

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

AND IN THE MATTER OF an Application by 1000757443 Limited Partnership by its
general partner BFN Transmission GP Holding Company Inc., under section 99 of the
OEB Act, for authority to expropriate an interest in land for the purpose of constructing
and operating a 115 kV transmission line from the Hollingsworth Transmission Station in
Algoma District, to the Island Gold Mine site near Dubreuilville, Ontario

ARGUMENT IN CHIEF
OF THE APPLICANT
JULY 6, 2026

1. Introduction

1.1 Overview

1. The Application is fundamentally a case about securing a reliable supply of power to enable the expansion of mining and other future economic activity in a remote area of the Province of Ontario which has traditionally languished economically. Approval of the Application will, it is submitted, promote the critical public interest in goals of achieving Indigenous Reconciliation and economic prosperity in (Northern) Ontario.
2. Approval of the Application would support the energy and economic diversification strategies the Batchewana First Nation ("**BFN**"); provide for a significant increase of employment in the Algoma District; facilitate economic development in Ontario and help reduce the emission of greenhouse gasses.
3. The Application represents one of the first, if not the first, cases involving a single mine operator and First Nation partnership to develop cost effective, efficient and minimally intrusive solutions. The minimization of impacts on the affected landowner and the environment is one of the most important and relevant aspects of the public interest.
4. The Applicant, 1000757443 LP by its general partner, BFN Transmission GP Holding Company Inc. (the "**Applicant**"), is seeking an order of the Ontario Energy Board (the "**OEB**") under section 99(1) of the OEB Act for authority to expropriate certain permanent easements over lands owned by Grant Lake Forest Resources Ltd. and Josephine Forest Resources Ltd. (together "**Grant Lake**").
5. The Applicant is a limited partnership established under the laws of Ontario in which BFN Transmission GP Holding Limited Partnership ("**BFN Transmission**") and Alamos Gold Inc. ("**Alamos**") directly or indirectly hold the

limited partnership interests. Alamos owns and operates the Island Gold District comprised of the Island Gold Mine and the Magino Gold Mine (together the “**Mines**”). BFN Transmission is an Ontario limited partnership associated with BFN.

6. The requested easements are required for the purpose of accessing, constructing and operating a transmission line in Algoma District which will extend from a new switching station near the Hydro One Hollingsworth transmission station and will terminate at a new sub-station being constructed at the Island Gold Mine located in Finan Township (the “**Expropriation Lands**”) (the “**Project**”). If the requested relief is granted, the Project can be built and provide the power necessary to allow for the expansion of the Mines.
7. The Project is being constructed and paid for entirely by the Applicant, through funds contributed equally by BFN and Alamos.
8. To construct the Project, the Applicant requires certain permanent easements over the Expropriation Lands which are owned by Grant Lake. The location of the Expropriation Lands, including the access routes, are set out in the mapping at Appendix B to the Application.¹ The Applicant is in the process of finalizing survey work to identify the precise boundaries of the Expropriation Lands.
9. The area of the Easement will be approximately 350 acres, with easement widths for the transmission line corridor ranging between 34, 40 and 60 meters (dictated by span and structure type of the transmission poles), and a length of 45 kilometres. Easement widths for the access routes will range from between 6 and 20 meters. The terrain over which the transmission line will run is rugged and characterized by numerous lakes².

¹ [EB-2025-0314 Application](#) and [Appendix B Mapping Parts 1 - 7](#).

² Application page 5

10. In the context of the hundreds of thousands of acres owned by Grant Lake here the Expropriation Lands represent a minute portion of the lands owned by Grant Lake in 2014, less than 0.01%³.
11. The Expropriation Lands are within the traditional territory of BFN.
12. Over the course of more than 2 years, the Applicant made good faith efforts to negotiate the terms of a lease with Grant Lake. Despite the Applicant's efforts, the parties were unfortunately unable to reach a voluntary agreement.
13. It was only following the breakdown of the negotiations in November of 2025 that the Applicant brought the Application. The interests sought by the Applicant in this application are the minimum interests necessary to safely and reliably construct and operate the Project.

1.2 OEB Jurisdiction

14. Section 99(1)2. of the *OEB Act* provides the OEB with the ability to grant expropriation authority to any person who intends to construct, expand or reinforce an electricity transmission line and who is exempted under this Act from the requirement to obtain leave.⁴ The Applicant requests that the OEB consider the merits of its application against the public interest test laid out in s. 99(5) the *OEB Act*.⁵
15. The Applicant is exempt from the requirement to obtain leave to construct the Project on the basis of Section 6.2(1)(e) of Ontario Regulation O. Reg. 161/99

³ Application 27 November 2025 cover letter

⁴ *Ontario Energy Board Act, 1998*, [SO 1998, c 15, Sch B](#)["*OEB Act*"].

⁵ *OEB Act*, s. [99\(5\)](#).

(the “**Regulation**”)⁶ which provides that section 92(1) of the OEB Act does not apply to:

(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; (emphasis added)

16. The Applicant may also be exempt pursuant to section 6.2(1)(e.1), which provides that section 92(1) of the OEB Act does not apply to:⁷

(e.1) a person that constructs, expands or reinforces an electricity transmission line, if

(i) the construction, expansion or reinforcement of the line is undertaken pursuant to an agreement between the person and one or more customers that specifies that the cost of the construction, expansion or reinforcement is to be exclusively paid for by the customer or customers, and

(ii) none of the customers is a licensed transmitter or licensed distributor;
(*emphasis added*)

17. As a person exempt from the leave to construct requirement under section 92 of the OEB Act, the Applicant is entitled to bring an application for expropriation

⁶ [O. Reg. 161/99: Definitions and Exemptions](#). Sections 6.2.1(e) and 6.2(1)(e.1) were added to the Regulation in November 2022 by [Ontario Regulation O. Reg. 511/22](#).

