Your Application has been scheduled by the clerk.

Date: Oct 27, 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
FILED DIGITALLY
2603 22650
Oct 15, 2026
10:43 AM
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 dated April 15, 2026 to classify the only consultation related to a massive 6,000-hectare Artificial Intelligence (**AI**) data centre at the lowest possible level (Level 1) (**Decision** or **Level 1 Decision**). This Decision is unreasonable, 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**) under international customary law.

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 assessments, (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 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%). At some time before April 14, 2026, ODL secretly sought a pre-consultation assessment for the regulatory applications that would be required to facilitate the development of the proposed O'Leary Wondervalley AI Data centre (**AI Data Centre** or **project**) over 6,000 hectares of SLCN's territory.

6. 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 within the boundaries of the municipality.

Treaty No. 8 and SLCN's Territory

7. 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.

8. 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.

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

10. 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.

11. Reserve land was promised to be set aside as land that would not be shared under Treaty No. 8. 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.

<u>Crown Land Transfer promised consultation on future development</u>

12. 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.

13. 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.

14. 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."

15. 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 7,000 acres of Crown Land in SLCN's Territory.

16. 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. SLCN received no capacity

funding for this consultation. These 200 concerns related to the water, traditional medicines, harvesting, hunting, wildlife, SLCN land use, Treaty rights and RMFAs in the area.

17. On March 4, 2021, the ACO made a representation to SLCN that their concerns over impacts to land use and Treaty rights 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.

18. 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

19. Sometime before February of 2024, the TMIP's name was changed to the Greenview Industrial Gateway (**GIG**). The GIG is where ODL proposes to construct the AI Data Centre.

20. 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.

21. 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. By design, cumulative effects are systemically ignored by Alberta.

22. 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".

23. 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

24. Alberta is aware that SLCN has asserted and/or recognized Treaty rights within and in the immediate vicinity of the GIG, and that the GIG is in SLCN's Territory, 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

25. 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.

26. 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 October 14, 2026, Alberta has not responded to these questions.

27. 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.

28. 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, also without notice to SLCN.

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

30. On or around March 3, 2026, ODL and SLCN representatives met. SLCN expressly asked for notice of past and future regulatory applications, including any pre-consultation assessment applications, in relation to the AI Data Centre.

31. 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 on and 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 Application. SLCN followed up on this meeting in June and received a response to Minister Sawhney in August. As of October 14, 2026, Alberta has not acted on the promises or representations from that meeting.

Immeasurable Impacts of AI Data Centre

32. 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 in SLCN's Territory;

(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 32(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.

33. 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.

34. The AI Data Centre is an unprecedented development in the province and in Canada. This means that there is no precedent for how meaningful consultation can be assured in the context of a vast, novel project like this one.

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

35. 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 ODL, 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 April 7, 2025, Alberta secretly issued a Water Act licence to Greenview, allegedly in relation to the AI Data Centre. This secret decision is the object of an application for judicial review in Court File Number: 2503-20600.

    (iii) On March 31, 2026, Alberta waived the requirement for an environmental impact assessment of the AI Data Centre. This secret decision is the object of an application for judicial review in Court File Number: 2603-21528.

    (iv) On April 15, 2026, and without any notice to SLCN, Alberta classified the AI Data Centre at the lowest level of consultation (Level 1). This secret classification Decision is the object of this application for judicial review.

    (v) On April 22, 2026, Minister of Indigenous Relations Rajan Sawhney when asked about consultation with First Nations no the AI Data Centre, 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."

ODL secret Application for Decision

36. On March 19, 2026, ODL shared a regulatory schedule with SLCN, where ODL noted that they had applied to the ACO for a single pre-consultation assessment (**Application**) and for the Decision, the day before on March 18, 2026. However, ODL never disclosed this Application to SLCN despite SLCN's repeated requests for information about applications being made by ODL in support of the AI Data Centre.

37. The Application presumably requested an initial decision on whether the DTCA is triggered, and if so, at what level it would be classified. The ACO's level of consultation is related to the nature of the project and the potential impacts on Treaty rights and traditional uses. There are three levels of consultation that may result if the DTCA is triggered under the *Government of Alberta's Guidelines on Consultation and First Nations on Land and Natural Resource Management, July 28, 2014:*

    (a) Level 1 (Streamlined consultation) is the most basic level of consultation requiring 15 working days to engage in consultation. This normally applies to well pads or small additions to existing projects.

    (b) Level 2 (Standard consultation) is the intermediate level of consultation requiring the completion of consultation within 20 working days to engage in consultation.

    (c) Level 3 (Extensive consultation) is the deepest form of consultation required by the ACO that requires consultation to be complete in 60 working days. Level 3 is routinely applied to greenfield projects, like the AI Data Centre.

38. Alberta's consultation regime does not specifically envisage a project of this sort, an AI Data Centre. Alberta did not assess whether the consultation regime could discharge its DTCA in this novel context.

