

# Cassels

## BY EMAIL AND RESS

February 23, 2026

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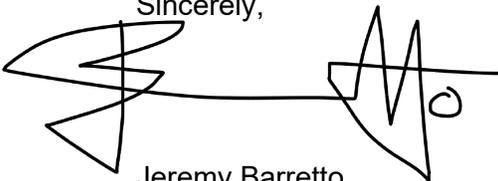
Dear Ritchie Murray,

**RE: Impala Canada Ltd.  
Expropriation Application for the Impala Canada Ltd. Transmission Line  
OEB File Number: EB-2025-0286  
Impala Canada Ltd. Written Argument in Chief**

In accordance with the February 23, 2026 deadline established by Procedural Order 1, please find enclosed Impala Canada Ltd.'s written argument in chief in the above-noted proceeding.

An electric copy of Impala's submissions has been filed through the Ontario Energy Board's Regulatory Electronic Submission System.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeremy Barretto', with a stylized flourish at the end.

Jeremy Barretto  
Partner  
Encl.

**ONTARIO ENERGY BOARD**

**IN THE MATTER OF** the Ontario Energy Board Act, 1998, S.O.  
1998, c.15, Schedule B (the “**OEB Act**”);

**AND IN THE MATTER OF** section 99 (1) of the OEB Act; and

**AND IN THE MATTER OF** an application by Impala Canada Ltd.  
for authority to expropriate land for the purpose of operating a  
transmission line to Impala Canada Ltd.’s mine.

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**WRITTEN SUBMISSIONS FOR AUTHORITY TO EXPROPRIATE LAND INTERESTS**

**IMPALA CANADA LTD.**

**FEBRUARY 23, 2026**

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**A. Overview**

1. Impala Canada Ltd. (“**Impala**”) owns and operates a 115 kV transmission line and associated facilities (the “**Impala Line**”) that connects the Lac Des Iles Mine (the “**LDI Mine**”) to the Independent Electric System Operator controlled grid in the Township of Ware. The Impala Line, in its current configuration, has operated for almost 30 years. The landowner, North Star Forestry Ltd. (“**North Star**”), has recently rejected Impala’s reasonable efforts to renew the existing easements in place for parts of the Impala Line.
2. Impala applies to the Ontario Energy Board (the “**OEB**”) under s. 99 of the *Ontario Energy Board Act, 1998* (the “**OEB Act**”)<sup>1</sup> for authority to expropriate permanent easements over two parcels of land owned by North Star. The Impala Line already runs over these parcels, and the easements sought are necessary to ensure both the safe and efficient transmission of power along the Impala Line and the continued operation of the environmental and safety systems at the LDI Mine.
3. Impala has two primary submissions: (1) the OEB has jurisdiction under s. 99 of the *OEB Act* to consider Impala’s application and grant the requested relief; and (2) the proposed expropriation is in the public interest.
4. Section 99 of the *OEB Act* provides the OEB with the ability to grant expropriation authority. The OEB has the jurisdiction to consider Impala’s application under s. 99(1)1 because the Impala Line was constructed after receipt of necessary provincial approvals, akin to receiving leave to construct under the current *OEB Act*. The OEB also has the jurisdiction to consider Impala’s application under s. 99(1)2 because Impala intends to maintain the integrity of the Impala Line on an indefinite basis. On this basis, Impala requests that the OEB consider the merits of its application against the public interest test laid out in s. 99(5) the *OEB Act*.<sup>2</sup>
5. In applying the test in s. 99(5), Impala submits that expropriation is in the public interest. The LDI Mine requires power on an indefinite basis and the Impala Line is the only reasonable option. The Impala Line has been a clean, reliable source of power for the LDI Mine for decades. Other options—like re-routing the Impala Line or replacing it with diesel

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<sup>1</sup> *Ontario Energy Board Act, 1998*, [SO 1998, c 15, Sch B](#) [“**OEB Act**”].

<sup>2</sup> *OEB Act*, s. [99\(5\)](#).

generation—would have significant adverse environmental effects and are not reasonable alternatives.

6. In addition to sustaining the LDI Mine, the Impala Line could be used to supply electricity to neighbouring industrial developments or communities in the Thunder Bay district. Consistent with Ontario's policy and legislative initiatives, it is in the public interest to maintain in-service transmission capacity and protect the critical mineral supply chain.
7. Over the course of a year, Impala has made good faith efforts to negotiate the terms of a renewal with North Star. Despite Impala's repeated offers far above market value, the parties were unable to reach a voluntary agreement. Following the conclusion of these negotiations, Impala brought the within application. The interests sought by Impala in this application are the minimum interests necessary to safely and reliably operate the Impala Line and to sustain environmental and safety operations at the LDI Mine.

## **B. Background**

8. Impala and its predecessors have operated the Impala Line for almost 30 years. Until February 2024, the Impala Line ran through portions of two parcels owned by North Star on the basis of easements granted in perpetuity by the previous owner in 1999. Since February 2024, Impala and North Star have been unable to reach agreement on terms of renewal for these easements, threatening the continued operation of the Impala Line and the LDI Mine.

### ***i. The LDI Mine and the Impala Line***

9. The LDI Mine is one of two known pure palladium sources in North America. It was originally opened by North American Palladium Ltd. ("**NAPL**") and Lac Des Iles Mines Ltd. ("**LDIM**").
10. The Impala Line was built in or around 1996 by PowerTel Utilities Contractors Limited as a contractor for NAPL and LDIM. The sole purpose of the Impala Line at the time of construction was to service the LDI Mine.
11. Most of the Impala Line traverses Crown land, but a small portion runs through privately held parcels. This route was selected in collaboration with the Ministry of Natural Resources to avoid unnecessary passage through Silver Falls Provincial Park and the

Dog River Conservation Area.<sup>3</sup> Given these constraints, the Impala Line crosses through the two privately-owned parcels at issue in the present application: Parcel 4782, District of Fort William Freehold, being Part of Grand Trunk Pacific Block 1, District of Thunder Bay, designated as Part 1 on Plan 55R-10564 (“**Block 1**”) and Parcel 4797, District of Fort William Freehold, being part of Grand Trunk Pacific Block 3, District of Thunder Bay, designated as Part 1 on Plan 55R-10563 (“**Block 3**”).<sup>4</sup>

12. The lands required for the Impala Line were originally acquired through a combination of private easement agreements and public land use permits. Through application and correspondence with the Ministry of Natural Resources, NAPL and LDIM obtained SPR727, a land use permit for a powerline right of way covering lands between Dog Lake and Lac des Iles.<sup>5</sup> The Ministry of Natural Resources also issued work permits for forestry and construction of a powerline (TB0045 and TB0634) and two licenses to harvest Crown forest resources (A03457 and A03277).<sup>6</sup>

*ii. Easements Granted Over the Abitibi Lands and Subsequent Transfers*

13. On February 19, 1996, Abitibi-Price Inc. (“**Abitibi**”) entered into a letter agreement (“**Letter Agreement**”) with LDIM and NAPL, granting easements over Block 1 and Block 3 (collectively, the “**Properties**”) to construct and maintain the Impala Line “for an easement term of 25 years such term subject to renewal upon mutual consent of both parties”.<sup>7</sup>
14. On December 30, 1999, the easements provided for in the Letter Agreement were registered on title to the Properties as instruments F0092791 and F0092792 (the “**Easements**”), both dated February 18, 1999.<sup>8</sup> The Easements transfer and convey:

... in perpetuity to [LDIM and NAPL], their successors and assigns, for a term of 25 years such term subject to renewal upon the mutual consent of both parties, the rights and easement

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<sup>3</sup> Impala Response to OEB Staff Interrogatory 1(f), PDF p. 4.