⁷ As stated in its [Interrogatory Responses](#), Grant Lake IR #1(a), PDF page 19-20, the second exemption provision under section 6.2(1)(e.1) may also apply to the Applicant because the Applicant is constructing the transmission line at its cost, but will have a Transmission Services Agreement with its customer(s) pursuant to which customer(s) will pay a Transmission Services Fee that eventually compensates the Applicant for all construction costs (as well as operation, maintenance and decommissioning costs).

- authority under section 99(1) of the OEB Act and the OEB has jurisdiction to grant the requested relief.
18. Expropriation relief under section 99 of the OEB Act is available where a transmission line is privately funded and initially supplies only one large industrial customer provided that the expropriation is in the public interest. The fact that a proposed transmission line is privately funded does not preclude a proponent from applying for expropriation authority. This was confirmed in the OEB's decision in the *Toyota* case.⁸
 19. Furthermore, the availability of expropriation relief for privately-funded transmission lines was considered by the government when it introduced the new exemption in the Regulation.⁹ In the Environmental Registry posting with respect to the amended Regulation, the Ministry of Energy, Northern Development and Mines noted that, "in the event the transmitter and landowners do not reach agreement related to land, the OEB will continue to administer the expropriation of land under Section 99 of the [OEB Act]".¹⁰
 20. In applying the test in s. 99(5), and as set out further below, the Applicant submits that expropriation is in the public interest. By promoting economic growth and Indigenous development the Application is a steppingstone to reconciliation with local Indigenous communities, most particularly BFN. The Mines require incremental electricity supply and the Project is the only reasonable option. Further, the Project will provide a clean, reliable source of power for the Mines. Other options—like continued supply with CNG or diesel generation—would have significant adverse environmental effects and are not reasonable alternatives.

⁸ EB-2006-0352 Toyota Woodstock Transmission Interconnection, Second Interim Decision, para 14 (attached to Applicant's [Reply to Grant Lake Motion for Further Information and Request to File Evidence](#), pages 12-16).

⁹ [O. Reg. 161/99: Definitions and Exemptions](#), Sections 6.2(1)(e) and 6.2(1)(e.1)

¹⁰ Environmental Registry of Ontario (ERO) posting setting out the government's intention and rationale for the new exemption ([ERO 019-3038](#)).

21. It is trite law, and explicitly set out in Section 100 of the OEB Act, that matters of compensation are not within the OEB's jurisdiction in an expropriation application and, where parties cannot agree on the amount of compensation, it must be determined by the Ontario Land Tribunal and in accordance with the *Expropriations Act*.¹¹

1.3 Summary of the Application Proceedings

22. The complete Application was filed with the OEB on November 28, 2025. The OEB issued a Notice of Hearing and Letter of Direction on December 5, 2025. The Applicant conducted a search of title, served the Notice of Hearing and posted the Notice on the BFN website, in accordance with the Letter of Direction. Grant Lake filed an [Intervention Request Form](#) on January 12, 2026.
23. The OEB issued its [Procedural Order No.1](#) (PO1) on January 19, 2026 setting out the standard Issues List for an expropriation application under section 99 as follows:
- 1. Is the proposed expropriation in the public interest?*
 - 2. Has the applicant requested expropriation of the minimum amount of land needed for the project, and the minimum legal interest required for that land?*
 - 3. What conditions, if any, should be attached to the OEB's Order in this proceeding?*
24. Each of OEB staff and Grant Lake submitted their respective interrogatories to the Applicant on February 12, 2026. The Applicant filed complete [responses to the interrogatories](#) on February 26, 2026 in accordance with PO1.

¹¹ OEB Act, section 100 and *Expropriations Act*, [RSO 1990, c E.26](#).

25. On March 6, 2026, the OEB issued [Procedural Order No.2](#) (PO2) in which the OEB provided for due dates for the filing of final arguments by the parties. PO2 noted that, although Grant Lake had indicated that it may seek to file evidence after the interrogatory responses were filed, the OEB had not received any request from Grant Lake to file evidence.
26. On March 10, 2026 Grant Lake filed a request for the OEB to modify the procedure set out in PO2 and stated that Grant Lake:
 - intended to bring a motion for further and better responses to certain interrogatories
 - will advise what, if any, evidence it wishes to file following receipt of further responses to interrogatories and determination of the motion; and
 - will make submissions on whether an oral hearing is warranted.
27. On March 11, 2026, the Applicant filed its response to Grant Lake's request and objected to the procedural modifications requested by Grant Lake.
28. On March 13, 2026 the OEB issued its [Procedural Order No. 3](#) (PO3) in which it decided to hear Grant Lake's motion and adjusted the procedural steps to provide for the filing of the motion and parties' submissions on the motion.
29. Grant Lake filed its [Notice of Motion](#) and [Scope of Evidence Letter](#) on March 18 and 19, respectively. The Applicant filed its [Reply Submission to Grant Lake Motion](#) on March 25 and Grant Lake filed its [reply submission](#) on the Motion on April 1, 2026.
30. On April 16, 2026, the OEB issued its [Decision on Motion and Procedural Order No.4](#) ("PO4") in which the OEB denied all of Grant Lake's request for further

interrogatory responses from the Applicant. PO4 however provided Grant Lake with the opportunity to file evidence regarding the negotiation process relevant to this proceeding while noting that details of specific compensation offers are not likely to assist the OEB in determining whether the proposed expropriations are in the public interest.¹²

