Your Application has been scheduled by the clerk.

Date: Oct 20, 2026 @ 10:00
Location: Justice Chambers
In person: 1A Sir Winston Churchill Square, Edmonton, AB T5J 0R2

Form 7
Rule 3.8

Clerk's Stamp

JUDICIAL CENTRE OF EDMONTON
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2603 21528
Sep 29, 2026
3:24 PM
CLERK OF THE COURT

COURT	COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE	EDMONTON
APPLICANT	**STURGEON LAKE CREE NATION**
RESPONDENTS	**HIS MAJESTY THE KING IN RIGHT OF ALBERTA, GREENVIEW MUNICIPAL DISTRICT NO. 16, and O'LEARY DIGITAL LIMITED**
DOCUMENT	**ORGINATING APPLICATION**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

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NOTICE TO THE RESPONDENTS: HIS MAJESTY THE KING IN RIGHT OF ALBERTA, GREENVIEW MUNICIPAL DISTRICT NO. 16, O'LEARY DIGITAL LIMITED

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the Court.

To do so, you must be in Court when the application is heard as shown below:

Date:	
Time:	
Where:	Edmonton Court Centre
Before Whom:	Justice in Chambers

Go to the end of this document to see what you can do and when you must do it.

Basis for this Claim:

1. The Applicant, Sturgeon Lake Cree Nation applies to judicially review the province's decision to exempt O'Leary Digital Limited's self-described "largest AI compute data centre park on earth" from any provincial environmental assessment (**Decision**). This Decision is irrational, violates procedural fairness and breaches Alberta's constitutional obligations.

The Parties

2. The Applicant, Sturgeon Lake Cree Nation (**SLCN** or **Nation**), are the descendants of Cree *nêhiyaw* ancestors who have lived in what is now northern Alberta and British Columbia since time immemorial. SLCN's ancestors entered Treaty No. 8 in 1899. SLCN maintains Treaty, inherent and aboriginal rights protected under Treaty No. 8, section 35 (1) of the *Constitution Act, 1982* and the *United Nations Declaration on the Rights of Indigenous Peoples* (**UNDRIP**) across its Territory. SLCN has over 4000 registered members.

3. His Majesty the King in Right of Alberta (**Alberta**) is the designated representative of the provincial Crown pursuant to section 12 of the *Proceedings Against the Crown Act,* RSA 2000, c P-25. Alberta is a province of Canada created in 1905, after SLCN entered into Treaty No. 8. Alberta is the obligor of the Crown's obligations within section 92 of the *Constitution Act*, *1867*. Alberta owes non-delegable obligations to SLCN under Treaty No. 8 and international customary law, including but not limited to:

   (a) Fulfilling the duty to consult and accommodate (**DTCA**);

   (b) Fulfilling the duty of diligent Treaty implementation;

   (c) Upholding the Honour of the Crown and fiduciary duties;

   (d) Adhering to UNDRIP and the requirement for Free, Prior and Informed Consent (**FPIC**).

4. The Minister of Indigenous Relations (**IR Minister**) has assigned the carrying out of these Crown obligations to the Aboriginal Consultation Office (**ACO**). The ACO reports to the IR Minister and, on behalf of the provincial Crown, manages all aspects of consultation including (i) conducting pre-consultation assessment, (ii) assessing the adequacy of consultation, (iii)

determining notification requirements, (iv) determining whether accommodation is required and (v) addressing associated follow-up issues.

5. The Minister of Environment and Protected Areas (**EPA Minister**) is responsible for the initial review of whether an activity requires an environmental assessment pursuant to section 44 of the *Environmental Protection and Enhancement Act (**EPEA**)* and section 10 of the *Designation and Transfer of Responsibility Regulation*, Alta Reg 107/2026. Sections 43—56 of the *EPEA* are administered by a Director who is designated by the EPA Minister under section 42.

6. The Respondent, O'Leary Digital Limited (**ODL**), is a corporation incorporated under the *Business Corporations Act*, RSA 2000 c B-9, initially as a numbered corporation (2664755 Alberta Ltd.) on November 11, 2024, and then named ODL on October 7, 2025. ODL appears to be based in Florida, owned by Kevin O'Leary (70%) and Paul Palandjian (30%). ODL submitted a Project Summary Table for Alberta to consider the application of the environmental assessment process (**EIA Application**) to the proposed O'Leary Wondervalley AI Data centre (**AI Data Centre** or **project**).