<sup>4</sup> Impala Application for Authority to Expropriate Land Interests (October 3, 2025) [“**Impala Application**”], Appendix 4: Route and Aerial Map, PDF p. 22.

<sup>5</sup> Impala Response to OEB Staff Interrogatory 1(e), PDF p. 4.

<sup>6</sup> Impala Response to OEB Staff Interrogatory 1(e), PDF p. 4.

<sup>7</sup> Impala Application, Appendix 5: Easements, PDF p. 39.

<sup>8</sup> Impala Application, Appendix 5: Easements, PDF pp. 25 and 32.

(a) To erect, maintain and operate a privately owned Transmission Line...<sup>9</sup>

15. In December 2005, Abitibi sold the Properties to North Star, a subsidiary of Wagner Forest Management Ltd. (collectively with North Star, “**Wagner**”).<sup>10</sup> On December 14, 2005, NAPL provided its consent to Abitibi to assign the Letter Agreement to the purchaser of the lands.<sup>11</sup> North Star is the current owner of the Properties and successor under the Letter Agreement and the Easements.
16. On December 13, 2019, Impala was created by amalgamation of 11638050 Canada Inc., NAPL, and LDIM.<sup>12</sup> Through this amalgamation, Impala inherited all of NAPL and LDIM’s rights and obligations, including under the Easements.<sup>13</sup>

***iii. Negotiations Between Impala and Wagner***

17. The initial 25-year term of the Easements expired on February 18, 2024. In October 2024, both parties became aware of the need to renew the term of the Easements.<sup>14</sup> Following this discovery, the parties engaged in almost year-long negotiations regarding renewal.
18. Many of these discussions are covered by settlement privilege, but they culminated in September 2025. On September 11, 2025, Wagner stated it was open to renewing the Easements in perpetuity on substantially the same terms provided in the Letter Agreement.<sup>15</sup> Contrary to assertions in North Star’s Evidence that Impala then immediately terminated negotiations,<sup>16</sup> Impala responded to this letter on September 18, 2025.<sup>17</sup>
19. Despite North Star’s characterization of itself as a “willing seller” for the negotiation of a permanent easement,<sup>18</sup> Wagner then declined Impala’s offer worth 10 times the current

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<sup>9</sup> Impala Application, Appendix 5: Easements, PDF pp. 26 and 33.

<sup>10</sup> Impala Application, Appendix 5: Easements, PDF pp. 45-46.

<sup>11</sup> Impala Application, Appendix 5: Easements, PDF pp. 46.

<sup>12</sup> *Canada Business Corporations Act*, [RSC 1985, c C-44](#), s. [192](#); Impala Response to OEB Staff Interrogatory 1(a), PDF p. 3.

<sup>13</sup> Impala Response to OEB Staff Interrogatory 1(a), PDF p. 3.

<sup>14</sup> North Star Response to Impala Interrogatory 4(a), PDF p. 6.

<sup>15</sup> North Star Evidence, Tab C: September 11, 2025 Letter from Andy Gibbons to Jeremy Barretto, PDF p. 29.

<sup>16</sup> North Star Evidence, paras. 18 and 20, PDF pp. 7-8.

<sup>17</sup> Impala Response to North Star Interrogatory 2(a)c, Appendix B: September 18, 2025 Letter from Jeremy Barretto to Andy Gibbons, PDF p. 17.

<sup>18</sup> North Star Response to Impala Interrogatory 8(a), PDF p. 13.

land value.<sup>19</sup> Wagner's stated basis for declining Impala's offer is that Impala did not justify its request for a permanent easement.<sup>20</sup> The September 18, 2025 letter includes the following justification:

It is correct that Impala is in the process of determining the future of the LDI Mine and has made initial plans to cease operations. However, the timeline and nature of post-operational activities is still to be determined. Ongoing activities, including for environmental protection, could extend indefinitely beyond the three years which would be covered by North Star and Wagner's offer. In addition, Impala's transmission line has the potential to service the region, Indigenous communities and future economic development. Removal of the transmission line is not in the public interest. As a result, Impala is seeking a permanent easement.

20. Following Impala's efforts at good faith negotiation, Impala then brought its application for expropriation authority under s. 99 of the *OEB Act*.

**C. Submissions on Issues**

***i. The Effect of the Existing Easements***

21. As noted in its initial application, Impala is seeking expropriation to provide certainty for the future of the Impala Line, regardless of the status of its legal rights under the existing Easements.<sup>21</sup> Accordingly, Impala has restricted its submissions on the Easements to their effect on the OEB's determination under s. 99, as detailed under the public interest section below.

22. Impala also notes, as a matter of overarching context, that the Easements highlight a unique feature of the Impala Line: it has been in service for almost three decades. Unlike a prospective application for a proposed transmission line, Impala's application concerns a piece of operational infrastructure.

***ii. The OEB Has Jurisdiction Under s. 99 to Consider the Application and Grant the Requested Relief***

23. Impala seeks to expropriate interests in land necessary for the continued maintenance and operation of a transmission line that pre-dates the OEB's jurisdiction over electrical infrastructure of this nature. Impala's application requires the OEB to determine the scope

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<sup>19</sup> Impala Response to North Star Interrogatory 2(a)c, Appendix B: September 18, 2025 Letter from Jeremy Barretto to Andy Gibbons, PDF p. 17.

<sup>20</sup> North Star Response to Impala Interrogatory 8(a), PDF p. 13; North Star Evidence, para. 20, PDF p. 8.

<sup>21</sup> Impala Application, para. 14, PDF p. 5.

of its jurisdiction under s. 99 of the *OEB Act* in relation to historical electrical transmission infrastructure. To Impala's knowledge, this is a novel issue that requires the application of the principles of statutory interpretation.

24. Impala has structured its jurisdictional submissions to address: (1) an overview of the *OEB Act* expropriation scheme; (2) the context and purpose of s. 99; (3) the scope of the OEB's jurisdiction under s. 99; and (4) the absurdities that would arise from narrowly construing the OEB's jurisdiction to exclude an application regarding the Impala Line.
25. For the reasons outlined below, the principles of statutory interpretation support a finding that the OEB has jurisdiction over Impala's application for expropriation authority under s. 99(1)1 and 2 of the *OEB Act*.

