Department of Justice

Title Standards 2001

A guide for the preparation of title evidence in land acquisitions by the United States of America.

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1. Why *Title Standards 2001*, and who uses it?

A Foreword by Lois J. Schiffer, Assistant Attorney General, Environment and Natural Resources Division

The Title Standards serve as a guide for the preparation of evidence of title for all acquisitions by the United States of land or interests in land, including acquisitions by direct purchase, exchange, donation, and condemnation. The Title Standards replace the Standards for the Preparation of Title Evidence in Land Acquisitions by the United States (1970) (The 1970 Standards) except to the limited extent mentioned below with regard to title insurance policy forms in Texas.

Title or ownership of land or interests in land is determined by an examination of documents in the public land records, by a physical inspection of the property and by a review of other supplemental or supporting documents. Such title evidence is almost universally prepared and reviewed in the private sector when land is purchased or mortgaged to determine that there are no adverse or unacceptable encumbrances or "clouds" on the title. The United States government, acting through its various departments and agencies, follows the same practice when it acquires land or interests in land, for the same reason, but also because it is required to do so by a statute originally enacted in 1841, now codified at 40 U.S.C. §255. This statute conditions an agency's authority to acquire land on the prior approval of the sufficiency of the title by the Attorney General or her/his delegee[1]. It applies broadly to all federal land acquisitions unless Congress has specifically provided otherwise. The regulations[2] promulgated under this statute provide that the Title Standards must be followed unless exception is made in unusual circumstances

The Title Standards apply to the most valuable city properties and the least valuable rural lands throughout the United States, its territories, and even in foreign countries. Interests in land covered by these Standards include fee simple title, easements, leases which have a term of more than thirty years, and restrictions or covenants. Interests not covered include leases having a term of thirty years or less, and interests in land acquired in connection with a federal loan program. By following the Title Standards,

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[1]Delegated authority to review and approve titles has been granted to eleven agencies which expressed an interest in having such authority, being: 1) Atomic Energy Commission, 2) Department of the Army, 3) Department of Agriculture, 4) Department of Energy, 5) Department of the Interior, 6) Department of the Navy, 7) Department of Transportation, 8) Department of Veterans Affairs, 9) General Services Administration, 10) International Boundary and Water Commission, and 11) United States Postal Service. All but two of the above agencies are still exercising this delegated authority. The Atomic Energy Commission no longer exists, and the U.S. Postal Service has since been expressly excluded by Congress from the scope of 40 U.S.C. §255. Essentially all remaining agencies submit requests for the review of titles directly to the Department of Justice. Within the Department the Attorney General's authority has been delegated to the Assistant Attorney General, Environment and Natural Resources Division, and from her/him to the Chief, Assistant Chiefs, and Chief of the Title Unit, all in the Land Acquisition Section.

[2]Order No. 440-70 of the Attorney General, dated October 2, 1970, titled, *Regulations of the Attorney General promulgated in accordance with the provisions of Public Law 91-393 approved September 1, 1970, 84 Stat. 835, An Act to Amend Section 355 of the Revised Statutes, as amended, Concerning Approval by the Attorney General of the Title to Lands Acquired for and on Behalf of the United States and for Other Purposes.*

federal agencies will be protecting the government's investment in land. The title evidence will be tailored to the value and circumstances of the property acquired, it will provide information which will help federal agencies give due care to the rights of property owners, and it will be obtainable in a timely fashion at a reasonable cost.

Take a look at the American Land Title Association (ALTA) U.S. Policy - 9/28/91 which is part of the Title Standards 2001. This title insurance policy form was approved in 1991 by the Department of Justice and the American Land Title Association for use in federal land acquisitions, except in Texas. It replaces an earlier form adopted in 1963. In form and in use this new policy is very similar to commercially available title policies. Both the government and the title insurance companies have found that it is much easier to use than the old policy form.

Texas strictly regulates the title insurance industry and has not yet adopted the new title policy form. For this reason, in Texas, the federal government is still using the old form of policy adopted in 1963, referenced in the 1970 Standards. In Texas the old policy form is referred to as the T-11 U.S. policy. An associated endorsement is referred to as the T-12 U.S. endorsement. Copies of these forms are included as part of these Title Standards 2001.