39. On April 7, 2026, in anticipation that ODL had submitted a pre-consultation assessment, SLCN requested that the ACO provide a copy of any application, advance notice and an opportunity to respond before any determination on the consultation level was made. Alberta did not

respond to this letter. Alberta took no steps to determine SLCN's views on the nature of the project or potential impacts to Treaty rights and traditional uses.

Decision under review

40. Without any notice to SLCN or the public, Alberta, acting through the ACO, determined that the AI Data Centre was subject to Level 1 Consultation only (**Decision**).

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. SLCN only received a copy of this Decision on April 16, 2026 from ODL, not Alberta.

43. On May 8, 2026, SLCN objected to the Level 1 classification and requested an extension of time to August 31, 2026. In its letter to the ACO, SLCN noted in particular:

    (a) That the length of time (15 working days) allocated for a response was unreasonable in the circumstances;

    (b) That SLCN had received no capacity funding to enable meaningful consultation in relation to the AI Data Centre;

    (c) That the vast project would have a significant effect on Treaty rights;

    (d) That SLCN's site crew teams could only assess at most 10 hectares per day per site impacted by the AI Data Centre, meaning 600 days in total given the 6,000-hectare scale of the AI Data Centre.

44. On May 15, 2026, SLCN received a response from the ACO dishonourably rejecting, minimizing and ignoring the Nation's concerns that the Level 1 classification was manifestly inappropriate in these circumstances and delegating the timing of Level 1 consultation to ODL.

The Decision breached the duty of Procedural Fairness

45. The Decision violated procedural fairness.

46. 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. Indeed, the Decision records a vast number of expected harmful effects on SLCN's territory.

47. In order to ensure procedural fairness, SLCN was entitled (i) to receive advance notice of the Decision and (ii) to receive a copy of ODL's application in order to be heard before the Decision was made. This was vitally important, especially given the multiple approvals that ODL was requiring and the sprawling impacts of those approvals on SLCN''s Territory. The Decision itself records significant expected impacts on water, air and the natural environment. As a rights holder and custodian of its Territory, SLCN was well placed to make relevant submissions on whether these impacts required a higher level of consultation under the ACO's own policies. Furthermore, SLCN should have been given adequate consultation funding to make submissions on the appropriate level of consultation, especially given the unique features of the vast, novel AI Data Centre and the recorded, expected impacts on SLCN's territory.

48. Making a determination that no or minimal consultation was owed to SLCN without providing a copy of ODL's application or advance notice of the Decision, was procedurally unfair.

49. 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 and the manifest inadequacy of Level 1 consultation in these unique circumstances. *Only* SLCN would be capable of making such meaningful submissions: the paucity of the analysis in the Decision and the lack of justification underscore just how important it was to give SLCN notice and allow it to make submissions.

50. The absence of notice to SLCN unlawfully vitiated its right to be consulted.

51. In addition, the absence of notice to SLCN unlawfully breached SLCN's Legitimate Expectations.

The Decision was unreasonable

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

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

54. There are four sections in the Decision.

55. The first section is "EPEA Activity 1 – Industrial Facility" which records that ODL will seek an approval under the *Environmental Protection and Enhancement Act* RSA, 2000, c. E-1 (***EPEA***) for an industrial facility. There is no meaningful assessment of the impact of the industrial facility on SLCN's rights. Indeed, the analysis is internally incoherent in that it engages in no discussion of SLCN's rights even though it notes that the AI Data Centre will include:

    (a) A large-scale industrial power generation facility with supporting infrastructure;

    (b) Industrial wastewater and domestic wastewater;

    (c) Project air emissions with potential to result in offsite effects;

    (d) Project-related construction and operation have the potential to interact with wetlands, drainage features, and riparian vegetation;

    (e) Restricted Activity Periods (RAP) associated with waterbodies, and activity timing conditions associated with migratory birds, owl nesting, grizzly bear dens, and designated wildlife biodiversity zones have been identified.

    (f) Given the scale and duration of the project, there would be potential for changes to access patterns within the AI Data Centre's area, including areas used for traditional activities.

56. It is incoherent to state that all of these effects will occur due to a vast, unprecedented project and conclude, without justification, that Level 1 Consultation is appropriate.

57. The Decision states, in a conclusory manner, that:

    (a) "project specific assessment and engagement [will be] undertaken in support of the *EPEA* and *Water Act* applications" ;

(b) "additional project specific aquatic and riparian assessments will be completed in support of the EPEA and Water Act applications";

(c) "further project-specific wildlife and vegetation assessments will be undertaken in support of the EPEA approval application";

all without giving any details of the assessments that will be undertaken or providing any analysis of how these assessments will satisfy the DTCA.

58. The second section is "*EPEA* Activity 2 – Centralized Water Treatment Facilities", which records that ODL will seek approval to "construct, operate and reclaim centralized water treatment facilities, storage, and internal distribution lines"". There is no meaningful assessment of the impact of the water treatment facilities on SLCN's rights. The analysis is internally incoherent and engages in no discussion of SLCN's rights even though it notes that the AI Data Centre will include:

(a) Project air emissions with the potential to result in of-site effects;

(b) Project-related construction and operation have the potential to interact with wetlands, drainage features, and riparian vegetation;

(c) Restricted Activity Periods (RAP) associated with waterbodies, and activity timing conditions associated with migratory birds, owl nesting, grizzly bear dens, and designated wildlife biodiversity zones have been identified

(d) Given the scale and duration of the project, there is potential for changes to access patterns within the project's area, including areas used for traditional activities.