**a. Expropriation under the *OEB Act***

26. Section 99(1) of the *OEB Act* provides that expropriation is available in the following circumstances:

The following persons may apply to the Board for authority to expropriate land for a work:

1. Any person who has leave under this Part or a predecessor of this Part.
2. Any person who intends to construct, expand or reinforce an electricity transmission line or an electricity distribution line or make an interconnection and who is exempted under this Act from the requirement to obtain leave.<sup>22</sup>

27. The leave referred to in s. 99(1)1 is leave from the OEB to "construct, expand or reinforce an electricity transmission line" that is required under s. 92 of the *OEB Act*. Applications under s. 92 are decided by the OEB on the basis of the public interest.<sup>23</sup> In the case of a transmission line, the public interest is determined exclusively on consideration of two factors:

1. The interests of consumers with respect to prices and the reliability and quality of electricity service.
2. Supporting economic growth in a manner consistent with the policies of the Government of Ontario.<sup>24</sup>

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<sup>22</sup> *OEB Act*, s. [99\(1\)](#).

<sup>23</sup> *OEB Act*, s. [96\(1\)](#).

<sup>24</sup> *OEB Act*, s. [96\(2\)](#).

28. The Impala Line was not granted leave under s. 92 of the *OEB Act*. However, s. 99(1) provides for two other categories of eligible expropriation applicant: (1) those that obtained leave under predecessor legislation;<sup>25</sup> and (2) those exempted from the leave requirement under s. 92.<sup>26</sup> In the latter case, the OEB can grant an exemption where it is required by the “special circumstances of a particular case”,<sup>27</sup> or where a person meets circumstances prescribed by regulations.<sup>28</sup>
29. Section 6.2(1) of the *Definitions and Exemptions* regulations (the “**Regulations**”) contains a list of circumstances in which a person can be exempted from the leave requirement under s. 92. This list of exemptions includes the following:
- (e) A person, other than a licensed transmitter or licensed distributor, that constructs, expands or reinforces an electricity transmission line, if the cost of the construction, expansion or reinforcement of the line is to be exclusively paid for by the person.<sup>29</sup>
30. This exemption covers the construction of transmission infrastructure, like the Impala Line, that is paid for exclusively by its owner.
31. The *OEB Act* scheme outlines when the OEB has jurisdiction to grant an applicant the authority to expropriate land. Once expropriated, the successful applicant must pay the owner compensation as determined in accordance with the *Expropriations Act*.<sup>30</sup>

**b. The OEB’s Statutory Objectives and the Purpose of the Expropriation Provision**

32. The OEB’s interpretation of its own jurisdiction under s. 99 of the *OEB Act* must be consistent with the text, context, and purpose of the provision.<sup>31</sup> In this case, these elements lead to the conclusion that the OEB has authority to grant the expropriation sought by Impala.
33. The purpose of the expropriation power under s. 99 of the *OEB Act* must be assessed in the context of the scheme as a whole. When viewed in this context, the purpose of s. 99

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<sup>25</sup> *OEB Act*, s. [99\(1\)1](#).

<sup>26</sup> *OEB Act*, s. [99\(1\)2](#).

<sup>27</sup> *OEB Act*, s. [95\(1\)](#).

<sup>28</sup> *OEB Act*, s. [95\(2\)](#).

<sup>29</sup> *Definitions and Exemptions*, [O Reg 161/99 \[Regulations\]](#), s. [6.2\(1\)\(e\)](#).

<sup>30</sup> *Expropriations Act*, [RSO 1990, c E.26](#).

<sup>31</sup> *Canada (Minister of Citizenship and Immigration) v. Vavilov*, [2019 SCC 65](#), para. [120](#).

is clear: to provide the OEB with oversight over an expropriation authority that facilitates the safe and efficient construction and operation of transmission infrastructure in Ontario.

34. Section 99 is located in Part VI of the *OEB Act*, which covers matters relating to transmission and distribution lines. Part VI contains leave and exemption schemes for electric transmission and distribution,<sup>32</sup> as well as hydrocarbon lines.<sup>33</sup> It also contains special property rights, including rights to enter land<sup>34</sup> and the ability to construct work over or under a highway, utility line, or ditch.<sup>35</sup> The expropriation authority under s. 99 is included alongside these other special land privileges. Expropriation, like an ability to enter land without the owner's consent, is an exception to the general rule that private landowners have the right to exclusive use and occupation of their land. This exception is justified by necessity and the public interest, and by the special status of electrical transmission infrastructure, even for private companies that own private transmission projects.<sup>36</sup>
35. The OEB's powers under s. 99 are a means to achieve its legislated objectives relating to electricity, including:
- (i) To promote economic efficiency and cost effectiveness in the generation, transmission, distribution, sale and demand management of electricity and to facilitate the maintenance of a financially viable electricity industry.<sup>37</sup>
  - (ii) To regulate the electricity sector in a manner that supports economic growth, consistent with the policies of the Government of Ontario.<sup>38</sup>
36. The Government of Ontario's policies—which include the promotion of critical minerals, economic growth, and access to clean power—are clearly reflected in the preambular clauses of two recent pieces of Ontario legislation:

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<sup>32</sup> *OEB Act*, ss. [92](#), [94-96.1](#).

<sup>33</sup> *OEB Act*, s. [90](#), [94-96](#), and [96.2](#).

<sup>34</sup> *OEB Act*, ss. [98](#) and [103](#).

<sup>35</sup> *OEB Act*, s. [101](#).

<sup>36</sup> See e.g., EB-2011-0394, OEB Decision and Order, dated June 28, 2012, PDF p. 8. The OEB confirmed that the *OEB Act* expropriation scheme applies for transmission projects that are fully funded by the applicant.

<sup>37</sup> *OEB Act*, s. [1\(1\)2](#).

<sup>38</sup> *OEB Act*, s. [1\(1\)2.1](#).

The Government of Ontario is:

Protecting Ontario from global economic uncertainty by unleashing our economy.

Unlocking the potential of Ontario's critical minerals by streamlining approval processes for mining and critical infrastructure projects to achieve outcomes that fuel our economy while also creating jobs and protecting the strategic national mineral supply chain – all for the benefit of the people of Ontario and Canada.

Supporting the acceleration of provincial permitting and approvals for projects so Ontario can build mines and infrastructure faster, while ensuring environmental protections for future generations.<sup>39</sup>

The Government of Ontario is committed to:

Building an affordable, secure, reliable and clean energy system to power the strongest economy in the G7.

Prioritizing economic growth, job creation and strong governance as objectives of Ontario's energy system.

Supporting the responsible growth of energy-intensive industries like data centres that align with Ontario's economic priorities and benefit local communities.

[...]

Delivering affordable and clean energy for generations to power our economy and peoples' lives.<sup>40</sup>

37. These stated policy objectives support a broad interpretation of s. 99 of the *OEB Act*. In this context, the OEB's jurisdiction to grant expropriation authority under s. 99 enables safe and efficient construction and operation of transmission infrastructure, including through the granting of special property rights whenever the public interest—with a strong emphasis on jobs and economic development—demands it.

**c. Section 99 of the OEB Act Applies to the Impala Line**

38. The context and purpose of the OEB's jurisdiction over expropriation inform the scope of its authority under s. 99. Section 99 allows the OEB to facilitate the safe and efficient construction and operation of transmission infrastructure in Ontario, with an emphasis on economic growth and the delivery of clean energy for generations. Under this legislative scheme, the primary constraint on expropriation under s. 99 is the OEB's determination of

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<sup>39</sup> *Protect Ontario by Unleashing our Economy Act, 2025*, [SO 2025, c 4](#).