Where particular title questions arise which are not covered here, where title difficulties cannot be resolved readily, where the cost of title evidence or insurance seems disproportionately high compared to the value of the property being acquired, or otherwise unnecessarily expensive, and where unreasonable delays are foreseen or are incurred in securing title evidence, or clearing title defects, the Environment and Natural Resources Division may be consulted. Within the Division, the day to day responsibility for administering the Attorney General's title regulations and these standards rests with the Title Unit in the Land Acquisition Section. We will render any assistance in resolving such questions to accomplish a fair, efficient, economical, and expeditious acquisition.

Much credit for this revision must be given to the numerous federal agencies that responded to our requests for suggestions and comments, and to Lewis M. Baylor, Assistant Chief of the Land Acquisition Section and formerly Chief of the Title Unit of the Section, who was principally responsible for this project.

2. EVIDENCE OF TITLE

a. Who is responsible for getting it?

It is the duty of the acquiring agency to furnish necessary evidence of title to land to be acquired by direct purchase, exchange, donation, or condemnation; the expense of procuring the same to be paid out of the agency's appropriations (40 U.S.C. §255).

Title evidence must be obtained promptly to avoid delay in payment to landowners and to permit early consummation of purchases and closing of condemnation proceedings.

b. What types of title evidence are acceptable?

The acquiring agency should select the type of title evidence to be used, keeping in mind the differing and unique requirements of each transaction, local practice, reliability, security, economy, efficiency and speed. In general, the character and scope of the evidence of title shall:

- consist of a reasonably diligent search of the records, considering the character and value of the property involved and the interests to be acquired;
- disclose the name of each person in whom title to any interest is vested of record and all additional persons or entities who might have, or who claim to have an interest in the property; and
- contain a sufficient summary of the material facts for the purpose of determining the validity of title when exceptions or objections to the title are noted.

Acceptable forms of title evidence include any of the following types of evidence prepared in accordance with the requirements of these standards, by approved abstracters, attorneys or title companies[3]:

1) abstracts of title;

2) Certificates of Title (see attached form), and

3) title insurance commitments (binders, preliminary reports on title, etc.) which anticipate the issuance of a title insurance policy (see attached form).

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[3]It should be noted that, at present, the agency delegations of authority to review and approve title mentioned in footnote # 1 above have no dollar limits if the title evidence consists of title certificates, title insurance policies, or Torrens certificates. If the title evidence is an abstract, or any other type of title evidence besides the three listed, the review may be made by the agency under delegated authority if the consideration is $100,000.00, or less, but if the consideration exceeds that amount, the review must be made by the Department of Justice.

Also acceptable are:

4) Owners' duplicate certificates of title issued pursuant to satisfactory state systems of title registration similar to the Torrens system.

5) Copies of public title records duly authenticated by their official custodian or certified by an approved abstracter, attorney or title company;

6) Any other evidence of title which is acceptable to the Attorney General or to any of the attorney delegees who have the authority and responsibility to approve titles pursuant to 40 U.S.C. §255 (the reviewing attorney). (Agencies may adopt their own minimum standards for the qualification, training and experience of reviewing attorneys. It is suggested that a reviewing attorney have at least three years of experience reviewing titles, and that if an attorney with less experience is asked to review titles, her/his work product be reviewed and countersigned by a fully qualified reviewing attorney in her/his own or another office of the agency.)

Evidence of title acceptable to prudent attorneys and title examiners in the locality in which the land is situated will ordinarily be acceptable.

Title insurance is the form of title evidence used in over 95% of all federal land acquisitions. Why? It is generally the most convenient, reliable and economical form of title evidence available. It is almost universally used by the private sector, and sometimes it is the only form of title evidence available. It provides coverage against certain hidden title defects which could not be ascertained from any review of the public records. Finally, it provides a degree of financial security behind the policy which does not exist with most non-insurance company providers of title evidence.

However, as noted above, title insurance is only one form of acceptable title evidence. The beneficial aspects of title insurance just mentioned will not apply in every situation. Sometimes abstracts may be deemed more dependable because an individual abstracter is uniquely qualified to search a particular type of title. Sometimes other forms of title evidence are significantly less expensive for a variety of reason; such as the high consideration being paid for a property or the application of filed rates in a particular state. The “insuring” aspects of title insurance - its coverage of hidden defects, and the financial security behind the coverage, are unique, but they may not outweigh, for example, a strong economic incentive to use a different form of title evidence. The United States is generally self-insured, and, again, title insurance is not required.