7. The Municipal District of Greenview No. 16 (**Greenview**) is a municipality that was created in 1968 by provincial statute. Greenview asserts ownership of the land proposed for the AI Data Centre through a Crown land transfer. Greenview's population is approximately 8500 people, inclusive of SLCN members who live in the municipality.

Treaty No. 8 and SLCN's Territory

8. Since time immemorial, SLCN has lived on the land where the AI Data Centre is being proposed. SLCN entered Treaty No. 8 in 1899 before Alberta existed as a concept or a province of Canada.

9. Through Treaty No. 8, the Crown promised that SLCN could continue their way of life, hunt, fish, trap and harvest medicines throughout their Territory. The taking up of land from time to time was the only limit on this promise. The Crown must ensure there remains enough unoccupied land in SLCN's Territory to allow the continued exercise of their way of life and Treaty rights.

10. In exchange for these promises, SLCN agreed to share their land with the Crown. Treaty No. 8 thus legalizes settlement on SLCN's Territory.

11. SLCN's **Territory** spans north to Peace River, west to British Columbia, down to include Jasper National Park, and south to Edmonton. As an Indigenous People, SLCN maintains inherent rights throughout its Territory. SLCN also maintains legally enforceable and constitutionally protected Treaty rights throughout their Territory.

12. Reserve land was promised to be set aside as land that would not be shared. SLCN's reserve land is less than 16 km from what is now Valleyview, Alberta. SLCN is not limited to its reserve. SLCN holds traplines and rights throughout their Territory, including on the AI Data Centre's proposed location. In the 1940s, the province of Alberta unilaterally required registration of traplines as Registered Fur Management Areas (**RFMAs**). RFMAs represent only one segment of SLCN land use.

Crown Land Transfer promised consultation on future development

13. Greenview initiated development of an area structure plan in 2019 with other municipalities, then known as the Tri-Municipal Partnership (**TMIP**). Through the TMIP, Greenview and Alberta planned to sell and transfer Crown land, in SLCN's Territory, from the province to these municipalities.

14. On discovery of the TMIP, SLCN demanded Alberta engage with the Nation. Initially, Alberta refused to consult SLCN at all. The province stated that, in transferring the land to the municipality, the municipal activity could not trigger the DTCA.

15. On February 6, 2020, SLCN attended a stakeholder meeting on the TMIP. Greenview and ACO representatives were in attendance. SCLN repeated that the proposed land transfer included SLCN's Territory – their "backyard."

16. On February 9, 2020, without any prior consultation with SLCN, Alberta announced a memorandum of understanding with Greenview and two other municipalities, through the TMIP, for the transfer of over 7000 acres of Crown Land in SLCN's Territory.

17. On March 4, 2020, Alberta purported to begin 'consultation' with SLCN through the ACO. This purported consultation only commenced *after* the decision was made to transfer the land. The consultation was limited to the land transfer. SLCN raised approximately 200 "site specific" concerns further to the ACO's policy to only consider site-specific as opposed to associated, non site-specific impacts and cumulative effects. These 200 concerns related to the water, traditional medicines, harvesting, hunting, wildlife, SLCN land use and RMFAs in the area.

18. On March 4, 2021, the ACO made a clear, unequivocal and unambiguous representation to SLCN that their 42 water-based concerns would be addressed when specific applications were submitted (**Legitimate Expectations**). Alberta confirmed that the TMIP consultation was only around the "allocation of public land to a departmental holding reservation being held by AEP [Alberta Environment and Parks]." Alberta promised SLCN that its concerns, such as water-related concerns, that are "environmental in nature" would be addressed when any applications were made. This promise was made pursuant to the Honour of the Crown and created the expectation that consultation would occur and procedural fairness would be granted prior to any *development* on the transferred Crown land.

19. On August 23, 2021, the ACO purportedly dismissed all of SLCN's concerns and deemed consultation on the Crown land transfer adequate (the **Adequacy Decision**). Alberta did not propose or implement any accommodations or mitigations prior to the Adequacy Decision. No accommodations were required nor made to SLCN in relation to their concerns.