<sup>40</sup> *Protect Ontario by Securing Affordable Energy for Generations Act, 2025*, [SO 2025, c 22](#).

the public interest, even in situations where the costs of a transmission line do not flow through to ratepayers.<sup>41</sup>

39. On this basis, the Impala Line is eligible to apply for expropriation authority pursuant to s. 99, both under s. 99(1)1 and s. 99(1)2.

Section 99(1)1: Leave Under a Predecessor to Part VI

40. As noted above, the expropriation authority under s. 99(1)1 of the *OEB Act* includes any person who was granted leave under a predecessor to Part IV<sup>42</sup> of the *OEB Act*.

41. The predecessor to the *OEB Act* (the “**Repealed OEB Act**”) dealt primarily with hydrocarbon transmission, distribution, and storage.<sup>43</sup> The Repealed *OEB Act* covered matters including gas rate setting,<sup>44</sup> authorizations for gas storage,<sup>45</sup> gas priorities and allocation,<sup>46</sup> and the construction of pipelines.<sup>47</sup>

42. Under the Repealed *OEB Act*, electrical transmission, including the Impala Line, was captured by the term “utility line” but fell outside the scope of “transmission line”:

- (i) The term “utility line” was defined to mean “a pipe line, a telephone, telegraph, electric power or water line, or any other line that supplies a service or commodity to the public.” [Emphasis added]<sup>48</sup>
- (ii) The term “transmission line” was defined to mean “a pipe line, other than a production line, a distribution line, a pipe line within an oil refinery, oil or petroleum storage depot, chemical processing plant or pipe line terminal or station”.<sup>49</sup>

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<sup>41</sup> *OEB Act*, ss. [95](#) and [99](#); *Regulations*, s. s. [6.2\(1\)\(e\)](#).

<sup>42</sup> Part IV of the *OEB Act* covers matters concerning transmission and distribution lines.

<sup>43</sup> *Ontario Energy Board Act*, [RSO 1990, c O.13](#) [“**Repealed OEB Act**”].

<sup>44</sup> Repealed *OEB Act*, s. [19](#).

<sup>45</sup> Repealed *OEB Act*, ss. [20-23](#).

<sup>46</sup> Repealed *OEB Act*, ss. [38-44](#).

<sup>47</sup> Repealed *OEB Act*, ss. [46-55](#).

<sup>48</sup> Repealed *OEB Act*, s. [1\(1\)](#), definition of “utility line”.

<sup>49</sup> Repealed *OEB Act*, s. [1\(1\)](#), definition of “transmission line”.

43. Accordingly, though s. 46 of the Repealed *OEB Act* created a leave requirement for construction of a “transmission line”,<sup>50</sup> this requirement applied only to hydrocarbon pipelines and was inapplicable to the Impala Line. Similarly, the expropriation power under the Repealed *OEB Act* was only available for pipelines and stations.<sup>51</sup>
44. There was no corresponding scheme for utility lines. Utility lines were only referenced to the extent that an applicant sought to cross them with proposed oil and gas infrastructure.<sup>52</sup> Though the Repealed *OEB Act* provided for OEB oversight over electrical rates, this oversight was limited to Ontario Hydro.<sup>53</sup>
45. Unlike the present *OEB Act*, the Repealed *OEB Act* did not require a proponent to obtain an order before constructing, expanding, or reinforcing an electrical transmission line. This was the scheme in place at the time the Impala Line was built. The Impala Line was not granted leave under the Repealed *OEB Act* because this prior statute did not require—or provide the OEB with authority to grant—leave to construct an electrical transmission line.
46. The other legislation in force at the time the Impala Line was built did not provide authority for other bodies to grant leave for its construction, either. The *Public Utilities Act* contained provisions relating to electrical power until 2003,<sup>54</sup> but these provisions related to municipal corporations.<sup>55</sup> Transmission lines were not designated as major commercial or business enterprises, or activities which were subject to environmental assessment under the *Environmental Assessment Act*.<sup>56</sup>
47. Section 99 of the *OEB Act* explicitly provides an expropriation authority for transmission lines built before the present legislation came into force. Considering the legislative landscape prior to the enactment of the *OEB Act*, the requirement for “leave under... a predecessor of this Part” should be interpreted to include transmission lines that received all necessary approvals, either from the OEB or from any other agency. This definition

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<sup>50</sup> Repealed *OEB Act*, s. 46.

<sup>51</sup> Repealed *OEB Act*, s. 49. “Station” is defined as a compressor station, metering station, odorizing station, or regulating station (s. 1(1)).

<sup>52</sup> Repealed *OEB Act*, s. 48 and 51.

<sup>53</sup> Repealed *OEB Act*, s. 37.

<sup>54</sup> See *Public Utilities Act*, RSO 1990, c P.52, as it appeared in 1990 ([online](#)).

<sup>55</sup> *Public Utilities Act*, RSO 1990, c P.52, Part III, as it appeared in 1990 ([online](#)).

<sup>56</sup> *Environmental Assessment Act*, [RSO 1990, c E.18; Designation and Exemption – Private Sector Developers, O Reg 345/93](#) (repealed).

includes the Impala Line, which obtained all necessary work and land use permits from the Ministry of Natural Resources.<sup>57</sup>

48. For these reasons, it is open to the OEB to grant the relief sought by Impala under s. 99(1)1 of the *OEB Act*.

Section 99(1)2: Intention to Construct, Expand, or Reinforce and Exemption from Leave Requirements

49. Section 99(1)2 has two requirements: (1) an intention to construct, expand, or reinforce a transmission line; and (2) an exemption from leave requirements under the *OEB Act*. Impala satisfies both conditions.
50. Unlike “leave” and “exempted”, which are legal triggers under the *OEB Act*, the requirement that a person “intends to construct, expand or reinforce an electricity transmission line or an electricity distribution line” is much more ambiguous. Impala submits that this requirement should be interpreted to include its intended works on the Impala Line.
51. The three actions contemplated by s. 99(1)2 of the *OEB Act* cover a wide spectrum of potential works. Under the *OEB Act*, “construct” encompasses reconstruction, relocation, enlargement, and extension.<sup>58</sup> The term “reinforce” is similarly broad. Recent applications to the OEB have used the term “reinforce” to capture activities including pole upgrades<sup>59</sup> and efforts to improve storm and wind resilience.<sup>60</sup> At one end of the s. 99(1)2 spectrum, an applicant may be eligible because they seek to build a new transmission line. At the other end of this spectrum, an applicant may be eligible because they seek to maintain existing capacity, either by relocating a portion of an existing line, or by conducting work to improve reliability. Taken as a whole, “construct, expand, or reinforce” spans circumstances where a proponent seeks to increase or preserve transmission capacity, either on a new or existing line.

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<sup>57</sup> Impala Response to OEB Staff Interrogatory 1(e), PDF p. 4.

<sup>58</sup> *OEB Act*, s. 3(1), definition of “construct”.

<sup>59</sup> EB-2025-0254, Wasaga Distribution Inc. Application for Service Area Amendment, dated April 19, 2025, PDF p. 17.