An opinion of title prepared by a private attorney could be deemed to be sufficient evidence of title if, in the opinion of the reviewing attorney, it provides full disclosure of all matters affecting the title along with the attorney's comments and recommendations relating thereto. If such a private attorney's opinion is deemed to be acceptable, then the reviewing attorney would issue his/her own opinion based on the information contained in the private opinion.

Ordinarily, one abstract, certificate, etc. will be obtained for all interests in each contiguous area of land in the same ownership. Lands will be deemed to be contiguous although portions thereof are separated by roads, railroads or other rights of way, streams, etc. If land is being assembled for a federal project, consideration might be given to contracting for title evidence which will initially cover each ownership

parcel separately, but which will ultimately be consolidated into a single product when title to the whole is vested in the United States.

If the acquiring agency has determined that oil, gas and mineral interests do not need to be acquired or subordinated to the surface interest to be acquired (because they are not needed and because the rights associated with such interests, such as a right of surface access, will not interfere with the contemplated use of the land), then the title evidence need not include leases and other instruments relating to such interests, other than the instrument(s) evidencing the severance of the minerals, etc. from the surface estate. If the acquiring agency wishes to obtain other related documents, such as those evidencing revestment of such severed interests, it may so specify when it contracts for title evidence.

c. Who can prepare title evidence?

All title evidence must be obtained from qualified attorneys, abstracters, title companies, or federal employees familiar with the preparation of such evidence in the jurisdiction in which the lands are situated. They should have no interest in the land to be acquired; and not be related to the vendors. Abstracters must be attorneys at law or professional or official abstracters qualified and authorized by law to prepare and certify to abstracts in the state where the land lies. Title companies and their issuing agents must be qualified and authorized by law to furnish abstracts, certificates of title, or title insurance policies in the state where the land lies. Agencies should seek to assure themselves that attorneys, abstracters or title companies selected to prepare title evidence are experienced, financially responsible and reputable.

Agencies may adopt their own standards and procedures for approving providers of title evidence, provided the above minimum standards are met.

3. ABSTRACT OF TITLE

a. What should it look like?

Use of abstracts as title evidence is increasingly rare. They are primarily used for mineral interests where title insurance is not available. In some sections of the country abstracts are prepared by an incorporated title company or by a professional or official abstracter, not necessarily an attorney. Elsewhere abstracts are prepared by an attorney who also obtains curative data and frequently supplements the abstract with a history of the title and his opinion as to its sufficiency. The following requirements, which apply equally to fee simple, easement or any other interest in land to be acquired, are, therefore, subject to modification to adapt them to the type of abstract commonly in use in the locality where the land is situated:

The abstract should be printed or typewritten and the complete description of the land covered by the abstract should appear on a caption page. Where the descriptions in abstracted items are the same as those contained in the captions, or in preceding instruments, the descriptions should not be recopied, but the abstracters should indicate that the same lands are involved. The various entries (usually consisting of either abstracts of the contents of documents or copies of original documents), should be numbered and appear in the chronological sequence of recording. Affidavits and other papers submitted by the abstracter with the abstract should be numbered or lettered and referred to by such number or letter in the item of the abstract to which they relate.

The abstract should contain a sufficient summary of the material portions of every recorded instrument, affecting the title to the land described in the caption, to enable the examiner to determine the nature and effect of such instruments. No attempt is made to specify all items which must be shown in the abstract, but the following, which are sometimes omitted, must be shown exactly as they appear in the records: The marital status of all grantors and grantees; the consideration and receipt thereof; the dates of execution, witnesses where necessary, acknowledgment, and recordation of each instrument; the due date of any unsatisfied mortgages or deeds of trust and the amount of the indebtedness secured thereby; and any reservations, limitations or conditions. Releases of homestead, dower, and other statutory rights should be affirmatively shown. Where titles to separate parcels are derived from a common preceding chain of title, a master abstract should be prepared and supplemented by individual abstracts.

Abstracts containing instruments which do not affect the title or do not refer to or mention the land covered by the abstract are not acceptable and the abstracter is not entitled to receive payment for such extraneous material. Also, abstracts which contain illegible photostats of instruments are not acceptable.

b. What time period should it cover?

