Canadian Environmental Law Association
EQUITY. JUSTICE. HEALTH.

July 2, 2025

VIA ELECTRONIC MAIL & ERO REGISTRY

Ontario Ministry of the Environment, Conservation and Parks
Client Services and Permissions Branch
135 St. Clair Ave. West – 1st Floor
Toronto, Ontario M4V 1P5
enviropermissions@ontario.ca

RE: Great Bear Resources Ltd. ("GBR", "Kinross", or "Kinross/GBR") Proposal for a Permit to Take Water ("PTTW") – ERO No. 025-0579, MECP Reference No. 7244-DH6HJF (Comment Period June 3 – July 3, 2025) – Preliminary Comments of Grassy Narrows First Nation

We are co-counsel with Cavalluzzo LLP on behalf of Asubpeeschoseewagong Netum Anishinabek ("ANA", "Grassy Narrows First Nation" or "Grassy Narrows") and, in this capacity, provide the following preliminary comments in connection with the above matter. Please be advised that ANA expects to file supplementary comments and expert reports on this matter by July 14, 2025, which is the extended comment deadline communicated to ANA by MECP.

I. Request

The Director should not issue a PTTW to GBR.

II. Introduction

In May 2025, GBR submitted a PTTW application for Advanced Exploration ("AEX") construction and underground dewatering.[1] Grassy Narrows first learned of the application from MECP on June 5, 2025. This date is also when Grassy Narrows learned that the application had been posted to the ERO for a 30-day comment period ending on July 3, 2025. MECP asked that Grassy Narrows provide comment by July 7, 2025 (later changed to July 14th when technical difficulties made it impossible to open the application materials).

Thus, MECP provided Grassy Narrows with a month to review and obtain advice from its experts on the new application materials. Grassy Narrows does not yet have reports from its experts and will provide these reports with additional submissions once received.

We also note that MECP requested a meeting with Grassy Narrows to discuss the PTTW application (as well as an ECA application). Grassy Narrows proposed to meet on July 23, 2025,

[1] Great Bear Resources Ltd., *Great Bear Advanced Exploration Program: Permit to Take Water Application for AEX Construction and Underground Dewatering* (May 2025).

which is the first available meeting date that would ensure that ANA had time to obtain expert advice prior to discussing these applications. In response, MECP indicated that it intends to approve the PTTW by July 15 and suggested meeting before July 8th and thus before ANA will be in a position to meaningfully discuss the PTTW application and the potential adverse impacts upon the environment and the community.

As noted below, the May 2025 PTTW application is described by GBR as both "repackaged" but "updated", and by MECP as "new". Considering the foregoing, most, if not all, of the material filed with MECP in February and April 2025 on behalf of ANA, including submissions of counsel, reports of experts, and correspondence from ANA directly, continues to apply with respect to the May 2025 PTTW application. Accordingly, ANA repeats and continues to rely on this material as well in opposition to the issuance of the requested PTTW in this matter. In this regard, we include with these comments our earlier submissions (February and April 2025) without refiling with MECP the attachments to those earlier submissions (e.g., expert reports) provided to the Ministry through the ERO Registry (regarding ERO No. 025-0078) and by electronic mail.

III. Overview of PTTW Proposal

The technical supporting document for the May 2025 PTTW application states that:

> "This repackaged Permit to Take Water (PTTW) application for the AEX Program (hereafter, the 'Application') has been prepared at the request of the Ministry of the Environment, Conservation and Parks (MECP) to consolidate the previous PTTW application for early construction-phase activities and the PTTW for water takings associated with the full AEX Program into a single document. This Application does not propose any new water takings."[2]

However, the supporting technical document also indicates that:

> "This submission has been updated with respect to the fate of water taken during the early construction phase. Specifically, instead of discharging to ground upgradient of Dixie Creek, collected water will now be treated through the mobile treatment system and conveyed to the Chukuni River, in accordance with the activities specified under the Environmental Compliance Approval for Industrial Sewage Works (ECA ISW). This update does not change the overall effects of proposed water takings for the AEX Program evaluated to date, which remain consistent with those previously described and evaluated in the earlier PTTW submissions."[3]

According to the June 3, 2025 ERO Registry notice for the May 2025 application:

> "This proposal is for a new Permit to Take Water for Great Bear Resources Ltd. Water will be taken from one watercourse and six wells for the Advanced Exploration Program operation (including underground dewatering, dust suppression, utility water supply and

[2] *Ibid*. PDF page 7.
[3] *Ibid*.

contingency plans), located approximately 25 kilometres southeast of the Municipality of Red Lake, Ontario. Details of the water taking are as follows:

