

**CHAPTER 13
EXPROPRIATION**

Definitions

Territorial Expropriation Authority

General Principle

1. **Canada and the Government of the Northwest Territories:**
 - (a) **acknowledge the interest of the Dehcho First Nations in maintaining the size and integrity of Dehcho Lands;**
 - (b) **agree that as a general principle they will attempt to acquire lands for public purposes through agreement (e.g. exchange of lands) with the Dehcho Nation; and**
 - (c) **that expropriation of Dehcho Lands will be avoided unless the lands are necessary for a public purpose.**

Expropriation by Canada

2. **Interests in Dehcho Lands may be expropriated for public purposes by Canada under the following conditions:**
 - (a) **the Federal Expropriating Authority has made reasonable efforts to reach agreement with the Dehcho First Nations for purchase of the lands;**
 - (b) **the Governor in Council consents to the expropriation; and**
 - (c) **compensation is provided to the Dehcho First Nations either as cash compensation or through an exchange of land as agreed to by Canada and the Dehcho First Nations.**
3. **Where a Federal Expropriation Authority expropriates Dehcho Lands and replacement land is acceptable to the Dehcho First Nations, the Authority shall acquire and offer as partial or full compensation for the expropriation of Dehcho Lands replacement land in the Dehcho Region.**
4. **Replacement land must be either Crown land or land available on the open market.**
5. **Where a Federal Expropriation Authority expropriates Dehcho Lands and replacement land is not acceptable to the Dehcho First Nations, the Authority shall offer financial compensation in accordance with the Agreement and federal legislation.**

6. The total value of compensation for an interest in Dehcho Lands expropriated by a Federal Expropriating Authority under this chapter will be determined by taking into account the following factors:
- (a) the market value of the expropriated interest or of the Dehcho Lands in which an interest has been expropriated;
 - (b) the replacement value of any improvement to Dehcho Lands in which an interest has been expropriated;
 - (c) any expenses or losses resulting from a disturbance directly attributable to the expropriation;
 - (d) any reduction in the value of any interest in the Dehcho Lands that is not expropriated which directly relates to the expropriation;
 - (e) any adverse effect on any cultural or other special value of Dehcho Lands in which an interest has been expropriated to the Dehcho First Nations, provided that the cultural or other special value is only applied to an interest in Dehcho Lands recognized in law and held by the Dehcho First Nations, and provided that there will be no increase in the total value of compensation on account of any Section 35 Rights stemming from the *Constitution Act, 1982*; and
 - (f) the value of any special economic advantage arising out of or incidental to the occupation or use of Dehcho Lands by the Dehcho First Nations to the extent that the value is not otherwise compensated.
7. Where Dehcho Lands which have been expropriated are, in the opinion of the Federal Expropriating authority, no longer required by Canada:
- (a) the Dehcho First Nations may reacquire those lands at a price to be established by the Federal Expropriating Authority;
 - (b) The Expropriating Authority may not dispose of those lands for a price less than the price offered to the Dehcho First Nations; and
 - (c) The Dehcho First Nations will have a right of first refusal in respect of those lands at the price set by the Expropriating Authority.

Expropriation by the Government of the Northwest Territories

8. Interests in Dehcho Lands may be expropriated for public purposes by the Government of the Northwest Territories under the following conditions:

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- (a) the territorial expropriating authority has made reasonable efforts to reach agreement with the Dehcho First Nations for purchase of the lands;
 - (b) the Executive Council of the Government of the Northwest Territories consents to the expropriation; and
 - (c) compensation is provided to the Dehcho First Nations either as cash compensation or through an exchange of land as agreed to by the Dehcho Nation and the Government of the Northwest Territories.
9. Where a Territorial Expropriation Authority expropriates Dehcho Lands and replacement land is acceptable to the Dehcho Nation, the Authority shall acquire and offer as partial or full compensation for the expropriation of Dehcho Lands replacement land in the Dehcho Region.
10. Replacement land must be either Crown land or land available on the open market of equivalent size or comparable value.
11. Where a Territorial Expropriation Authority expropriates Dehcho Lands and replacement land is not acceptable to the Dehcho First Nations, the Authority shall offer financial compensation in accordance with the Agreement and territorial legislation.
12. The total value of compensation for an interest in Dehcho Lands expropriated by a Territorial Expropriating Authority under this chapter will be determined by taking into account the following factors:
- (a) the market value of the expropriated interest or of the Dehcho Lands in which an interest has been expropriated;
 - (b) the replacement value of any improvement to Dehcho Lands in which an interest has been expropriated;
 - (c) any expenses or losses resulting from a disturbance directly attributable to the expropriation;
 - (d) any reduction in the value of any interest in the Dehcho Lands that is not expropriated which directly relates to the expropriation;
 - (e) any adverse effect on any cultural or other special value of Dehcho Lands in which an interest has been expropriated to the Dehcho First Nations, provided that the cultural or other special value is only applied to an interest in Dehcho Lands recognized in law and held by the Dehcho First Nations, and provided that there will be no increase in the total value of compensation on account of any Section 35 Rights of the Dehcho Nation; and
 - (f) the value of any special economic advantage arising out of or incidental to the occupation or use of Dehcho Lands by the Dehcho

First Nations to the extent that the value is not otherwise compensated.

13. Where Dehcho Lands which have been expropriated are, in the opinion of the Territorial Expropriating authority, no longer required by the Government of the Northwest Territories:
- (a) the Dehcho First Nations may reacquire those lands at a price to be established by the Territorial Expropriating Authority;
 - (b) The Territorial Expropriating Authority may not dispose of those lands for a price less than the price offered to the Dehcho First Nations; and
 - (c) The Dehcho First Nations will have a right of first refusal in respect of those lands at the price set by the Territorial Expropriating Authority.

Status as Dehcho Lands

14. Where Canada or the Government of the Northwest Territories expropriates a fee simple interest in Dehcho Lands, those lands will no longer be Dehcho Lands.
15. Where Canada or the Government of the Northwest Territories expropriates less than a fee simple interest in Dehcho Lands:
- (a) those lands will remain Dehcho Lands;
 - (b) those lands remain subject to Dehcho Government laws, except to the extent those laws are inconsistent with the use of the lands for federal or territorial public purposes; and
 - (c) the Dehcho First Nations or any person authorized by the Dehcho First Nations may continue to use the lands unless that use is inconsistent with the use of the lands for federal or territorial public purposes as determined by the Federal or Territorial Expropriating Authority.

Emergencies

16. Nothing in the Agreement will affect or limit the application to Dehcho Lands of the *Emergencies Act (Canada)* or any successor legislation.