31. On April 24, Grant Lake filed a letter with the OEB advising that it would be delayed in filing its evidence; it filed a further letter on April 28 that it would be further delayed in filing its evidence.¹³
32. On April 29, the Applicant filed a letter with the OEB advising that the parties were engaged in settlement discussions and jointly requested that the OEB revise the schedule set out in PO4.¹⁴ On May 5, 2026 the OEB issued [Procedural Order No.5](#) (PO5) setting out a revised schedule for the filing of Grant Lake's evidence, interrogatories on the Grant Lake evidence, responses to interrogatories by Grant Lake, and final arguments from both parties.
33. On June 1, 2026 Grant Lake filed what it purported to be its [Intervenor Evidence](#). In response the Applicant filed, on June 3 2026, a notice of motion asking the OEB to strike the "evidence" filed by Grant Lake from the record of this proceeding on the basis that it was:
 - a. Irrelevant as it involved extraneous information or information already before the OEB,
 - b. out of scope; and/or
 - c. inadmissible as it improperly disclosed confidential, settlement privileged discussions between the parties with respect to compensation. The

¹² [Decision on Motion and Procedural Order No.4](#), page 6.

¹³ [Grant Lake Evidence Filing Delay Letter 20260424](#) and [Grant Lake Evidence Filing Further Delay Letter 20260428](#).

¹⁴ [BFNLetter proposed change to scheduled dates 20260429](#).

Applicant did not agree to having this evidence introduced into the record of proceeding.

(the “**Motion to Strike**”).

34. On June 10, 2026 the OEB issued a [letter regarding the Applicant Motion](#) advising that, as a matter of procedural efficiency, it would continue with the procedural schedule in PO5 and that the OEB would hear the Applicant Motion through final submissions of the parties and make a determination on the Grant Lake evidence through its final decision.
35. The Applicant re-submits the Motion to Strike pursuant to the OEB’s June 10, 2026 letter as part of this Argument in Chief pursuant to PO5.

2. Background

2.1 History of the Project and Applicant’s Negotiation with Grant Lake

Island Gold District Expansion and Lack of API Capacity

36. The Project was conceived in the Spring of 2022¹⁵. Initially, Alamos was working with its current electricity supplier, Algoma Power Inc. (“**API**”) to secure additional electricity supply to the Mines. API currently supplies 19.5MW of capacity to the Mines through its 44kV powerline. However, API confirmed that it did not have enough incremental growth capacity to service the planned expansion of the Mines¹⁶.
37. Alamos and API also discussed building a new powerline alongside API’s existing line and a partnership with BFN. However, API indicated that it was not interested in participating in such a project and that in any event it did not

¹⁵ Application, page 4

¹⁶ Response to Interrogatory 1.OEB Staff-03(a) [BFN Responses to Interrogatories_redacted_20260226](#), page 1

have the capacity in its corridor to expand or upgrade beyond an additional 10MW.¹⁷

38. Alamos and BFN then formed a partnership to develop the Project as a private-funded transmission line paid for by Alamos and BFN through the Applicant partnership.
39. As indicated in interrogatory responses, API will continue to provide distribution power to the Mines via its 44kV Wawa-Limer powerline. However, after completion of the Project Alamos could reduce its reliance on the API system from its current consumption of 19.5MW, thereby freeing up capacity on the API system for other consumers in the area.¹⁸

Applicant's Negotiations with Grant Lake

40. As indicated in the Application, there were frequent, regular meetings between the Applicant and Grant Lake's agent, Facts, for more than 2 years between March 2023 and October 2025.¹⁹ Throughout this period of time Grant Lake expressed clear support for the Project by entering into various agreements with the Applicant, including an Access Licence Agreement and an Amending Agreement that granted the Applicant access to the Expropriation Lands for the performance of various studies, surveying, excavation, tree clearing and other works directly related to the Project.²⁰

¹⁷ Response to Interrogatory 1.OEB Staff-03(a) [BFN Responses to Interrogatories redacted 20260226](#), page 6.

¹⁸ Response to Interrogatory 1.OEB Staff-03(b) [BFN Responses to Interrogatories redacted 20260226](#), page 6 and Response to Interrogatory 1.Grant Lake.2(a)(ii), page 6.

¹⁹ Application Appendix I ("Timeline of Land Access Agreements, Negotiations and Related Communications") [Appx I Chart of Communications Between the Applicant, Facts and Shanda 20251127](#).

²⁰ Application, Appendices E, F, G [Appx F Amended Restated BFN Licence Agreement December 12 2024 20251127 Appx G Amending Agreement BFN-1000757443 GL-Jos Executed 20251127](#).

41. Especially noteworthy is the Letter of Support provided by Grant Lake's agent, Facts, publicly indicating its support for the Project and proposed right of way sought by the Applicant.²¹
42. It was only when the parties could not agree on the amount of compensation that the Applicant should pay for the use of the Expropriation Lands that the negotiations stalled and necessitated the filing of the Application. Prior to the commencement of the Application, Grant Lake did not indicate any concerns regarding the Project route and the impact on its lands; such concerns were raised for the first time after the Application for expropriation was filed.²²
43. The Applicant submits that it made good faith efforts to negotiate the terms of a lease with Grant Lake. Despite these efforts the parties were unable to reach a voluntary agreement.
44. The Applicant disagrees with Grant Lake's position that the Applicant must demonstrate "due diligence" in negotiations with landowners to demonstrate that the public interest has been satisfied. This is not part of the jurisprudence around the OEB's determination of the "public interest", which is further set out in Part 33 of this Argument in Chief. Even if this were the case, it is clear that the Applicant exercised all due diligence in attempting to avoid the need for the Application.