Requests for consultation on Crown Land Transfer/ GIG

20. Sometime before February of 2024, the TMIP's name was changed to the Greenview Industrial Gateway (**GIG**). The GIG is where the AI Data Centre is said to be proposed.

21. On May 16, 2024, SLCN wrote to Minister Brian Jean and raised concerns about a possible carbon capture and sequestration (**CCS**) development on the GIG. Indigenous Relations Minister Rick Wilson responded on June 19, 2024, that all "engagement and consultation on this project occurred with SLCN between 2017 and 2021. As of August 23, 2021, all concerns raised by SLCN had been addressed". Wilson also stated that Alberta manages cumulative

effects through a "cumulative effects management system" and redirected these concerns to the EPA Minister.

22. Contrary to Minister Wilson's assertions, (1) SLCN concerns were not considered in 2021 and (2) cumulative effects in SLCN's territory have never been meaningfully considered or addressed by Alberta. The Adequacy Decision related to the land transfer only.

23. So far as SLCN understands, at present, most of the GIG remains provincial Crown land. Alberta still holds title to most of the land. Greenview is said to hold title to portions of the land in ODL's EIA Application. On July 21, 2026, Greenview stated at a council meeting that ODL's proposed purchase of 1650 acres within Phase 1 of Crown lands was "in progress".

24. When effected, the Crown land transfer to Greenview or any subsequent transfer to a private proponent will constitute an infringement of the Treaty and to SLCN's Treaty rights.

SLCN Treaty Rights and Crown Knowledge

25. Alberta is aware that SLCN has asserted and/or recognized Treaty rights within and in the immediate vicinity of the GIG including through the ACO's processes, previous consultation decisions, and repeated SLCN correspondence to the province.

SLCN seeks consultation on AI Data Centre secretly planned for GIG

26. In December of 2024, and without any prior disclosure, ODL, Greenview and Alberta collaborated to announce the AI Data Centre. Alberta's Minister Nate Glubish claimed to be providing "concierge" services to ODL and/or Greenview to assist them through the regulatory process. At no time did Alberta offer concierge services or assistance to SLCN.

27. Even before this announcement, SLCN now knows that Alberta determined that SLCN did not need to be consulted in relation to any *Water Act* licence in November, 2024.

28. Then, on January 13, 2025, SLCN sent an open letter to Premier Danielle Smith, including through her email address, demanding disclosure of fundings, permits, regulatory applications and the purported advice private to ODL and/or Greenview through this "concierge" service. As of September 29, 2026, Alberta has not responded to these questions.

29. On January 28, 2025, SLCN met with ODL representatives where they asked for but never received copies of ODL's permits and applications, including any granted through Greenview.

30. On February 10, 2025, Greenview applied for a *Water Act* licence. Neither Greenview, Alberta, nor ODL provided notice to SLCN of this application. In fact, four days later on February 14, Minister Wilson wrote to SLCN claiming that there had been no *Water Act* applications received. The licence was issued to Greenview on April 7, 2025.

31. On April 9, 2025, SLCN met with several Alberta Ministers and was advised that the AI Data Centre was a "non-project".

32. Prior to the Decision under review, Greenview has never consulted nor engaged with SLCN in relation to the AI Data Centre.

33. On or around March 3, 2026, ODL and SLCN representatives met. SLCN expressly asked for notice of past and future regulatory applications in relation to the AI Data Centre, including (1) confirmation any ODL request for a determination from Alberta as to whether the AI Data Centre would require an environmental assessment; (2) a copy of any application materials to that effect; and (3) direct notice of Alberta's decision in that regard. ODL agreed to SLCN's requests. The Applicant's representatives also asked for capacity funding based on industry standards of projects of similar scale. ODL agreed to limited capacity funding.

34. However, what ODL failed to mention during the March 3rd meeting was that the Company had already filed its EIA Application on January 29, 2026. SLCN heard nothing further from ODL in relation to the environmental assessment process for the AI Data Centre until April 1, 2026, when ODL provided SLCN with a copy of the EIA Application and a copy of the Decision– the day after Alberta had already decided to exempt the AI Data Centre from the environmental assessment process.