For the purposes of this paragraph, "title instrument" means any recorded instrument purporting to evidence the transfer of a fee simple title (other than as security for debt), including patents, direct deeds of conveyance, deeds by trustees, referees, guardians, executors, administrators, masters, or sheriffs, wills or decrees of descent, and also decrees, judgments or orders of courts of competent jurisdiction purporting to quiet, confirm, or establish title in fee simple. The "period of search," referred to in each of the numbered subparagraphs below, means the number of years of continuous coverage by an abstract of the record

beginning with a title instrument recorded at least the required minimum number of years prior to the date of the abstracter's certificate. Regardless of the applicable period of search, all abstracts must contain or be accompanied by proof that the title was originally divested from the sovereign by patent or grant of the land involved. All mineral or other reservations to the sovereign shall be specifically noted. All instruments antedating the applicable period of search which are disclosed by instruments recorded within the period of search and which contain reservations, exceptions, restrictions, limitations, or other rights or interests or impose conditions or liens possibly outstanding or affecting the title, must be shown.

Subject to all the foregoing provisions of this paragraph, the periods of search shall be as follows:

1) A minimum of 60 years as to all acquisitions of land or interests in land except those mentioned in the following subparagraphs (2), (3), (4), and (5).

2) A minimum of 80 years as to all acquisitions of land or interests in land which is valued in excess of $750,000.00, or which is being acquired as the site for permanent improvements which are valued in excess of $500,000.00.

3) A minimum of 40 years as to all acquisitions of land or interests in land valued less than $25,000.00.

4) A minimum of 25 years as to the acquisition of easements valued less than $15,000.00, except those mentioned in the following subparagraph (5)(i).

5) Last owner searches showing the owner under the last deed of record and encumbrances against the title under which the abstracters or title companies assume no liability and without regard to the period of search may be accepted as satisfactory title evidence as to the estates identified below.

   i) Easements to be acquired for consideration of $5000 or less, provided such easements will not be the exclusive access to a property, and provided such easements are not being acquired with the intention of building or installing permanent improvements on them. The determination of what constitutes a permanent improvement is left to the acquiring agency, subject to the concurrence of the reviewing attorney or this Department. Examples of permanent improvements include paved roads, pipelines, levees, canals and major power lines.

   ii) Temporary use or term takings in condemnation proceedings involving the payment of an estimated rental of $12,000 or less per annum.

c. Special situations

1) **Records Lost or Destroyed**: Where title records, for the full periods of search required above, have been lost or destroyed, or are otherwise permanently unavailable, the abstract should begin with the first available record and be supplemented by the following:

A certificate of the abstracter as to the fact of the loss or destruction of the records, that no reservations, limitations, encumbrances, or defects in the title are known to the abstracter, and that the beginning point of the abstract is accepted by competent attorneys in the community, and either:

i) Proof of compliance with requirements of statutory proceedings, if any, to establish titles affected by the loss or destruction of the records; or

ii) Secondary documentary evidence, complying with statutory requirements, which, if offered in a judicial proceeding, would be admissible as evidence of title, and evidence of title by adverse possession as provided in the instructions set out below under Adverse Possession.

2) **When an estate is involved**: The acquiring agency must satisfy itself that all required proceedings relating to the probate of an estate have been satisfied, and that all conditions and contingencies in the will have been met. Proceedings may vary. The following may not apply in every jurisdiction, but it is offered as a general guideline.

Wills should be reproduced in full. Essential portions of probate proceedings disclosing all material facts of record must be shown, including, for example, the petition, names and ages, and the incompetency, if any, of parties in interest as shown by the record; proof of service of citations; date of approval of bond; issuance of letters testamentary; publication of notices or other action necessary to start the running of any statutes of limitations; ancillary probate of the will in the jurisdiction where the land lies, if the original probate were elsewhere; guardianship proceedings of any parties who are incompetent; and whether estate and inheritance taxes have been paid or releases thereof obtained.

When title has been or is to be conveyed by administrator's or executor's deed, the court orders or other authority of the fiduciary and sufficient portions of the proceedings to demonstrate their regularity must be shown.

If the title has been or is to be conveyed by the devisees, the abstract should show whether all specific legacies, debts, and taxes have been paid, and, where necessary, whether there has been final distribution of the estate, discharge of the executor, and closing of the estate.