²¹ Application, Appendix H Letter of Support [Appx H BFN - Letter of Support 20251127](#).

²² [Grant Lake submission Issues_PO1_20250126](#) and [Grant Lake Scope of Evidence Letter_20260319](#).

2.2 Project Need and Benefits

45. The Application and attachments sets out, in extensive detail, the need for the Project and the clear benefits the Project will provide and particularly for BFN and other Indigenous communities.
46. As stated in the Application, BFN claims an underlying interest in the Expropriation Lands based on the historical use and occupation of those lands by BFN. The members of BFN have resided in this area for time immemorial with the earliest records of contact between the people of BFN being recorded by missionaries in the 17th century.
47. The expansion of the Mines will create the third largest gold mine in Canada, employing one thousand (1,000) workers in good quality jobs. As noted above, while API currently provides distribution services to the Mines, it has advised Alamos that its systems do not have incremental growth capacity to service the expansion²³.
48. The existing API system also supplies several regional communities, including Dubreuilville, Goudreau, Hawk Junction, and Missanabie Cree First Nation. The Island Gold District is a major load on this line and draws a significant portion (19.5 MW) of the available capacity on the API system. Shifting the Island Gold District's load to the Project will free up capacity on the existing API system, which is expected to improve reliability and system stability for the surrounding communities that continue to rely on the API system.²⁴
49. The Project will supply approximately 47 MW of incremental electricity demand growth to facilitate the expansion of the Mines.²⁵

²³ See also Response to Interrogatory 1.Grant Lake-9(a)

²⁴ Response to Interrogatory 1.Grant Lake-2(a)

²⁵ Application, page 3

50. The Project represents a significant investment by the Applicant in Algoma District by facilitating the expansion which will unlock one billion dollars (\$1,000,000,000) of investment by Alamos.²⁶
51. In economic terms, the economic benefits of facilitating the Mine expansion are understood as follows:
- a. direct impacts: revenue and employment from the mining company itself;
 - b. indirect impacts: purchases from supply chain businesses (e.g., machinery, engineering services, transportation); and
 - c. induced impacts: economic activity generated when mine employees and supply chain workers spend their wages on local goods and services.
52. The above are in addition to any future economic benefits which will result from the Project making up to an additional 19.5 MW of capacity available to the communities of Dubreuilville, Goudreau, Hawk Junction, Missanabie Cree First Nation and others that may be served by API.
53. In addition to these obvious benefits to BFN and other local communities, the Project will result in significant environmental benefits, primarily in the form of a significant reduction of the greenhouse gas (“**GHG**”) emissions from the Mines. The Project will allow Alamos to transition from electricity supplied from compressed natural gas (“**CNG**”) generators to the low-emission electricity supplied from the proposed grid.²⁷
54. By connecting to the grid, Alamos anticipates a reduction of GHG emissions of approximately 50,000 tonnes of CO2 per year. This transition is expected to drive a further 29% decrease in GHG emissions per ounce produced. This will

²⁶ Application, page 3

²⁷ Application, page 6

represent an emission intensity 70% lower than the industry average. These emissions reductions align with the commitment by Alamos to improve climate-related impact and reduce long-term exposure to carbon pricing risk. For BFN, as stewards of the land, the reduction in GHG is critical.²⁸

Post-Construction Ownership

55. After construction, the Applicant will operate the Project. Approximately seven (7) years after the construction of the Project, or earlier, both ownership and operation of it will revert to BFN. This post-construction transfer of Project ownership to BFN will strengthen the breadth and scope of BFN's energy infrastructure portfolio. This in turn will contribute significantly to the economic health and self-governing of that community²⁹.
56. While the Project will operate on a cost recovery basis and will not generate distributable profits, it will deliver significant long-term qualitative value to BFN by building lasting capacity within the community.
57. Growing and sustaining a qualified team to manage the Project creates institutional strength. The Project will anchor and support BFN's overall energy strategy and its long-term success as an asset owner. It is a key component in building the Nation's overall sustainability and self-determination in the energy sector.
58. A foundational pillar of reconciliation in the Indigenous context is implementing concrete changes to build a respectful, equitable future for Indigenous communities.

²⁸ Application, page 6

²⁹ Application, page 4

2.3 Public Notice and Environmental Assessment Process

59. As indicated in the Application and interrogatory responses, the Applicant undertook a Class Environmental Assessment (EA) for a proposed transmission line from the Hydro One Hollingsworth Transmission Station to the Mines (i.e., the Project). Notice of Commencement of the Class EA was issued in June 2024.³⁰ Notice of Completion of the Class EA and the Class EA Report were issued in December 2024.³¹ The EA was acknowledged by the Ministry of Environment, Conservation and Parks (**MECP**) in February 2024 and an enhanced Environmental Justification Report was completed in November 2025.³²
60. The Notice of Commencement and Notice of Completion were delivered to: (a) MECP; (b) the Ministry of Natural Resources (**MNR**); (c) Hydro One; (d) BFN (and posted on BFN's public website); (e) Michipicoten First Nation; (f) Missanabie Cree First Nation; (g) Garden River First Nation; (h) Brunswick House First Nation; (i) Red Sky Metis Independent Nation; and (j) Metis Nation of Ontario.³³

³⁰ Response to Interrogatory 1. Grant Lake-4(a) and Attachment GL IR#4(a), [BFN Responses to Interrogatories_redacted_20260226](#), page 28

³¹ Application Appendix D [Appx D\(1\) Notice of Completion BFN Transmission Line to Alamos Gold_20251127](#) and [Appx D\(2\) AEC23-028 Wawa Transmission Line Class EA Report_20241220_20251127](#).

