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LAND COMPENSATION BOARD

THE EXPROPRIATION ACT
(RULE NUMBER 2)

DOCKET NO.: 10947.0

APPLICATION FOR DETERMINATION OF COMPENSATION

CLAIMANT : **MARVIN D. MARKS**
c/o Prowse Chowne LLP
Suite 100, 10328 – 81 Avenue
Edmonton, Alberta T6E 1X2

RESPONDENT: **THE TOWN OF WESTLOCK**
c/o Mah & Chiu
Barristers and Solicitors
1100 Canadian Western Bank Place
10303 Jasper Avenue
Edmonton, Alberta T5J 3N6

1. **TAKE NOTICE** that the Claimant requires that compensation claimed by him from the Respondent with respect to the lands described below be determined by the Land Compensation Board, pursuant to the *Expropriation Act*, R.S.A. 2000 Chapter E-13 which lands were formally expropriated by Certificate of Approval filed at the North Alberta Registration District Land Titles Office August 27, 2001.

2. The Claimant claims compensation for his interest as legal and beneficial owner of the fee simple estate in the following land expropriated by the Respondent:

   DESCRIPTIVE PLAN 0123812
   BLOCK 1
   LOT 1
   EXCEPTING THEREOUT ALL MINES AND MINERALS
   AREA: 32.37 HECTARES (79.99 ACRES) MORE OR LESS

   (hereinafter referred to as the "Expropriated Lands")

3. The Claimant remains the legal and beneficial owner of the remaining lands described as:

THE NORTH EAST QUARTER OF SECTION THIRTY THREE (33)
TOWNSHIP FIFTY NINE (59)
RANGE TWENTY SIX (26)
WEST OF THE FOURTH MERIDIAN
CONTAINING 64.7 HECTARES (160 ACRES) MORE OR LESS

EXCEPTING THEREOUT:	HECTARES	ACRES MORE OR LESS
A. PLAN 7721021 – ROAD	0.979	2.42
B. PLAN 0123812 – DESCRIPTIVE	32.37	80.00

EXCEPTING THEREOUT ALL MINES AND MINERALS

(the "Remaining Lands").

4. The Expropriated Lands and the Remaining Lands are collectively referred to as the "Marks Lands".

5. The Claimant's family acquired the Marks Lands in 1951 and the Marks family has owed these lands until the Expropriated Lands were expropriated by the Respondent on August 27, 2001.

6. The Claimant carried on a farming operation on the Marks Lands and he continues to do so on the Remaining Lands. The Expropriated Lands are in close proximity to his home and the centre of his farming operation.

7. The Respondent's expropriation of the Expropriated Lands will require the development of replacement pastureland, a feeding pad, and the construction of a new dugout along with a substantial amount of fencing. The expropriation will also require the construction of a replacement grass airfield and will cause the Claimant to lose lease revenue and incur losses in relation to fixed costs, all of which damages are detailed below.

8. STATEMENT OF CLAIM

   a) The Claimant claims compensation for the market value of the Expropriated Lands as at August 27, 2001 in the amount of SIX HUNDRED AND SIXTY THOUSAND DOLLARS ($660,000.00), being the appraised value of the Expropriated Lands as determined by an appraisal report to be supplied by the Claimant to the Respondent (Section 42).

   b) The Claimant claims the sum of TWENTY-EIGHT THOUSAND NINE HUNDRED AND FORTY-FIVE DOLLARS ($28,945.00), or such sum as shall be proven at the hearing of this matter for damages incidental to the expropriation including, but not limited to, costs associated with the replacement and subsequent fencing of pasture land and costs related to transitioning livestock from the existing to the replacement pasture land (Sections 50 and 56).

c) The Claimant claims the sum of ONE HUNDRED AND FORTY-SEVEN THOUSAND ONE HUNDRED AND EIGHTY-FIVE DOLLARS ($147,185.00), or such sum as shall be proven at the hearing of this matter, for costs associated with the construction of a replacement dugout, including backfilling of the existing dugout, and pumping water from one to the other, installation of fencing, water and power lines as well as the provision of an alternate source of water which was made necessary by the expropriation (Sections 50 and 56).

d) The Claimant claims FORTY-SIX THOUSAND THIRTY DOLLARS ($46,030.00), or such sum as shall be proven at the hearing of this matter, for costs associated with the construction of a new feeding pad, approach, access roadway, and related fencing as well as additional costs of extended travel to the new feeding pad (Sections 50 and 56).

e) The Claimant claims NINE THOUSAND NINE HUNDRED DOLLARS ($9,900.00), or such sum as shall be proven at the hearing of this matter, for costs associated with fencing off the west and south sides of the Expropriated Lands (Sections 50 and 56).

f) The Claimant claims THIRTY-ONE THOUSAND FOUR HUNDRED AND FIFTEEN DOLLARS ($31,415.00), or such sum as shall be proven at the hearing of this matter, for costs associated with the construction of a replacement airfield on the Remaining Lands immediately south of the southwest corner of the Expropriated Lands (Sections 50 and 56).

g) The Claimant claims THIRTEEN THOUSAND NINE HUNDRED AND NINETY DOLLARS ($13,990.00), or such sum as shall be proven at the hearing of this matter, for lost lease revenue generated by the lease of three to five acres of the Expropriated Lands for equipment storage and the display of signboards to a number of third parties (Sections 50 and 56).

h) The Claimant claims THREE THOUSAND NINE HUNDRED DOLLARS ($3,900.00), or such sum as shall be proven at the hearing of this matter, for the cost associated with losses that he will incur due to an increase in fixed costs (Sections 50 and 56).

i) The Claimant claims FIVE THOUSAND DOLLARS ($5,000.00), or such sum as shall be proven at the hearing of this matter, for loss to his business of his services while he tended to the expropriation and replacement issues (Sections 42, 44 and 50).

j) The Claimant claims FIVE THOUSAND AND FORTY DOLLARS ($5,040.00), or such sum as shall be proven at the hearing of this matter, for additional travel costs associated with the temporary loss of his airstrip (Sections 50 and 56).

k) The Claimant claims such further and other damages, costs, expenses and sums that have been caused directly or indirectly by the expropriation by the Respondent of the Expropriated Lands including compensation for his own time, efforts and expenses associated with proving the claims stated herein (Sections 39, 42 and 50).

l) The Claimant claims interest and penalty interest on all sums as provided for in the *Expropriation Act* (Section 66).

m) The Claimant further claims an amount that will serve to present value the within claims for damages from the earlier of August 27, 2001 or the date such damages were incurred, to the date of the hearing of this matter.

n) The Claimant further states that from the amount awarded by the Land Compensation Board, there shall be deducted any payments made by the Respondent to the Claimant prior to the hearing of this matter.

o) The Claimant claims the costs of all legal, appraisal, survey, and other costs to date and all future costs of and incidental to the final determination of this matter pursuant to the *Expropriation Act* (Sections 35 and 39).

THIS APPLICATION is made by Prowse Chowne LLP, Barristers & Solicitors, Suite 100, 10328 – 81 Avenue, Edmonton, Alberta, T6E 1X2, Counsel for the Claimant, and the address at which documents may be served upon the Claimant is at the address specified above.

DATED at the City of Edmonton, in the Province of Alberta, this 29th day of July, 2002.

PROWSE CHOWNE LLP
Per: _____
Donald P. Mallon
Counsel for the Claimant

DATED: JULY, 2002
DOCKET NO. 10947.0

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