In every instance where title has passed by descent, the abstract should show whether there has been administration on the estate, and in case of administration, the abstract should show sufficient portions of the record of the proceeding to determine whether necessary jurisdictional facts existed and statutory requirements essential to the validity of the proceeding were observed, including service of necessary notices, qualifications of the administrator, and the date of the approval of his/her bond or other action necessary to start the running of any statutes of limitation.

If there has been administration, but title has been or is to be conveyed by deed of the intestate's heirs as established in the proceeding, the abstract should show the correct names of all persons determined to be heirs as they appear in the proceeding, and should

also show whether debts and charges, including all taxes against the estate, have been paid or provided for, and, where necessary, whether there has been final distribution of the estate and discharge of the administrator.

Whether or not there has been administration, if the conveyance to the United States is to be made by the intestate's heirs, and the intestate's heirs have not been established in a judicial proceeding, determination of heirship will be required as hereinafter provided.

3) **If there has been a foreclosure, tax sale or a judicial proceeding**: In all cases involving foreclosure proceedings the abstract should disclose sufficient information regarding the mortgage foreclosed to determine the validity and effect of the foreclosure, including the sum secured, description of the premises, conditions of the mortgage, signatures, dates of execution and recording, and the nature of the default.

If the foreclosure is by judicial proceeding, the abstract should show the names of all persons made parties to the foreclosure case and sufficient portions of the record to determine the jurisdiction of the court, the regularity of the proceeding, whether all necessary parties had proper notice, and whether the provisions of the foreclosure statute were adequately observed.

If foreclosure is under a power of sale, the terms of the power, compliance or noncompliance therewith and with applicable statutory provisions, should appear. Partial or installment foreclosures, continuing the balance of the mortgage in effect, must be affirmatively shown.

The abstract should fully disclose sufficient portions of the record of all sales by receivers, execution sales, tax sales, divorces, and other judicial proceedings affecting the title to the land to be acquired, to determine the legal effect of such sales or proceedings, and whether all statutory requirements have been observed and the time for redemption, appeal, or reopening the matter has expired.

4) **When there has been a sale by a trustee or fiduciary***:* The abstract should contain all essential parts of trust instruments, powers of attorney, and of the record of any court proceedings conferring authority for conveyances in the chain of title by fiduciaries or persons acting in a representative capacity, and show whether the purchaser is relieved of the responsibility for the application of the purchase price. Any conditions or limitations on the authority of a fiduciary or representative, contained in such instruments or proceedings, or in any deed to the trustee, or to the beneficiary or principal for whom such trustee or representative is acting, should be fully set forth and, where possible, the abstract should show whether such conditions have been fulfilled.

5) **Searching Federal Court Records**: Search is required of the Federal court records in all divisions of the district where the land lies for possible liens of judgments and decrees of and cases pending in Federal courts in those states which have not enacted a statute authorizing the judgments and decrees of the United States courts to be registered,

recorded, docketed, indexed, or otherwise conformed to the rules and requirements relating to the judgments and decrees of the courts of the state. (28 U.S.C. 1962.)

In those states which have enacted such conformity statutes (in accordance with the provisions of 28 U.S.C. 1962), no search of the Federal court records is necessary for liens of judgments and decrees, unless under state law judgments and decrees of the state courts become liens on the property of the judgment debtor in the county where rendered, upon entry in the court where rendered, in which case search of the Federal court records is necessary if those records are located in the county in which the land is situated.

6) **What about Streets and Alleys?** Where the land includes streets or alley areas, dedicated or vacated, there must be shown all matters of record affecting the ownership of such areas, including the following:

1) The complete proceeding had upon such dedication and, if vacated, the vacation proceedings.

2) All facts of record bearing on the existence or elimination of prior rights of the public, prescriptive or otherwise, and rights of public utilities, if any.

7) **Special Assessments for Improvements, School Districts, etc.** Abstracts containing references to assessments for drainage, school, or other special improvement districts; water, paving, sewer and other assessments; should set out, in addition to the current and delinquent assessments, the total benefit assessments and charges against the land, and should contain references to the statutes creating the districts and establishing the liens.

d. The Abstracter's Certificate

A satisfactory certificate of the abstracter must be made a part of the abstract. Generally, certificates will be acceptable if in the form approved by a title association of recognized standing in the state where the land is situated and if the abstracter certifies that he/she has examined all public records pertaining to the title for the required period of search, and that all matters of record affecting the title are correctly shown in the abstract. In those states where the liability of the abstracter is based upon the contract to search the title, the certificate should contain a statement that the abstract is furnished to the United States of America and assigns or [the United States' grantor] and its assigns. Otherwise, and generally, the certificate should not be limited to any contracting party, other person or corporation.