³² Appx D and [Appx E November 2025 Environmental Justification Report_20251117_Redacted_20251127](#).

³³ Response to Interrogatory 1. Grant Lake-4(a) [BFN Responses to Interrogatories_redacted_20260226](#), page 11.

61. The Class EAs concluded that:
- (a) the proposed transmission line will not result in direct or indirect negative impacts to the habitat of species at risk or fish; and
 - (b) the location for the transmission line set out in the Application will have the lowest impact of all alternative locations, including by minimizing the land requirement.³⁴
62. In addition, as part of the EA process, there were several Open Houses held in the region throughout 2024 and early 2025 to review the proposed route and its environmental impacts.³⁵ These public sessions were all available to Grant Lake, in addition to the frequent, regular meetings between the Applicant and Grant Lake. Grant Lake well understands that the proposed route before the OEB is the least intrusive from an environmental perspective.
63. The fact that the Applicant commissioned the environmental reports represents further evidence that Grant Lake had, until the Application was filed, supported the Project. There would have been no reason to proceed with the reports otherwise.
64. The environmental reporting supports the route selection for the Project as having the least environmental impact.
65. Approving the Project route selected through the EA process would be consistent with OEB jurisprudence which support route selection which is consistent with environmental assessments.³⁶

³⁴ Application, page 5

³⁵ Response to Interrogatory 1.Grant Lake-4(a) [BFN Responses to Interrogatories redacted 20260226](#), page 11.

³⁶ See for example, EB-2010-0023 Hydro One Bruce to Milton Expropriation Application, [Decision on Motions](#), August 6, 2010, pages 7-8; EB-2025-0093, Hydro One St. Clair Expropriation, [Decision on](#)

66. Grant Lake has provided no information to the contrary of this environmental reporting on the topic of the Project route. The proposed Grant Lake evidence on the topic of route selection is related to compensation matters which is not a matter to be determine by the OEB.

2.4 Indigenous Consultation

67. The Applicant consulted with four other First Nations (Michipicoten First Nation, Missanabe Cree First Nation, Garden River First Nation, and Brunswick House First Nation), and with two Métis groups (Red Sky Métis Independent Nation and Métis Nation of Ontario) on the proposed route for the transmission line.³⁷
68. The concerns raised during this period of consultation with these Indigenous groups regarding the proposed route, and Applicant's responses to those concerns, were as follows:

[Issues List](#), June 16, 2025, page 3 and EB-2006- 0352 Toyota Woodstock Transmission Interconnection, Second Interim Decision, April 25, 2007, 2007 CarswellOnt 8809, 93 L.C.R. 17 at para 14 (attached).

³⁷ Response to Interrogatory 1.Grant Lake-3(c)(ii) [BFN_Responses to Interrogatories_redacted_20260226](#), page 9.

1. Minimising potential environmental effects: This was addressed by avoiding wetlands and water features and by utilising existing trails and access points;
 2. Preserving cultural features: This was addressed by avoiding certain potential routes;
 3. Identifying archaeological assets: This was addressed by completing archaeological studies; and
 4. Continuing consultation: This has been addressed by a commitment on the part of the Applicant to engage in continuing dialogue.³⁸
69. An important part of responding to the above-noted concerns involved sharing technical documents with those communities and engaging in meaningful dialogue with them to discuss their concerns and the appropriate response to addressing them. Any formal comments received were reviewed and a formal response was sent.³⁹
70. None of these communities, some of which have overlapping territorial claims, oppose the Project.⁴⁰
71. In the true spirit of consultation, the Applicant has made a commitment to these Indigenous communities that there will be ongoing consultation throughout the life of the Project, including providing annual reports.⁴¹

³⁸ Response to Interrogatory 1.Grant Lake-3(c)(ii), d and e

³⁹ Response to Interrogatory 1.Grant Lake-3, Application Appendix I

⁴⁰ Response to Interrogatory 1.Grant Lake-3(c)(ii) [BFN Responses to Interrogatories redacted 20260226](#), page 9.

⁴¹ Response to Interrogatory 1.Grant Lake-3(d) [BFN Responses to Interrogatories redacted 20260226](#), page 9-10.

2.4 Other Land Rights, Approvals and Permits Obtained

Land Rights

72. Other than seeking to obtain the subject easements over the Expropriation Lands, the Applicant has obtained or is in the process of obtaining other land rights required to facilitate construction, establishment of the corridor and access, and to support future activities including from Agawa Canyon and the Crown (MNR and MTO). Land use agreements in principle have been reached with Alamos, API, Hydro One, and Great Lakes Power (Evolugen), and associated documentation is currently in progress or being finalized.⁴²

Other Approvals and Permits

73. In addition to the land rights required for the Project, the Applicant has obtained or is in the process of obtaining the following permits and agreements:
- Crown Land Access Agreement/Permits: 3 bridge permits (complete), 1 pending bridge permit, 1 pending beaver management permit, and completed land use permit for Lastheels Township.
 - Letters of Conformity from Ministry of Municipal Affairs and Housing – LOC for Alamos lands completed and LOC for Evolgen and Grant Lake lands are in progress
 - Ministry of Natural Resources – Bridge Agreement for Bridge 21 (complete)
 - Watco Crossing Agreements – aerial and land (complete)

⁴² Response to Interrogatory 1 – OEB staff – 05(a), [BFN Responses to Interrogatories redacted 20260226](#), page 10.