<sup>60</sup> EB-2025-0252, Alectra Utilities Corporation 2027 Rebasing Application, dated October 14, 2025, Exhibit 1. See description of grid resilience projects, PDF p. 380.

52. Critically, the OEB's jurisdiction under s. 99(1)2 hinges on the applicant's *intent*. The expropriation authority under s. 99 does not require certainty as to whether or when these intended works are completed. It is sufficient that an applicant intends, at the time the application is made, to conduct eligible work.
53. Impala has stated its intention to indefinitely maintain the integrity of the Impala Line, including by replacing any damaged or worn aspects of the electrical infrastructure.<sup>61</sup> In other words, Impala intends to conduct necessary reinforcement work as that need inevitably arises, thus falling within the scope of s. 99(1)2 of the *OEB Act*. Impala seeks expropriation authority in order to conduct this intended work.
54. Impala is also eligible for exemption from the requirement to obtain leave under s. 92. As noted above, s. 95(2) provides that the OEB must make an order exempting a person from leave requirements under s. 92 if it is satisfied that the circumstances prescribed by the regulations have been met. Because Impala will finance future work on the Impala Line, it falls under s. 6.2(1)(e) of the *Regulations*. If the OEB deems it necessary to exempt Impala from the leave requirements under the *OEB Act* in order to grant the relief Impala seeks, the OEB has the authority to do so without a hearing<sup>62</sup> and without application by Impala.<sup>63</sup>
55. For these reasons, it is open to the OEB to grant the relief sought by Impala under s. 99(1)2 of the *OEB Act*.

**d. The Exclusion of Transmission Lines that Pre-Date the OEB's Jurisdiction Leads to Absurd, Inefficient Results**

56. An interpretation of the OEB's jurisdiction under s. 99 that precludes the authority to grant Impala's application would be an absurd result inconsistent with the OEB's statutory mandate.
57. This absurdity can be illustrated by reference to other circumstances under the *OEB Act* in which expropriation is available:

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<sup>61</sup> Impala Response to North Star Interrogatory 1(d), PDF p. 4.

<sup>62</sup> *OEB Act*, s. [95\(2\)](#).

<sup>63</sup> *OEB Act*, s. [19\(4\)](#).

- (i) If Impala were to construct the Impala Line today, it would be exempt, pursuant to s. 95(2) of the *OEB Act* and s. 6.2(1)(e) of the *Regulations*, from the leave requirement under s. 92. Impala would then be eligible to apply for authority to expropriate pursuant to s. 99(1)2.
- (ii) If Impala were to relocate the existing Impala Line—even a nominal distance, within the North Star Properties—then this work would fall under s. 92(1) of the *OEB Act*: relocation or reconstruction where the authority to use additional land is necessary.<sup>64</sup> As with a *de novo* construction, expansion, or reinforcement, Impala would presumptively require leave to conduct this work. However, Impala would be eligible for an exemption under s. 6.2(1)(e) of the *Regulations* and s. 95(2) of the *OEB Act*. Following the receipt of this exemption, Impala would also be eligible to apply for expropriation under s. 99.

58. To deny Impala the ability to apply for an expropriation under s. 99 when it would be eligible to do so in the circumstances above would be an absurd and inefficient outcome. This denial would be inconsistent with the OEB's statutory mandate: to promote efficiency in the transmission of electricity,<sup>65</sup> and to regulate the electricity sector in a manner that supports economic growth consistent with Ontario's policies.<sup>66</sup> Duplication of infrastructure generally results in unnecessary environmental impacts.<sup>67</sup> Requiring Impala to relocate or rebuild the Impala Line in order to access the expropriation authority under s. 99 would be an inherently absurd and inefficient outcome.

59. Impala requests that its application be evaluated on the merits of the public interest determination, not denied based on an unduly narrow, technical reading of the OEB's jurisdiction.

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<sup>64</sup> *OEB Act*, s. [92\(2\)](#).

<sup>65</sup> *OEB Act*, s. [1\(1\)2](#).

<sup>66</sup> *OEB Act*, s. [1\(1\)2.1](#).

<sup>67</sup> See e.g. EB-2012-0433, EB-2013-0074, and EB 2012-0451, OEB Decision and Order, dated January 30, 2014, PDF p. 57.

**e. *Impala's Interpretation of s. 99 Is Consistent with the OEB's Past Practice***

60. Impala's interpretation of the OEB's jurisdiction under s. 99 of the *OEB Act* is also consistent with the OEB's own past practice.
61. In 2012, the OEB authorized Enbridge to expropriate an easement over subject lands in perpetuity to allow the continued operation of natural gas pipelines that had been installed in the 1970s.<sup>68</sup> In this case, Enbridge's predecessor had negotiated license agreements that provided Enbridge with certain rights to install, operate, maintain and replace the pipelines. The land was subdivided and sold to three private parties. Upon learning of these sales, Enbridge sought to negotiate easements to secure its rights to access the existing pipelines.<sup>69</sup>
62. The OEB did not discuss whether the leave or exemption requirements in s. 99(1) were met for this historical infrastructure. Instead, the OEB turned its attention to whether the expropriation was in the public interest in accordance with the test under s. 99(5) of the *OEB Act*. Impala seeks a similar result in its application.
63. Like Enbridge, Impala is the owner and operator of a historical piece of linear infrastructure that would, if built today, require leave to construct (or an exemption) and would be eligible for expropriation under the *OEB Act*. Given these similarities, Impala asks the OEB to conduct a public interest assessment as provided for in s. 99(5) of the *OEB Act*.

**iii. *The Proposed Expropriation Is in the Public Interest***

64. Impala respectfully submits that the public interest criteria under s. 99(5) of the *OEB Act* is satisfied and the OEB should grant the relief sought.
65. The OEB's past practice indicates that assessment of the public interest is a fact-specific determination with no firm list of criteria.<sup>70</sup> The OEB may take into account the objects and purposes of the *OEB Act*, the broad public interest, and the interests of Impala and North

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<sup>68</sup> EB-2011-0391, OEB Decision and Order, dated June 14, 2012.

<sup>69</sup> EB-2011-0391, Enbridge Gas Distribution Inc. Notice of Application, PDF p. 3-5.

<sup>70</sup> EB-2006-0352, OEB Decision and Order, dated July 19, 2007 [**"Toyota Decision"**], PDF p. 11.

Star.<sup>71</sup> As part of its public interest considerations, the OEB must assess whether the impact on the landowner is minimized.<sup>72</sup>

66. As confirmed in the OEB's Decision and Order in EB-2006-0352 (the "**Toyota Decision**"), this framework applies even where transmission infrastructure is for the exclusive use of one industrial party: the public interest in securing a reliable supply of power to an industrial site can outweigh the private interests of landowners affected by easements sought.<sup>73</sup> In the Toyota Decision, the OEB granted Hydro One expropriation authority to build a transmission line for the exclusive use of a Toyota manufacturing facility being constructed in Woodstock, Ontario.<sup>74</sup> The OEB accepted that the Toyota manufacturing facility would provide direct and indirect economic benefits and that other generation methods were not viable alternatives.<sup>75</sup> The route had been approved through an environmental assessment,<sup>76</sup> and all impacts on the landowners' use of the lands in question could be compensated for financially.<sup>77</sup>
67. In the present case, Impala submits that it is similarly in the public interest to supply power to the LDI Mine through the existing Impala Line on the current route. Impala also submits that the expropriation it seeks is in the public interest, based on the following submissions: (1) there is need for power to the LDI Mine; (2) the Impala Line is the only option for powering the LDI Mine; (3) the Impala Line could provide power to neighboring developments or communities; (4) there are no suitable alternative routes for the Impala Line; (5) Impala has requested expropriation of the minimum legal interests required; and (6) expropriation is the only available option.