35. On March, 7, 2026, Alberta and the federal government announced a Cooperation Agreement that would make Alberta's environmental assessment regime the only environmental assessment process for projects said to be within provincial jurisdiction. Provincial and federal representatives signed the agreement on April 2, 2026.

36. On March 18, 2026, Chief Sunshine met with Premier Danielle Smith and the new Minister of Indigenous Relations, Rajan Sawhney. There, the Premier claimed there would be no impact to SLCN because the Sturgeon Lake – immediately adjacent to SLCN's reserve – would not be impacted. Premier Smith has since then stated an unwillingness to recognize the duty to consult and accommodate and called for section 35 (1) to be amended. For its part, SLCN requested – again – that the province provide the capacity funding required for meaningful consultation on a project of this scale, as SLCN presently only receives $110,000 in provincial funding to participate in consultation in respect of hundreds of applications for industrial and energy resource development every year. Neither the Premier nor the Minister informed SLCN of the EIA Application under *EPEA*. SLCN followed up on this meeting in June, and received a response to Minister Sawhney in August. As of September 29, 2026, Alberta has not acted on the promises or representations from that meeting.

Immeasurable Impacts of AI Data Centre

37. Through own source revenue, SLCN has tried to assess the impacts of the AI Data Centre in a near factual vacuum. The AI Data Centre would cause immeasurable impacts to SLCN's Treaty and aboriginal rights, including impacts from:

(a) The construction of a natural gas-powered generator of 9GW of power and the construction of a "back-up" diesel generator of 8 GW of power. Together, these will create one of the largest single-site heat sources on the planet, discharging into the environment on a continuous basis the equivalent of 23 atom bombs of heat. This in turn will create a "heat island" in SLCN's Territory, changing the climate by several degrees, raising the risks of wildfire and devastating plants and wildlife;

(b) An unknown increase in, for example, in NOx and Greenhouse Gas emissions, the latter of which would offset the gains Alberta achieved by phasing out coal powered electricity generation and accelerate the impacts of climate change and the risks of wildfires;

(c) The use, generation and discharge of significant water and wastewater, all of which is cloaked in secrecy. The assertion that the AI Data Centre will use a "closed loop cooling" system and therefore use less water is unsubstantiated, and in any event, using

less water will only require more fans, more electricity and result in more heat impacts as noted in paragraph 37(a);

(d) Noise at decibels that will make the surrounding area unhabitable for humans and wildlife; and

(e) Unknown human health and socio-economic impacts, including on the availability and use of regional housing and roads and services near SLCN's reserves, as well as in relation to the presence of work camps and the associated potential for increases in drug and alcohol use and abuses to vulnerable women and other members of SLCN's community.

38. These heat, water, emissions, noise, human health, and socio-economic impacts will in turn have immeasurable impacts on the people of SLCN's ability to use and rely on their RMFAs, traditional traplines and Territory, as well as to hunt, trap, fish and gather medicines and traditional foods within and in the vicinity of the GIG and AI Data Centre (including moose, caribou (a species at risk), bull trout (a species at risk) and other fish in the Smoky River) - all of which SLCN rely on to continue their way of life and exercise their rights protected under Treaty No. 8 and UNDRIP.

Alberta's facilitation of AI Data Centre and abdication of DTCA

39. Alberta has enabled the AI Data Centre while abdicating its obligations to SLCN including as follows:

(a) Alberta passed, without any engagement or consultation, the AI data centre strategy in December of 2024. This strategy makes no mention of consultation and only mentions Indigenous peoples by referring to "economic development opportunities"

(b) Alberta was a participant in the announcement of the AI Data Centre and, thereafter, promised "concierge" services to the alleged proponent, not SLCN.

(c) Alberta has since provided such concierge services to shepherd ODL through the regulatory process and the consultation process while ignoring or minimizing SLCN's concerns:

(i) On December 12, 2024, Minister Nate Glubish wrote an opinion piece in which he expressed excitement for the AI Data Centre stating that "Projects like these don't happen by accident. They happen by design. My concierge team from the Ministry of Technology & Innovation has been working with the O'Leary team for several months to assist in navigating Alberta's regulatory framework."