- Great Lakes Power (Evolugen) Switching Station Lease – (pending but parties are nearly settled on terms)
74. Agreements have been secured with Hydro One for a Connection and Cost Recovery Agreement and with Bell Canada for fibre optic cabling.⁴³
75. Necessary improvements such as tree clearing and road upgrades have already been undertaken by the Applicant, with the specific approval of Grant Lake and other impacted entities.⁴⁴

3. Submissions on the Issues

Issue 1: The Proposed Expropriation is in the Public Interest

The “Public Interest” Test in the context of OEB Expropriation Proceedings

76. Section 99 (5) of the OEB Act provides that, if the OEB is of the opinion that the expropriation of the land is in the public interest, it may make an order authorizing the applicant to expropriate the land.
77. The OEB’s jurisdiction in section 99 expropriation proceedings is broad and case-specific. The OEB’s past practice indicates that assessment of the public interest is a fact-specific determination with no firm list of criteria.⁴⁵ It is “understood rather than determined” and dynamic, varying from one situation to another⁴⁶.

⁴³ Application page 7.

⁴⁴ Application, page 8

⁴⁵ EB-2006-0352, OEB Decision and Order, dated July 19, 2007 [**“Toyota Decision”**], PDF p. 11.

⁴⁶ [This seems like it should reference a decision – if it’s Toyota, then Ibid and relevant p./para]

78. In determining whether an expropriation request is in the public interest, the OEB takes into account the objectives of the OEB Act, the broad public interest and the interests of each of the parties to the proceeding.⁴⁷
79. As part of its public interest considerations, the OEB must assess whether the impact on the landowner is minimized.⁴⁸

A. The OEB's Statutory Objectives

80. Section 1(1) of the OEB Act sets out the objectives in relation to electricity:

1 (1) The Board, in carrying out its responsibilities under this or any other Act in relation to electricity, shall be guided by the following objectives:

1. To inform consumers and protect their interests with respect to prices and the adequacy, reliability and quality of electricity service.

2. 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.

2.1 To regulate the electricity sector in a manner that supports economic growth, consistent with the policies of the Government of Ontario.

3. To promote electricity conservation and demand management in a manner consistent with the policies of the Government of Ontario, including having regard to the consumer's economic circumstances.

4. To facilitate innovation in the electricity sector.

(emphasis added)

⁴⁷ [OEB Filing Requirements – Chapter 4 – Leave to Construct and Related Matters](#), page 10 and cases referenced in the Filing Requirements: [EB-2006-0352](#) (Re Hydro One Service to Toyota Canada), [EB-2008-0050](#) (Re Canadian Renewable Energy Corp.) and [EB-2013-0268](#) (Dufferin Wind) Decision on Issues List and Procedural Order No.3.

⁴⁸ [EB-2019-0127](#), OEB Decision and Order, corrected December 3, 2019, page 6.

Granting Expropriation Authorization for the Project is aligned with the OEB's statutory objective of supporting Economic Growth consistent with Ontario government policy.

Economic Growth

81. As set out in the Application and interrogatory responses⁴⁹, the Project will represent a direct and important boost to Indigenous economic development and growth in Algoma District. It will provide increased opportunities for investment in the local Indigenous communities through a greater demand for employees and local suppliers, contributing greatly to the socioeconomic well-being of these communities. The Project will also stimulate economic growth throughout the Algoma District and the capital investment will contribute to the growth of the Province's economy and tax revenue.
82. Beyond providing significant local employment, the indirect benefits of the Project is that the Island Gold District expansion will support 206 Ontario-based goods and services companies.⁵⁰ It will be a main driver of economic growth and prosperity for the residents of Dubreuilville, Wawa, White River and other communities in the Algoma region. The Project is in the public interest in ensuring ongoing employment opportunities and ongoing support of local businesses.

Granting Expropriation Authorization for the Project is aligned with Ontario government policy re: Affordable, Secure, Clean Energy System to Power Ontario Economy

83. The Government of Ontario's policies – which include the promotion of economic growth and access to clean power – are clearly reflected in the preambular clauses of recent Ontario legislation⁵¹ which states, among other things:

⁴⁹ Application, pages 3,5, 8.

⁵⁰ Application, page 8

⁵¹ *Protect Ontario by Securing Affordable Energy for Generations Act*, 2025, [SO 2025, c 22](#).

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.

84. As set out above and in the pre-filed evidence and responses to interrogatories, the expansion of the Mines requires incremental power. If the Applicant is unable to construct the Project the Mines will need to increase reliance on CNG generators and possibly add diesel-powered generation,⁵² which would increase GHG emissions, contrary to the Ontario government's stated policy goals.

Granting Expropriation Authorization for the Project is aligned with Ontario Government Policy regarding Indigenous Participation in Energy Projects (IEP)

85. In June 2025, the Government of Ontario released *Energy for Generations, an Integrated Energy Plan* ("IEP")⁵³ which provides a 25-year roadmap for powering Ontario's growth and economic development in accordance with the Province's [Affordable Energy Future Vision](#). The IEP highlights the importance

⁵² Response to Interrogatory – OEB staff – 01(c)(c).