**a. There Is Need for Indefinite Power at the LDI Mine**

68. There are currently 60 million tonnes of palladium ore in the ground at the LDI Mine.<sup>78</sup> The LDI Mine is Canada's only pure palladium mine,<sup>79</sup> and one of only two known pure

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<sup>71</sup> Toyota Decision, PDF p. 12.

<sup>72</sup> EB-2019-0127, OEB Decision and Order, corrected December 3, 2019, PDF p. 6.

<sup>73</sup> Toyota Decision, PDF p. 16.

<sup>74</sup> Toyota Decision, PDF p. 3-4.

<sup>75</sup> Toyota Decision, PDF pp. 12, 13.

<sup>76</sup> Toyota Decision, PDF p. 13.

<sup>77</sup> Toyota Decision, PDF p. 14.

<sup>78</sup> Impala Response to OEB Staff Interrogatory 2(a), PDF p. 6.

<sup>79</sup> Impala Response to OEB Staff Interrogatory 2(a), PDF p. 6.

palladium sources in North America.<sup>80</sup> Palladium produced at the LDI Mine can be used in emissions-control systems, industrial catalysts, and emerging hydrogen technologies.<sup>81</sup> Palladium is a critical mineral,<sup>82</sup> and continued commercial operations at the LDI Mine serve Ontario's security, resilience, and economic development objectives.<sup>83</sup>

69. The LDI Mine also contributes significantly to the local and national economies,<sup>84</sup> including through the employment of over 700 Canadians.<sup>85</sup>
70. These factors make the LDI Mine a strategic asset, and Impala is working with both the federal and provincial governments to protect this resource.<sup>86</sup>
71. Contrary to North Star's assertions,<sup>87</sup> the long-term future of the LDI Mine is not determined by the term of the current mining leases held by Impala. Mining leases in Ontario are issued for a fixed number of years but can be renewed where the lessee can demonstrate production or reasonable efforts to bring the property into production.<sup>88</sup> As the LDI Mine meets the criteria for renewal, the end date of the associated mining leases does not limit the long-term future of the LDI Mine.
72. Rather, the long-term future of the LDI Mine is dependent on global palladium prices.<sup>89</sup> Though Impala has previously stated that it will cease commercial operations in June 2027, this cessation is distinct from permanent closure and reclamation: the decision to cease commercial operations is neither permanent nor irreversible, and if there is a change in the economics of the LDI Mine, it could continue or re-enter commercial

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<sup>80</sup> Impala Application, para. 42, PDF p. 12.

<sup>81</sup> North Star Evidence, Vol II, Tab I: Implats Annual Integrated Report for the year ended 30 June 2024, PDF p. 165; North Star Evidence, Vol III, Tab K: Implats Annual Integrated Report for the year ended 30 June 2025, PDF p. 19.

<sup>82</sup> Under the *Canadian Critical Minerals Strategy*, a "critical mineral" is a mineral that is: (1) essential to Canada's economic security and its supply is threatened; (2) required for Canada's national transition to a low-carbon economy; or (3) a sustainable source of highly strategic critical minerals for Canada's partners and allies ([online](#)), PDF p. 15. This includes palladium, a platinum-group metal.

<sup>83</sup> Impala Application, para. 42, PDF p. 12; *Protect Ontario by Unleashing our Economy Act, 2025*, [SO 2025, c 4](#).

<sup>84</sup> Impala Application, paras. 39-42, PDF pp. 11-12.

<sup>85</sup> Impala Application, para. 39, PDF p. 11; North Star Evidence, PDF p. 33.

<sup>86</sup> Impala Response to OEB Staff Interrogatory 2(a), PDF p. 6.

<sup>87</sup> North Star Response to OEB Staff Interrogatory 1(d), PDF pp. 4-5.

<sup>88</sup> *Mining Act*, [RSO 1990, c M.14](#), s. 81.

<sup>89</sup> Impala Response to OEB Staff Interrogatory 2(a), PDF p. 5; Impala Application, para. 40, PDF p. 11.

production.<sup>90</sup> Further, the stated intention to cease operations in June 2027 is subject to change, especially in light of steady increases in palladium prices. Loss of the Impala Line would force premature closure of the Impala Line, sacrificing the benefits outlined above.

73. Further, if and when the LDI Mine ceases commercial production, the site will remain subject to provincial and federal regulatory requirements until the LDI Mine has satisfied criteria for closure and full reclamation.<sup>91</sup> Accordingly, a power source is required on an indefinite basis after the end of commercial production to comply with these regulatory requirements and sustain environmental and safety activities, which are plainly in furtherance of the public interest.<sup>92</sup> These activities include pumping and dam services for water and tailings management, critical work that requires a reliable power source.<sup>93</sup>

***b. The Impala Line Is the Only Option for Powering the LDI Mine***

74. There are no reasonable alternatives to the Impala Line. Through its interconnection with the Hydro One transmission system, the Impala Line provides a clean, efficient power source for the LDI Mine,<sup>94</sup> and it is in the public interest to maintain this existing source.
75. In the short term, the only alternative would be a transition to diesel generation. Existing diesel generators at the LDI Mine have been designed as a backup power source for environmental and safety systems in the event of loss of power from the grid.<sup>95</sup> They lack redundancy and cannot support environmental or safety systems on an ongoing or permanent basis.<sup>96</sup> Further, increased reliance on diesel would result in a significant increase in emissions and traffic on public highways.<sup>97</sup>
76. Removing the fully functioning Impala Line and powering the LDI Mine with diesel generation on an indefinite basis will lead to increased risk of environmental and safety system failure and other clear adverse environmental effects. These avoidable impacts are not in the public interest.

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<sup>90</sup> Impala Response to OEB Staff Interrogatory 2(a), PDF p. 6.

<sup>91</sup> Impala Application, para. 40, PDF p. 11.

<sup>92</sup> Impala Response to OEB Staff Interrogatory 2(b), PDF p. 6.

<sup>93</sup> Impala Application, para. 41, PDF pp. 11-12.

<sup>94</sup> Impala Response to North Star Interrogatory 1(b), PDF p. 4; Impala Application, para. 4, PDF p. 3.

<sup>95</sup> Impala Response to OEB Staff Interrogatory 2(c), PDF p. 6.

<sup>96</sup> Impala Response to OEB Staff Interrogatory 2(c), PDF p. 6.

<sup>97</sup> Impala Response to OEB Staff Interrogatory 2(c), PDF p. 6.