(ii) On January 29, 2026, ODL submitted a "Project Summary Table" for the Minster's consideration under the environmental assessment process (**EIA Application**). The provincial Crown did not notify SLCN at any time of this EIA Application.

(iii) On April 15, 2026, and without any notice to SLCN, Alberta classified the AI Data Centre at the lowest level of consultation (Level 1).

(iv) On April 22, 2026, Minister of Indigenous Relations Rajan Sawhney when asked about consultation with First Nations, confirmed that the Crown had been providing assistance to ODL on consultation in the Alberta Legislature: "O'Leary Digital Limited has been engaging with Tech and Innovation with the concierge service and the Aboriginal consultation office is a part of the concierge service."

Decision under review

40. Without any notice to SLCN or the public, Alberta received the EIA Application from ODL, exempted the AI Data Centre from an environmental assessment under section 44 of *EPEA*, and implicitly or expressly made the decision that no consultation was required with SLCN in rendering this exemption (**Decision**) dated March 31, 2026.

41. Prior to this time, Alberta knew that SLCN was asserting Treaty rights in the GIG, in addition to previously recognized rights in the GIG.

42. As noted, SLCN only received a copy of this Decision from ODL on April 1, 2026.

43. Alternatively, the ACO made an undisclosed decision that no consultation was necessary, contrary to the Crown's knowledge of SLCN's asserted and recognized rights in the GIG.

44. Either way, SLCN received no notice and was unable to make submissions about the impact of the Decision on its rights, including its right to be consulted and accommodated.

45. The substance of the Decision stated in its entirety:

> Further to your email of January 26, 2026, and the updated Project Summary Table submitted March 20, 2026, I wish to advise you that pursuant to Section 44 of the Environmental Protection and Enhancement Act (EPEA), I have considered the application of the environmental assessment process to your proposed Wonder Valley Data Centre Project. This activity is not a mandatory activity for the purposes of environmental assessment. Having regard to the consideration [sic] set out in Section 44 (3) of EPEA, I have decided that further assessment of the activity is not required. Therefore, a screening report will not be prepared, and environmental assessment report is not required.

46. The Decision reserved rights to reconsider based on new information and advised ODL to contact the Impact Assessment Agency of Canada (**IAAC**) to discuss potential submission of a federal project description and any requirements under the *Impact Assessment Act*. At that time, Alberta would have known that the Cooperation Agreement meant Alberta's provincial assessment processes would be relied upon by the Government of Canada and would likely be the only process placed to consider the environmental impacts of the AI Data Centre and discharge the duty to consult and accommodate and the duty of diligent Treaty implementation.

47. Contrary to its Legitimate Expectations, SLCN did not:

(a) receive a copy of the application materials for this Decision until April 1, 2026.

(b) receive advance notice of this Decision;

(c) receive any opportunity to respond or provide input prior to the Decision being made;

(d) receive any consultation on the Decision.

48. Without any advance notice to SLCN or the public, Alberta exempted the $70 billion project from the environmental assessment process, even though SLCN had:

(a) asked for a copy of the application;

(b) asked for advance notice of any application;

(c) asked for capacity funding;

(d) asked for the opportunity to respond or provide input; and

(e) asked to be consulted.

49. By acting in this way, Alberta breached Legitimate Expectations, breached the duty of procedural fairness owed to SLCN, breached the duty to consult and accommodate owed to SLCN, and breached the duty of diligent Treaty implementation owed to SLCN.

Post-decision Disclosure

50. On April 1, 2026, ODL's representative disclosed for the first time:

(a) ODL's EIA Application dated January 29, 2026;

(b) ODL's updated Project Summary Table submitted March 19, 2026;

(c) along with the Decision rendered the day before on March 31, 2026.