59. There are vague promises of future engagement and assessment in the second section of the Decision without any attempt to reasonably justify how future engagement and assessment will mitigate the harms identified in the second section of the Decision.

60. The Decision states in the second section in a conclusory manner that industrial releases are "expected to be minimal" with no reference to the underlying factual basis for this conclusion.

61. The third section is “Water Act Activity 1 – Stormwater Drainage System” and records "The Project includes water-related infrastructure and activities regulated under the Alberta Water Act that support the *EPEA*-regulated industrial facilities".

62. There is no meaningful assessment of the impact of the stormwater drainage system on SLCN's rights. Indeed, the analysis is internally incoherent in that it engages in no discussion of SLCN’s rights even though it notes that the AI Data Centre will include water-related infrastructure with the potential to interfere with wetlands and drainage features that are hydrologically connected to McMillar Creek and the Smoky River, which are classified as Class C watercourses, and on which SLCN depends to exercise their Treaty rights.

63. Potential interactions include temporary and permanent land disturbance, alteration of wetlands and drainage features, changes to access patterns, and indirect effects associated with long-term industrial activity. There is vague reference to “[a]voidance, minimization, and mitigation measures” and project-specific assessments without any justification of what these are or how they will mitigate the harms identified in the third section of the Decision.

64. Moreover, this section states "No surface water intake or Water Act licence for diversion is proposed by the Project". This is simply inconsistent with the facts, as ODL has now claimed that it has sought a *Water Act* licence using Greenview as its agent.

65. The fourth section is "Water Act Activity 2 – Wetland Disturbance" and records “The Project includes water-related infrastructure and activities regulated under the Alberta *Water Act* that support the *EPEA*-regulated industrial facilities”.

66. There is no meaningful assessment of the impact of the wetland disturbance on SLCN's Treaty rights and land uses. Indeed, the analysis is internally incoherent in that it engages in no discussion of SLCN’s rights even though it notes that the AI Data Centre will include:

    (a) Water-related infrastructure with the potential to interfere with wetlands and drainage features that are hydrologically connected to McMillar Creek and the Smoky River, which are classified as Class C watercourses.

(b) Potential interactions include temporary and permanent land disturbance, alteration of wetlands and drainage features, changes to access patterns, and indirect effects associated with long-term industrial activity.

67. There is vague reference to "Avoidance, minimization, and mitigation measures" and project-specific assessments without any meaningful explanation of what these are or how they will mitigate the harms identified in the fourth section of the Decision.

68. Taken together, the four sections of the Decision catalogue a vast array of interferences with SLCN's Territory, traditional land use and Treaty rights. There is no meaningful justification for the conclusion that Level 1 consultation – the lowest form of consultation under the ACO's policies – is the appropriate level of consultation in the unique circumstances of this case. The individual sections, and the entirety of the Decision, are unreasonable as they are internally incoherent and unjustified in view of the factual and legal constraints.

69. In addition, at no point does the Decision meaningfully grapple with the fact that Alberta's policies on the DTCA do not specifically envisage a project of this nature and the consequent need to adapt the policies to the unique circumstances of the AI Data Centre. This is internally incoherent and unreasonable in view of the legal and factual constraints.

70. Furthermore, the Decision reveals a piecemeal, siloed approach to the DTCA which is inconsistent with the purposes of the DTCA and with the ACO's own policies. By looking at four separate components of the AI Data Centre in isolation, rather than considering their cumulative effects, the result is a partial and truncated analysis that is incapable of properly identifying the appropriate level of consultation. As the Decision does not satisfy the purposes of the DTCA and departs from the ACO's own policies without justification, the Decision is unreasonable.

The Decision breached the DTCA

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

72. 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.

73. In order to ensure consultation in accordance with the duty to consult and accommodate in this context, SLCN needed – at minimum - a copy of ODL's Application, advance notice of the Decision and a meaningful opportunity to respond before the Decision was made. The DTCA 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.

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

75. To the extent any of Alberta's procedural 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.

76. 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 according to Minister Sawhney's statements on April 22, 2026. Capacity funding is necessary for meaningful and constitutionally required consultation.

The Decision breached the Honour of the Crown

77. SLCN has specific and cognizable aboriginal interests in the GIG and the vicinity of the AI Data Centre. In making this Decision, Alberta breached the Honour of the Crown:

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

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

(c) 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

78. 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:

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

80. An interim order pursuant to Rule 3.23 of the *Alberta Rules of Court* staying the Decision pending final determination of this application for judicial review and staying this application for judicial review until an adequacy decision is made on the ACO process initiated by the Decision.

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

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

83. A declaration that:

(a) The Decision breached SLCN's rights to procedural fairness;

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

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

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

(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;

84. Costs; and

85. 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;

4. *Water Act*, RSA 2000, c W-3.

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.