowledges that there is such a requirement. Further validation of the relevance of the issue is reflected in counsel's assertion that the requirement has been fulfilled by the filing of a timeline of meetings and discussions between the applicant and Grant Lake and others, and a "letter of support"¹ on behalf of Grant Lake also filed by the applicant.

¹ The letter that the applicant asserts demonstrates support for the project [Application, Appendix H] could also be read as primarily conveying that land rights agreements ultimately entered into by the parties will have to reconcile the rights sought by the applicant with pre-existing rights of access to the subject lands.

Mr. Kemerer argues that neither the pre-filed evidence nor Grant Lake's comments on the issues list indicate a lack of good faith or unfairness on the part of the applicant. The prefiled and as yet untested evidence and the Grant Lake issues list comments do not complete the record. This hearing has just begun. The issues list is intended to define its scope.

The acknowledgement that there is a requirement regarding the efforts of the applicant to reach agreement with affected landowners and that there is evidence, yet to be tested, on the record addressing that requirement validates that the issue is a valid one. It should be added to the list as requested by Grant Lake.

Issue B

The proposed wording for Grant Lakes' proposed issue B is taken directly from the OEB's filing requirements for applications for expropriation authorization.² The assertion by counsel for the applicant that the issue is "*beyond the scope of an application for expropriation authorization*" is without logic or merit.

Counsel also asserts that route selection was examined in the Environmental Assessment Process. That is a different proceeding, under a different legislative mandate, for a different purpose. Minimization of impact on landowners is not a matter considered in that process. It is, however, a matter that the OEB has considered in past expropriation authorization applications³ and has expressly listed in its filing guidelines as a matter to be addressed by the applicant.

Mr. Kemerer argues that the access agreement entered into between the parties for pre-construction activities demonstrates agreement by Grant Lake to the route. Whether that is the case will be a matter contested by Grant Lake in this proceeding. It is the view of Grant Lake that the evidence in that respect is incomplete.

Mr. Kemerer goes on to offer that if Grant Lake has concerns regarding impacts on particular land parcels these can be addressed in the conditions of an expropriation authorization approval from the OEB. That statement itself acknowledges that the issue of whether such conditions are warranted – i.e. whether the applicant's efforts to minimize disruption to the affected landowners has already been sufficient or requires further direction – is a relevant and appropriate issue, as Grant Lake has proposed.

Additional Comments in Response

Grant Lake acknowledges that the OEB will not determine appropriate compensation for any authorized expropriation, which is a matter for the Ontario Lands Tribunal should such determination be required. The concern that Grant Lake raises in this proceeding is whether appropriate, and

² *Filing Requirements for Electricity Transmission Applications*, Chapter 4, page 50.

³ EB-2010-0023, Bruce to Milton Expropriation Authority Application, *Decision & Order*, March 15, 2011, pages 12 through 18; EB-2013-0268, Dufferin Wind Power Inc. *Decision and Order*, May 1, 2014, page 10, third full paragraph.

requisite, efforts to negotiate fair compensation and to address the impact on the landowner of routing details have been made by the applicant. That is, has the applicant acted reasonably in its dealings with Grant Lake.

Grant Lake also wishes to note that while it has not objected to the addition to Issue 1 proposed by the applicant, which the applicant suggests *“reflects the unique circumstances of the application which is brought forward by a First Nations community with an economic interest in a project over its traditional lands”*⁴, Grant Lake’s silence in this respect should not be taken as agreement as to whether such consideration is in fact appropriate. We consider that to be a matter for further exploration and understanding as the record develops, and ultimately for argument.

Yours truly,



Ian A. Mondrow

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⁴ January 28, 2026 letter from counsel for the applicant, page 1, second paragraph.