51. ODL's January 29, 2026, EIA Application included a 6-page generic submission stating that:

(a) The AI Data Centre would have a total project area of 6, 417 ha, which is the equivalent of approximately 64 square kilometres (24 square miles);

(b) The AI Data Centre would require 9 GW of electricity, representing ¾ of Alberta's entire electricity usage on the record-breaking days (12.3 gigawatts) (not including the 8 GW back up generator);

(c) The AI Data Centre would be located on land that is mostly still Crown land, with some land said to be on Greenview's land;

(d) Hunting, fishing, and trapping activities also occur within the Project area;

(e) Unknown amounts of industrial waste, industrial runoff and hazardous waste would be respectively discharged into the environment and stored on the project's site and then

disposed of. Potential annual water usage would be upwards of "up to 24,000,000 m3 sourced from the Smoky River for industrial, commercial and potable use."

(f) The project would create several types of air emissions in unknown quantities, including NO2, CO, PM2.5, PM10, NH3, and CO2;

(g) The AI Data Centre would require the construction of both temporary and permanent water intake structures within the Smoky River, as well as associated water supply infrastructure to pump water from the river to various project facilities.

52. In reviewing the disclosure provided by ODL's representative, SLCN also learnt for the first time that on March 19, 2026, Alberta had followed up with ODL to request additional information and clarification in relation to the EIA Application, specifically in relation to the permanent infrastructure required to be constructed in the Smoky River. No attempt was ever made to contact SLCN in relation to this clarification or in relation to the EIA Application more generally.

The Decision was unreasonable

53. The Decision is neither based on internally coherent reasoning nor justified in view of the relevant legal and factual constraints.

54. The Decision is conclusory, unintelligible and lacking in justification.

55. The Director concluded that one of the largest industrial projects in Canadian history, with generation capacity capable of powering the entire province of Alberta, does not require an environmental assessment. Such a conclusion requires significant justification, which is entirely lacking from the Decision.

56. The Director made no attempt to justify her conclusion in view of the legal framework. The statutory test requires consideration of the factors set out in section 44(3) of *EPEA*. The Director never set out these factors and never explicitly considered them.

57. The analysis required by the legislation is absent from the Decision. The *EPEA* section 44(3) factors require a contextual analysis of:

(a) the location, size and nature of the proposed and unprecedented activity;

(b) the complexity of the proposed activity and the technology to be employed in it;

(c) any concerns in respect of the proposed activity that have been expressed by the public of which the Director is aware;

(d) the presence of other similar activities in the same general area;

(e) any other criteria established in the regulations;

(f) any other factors the Director considers to be relevant.

58. The Decision makes no reference to the purpose of the environmental assessment process explicitly set out in section 40 of the *EPEA*:

(a) to support the goals of environmental protection and sustainable development,

(b) to integrate environmental protection and economic decisions at the earliest stages of planning an activity,

(c) to predict the environmental, social, economic and cultural consequences of a proposed activity and to assess plans to mitigate any adverse impacts resulting from the proposed activity, and

(d) to provide for the involvement of the public, proponents, the Government and Government agencies in the review of proposed activities.

59. The Decision makes no attempt to explain how the Director furthered the express statutory goals of the environmental assessment process. Without an EIA, there is no quantifiable or measurable understanding of the environmental impacts discussed above and, in the absence of this understanding, neither the proponent nor the regulator can know how to effectively monitor or successfully mitigate these impacts. This is irrational given the purpose stated in section 40 of the *EPEA*.

60. The Director made no attempt to ground her conclusion in the factual matrix before her, for example by setting out the relevant facts contained in the EIA Application. Her reasoning is conclusory and is not justified in view of the facts.

61. The Director did not grapple with submissions made to Alberta. The Decision was made in a vacuum from the public interest and the context. SLCN and the public had, at the time of the Decision, expressed significant concerns in respect of the proposed activity.

62. The Director did not address the significant consequences for the environment and the rights of SLCN caused by the Decision. SLCN had raised the cumulative effects of this project, on an area already overrun by oil and gas wells, forest management areas and pipelines, yet the Director made no reference whatsoever to these concerns.

63. The Director made no attempt in the Decision to consider whether the other, very limited and narrow regulatory applications, under *EPEA* and the *Water Act*[1] could address the cumulative and widespread effects of the world's biggest data centre.

64. None of these regulatory applications offer the same process required in preparing an environmental assessment - including First Nation participation in the terms of reference pursuant to section 48 of *EPEA*.[2] Nor can these regulatory applications assess the considerations normally addressed only by an EIA, including:

(a) baseline data collection for the regional study area, including current flow regimes/water levels, and current water quality including as a product of existing impacts and as predicted under different climate scenarios.