Permit type – new

Source Name: AEX Box Cut and Underground

- purpose: dewatering - underground development/bulk sample
- maximum rate per minute (litres): 1,388.9
- maximum number of hours of taking per day: 24
- maximum volume per day (litres): 2,000,000
- maximum number of days of taking per year: 365
- earliest calendar date of taking (mm/dd): 01/01
- latest calendar date of taking (mm/dd): 12/31
- period of taking: five years

Source Name: AEX Potable Well

- purpose: water supply - AEX camp potable water
- maximum rate per minute (litres): 20.8
- maximum number of hours of taking per day: 24
- maximum volume per day (litres): 30,000
- maximum number of days of taking per year: 365
- earliest calendar date of taking (mm/dd): 01/01
- latest calendar date of taking (mm/dd): 12/31
- period of taking: five years

Source Name: AEX Supplementation Well 1

- purpose: miscellaneous - flow supplementation
- maximum rate per minute (litres): 86.8
- maximum number of hours of taking per day: 24
- maximum volume per day (litres): 125,000
- maximum number of days of taking per year: 365

- earliest calendar date of taking (mm/dd): 01/01
- latest calendar date of taking (mm/dd): 12/31
- period of taking: five years

Source Name: AEX Supplementation Well 2

- purpose: miscellaneous - flow supplementation
- maximum rate per minute (litres): 86.8
- maximum number of hours of taking per day: 24
- maximum volume per day (litres): 125,000
- maximum number of days of taking per year: 365
- earliest calendar date of taking (mm/dd): 01/01
- latest calendar date of taking (mm/dd): 12/31
- period of taking: five years

Source Name: AEX Supplementation Well 3

- purpose: miscellaneous - flow supplementation
- maximum rate per minute (litres): 86.8
- maximum number of hours of taking per day: 24
- maximum volume per day (litres): 125,000
- maximum number of days of taking per year: 365
- earliest calendar date of taking (mm/dd): 01/01
- latest calendar date of taking (mm/dd): 12/31
- period of taking: five years

Source Name: Water Treatment Pond Uplift Protection System

- purpose: industrial - operation of treatment ponds
- maximum rate per minute (litres): 145.8
- maximum number of hours of taking per day: 24
- maximum volume per day (litres): 210,000
- maximum number of days of taking per year: 365

- earliest calendar date of taking (mm/dd): 01/01
- latest calendar date of taking (mm/dd): 12/31
- period of taking: five years

Source Name: Dixie Creek

- purpose: industrial - dust suppression
- maximum rate per minute (litres): 173.6
- maximum number of hours of taking per day: 24
- maximum volume per day (litres): 250,000
- maximum number of days of taking per year: 365
- earliest calendar date of taking (mm/dd): 01/01
- latest calendar date of taking (mm/dd): 12/31
- period of taking: one year."

The ERO Registry notice also indicates that the proposed water taking qualifies as a Category 3 permit (i.e., "anticipated to have the highest potential of causing unacceptable environmental impact or interference").

IV. Previously Identified ANA Concerns with PTTW Application Remain: A Summary

Because the "repackaged" PTTW application includes elements of the same application that Grassy Narrows sought leave to appeal before the Ontario Land Tribunal ("OLT"), it is instructive to consider some of the reasons why the OLT in March 2025 granted the Grassy Narrows leave application:[4]

> "[37] … the Tribunal finds that given the possible release of contaminants and the potential for methylmercury production as a result of the proposed water takings under the Permit, it appears that there is a threat of serious environmental harm from water takings under the Permit. The Director and Permit Holder rely largely on monitoring and adaptive management as tools to address potential contamination; however, in circumstances where even a small amount of contamination can cause significant health and environmental harm, the use of monitoring and after-the-fact adaptive management measures have little use or effect. In those circumstances, the damage will already have been done.
> …
>
> [47] Based on the evidence before the Tribunal, the Grassy Narrows community has suffered from a history of mercury contamination, which has impacted its members' rights, health, and well-being, including premature death, elevated suicidality, disease, poverty,

[4] *Grassy Narrows First Nation v Ontario (Environment, Conservation and Parks)*, 2025 CanLII 21796 (ON LT).