⁵³ ["Energy for Generations – Ontario's Integrated Plan to Power the Strongest Economy in the G7"](#) (IEP)

of creating opportunities for meaningful Indigenous participation in energy projects and states:

*Through equity partnerships, energy planning, and project development, Indigenous communities are helping deliver the generation, transmission, and innovation Ontario needs — while unlocking long-term economic opportunities that build intergenerational prosperity. Ensuring Indigenous communities share in the economic benefits of energy development is at the heart of the province's approach.*⁵⁴ (emphasis added)

86. As set out in the Application and the interrogatory responses, the Applicant is one of the first, if not the first, partnership of a First Nation and a mine operator to develop a cost-effective power solution without relying on subsidization by ratepayers. The Project represents a significant opportunity to increase Indigenous participation in energy projects, consistent with Ontario government policy set out in the IEP.⁵⁵
87. The Project is a collaboration that supports Indigenous-led economic development and presents a significant opportunity for capacity building for BFN's future energy projects. BFN will oversee the long-term operation of the Project and retain ownership, assuring enduring economic and social benefits for the community.
88. The Project and the Application is clearly in the public interest.

⁵⁴ IEP, Chapter 8 (Indigenous Leadership and Partnership), page 130.

⁵⁵ Response to Interrogatory – OEB staff – 02(a)-(b), pages 4-5 and 1. Grant Lake.2 (b), page 6
[BFN Responses to Interrogatories redacted 20260226](#).

B. “Broad Public Interest” Considerations

89. As noted above, the determination of whether an expropriation request is in the public interest, the OEB takes into account, among other things, the broad public interest and the interests of each of the parties to the proceeding. The OEB’s past practice indicates that assessment of public interest is a fact-specific determination with no firm list of criteria.⁵⁶
90. The Applicant submits that the OEB should apply a broad public interest consideration in determining whether the requested expropriation is in the public interest. “Public interest” must take into account the welfare, well-being and benefits for the broader community and not solely the private land rights of individuals.
91. As discussed above, the Government of Ontario’s IEP highlights the importance of creating opportunities for meaningful Indigenous participation in energy projects. This Project does just that. It is more than infrastructure. It is a collaboration that supports Indigenous-led economic development with all of its associated benefits.
92. Given the above-noted economic and community benefits from the Project, the Applicant submits that expropriation to enable the Project to be constructed is in the public interest.
93. The fact that the Applicant is not a regulated public utility proposing to build transmission infrastructure payable by all ratepayers does not diminish the public interest nature of the endeavour.

⁵⁶ [OEB Filing Requirements – Chapter 4 – Leave to Construct and Related Matters](#), page 10 and cases referenced in the Filing Requirements: [EB-2006-0352](#) (Re Hydro One Service to Toyota Canada), [EB-2008-0050](#) (Re Canadian Renewable Energy Corp.) and [EB-2013-0268](#) (Dufferin Wind) Decision on Issues List and Procedural Order No.3.

94. 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.⁵⁷
95. 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. The OEB accepted that the Toyota manufacturing facility would provide direct and indirect economic benefits and that other generation methods were not viable alternatives. The route had been approved through an environmental assessment, and all impacts on the landowners’ use of the lands in question could be compensated for financially.⁵⁸
96. The determination of whether a requested expropriation is in the public interest is not limited to transmission lines that are built and operated by monopoly transmission utilities and funded by ratepayers. In other words, the “public interest” is not determined by whether or not the applicant is a “public utility” transmitter vs. a privately-funded transmitter.
97. To the contrary, the Applicant submits that the fact the Project will be privately funded, seek no fees or subsidies from ratepayers, and impose no financial risk or liability on ratepayers for construction or operation costs or cost overruns, only adds to argument that the Project is in the “public interest”.

⁵⁷ [EB-2006-0352](#) (Re Hydro One Service to Toyota Canada).

⁵⁸ [EB-2006-0352](#) (Re Hydro One Service to Toyota Canada).

Issue 2: The Applicant has only requested expropriation of the minimum amount of land needed for the Project, and the minimum legal interest required for the land

98. As indicated in the Decision on Issues List and the OEB's Filing Requirements, in determining whether to grant expropriation relief, the OEB will also consider the appropriateness of the interests sought in the lands sought to be expropriated.⁵⁹
99. The Project route has been purposely planned to be the shortest length and the least land-taking. The Applicant is seeking easements only to the extent required for the transmission line corridor and necessary access routes, consistent with industry standards. As noted above, the route is the most environmentally appropriate.
100. The route was chosen based on an Option Analysis factoring in key issues including public safety, route length, pole requirements, Species at Risk, waterbody crossings, access logistics, wildlife habitat, and wetland impact⁶⁰.
101. The Applicant anticipates that following the preferred route will support reduced impacts to the land and surrounding land uses, in addition to capital cost efficiencies. The preferred route allows for a significant reduction in structures, representing a substantial decrease in the number of poles otherwise needed. The combined effect of reducing structures, avoiding additional reinforced designs, and minimising land disturbance supports a reasonable expectation of meaningful environmental and capital cost efficiencies.⁶¹

⁵⁹ *OEB Filing Requirements – Chapter 4 – Leave to Construct and Related Matters*, page 10 and case referenced in the Filing Requirements: [EB-2010-0023](#) (Hydro One – Bruce to Milton Expropriation), Issues List Decision, August 6, 2010.