(b) detailed descriptions of planned water management and releases, including during construction (in this case, over a ten-year period). This includes the expected volumes and quality of the industrial wastewater and runoff releases, and the condition of receiving rivers, streams or wetlands.

[1] EPEA – Waterworks (Reporting email to client August 14) and facility *the bulding).- all Level 1. No consultation on Greenview Water Act applications (2(,
[2] *Environmental Protection and Enhancement Act*, RSA 2000, c E-12, s 48,

(c) determination of the nature of the impacts resulting from the project, the massive heat emitted from a generating facility of this size, the effectiveness of proposed mitigations, and an estimate of the residual impacts of the project. [3]

65. Without an EIA, none of these issues would be considered and there will be no involvement in such an assessment of Indigenous Peoples – the primary vehicle for engaging in meaningful consultation and accommodation with SLCN.

66. This was a particularly serious failure of justification given, as the Director knew or ought to have known, the impending Cooperation Agreement between Alberta and the Government of Canada which meant there would be no federal impact assessment, raising the live possibility that this AI Data Centre would proceed with no environmental impact assessment at any level of government. The Director also knew or ought to have known that SLCN had commented publicly on the Cooperation Agreement, making this very point. These critically important contextual factors placed a heightened responsibility on Alberta to conduct a meaningful environmental assessment. The Director conducted no analysis of this important consideration.[4]

67. In failing to assess section 44 (3) *EPEA*, to consider the alternative regulatory application and to require an EIA, the Decision-maker did not comply with the constitutional and other legal constraints applicable to her decision-making, including section 35(1) of the *Constitution Act, 1982*, the precautionary principle[5] and international customary law (UNDRIP Articles 8.2(b), 18, 19, 24, 25, 26, 27, 29, 32).

The Decision breached duty of Procedural Fairness

68. The Decision violated procedural fairness.

[3] SLCN - Wonder Valley - Missing EIA Notes.docx

[4] https://letstalkimpactassessment.ca/co-operation-agreement-between-alberta-and-canada

[5] *Bow Valley Engage Society v Alberta (Environmental Protection and Enhancement Act, Designated Director),* 2026 ABCA 188 (CanLII), at para 83; *Christian v Alberta Environmental Appeals Board*, 2024 ABKB 586 (CanLII), at para 90.

69. The Decision affects SLCN's rights, interests, land, privileges and liberties, in particular because it represents Crown conduct that will potentially affect SLCN's Territory and the exercise of SLCN's recognized and asserted rights.

70. In order to ensure procedural fairness and respect for SLCN's Legitimate Expectations, SLCN was entitled to receive a copy of the EIA Application and to receive advance notice of the Decision in order to be heard before the Decision was made.

71. SLCN did not receive a copy of the EIA Application until after the Decision was made and had no opportunity to make submissions to the Director. Making determinations that no consultation was owed to SLCN, without providing a copy of the EIA Application or advance notice of the Decision, was procedurally unfair.

72. SLCN's submissions would have made a material difference to the outcome, as with proper notice SLCN would have demonstrated the significant effects on its Treaty rights of this vast, unprecedented data centre project.

73. The absence of notice to SLCN vitiated its right to be consulted and breached its Legitimate Expectations.

The Decision breached the Duty to Consult and Accommodate

74. The Decision violates the duty to consult and accommodate owed by Alberta to SLCN.

75. Alberta knew that SLCN has recognized or asserted Treaty rights in the GIG and that SLCN repeatedly asserted that it should be consulted before any decisions are made on the AI Data Centre or any project in the GIG.

76. In order to ensure consultation in accordance with the duty to consult and accommodate, SLCN needed a copy of the EIA Application and advance notice of the Decision. The duty to consult and accommodate is context-specific, such that details of applications and decision-making processes must be disclosed in order to ensure accurate submissions on the content of consultation requirements.

77. Alberta prevented SLCN from asserting its right to be consulted by withholding the existence of the EIA Application until after the Decision was made and by withholding advance notice

of the Decision. To the extent any of Alberta's duties were delegated to ODL, ODL failed to discharge them in a manner compatible with the Honour of the Crown with the province's knowing assistance.