4. SUPPLEMENTAL AND SUPPORTING TITLE EVIDENCE

a. In general: variation in practice when title insurance is used.

The closing of transactions is often delayed due to failure to supply necessary supporting title data. Requirements covering four of these items are indicated below. If the title evidence used in a transaction is title insurance, and the title insurance policy does not contain any exceptions relating to the matters mentioned in sections b-f below, then they are covered under the policy, and no supplemental evidence is required as to such matters. Note however, that the title company will have collected and reviewed material such as described below, and it would be appropriate in any particular transaction for the acquiring agency to also secure, review and retain in its permanent real estate files, such materials. (Caution: Title policy exceptions to "parties in possession" or to "matters which would be revealed by a survey" effectively exclude coverage for such matters as unrecorded leases or rights-of-way. If the Certificate of Inspection and Possession (see below) reveals that there may be third parties who have such rights to use the land, demand should be made of the vendor to provide copies of any unrecorded documents which create such rights.)

b. Certificate of Inspection and Possession

The two most critical components of title evidence are 1) a search of the land records and 2) a physical inspection. Each can independently reveal evidence of possible claims of use or ownership. Both are essential to a review of the title.

Whenever possible an inquiry and physical inspection of the land should be made early in the acquisition process by a duly authorized employee of, or contractors for, the acquiring agency, and a Certificate of Inspection and Possession (CIP) should be prepared and submitted to the Department of Justice or the reviewing attorney with the agency's title evidence and its request for a preliminary opinion of title.

Whether or not an early inspection has been made, it is required that a CIP, based on an inspection and inquiry made immediately[4] prior to the closing of the purchase be submitted as part of the title evidence with the request for a final opinion of title. In condemnation actions an inspection and inquiry should be made immediately in advance of the date of taking if possible, or otherwise, as soon as the right of possession is granted by the court. Two forms of CIP are attached, either of which may be used. Form # 1 is designed to be completed by one individual, and it is preferred over Form # 2 because its use makes it less likely that information will "fall through the crack". Form # 2 is designed to be completed by two individuals (ex: a ranger might be asked to inspect the land, and a realty specialist might be asked to

[4] "Immediately" is not an absolute standard. Agencies are given discretion as to how far in advance of closing an inspection may occur. Relevant factors include the difficulty and expense of conducting an inspection, the nature of the property and its intended use (Ex: an urban building site must be very carefully inspected and surveyed since even a minor encroachment could result in major additional expenses), and the agency's familiarity with the particular property. A suggested time frame for urban or suburban properties would be within a week of closing. The vast majority of CIP's should be prepared within two to three weeks of closing. CIP's prepared more than three weeks prior to closing and up to, but no more than six months prior to closing, may be accepted in the discretion of the reviewing attorney. CIP's prepared more than six months prior to closing are not acceptable.

conduct the owner contact). Other forms of CIP are not acceptable. No portion of the CIP forms may be deleted or scratched out. All blanks must be filled in. If a particular blank is not applicable to an acquisition, it should be filled in with "N/A".

Both forms anticipate that additional information can and often will be added to the CIP, especially if the inspection or inquiry reveals possible possessory rights of others in the property. Acquiring agencies may find it convenient and economical to have the same person who is to inspect the property for title purposes also inspect it for other purposes such as survey, engineering, historical or environmental matters. To facilitate this, it is permissible for agencies to attach to the form one or more addenda which they may require for non-title purposes. If such addenda are attached to or made a part of the CIP, they should be provided to the Department of Justice or the reviewing attorney, since the information contained therein may have relevance to the title review.