> and food insecurity. Based on the Permit Holder's studies, the Director determined that the anticipated risk of environmental harm from mercury and other contamination would be low and, as a result, he failed to comprehensively consider the cumulative effects of such contamination if it occurs despite the low risk. Given the environmental conditions, history of mercury and other contamination, and the environmental and health impacts of past contamination, the Tribunal finds that the Director should have considered the cumulative effects of the proposed takings and discharges should contamination occur. Based on this, the Tribunal finds that it appears that there is good reason to believe that no reasonable person, having regard to the MECP's SEV on cumulative effects, could have made the decision to issue the Permit.
> …
>
> [62] Based on the evidence and submissions before it, the Tribunal finds that the Applicant has established that there are data and information gaps, and an absence of analysis on key environmental factors in the Permit Holder's studies and research. The Applicant's experts produced comprehensive evidence demonstrating that the Permit Holder's data and studies are incomplete. Based on this, the Tribunal finds that the Applicant has presented an arguable case that the Director did not have the necessary data and studies before him to enable him to consider both the Permit Holder's reasonable needs for water and the water needs of the ecosystem for it to perform its natural functions. As a result, the Tribunal finds that there is good reason to believe that no reasonable person, having regard to the MECP's SEV on the ecosystem approach, could have made the decision to issue the Permit."

These concerns remain with the "new" PTTW application.

In its February 2025 submission respecting ERO No. 025-0078, ANA identified numerous problems with the PTTW application and supporting materials. These are summarized below and augmented, where warranted, with comments in brackets that provide observations also relevant to the May 2025 application:

- Data in the new PTTW application failed to resolve problems ANA experts previously identified;
- The PTTW application represented a massive total volume of takings;
- There are impact implications of potential overlapping of takings from new and scoped PTTWs (a problem that repackaging and consolidating the two in the May 2025 application does not resolve);
- The new PTTW application's continued reliance on the mobile and ISW ECAs will not resolve the problem of methylmercury formation from the release of sulphate and inadequate (or no) treatment of it (and the May 2025 application's continued reliance on the mobile treatment unit ECA and the ISW ECA hardly resolves the problem since neither purport to treat sulphates);

- Deficiencies in both the ISW ECA and the MTU ECA regarding sulphates requires a preventive approach to protecting return water quality under the *Ontario Water Resources Act* ("*OWRA*") (and the May 2025 application does not provide one);

- The new PTTW application is unpersuasive on whether streamflow in Dixie Creek and other watercourses will be adversely impacted;

- Extensive measures are necessary to protect fish and fish habitat under federal law from the water taking, raising questions respecting the ability of GBR to protect ANA's constitutionally protected rights;

- There has been no, let alone "extensive", consultation regarding the new PTTW application.[5]

In its April 2025 submission respecting ERO No. 025-0078, ANA identified further problems with the PTTW application and supporting materials. These are summarized below and augmented, where warranted, with comments in brackets that provide observations also relevant to the May 2025 application:

- According to the federal prediction manual (MEND 2009), any disturbance of geological materials, including changes to the height of the water table or the rate of groundwater movement, may change geochemical or hydrological conditions and increase contaminant concentrations and contaminant loading requiring predictions with respect to ML-ARD and water quality impacts. Kinross proposed such changes in connection with both the scoped and new PTTWs but without providing the predictions required by the federal prediction manual;

- The new 5-year PTTW application admits that open drillholes: (1) exist at the site; (2) can have a huge effect on groundwater flow; and (3) are the focus of Kinross attempts to plug (grout) these 2,500 holes to stop the accelerated movement of water they will otherwise facilitate. However, there is a lack of information respecting the approach and effectiveness of Kinross attempts to remedy the problem;

- Kinross groundwater modelling for active dewatering at the site is contradictory and nonsensical as it shows that active exploration cannot take place in the dewatered underground workings because they are flooded and pressurized with water and not dewatered;

- The 2025 PTTW application includes a "water treatment pond uplift protection system". The need for this system is based on an error in the groundwater modelling that has been pointed out by ANA for more than a year which indicated that the modelling artificially creates erroneously high water tables, apparently above the existing land surface in places (i.e., mounded water piled up into the air in places). Instead of recognizing its error, Kinross calculated the imaginary flow needed from

[5] Submissions on behalf of ANA, filed with MECP on February 21, 2025 (Attachment 1).

subdrains beneath the ponds to lower this free-standing mound of water up in the air to an elevation beneath the base of the ponds. This led to the 2025 PTTW application requesting a new water taking of 150,000 L/day, every day of the year, in respect of the water treatment pond uplift protection system;

- The new 2025 PTTW application proposes to use potentially toxic supplementary groundwater wells to maintain environmentally safe flow levels in the Unnamed Watercourse 3. The problem arises from unreliable and too low simulated groundwater levels around and beneath Unnamed Watercourse 3 that predict that water might be drained out of this watercourse by dewatering. The loss of water from Watercourse 3 could reach such a degree that its flow may have to be supplemented by groundwater pumped from three wells. However, pumping groundwater with little to no dissolved oxygen into a fish-bearing creek, as a major replacement to its lost flow caused by advanced exploration dewatering, could be toxic to fish and aquatic life but was not examined by Kinross. Many potentially toxic, adverse impacts could occur in Unnamed Watercourse 3 and elsewhere caused by pumping relatively large amounts of anoxic, dense, and/or concentrated groundwater during the proposed advanced exploration taking of water under the PTTW. These potentially toxic impacts are not recognized and not mitigated in the new (2025) PTTW application;