78. In addition, at no time has Alberta provided any capacity funding to assist SLCN in engaging in a process through which it offered concierge services to ODL. Capacity funding is necessary for meaningful and constitutionally required consultation.

The Decision breached fiduciary duties, the Honour of the Crown and the Duty of Diligent Treaty Implementation

79. SLCN has specific and cognizable aboriginal interests in the GIG and the vicinity of the AI Data Centre. The *EPEA* legislation, amplified by the Cooperation Agreement, gave Alberta discretionary control over any assessment of the impacts of the AI Data Centre on SLCN's rights and interests. In making this Decision, Alberta breached its fiduciary duty to SLCN because it exempted the AI Data Centre from an EIA without any consideration of the impacts to SLCN and without ensuring that these impacts could be accommodated, mitigated or compensated through other processes.

80. Alberta has breached the Honour of the Crown:

(a) By violating Legitimate Expectations that its own clear, unequivocal and unambiguous representations created in SLCN;

(b) By repeatedly withholding relevant information about project applications and pending decisions from SLCN, even when SLCN specifically requested such information;

(c) By making decisions on consultation behind closed doors without transparency;

(d) By emptying the duty to consult and accommodate and the duty of diligent Treaty implementation of any meaningful content through a strategy of piecemeal consultation rather than consultation based on a realistic view of the nature of the project.

The Decision violated international law/ UNDRIP

81. UNDRIP is an element of customary international law and protects and reinforces SLCN rights in the GIG. The Decision violated several articles of UNDRIP: UNDRIP Articles 8.2(b), 18, 19, 24, 25, 26, 27, 29, 32).

Remedy Sought:

82. An interim order that Alberta file the Certified Record of Proceedings (CRP) Form 9 within 30 days of filing this application for judicial review.

83. An expedited order for timelines of this application for judicial review.

84. An interim order pursuant to Rule 3.23 of the *Alberta Rules of Court* staying the exemption provided for under the Decision pending final determination of this application for judicial review.

85. An order allowing evidence on judicial review under Rule 3.22 in relation to standing, bias, procedural fairness and/or incompleteness of the CRP.

86. An order of *certiorari* quashing the Decision and sending it back for re-determination in accordance with the reasons of this Court.

87. An order of *mandamus* under section 47 of *EPEA* that the Minister of EPA order the preparation of an environmental impact assessment report. *Environmental Protection and Enhancement Act*, RSA 2000, c E-12, s 47.

88. A declaration that:

(a) The Decision was unreasonable and is inconsistent with section 35 (1) of the *Constitution Act, 1982*;

(b) The Decision breached the Honour of the Crown;

(c) The Decision breached the duty of diligent Treaty implementation;

(d) The Decision breached Alberta's *ad hoc* or *sui generis* fiduciary obligations owed to SLCN;

(e) The Crown's duty of procedural fairness, duty to consult and accommodate, and duty to act consistently with UNDRIP were violated by Alberta's failure to consult SLCN about the Decision;

89. Costs; and

90. Such further and other relief as this Honourable Court deems just and appropriate.

Affidavit or other evidence to be used in support of this application:

1. Certified Record of Proceedings (Form 9);

2. Affidavit of Chief Sheldon Sunshine and/or Affidavit of Councillor Rosalyn Goodswimmer to be affirmed and filed;

3. Such further and other evidence as counsel may advise and this Honourable Court may permit.

Applicable Acts and regulations:

1. *Alberta Rules of Court*, Alta Reg 124/2010, Rule 3.23;

2. *Judicature Act*, RSA 2000, c J-2;

3. *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-1.

WARNING

You are named as a respondent because you have made or are expected to make an adverse claim in respect of this originating application. If you do not come to Court either in person or by your lawyer, the Court may make an order declaring you and all persons claiming under you to be barred from taking any further proceedings against the applicants and against all persons claiming under the applicants. You will be bound by any order the Court makes, or another order might be given or other proceedings taken which the applicants are entitled to make without any further notice to you. If you want to take part in the application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of this form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicants a reasonable time before the application is to be heard or considered.