**c. The Impala Line Could Service Other Developments**

77. In addition to the LDI Mine, the Impala Line could potentially serve other nearby developments or off-grid communities.<sup>98</sup> The capacity of the Impala Line is greater than the LDI Mine's required load,<sup>99</sup> and enquiries have been made by communications and generation industry proponents about the use of this excess capacity.<sup>100</sup>
78. Continued operation of the Impala Line has the potential to support economic growth in the region, consistent with the policies of the Government of Ontario.<sup>101</sup> As noted above, recent legislative enactments indicate the Government of Ontario's intention to support the responsible growth of energy-intensive industries, and to deliver affordable and clean energy to meet industry and community needs.<sup>102</sup> Both of these objectives are served by maintaining the Impala Line as a potential power supply for the surrounding region.

**d. There Are No Suitable Alternative Routes**

79. Given that the Impala Line is currently constructed and operational, relocation is an inherently inefficient outcome. The relocation of this linear infrastructure would result in unnecessary environmental impacts, including clearing of protected areas and disruption of wildlife.<sup>103</sup>
80. Moreover, there are no suitable alternative routes.

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<sup>98</sup> Impala Application, para. 43, PDF p. 12.

<sup>99</sup> Impala Response to OEB Staff Interrogatory 3(a), PDF p. 7.

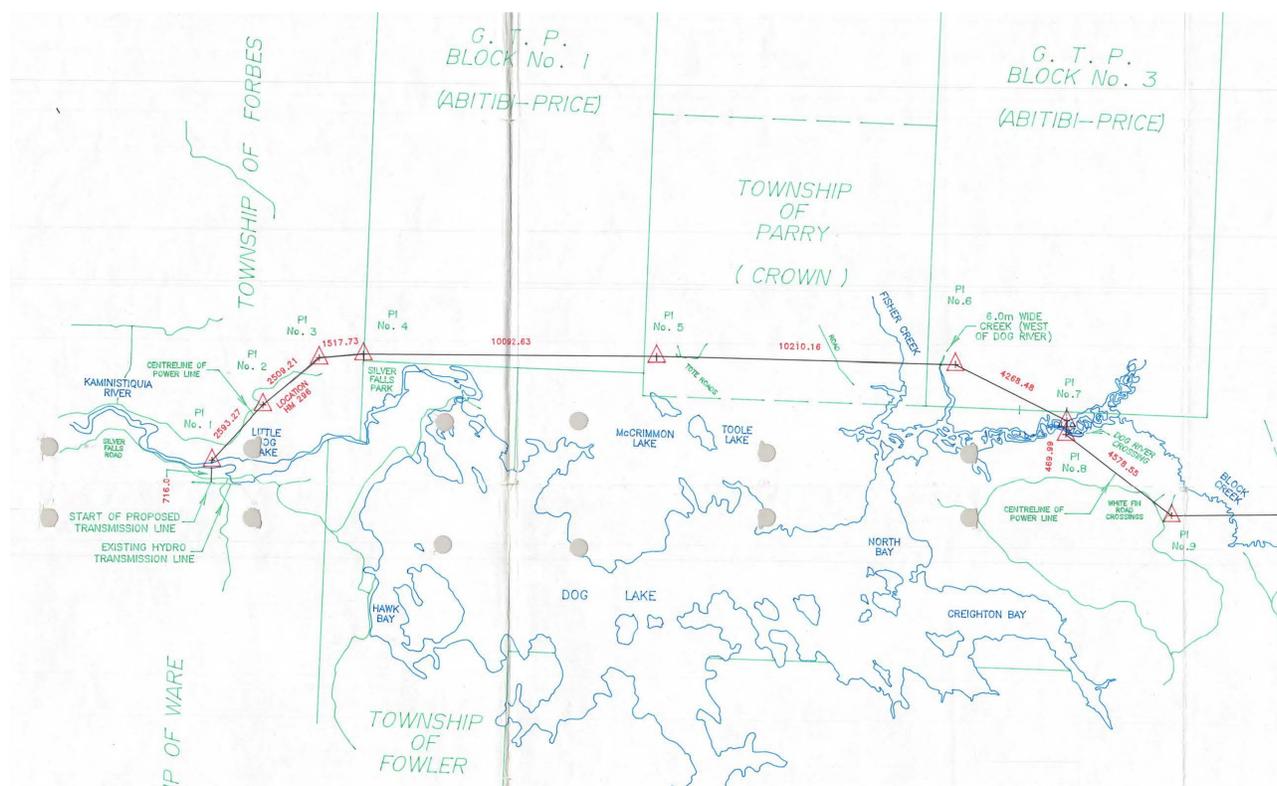
<sup>100</sup> Impala Response to OEB Staff Interrogatory 3(b), PDF p. 7.

<sup>101</sup> *OEB Act*, s. [1\(1\)2.1](#).

<sup>102</sup> *Protect Ontario by Securing Affordable Energy for Generations Act, 2025*, [SO 2025, c 22](#), preamble.

<sup>103</sup> Impala Application, para. 43, PDF p. 12.

81. During the planning phase for the Impala Line, several routes were proposed.<sup>104</sup> In configuring the route, and in collaboration with the Ministry of Natural Resources, significant efforts were made to avoid unnecessary passage through Silver Falls Provincial Park, which abuts Block 1.<sup>105</sup> The northern portion of the Impala Line was specifically re-routed onto Block 3 at the suggestion of the Ministry of Natural Resources to avoid the Dog River Conservation Area and access the approved crossing location along the Dog River.<sup>106</sup>



**Figure 1:** PowerTel Utilities Contractors Limited, Hydro Line Corridor Silver Falls Road to Lac Des Iles Mine (Impala Application, Appendix 4: Route and Aerial Map, PDF p. 23). North points to the right in this orientation.

82. Figure 1, included above and attached as Appendix 4 to Impala’s application,<sup>107</sup> demonstrates that relocation is not a viable alternative. Silver Falls Provincial Park and the Dog River can be seen just below (i.e., to the East) of Block 1 and Block 3, respectively.

<sup>104</sup> Impala Response to OEB Staff Interrogatory 1(f), PDF p. 4.

<sup>105</sup> Impala Response to OEB Staff Interrogatory 1(f), PDF p. 4.

<sup>106</sup> Impala Response to OEB Staff Interrogatory 1(f), PDF p. 4.

<sup>107</sup> Impala Application, Appendix 4: Route and Aerial Map, PDF p. 23.

83. A relocation of the Impala Line would require one of two options: moving the Impala Line further into North Star's Properties, or moving the Impala Line off the Properties altogether. The former option would have more significant impacts on North Star's use of the Properties, and the latter would entail unnecessary impacts on Silver Falls Provincial Park and on the Dog River. As noted above, these sensitive areas were deliberately avoided during planning of the existing route.<sup>108</sup>

**e. *Impala Has Requested Expropriation of the Minimum Legal Interests Required***

84. Impala seeks expropriation authority over interests equivalent to those provided for under the voluntarily negotiated Easements: permanent easements along the existing route of the Impala Line across the Properties.<sup>109</sup> These interests are the minimum interests necessary to safely and reliably operate the Impala Line.