The interest or claim of any person(s) other than the record owner(s) who is occupying or using any part of the lands should be ascertained prior to closing. Consideration should be given as to whether, under the circumstances of the acquisition, the interest will interfere with the contemplated use of the land. Measures should be taken to eliminate claims which are not compatible by, for example, obtaining disclaimers (see attached form) or quitclaim deeds; and for otherwise dealing with interests which are compatible as they exist or if modified, for example, by obtaining attornment agreements from tenants with unrecorded leases, or by agreeing to grant a private right-of-way or pipeline easement with specific terms and an agreed location and dimension for the easement, in return for the claimant’s agreement to quitclaim any poorly defined possible easement which he/she may have acquired by prescription.

c. Sales by Corporations

Private corporations: The title evidence should contain or be accompanied by sufficient portions of the charters or other records of corporations, conveying to the United States, to determine the power of the corporations to hold and convey real estate and the validity of such conveyances. In jurisdictions where franchise taxes are a lien, or where nonpayment of such taxes or failure to file required reports or statements suspends or terminates a corporation's power to do business or transfer property, the title evidence should also be accompanied by a certificate or statement of the proper state officer showing payment of such taxes and that the corporation is in good standing. A certified copy of the resolution of the proper corporate body, authorizing the conveyance to the United States, is required. In case of conveyances of all or substantially all of the real estate of such a corporation, a certified copy of a resolution authorizing the conveyance, enacted in compliance with pertinent statutory requirements at a meeting of stockholders, is necessary.

Public corporations: Where the title evidence discloses a public corporation as grantor in the chain of title, or the vendor to the United States is a public corporation, the title evidence should include or be accompanied by sufficient portions of the charter, resolutions, or other source of authority of each such corporation to convey land, and also with evidence of compliance with all statutory requirements necessary to the transfer of a valid title.

d. **Determination of Heirship**

When the conveyance to the United States is by the intestate's heirs and there has been no judicial determination of heirship, the fact that the grantors are all the heirs of the deceased must be judicially

established where practicable. If such judicial determination is impracticable, proof of heirship must be shown by acceptable affidavits (see attached form) of the grantors and, if possible, of two or more disinterested reputable persons having knowledge of the facts.

e. Adverse Possession

Evidence of adverse possession, when required, must include satisfactory affidavits of possession, which shall contain the following:

1) Execution by three or more reputable persons living in the vicinity of the land and having no interest in the sale of the property;

2) Identification of the land and a statement of the character, extent, and duration of possession for at least as long as the maximum local statutory period of limitations, prescriptions, or adverse possession, but not less than 22 years; and

3) All necessary facts fully set out, together with convincing proof of the establishment of title by adverse possession under local law. The affidavits should not contain mere conclusions of the affiants.

In cases where large tracts of land are being acquired which embrace what formerly were smaller tracts, the affidavits of adverse possession must relate specifically to the component parts of such tracts and contain sufficient facts to establish adverse possession to each such part.

Where two or more grants, patents, or transfers affect the same land, the exact location of the land over which the acts of possession are relied upon must be shown on a map and by the affidavits.

Where the title to the land is subject to mineral rights, or rights-of-way, or other interests or easements which the acquiring agency wishes to acquire, such affidavits must show convincing proof of adverse possession against any and all such rights or interests.

f. Unrecorded Title Papers

In all cases, any unrecorded title papers and copies of resolutions, ordinances, and title opinions containing references to statutes or cases in point relating to the condition of the title or objections thereto with respect to such land, which may be available to the vendor, should accompany the title evidence.

5. TITLE INSURANCE POLICIES AND CERTIFICATES OF TITLE

a. Preliminary Title Evidence

Commitments, binders, preliminary reports, or other forms of preliminary title evidence are acceptable if they are customarily used in the locality, are acceptable to the reviewing attorney, are issued by a qualified title company or its agent, are based upon a preliminary title search, and if they commit the title company to issue a final certificate of title or title insurance policy in the approved form.

Such preliminary title evidence will be accepted as a basis for the preparation of preliminary title opinions which contemplate further submission of the matter for final approval of title. A suggested form of Certificate of Title is attached. The required form of title insurance policy, commonly identified as the American Land Title Association (ALTA) U.S. Policy - 9/28/91, is also attached. No other form of title insurance policy is acceptable except in Texas (see the section below on Texas).

Preliminary title evidence, Certificates of Title and title insurance policies may all be endorsed by a title company. There is no required federal endorsement form. Endorsements may be issued for a variety of reasons, including correcting errors, modifying coverage, or adding or deleting exceptions. In every case an endorsement must correctly cross reference the commitment or policy it is amending. Because it is part of the title evidence, it must be reviewed and approved with the commitment or policy by the reviewing attorney, and it must be kept with the policy in the agency's permanent real estate files.

