

March 19, 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, ON, M4P 1E4

Dear Mr. Murray:

Re: EB-2025-0314: BFN Transmission Application for Authority to Expropriate
Grant Lake Potential Evidence Summary

In Procedural Order No. 3 herein the OEB directed Grant Lake to provide a summary of its potential proposed evidence, including the scope of any such evidence and how it may relate to the interrogatories that are the subject of Grant Lake's motion for further and better interrogatory responses.

Summary of Potential Evidence

Among the interrogatories to which Grant Lake seeks further and better response is 1. Grant Lake.6, parts d. and e. As set out in Grant Lake's Notice of Motion filed March 18th, this interrogatory requested:

Part d. Indication of which of the communications listed by the Applicant in Appendix I to the Application – *Timeline of Land Access Agreements, Negotiations, and Related Communications* – related to compensation.

Part e. Listing of any additional communications related to compensation.

The interrogatory further asks for a copy of any such communication which is in writing or reduced to writing or, if oral only, a summary of the discussion including who was involved.

Grant Lake expects that proper response to this interrogatory will show that there was very little communication, and no real negotiation, in respect of compensation.

Grant Lake understands that the OEB will not determine compensation in this proceeding. What Grant Lake will ask the OEB to determine is that the lack of any real willingness and effort on the part of the Applicant and its investors to negotiate compensation, which is a central element in any expropriation, demonstrates that the Applicant had not made best efforts or exercised due diligence

in negotiating a resolution with Grant Lake prior to bringing its application for the extraordinary remedy of the granting of authority to expropriate. Depending on the outcome of Grant Lake's motion for further and better interrogatory responses, and should further production be directed depending on what is produced, Grant Lake may seek to file its own evidence on the degree to which the Applicant and its investors fairly and diligently made efforts (or not) prior to filing the Application for expropriation to resolve, among other issues, compensation to Grant Lake for the requested land rights.

Grant Lake may also include in any evidence which it seeks to file:

1. Further information on the history of dealings between the Applicant and its principals and Grant Lake, and by the Applicant with Grant Lake's lands, which reflect a significant disregard for Grant Lake's authority over its lands and the "*bona fides*" of the Applicant's claim that it and its principals sought to deal fairly with the landowner. Such a pattern of conduct would be a factor which the OEB should take into account in determining whether it is appropriate to grant the requested authority to expropriate, and if so with what conditions.
2. Further information regarding the route that the Applicant proposes to expropriate, and the extent to which that route affects Grant Lake's lands and thus may support any particular conditions should the OEB determine to grant authority to expropriate those lands. That route is quite remote, represents an essentially fresh ingress to Grant Lake's lands, and if access is not properly controlled and monitored poses a number of risks of injurious affection and incremental costs to Grant Lake.

Any further filings directed by the OEB in response to Grant Lake's motion related to interrogatory 2. Grant Lake.8, part c., which asked for a copy of land rights agreements entered into by the Applicant for other land rights acquired for the subject transmission line, might also inform these topics, and the appropriate scope of Grant Lake evidence thereon.

As counsel we continue to review with Grant Lake the full extent of its information and views on the historical dealings between the parties, and on the potential impact on the subject lands of the Applicant's choice of route for its proposed transmission line. While the foregoing is not necessarily exhaustive of the nature of the evidence that Grant Lake would file if given leave to do so, based on our understanding to date we believe it to be representative.

Method of Hearing

In its Intervention Form Grant Lake asked that the OEB reserve its determination of whether this application will proceed by way of an oral or written hearing until discoveries have been concluded. Grant Lake further asked that it be given the opportunity at that point in the proceeding to make submissions regarding the appropriate form of hearing based on the record at that time. In so doing, Grant Lake noted that the OEB has previously considered the option for an oral hearing to be a requirement in expropriation applications given the legislative authority to expropriate and "*the*

gravity of an expropriation case, involving as it does the compulsory taking of a person's property or an interest in their property, without their consent".¹

Should Grant Lake request, and be granted, leave to file evidence, we assume that opportunity would be given to the Applicant to ask interrogatories on that evidence. Once responses to any such interrogatories have been filed, Grant Lake will be in a better position to advise the OEB whether it considers the record to be substantially complete or whether it wishes the opportunity to cross-examine witnesses for the Applicant to further develop the record and in what manner such further development would be relevant to, and probative of, the issues for determination by the OEB. Grant Lake requests that it be given the opportunity to elaborate on its intentions for an oral hearing at that time.

Conclusion

We trust that the information provided in this letter is responsive to the OEB's directions.

Yours truly,



Ian A. Mondrow

- c. Justin Mak, GRANT LAKE
- Jim Tait, BFN TRANSMISSION
- Ljuba Djurdjevic, McCARTHY TETRAULT
- Marc Kemerer, MCMILLAN LLP
- Muhammad Yunus, OEB STAFF
- Michael Millar, OEB COUNSEL

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¹ See EB-2013-0268, Dufferin Wind Power Inc. *Decision and Order*, May 1, 2014, page 4, first full paragraph.