- (i) **Term:** Impala agrees with North Star that the appropriate term for the easements sought depends on Impala's intended use of the land.<sup>110</sup> As discussed above, Impala seeks permanent easements to supply power to the LDI Mine on an indefinite basis. This reliable supply of power will prevent premature cessation of commercial operations at the LDI Mine<sup>111</sup> and will allow Impala to comply with provincial and federal requirements for long-term water management and treatment. These are not "hypothetical future operations" as characterized by North Star.<sup>112</sup>
- (ii) **Geographic Footprint:** Impala seeks expropriation authority over the minimum geographic area necessary to continue safe operations of the Impala Line: a 30m corridor that runs along the eastern edge of Block 1 and across the southeastern corner of Block 3.<sup>113</sup> Together, these two easements sought cover approximately

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<sup>108</sup> Impala Response to OEB Staff Interrogatory 1(f), PDF p. 4.

<sup>109</sup> A detailed description of the specific interests over which the authority to expropriate is being requested is attached as Appendix 1 to Impala's Application, PDF p. 15.

<sup>110</sup> North Star Response to OEB Staff Interrogatory 1(d), PDF p. 4.

<sup>111</sup> Impala Response to OEB Staff Interrogatory 2(b), PDF p. 6.

<sup>112</sup> North Star Response to OEB Staff Interrogatory 1(d), PDF p. 5.

<sup>113</sup> Impala Application, Appendix 2: Reference Plans Suitable for Registration, PDF pp. 17-18.

43 hectares of North Star's land<sup>114</sup> and, given their location along the edges of the Properties, minimally impair North Star's use and enjoyment of the Properties.

- (iii) **Scope of Rights:** Impala seeks an easement to maintain and operate the Impala Line, clear the easement area of brush and trees, erect necessary gates and crossings, access the line to repair and renew, relocate the Impala Line within the easement area, and install an underground conductor when required.<sup>115</sup> These are the minimum interests required to ensure safe and efficient operation of the Impala Line. They are consistent with the terms agreed to by North Star and Impala's predecessors,<sup>116</sup> which indicate a mutually beneficial arrangement for minimal impairment of the landowner's use of the Properties.

**f. Expropriation Is the Only Option Available to Impala**

85. Impala has engaged in good faith conversations and negotiations with Wagner over the course of a year, but the parties have been unable to reach a resolution during this time. As indicated by the correspondence between the parties, Wagner indicated it was open to renewing the easement in perpetuity<sup>117</sup> yet rejected an offer worth 10 times the current land value.<sup>118</sup> This is inconsistent with North Star's characterization of itself as a "willing seller" for the negotiation of a permanent easement.<sup>119</sup>
86. The only remaining issue between the parties is compensation, which can be properly dispensed with through the *Expropriations Act*.<sup>120</sup>

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<sup>114</sup> Impala Application, Appendix 2: Reference Plans Suitable for Registration, PDF pp. 17-18. The easement sought on Block 1 covers 29.061 Ha, and the easement sought on Block 3 covers 18.088 Ha.

<sup>115</sup> Impala Application, Appendix 1: Description of Lands and Specific Interests in Lands over which Authority to Expropriate is being Requested, PDF p. 15.

<sup>116</sup> Impala Application, Appendix 5: Easements, PDF p. 39.

<sup>117</sup> North Star Evidence, Tab C: September 11, 2025 Letter from Andy Gibbons to Jeremy Barretto, PDF p. 29.

<sup>118</sup> Impala Response to North Star Interrogatory 2(a)c, Appendix B: September 18, 2025 Letter from Jeremy Barretto to Andy Gibbons, PDF p. 17.

<sup>119</sup> North Star Response to Impala Interrogatory 8(a), PDF p. 13.

<sup>120</sup> *Expropriations Act*, [RSO 1990, c E.26](#).

**D. Conclusion**

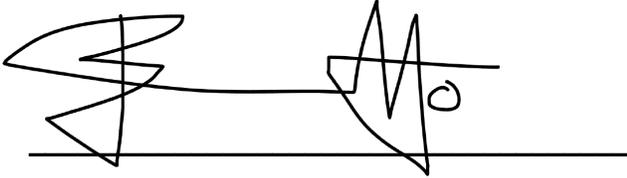
87. For the reasons indicated above, Impala asks that the OEB grant it the expropriation authority sought in its application.
88. The OEB has jurisdiction to grant this relief under s. 99 of the *OEB Act* for two reasons. First, the Impala Line was constructed following receipt of all necessary approvals under a prior legislative scheme, which included oversight by the Ministry of Natural Resources. Second, Impala intends to indefinitely maintain the integrity of the Impala Line and is exempt from leave requirements for this work because it will be privately funded.
89. An interpretation of the OEB's jurisdiction under s. 99 that includes expropriation authority for historic private infrastructure like the Impala Line is consistent with the scheme as a whole. It is also consistent with the OEB's statutory mandate to promote economic efficiency in the transmission of electricity, and to regulate the electricity sector in a manner that supports economic growth in line with the policies of the Government of Ontario.
90. To deny Impala's application on a jurisdictional basis would mean that existing transmission infrastructure is afforded fewer privileges than proposed future transmission infrastructure, an inherently inefficient result that is inconsistent with the OEB's mandate. Instead, Impala asks that its application be evaluated on its merits against the statutory public interest test.
91. The expropriation sought is in the public interest as required by s. 99(5) of the *OEB Act*. The Impala Line is the only reasonable option for powering the LDI Mine, which provides significant benefit to the local, provincial, and national communities. The LDI Mine requires a permanent power source to continue commercial operations as long as supported by global palladium prices and to sustain necessary environmental and safety systems on an indefinite basis. Transitioning to diesel would result in significant avoidable adverse environmental effects and is inconsistent with Ontario's stated policy objectives.<sup>121</sup> Further, the Impala Line could supply clean power to communities or industrial developments in the Thunder Bay region.

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<sup>121</sup> See e.g., preamble of the *Protect Ontario by Securing Affordable Energy for Generations Act, 2025*, [SO 2025, c 22](#): "The Government of Ontario is committed to... Delivering affordable and clean energy for generations to power our economy and peoples' lives."

92. The current configuration of the Impala Line across the two North Star parcels was specifically selected to avoid sensitive environmental regions on neighboring lands. The terms of the easements sought, which minimize the term, geographic footprint, and scope of rights, are the minimum legal interests required to continue the safe and efficient operation of the Impala Line. Though Impala has engaged in good faith negotiations with Wagner, the parties have not been able to reach agreement on compensation. North Star's reference to the cost of building a new line<sup>122</sup> disregards the fact there is no possibility of a new line: the only options for an alternate route pass further through the North Star Properties or into a provincial park or conservation area.
93. On this basis, Impala requests that the OEB grant Impala the authority to expropriate the interests sought, and any other relief the OEB deems necessary.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED** this 23<sup>rd</sup> day of February, 2026.

A handwritten signature in black ink, consisting of a large, stylized 'S' followed by a series of loops and a horizontal line extending to the right, ending in a small circle.

**COUNSEL FOR IMPALA CANADA LTD.**

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<sup>122</sup> See e.g., North Star Response to Impala Interrogatory 1(a), PDF p. 3.