⁶⁰ Response to Interrogatory 1.Grant Lake-7(B)(iii)

⁶¹ Response to Interrogatory 1.Grant Lake-7(b)(iv)

102. The Applicant seeks expropriation authority over land interests equivalent to those that the parties have been negotiating for over 2 years. These interests are the minimum interests necessary to safely and reliably operate the Project:
- a. Geographic Footprint: the Applicant seeks expropriation authority over the minimum geographic area necessary to safely and reliably operate the Project. The Application and the Response to Interrogatories sets out this minimum disruption in detail:
 - b. Term: 50 years (easement duration)
 - c. Scope of Rights: permanent vs temporary easements to construct, operate, repair and access the transmission line
103. The Expropriation Lands represent less than 0.01% of the land owned by Grant Lake. The land where the Project would be located is already partially encumbered by API distribution system.
104. The construction of a new transmission line through an area where there have been a variety of other transmission lines and access trails means there is minimal effect on persons or property. The construction of a new transmission line would not prohibit access or continued land use by Grant Lake. Activities such as timber harvesting and hunting can continue unimpeded by the Project⁶².
105. The Expropriation Lands were fully accessible before tree-clearing commenced, by light vehicles but not by larger vehicles which would be needed for Project construction. Therefore, there were no previously inaccessible areas⁶³.

⁶² Response to Interrogatory 1.Grant Lake-10(a)

⁶³ Response to Interrogatory 1.Grant Lake-10(d)

106. As its main concern is compensation and it has previously supported the Project, Grant Lake has not, and cannot, provide any evidence regarding negative impacts on its lands as a result of the proposed easements. Any suggestions regarding impacts raised in its interrogatories were addressed in the Applicant's responses.

Issue 3: Conditions to the OEB Expropriation Order

107. The Applicant agrees with the draft Conditions of Approval proposed by OEB staff with the minor modifications indicated in the Applicant's response to OEB Staff Interrogatory 6(a).⁶⁴

4. Conclusion

108. For the reasons indicated above, the Applicant requests that the OEB grant it the expropriation authority sought in its Application to obtain permanent easements over the Expropriation Lands.
109. In this particular circumstance, the OEB is required to weigh the construction and operational impacts of a single pole transmission line operation routed across a largely vacant, but at times active, deforestation operation, against the clear and significant economic and socio-economic benefits that will be achieved through the approval of the Application. In this context the Applicant submits that the OEB has every good reason to find in favour of, and approve, the Application.
110. As the Expropriation Lands fall within traditional BFN territory the Applicant is acutely aware of the issues involved in the taking of land interests. It is through this unique lens that the Applicant has designed the Project to mitigate any

⁶⁴ Interrogatory OEB Staff 6(a).

impacts to a level and standard meeting provincial environmental and BFN's own community standards.

111. The Application:

- a. is in the public interest as required by s. 99(5) of the *OEB Act* and the OEB jurisprudence on same. The Project is the only reasonable, and the most environmentally responsible, option for powering the Mines and will provide significant benefits, both direct and indirect, to the local, provincial, and Indigenous communities and to the local electricity grid;
- b. will result in the minimum impact on the lands owned by Grant Lake and its legal interest in those lands. The Project has been designed specifically to have minimal impacts; and
- c. the conditions proposed by OEB staff are reasonable and will further protect the private interests of Grant Lake.

112. The position of Grant Lake in contrast is not focused on the public interest or on minimizing impacts but on the compensation owing for the interests to be granted to the Applicant through this Application. Grant Lake does not oppose the Project; it simply wants compensation for the land interests. The Applicant does not object to paying fair and reasonable compensation. The amount of fair and reasonable compensation, however, is a matter to be determined by the Ontario Land Tribunal, not the OEB.

113. Based on the foregoing, the Applicant requests an Order granting the necessary authority to expropriate a permanent easement interest in the Expropriation Lands and access thereto in the nature of a permanent easement to allow 1000757443 LP and its General Partners to enter, occupy and re-enter the Expropriation Lands for the purpose of constructing and

operating electrical transmission and telecommunications systems and all works ancillary thereto, including but not limited to:

- a. lay down, install, construct, erect, maintain, open, inspect, add to, enlarge, alter, repair and keep in good condition, move, remove, replace, reinstall, reconstruct, relocate, supplement and operate and maintain at all times electrical transmission systems and telecommunications systems consisting in both instances of pole structures, steel towers, anchors, guys and braces and all such aboveground or underground lines, wires, cables, telecommunications cables, grounding electrodes, conductors, apparatus, works, accessories, associated material and equipment, and appurtenances pertaining to or required by either such system as in the opinion of 1000757443 LP through its General Partners are necessary or convenient thereto for use as required from time to time for the purpose or a related business venture (individually and/or collectively the “**Works**”);
- b. to enter on and selectively cut or prune, and to clear and keep clear, and remove all trees, branches, bush and shrubs and other obstructions and materials, and without limitation, to cut and remove all leaning or decayed trees on the Expropriation Lands whose proximity to the Works renders them liable to fall and come in contact with the Works or which may in any way interfere with the safe, efficient or serviceable operation of the Works or the Easement;
- c. conduct all engineering surveys;
- d. clear and keep clear the Expropriation Lands of all buildings, structures, erections, installations, or other obstructions of any nature whether above or below ground, including removal of any materials and equipment or plants and natural growth, which in the opinion of 1000757443 LP through its General Partners may endanger the Works or any person or property or which may be likely to become a hazard to the Works or to any persons

or property or which do or may in any way interfere with the safe, efficient or serviceable operation of the Works or the Easement;

e. remove and reconstruct the Works; and

f. undertake any and all works ancillary to any of the foregoing.

114. For the reasons set out above, the Applicant is seeking an Order from the OEB authorizing the expropriation of the Expropriation Lands and the access points thereto to allow for the construction and operation of the operation of the Project.

All of which is respectfully submitted this 6th day of July 2026

Marc Kemerer