- The assimilative capacity of the Chukuni River continues to be overstated by GBR in support of its use as the receiving body for all the water discharged from the operation and this overstatement of assimilative capacity is also implied by the flow data presented;

- GBR's handling of surface water flow data calls into question the potential impacts of dewatering on important tributaries such as Dixie Creek, as the relative impact of modelled dewatering effects are entirely dependent on estimates of normal flow conditions. The company states plainly in its supporting material that the below ground water taking activities will impact baseflow in tributaries, but meeting the requirement that dewatering not affect flows by more than 20% is highly sensitive to the characterization of the baseline condition in the first place;

- The GBR supporting materials are silent on the issue of the fate of the water that is withdrawn because of the proposed operations. Given the potential for substantial release of sulphate from waste rock drainage, and groundwater from the dewatering of belowground operations, the impact of additional mass of sulphate in larger volumes of discharge water on the formation of methylmercury in this already mercury-sensitive environment is heightened;

- The GBR supporting materials are completely silent on the issue of mercury and methylmercury, again failing to acknowledge its central importance to the protection of aquatic resources and fish consumers;

- The GBR application lacks a predictive water quality model addressing potential changes over time of underground dewatering inflow quality. The omission leaves gaps

> in understanding how water quality may change and the implications for such change for discharges and compliance. While general water quality data are referenced in the new PTTW application, no modeling was done to simulate time-series concentration trends or contaminant mobility from mine workings or geological units.[6]

Overall, the findings of ANA experts were clear that there are substantial uncertainties and contradictions with the Kinross supporting material, and that the advanced exploration project for which the new PTTW is sought will increase sulphate levels in receiving waters, and as a result increase the production of methylmercury and increase methylmercury concentrations in fish. From this it is clear that consumers of that fish, members of the ANA community, will be at risk from the neurotoxic effects of methylmercury. In a community that has long been exposed to, and substantially harmed by, mercury from past industrial activities in its Territory this is simply unacceptable.

As noted above, expert opinions on the new PTTW application materials are pending and will be provided in due course.

V. Conclusion, Recommendation, Request, and Reservation of Rights

On the basis of ANA submissions and expert reports previously provided but not re-filed here and summarized above respecting the application material, ANA repeats its concerns that were provided to MECP in February and April 2025. The "repackaged" May 2025 PTTW application appears to pose substantially the same, if not greater, risks to the health, environment, well-being, and constitutional rights of the ANA community as have previous iterations of the application. Compared to the scoped PTTW for which the OLT previously granted leave to appeal, the current PTTW application proposes to take a much larger volume of water over a much longer period of time without meaningfully addressing the core concerns which Grassy Narrows and our experts have raised with respect to on-site and off-site impacts to the environment that the people of Grassy Narrows rely on. Consequently, a decision approving the May 2025 PTTW application would appear: (1) to be unreasonable; (2) to be a cause of significant environmental harm; and (3) to have the potential to jeopardize ANA's Aboriginal, treaty, and inherent rights.

Accordingly, ANA continues to submit that the Director should not issue a PTTW to GBR.

Grassy Narrows also repeats its previous requests to be provided with copies of any draft PTTW and ECA before they are finalized and expressly reserves the right to file further supplementary comments and expert reports on, or after the close of, the July 14, 2025 MECP extended deadline.

We include with these comments our earlier (February and April 2025 submissions) without refiling with MECP the attachments to those earlier submissions (e.g., expert reports) provided to the Ministry through the ERO Registry (regarding ERO No. 025-0078) and by electronic mail. Should MECP require copies of any of these earlier expert reports, or other material, please advise the writers.

---

[6] Submissions on behalf of ANA, filed with MECP on April 14, 2025 (Attachment 2).

Yours truly,
CANADIAN ENVIRONMENTAL LAW ASSOCIATION

Joseph F. Castrilli
Counsel

Richard D. Lindgren
Counsel

Encl: Attachment 1 – February 21, 2025 submissions filed on behalf of ANA
Attachment 2 – April 14, 2025 submissions filed on behalf of ANA

cc. Lands Protection Team
Jackie Esmonde / Sydney Lang, Cavalluzzo LLP
David Sone, ANA Advisor
Luke Crosby / David Bursey, Counsel for Great Bear / Kinross