Some guidelines for the preparation of preliminary title evidence follow:

1. The commitment, binder, etc. should name the **UNITED STATES OF AMERICA**, as the proposed insured, except in the case of Indian trust lands, where the proposed insured will be "the United States of America in trust for [a named Indian or tribe]", and acquisitions of land in a different name when authorized by Congress.

2. When the form of the commitment or binder identifies the form of title insurance to be issued, it should be the ALTA U.S. Policy - 9/28/91.

3. If the commitment contains an expiration date, it should be deleted or changed to a period of no less than two years. A commitment with no expiration date is preferable. (The acquiring agency's contract for title evidence generally can provide for this.) This simply recognizes that, as a practical matter, land acquisitions by the United States take a long time to complete.

4. The tax exception(s) in commitments should always identify all taxing districts in which the land is situated and all other taxing authorities that have jurisdiction over the land for the levy of taxes; showing lien dates for each, and amounts for all such assessments that have not been paid on the date of the commitment.

5. The preliminary title evidence must disclose the name of each and every person in whom title to any interest in the estate to be insured is vested of record or known to the company. Schedule "B" exceptions to recorded liens, easements, etc. should disclose all essential

information, including the name(s) of the person or parties who hold the interests of record. When addresses of parties having any interest in the insured estate are disclosed by the public records or known to the company, they must be set out or provided via copies of the documents. Schedule "B" exceptions shall not set forth exceptions or objections in general terms.

6. Complete, legible copies, or a sufficient abstract or digest, of all instruments referenced in the title commitment must be provided with the title evidence.

7. Where subsurface (mineral) interests in the property are to be acquired, the present record ownership of each such outstanding interest and all data or exceptions of record relating thereto shall be shown.

b. What time period should the search cover?

In general, certificates of title and title insurance policies based upon a search of all records affecting the title and unqualified as to the period of search are preferred and should be issued. However, as to specific types of easements as defined in the instructions relating to abstracts, certificates of title or title insurance policies may be limited to the periods of search prescribed in those instructions provided the certificates or policies contain statements to the effect that the title of the sovereign has been divested, and set forth any reservations which are contained in the patents or grants.

c. What about liability limits?

A certificate of title or title insurance policy should have a liability amount not less than a sum which is 50 percent of the consideration paid for the property; however, as to acquisitions where the consideration is more than $100,000, a certificate of title or title insurance policy should have a liability amount not less than a sum which is 50 percent of the first $100,000 and 25 percent of that portion of the value in excess of that amount. A liability amount equal to the consideration is always acceptable, and is required where state insurance regulations prohibit the issuance of title policies for less than the full consideration or where the reviewing attorney requires insurance in the full amount.

In the case of a donation or any other acquisition where the consideration is not readily ascertainable in terms of dollars, the liability amount should be equal to the estimated value of the land or interest in land being acquired. For purposes of these standards, it is not necessary to secure an appraisal to determine the estimated value, but it will be sufficient to rely on the best evidence which is readily available, such as a tax assessment or an informal opinion of anyone familiar with local land values, such as a local appraiser or real estate agent.

Generally, it is not necessary to include in the liability amount the value of planned improvements.

Acquiring agencies should be aware that very large transactions may involve re-insurance or co-insurance. These *Standards* no longer mandate a liability limit (or “primary retention level”) beyond which the insurer must secure reinsurance or co-insurance from other insurers; however, re-insurance or co-insurance of a policy insuring the United States is acceptable and may be desirable. Title insurance

companies will secure re-insurance on their own, primarily for their own benefit, but indirectly to the benefit of the insured, if a single policy exceeds the company's own self-imposed primary retention level. Acquiring agencies are advised to consider the need for reinsurance at the time they contract for title services, since it is a cost factor that must be considered by the bidders. Re-insurance is recommended rather than co-insurance, and if re-insurance is requested, it should provide for direct access to the re-insurers. For reference, the single policy liability limit was formerly established as follows: A certificate of title or title insurance policy for a single acquisition valued at more than 25 percent of the admitted assets (after deducting existing liabilities secured or unsecured and excluding any trust or escrow funds) of the issuing company is not acceptable, unless reinsurance is secured from other title insurance companies for amounts in excess of the Liability Limit of the issuing company.

d. Surveys

For all acquisitions where any improvements to the land are contemplated, for all sites where the acquisition involves part of a larger property, and new boundaries are being created, and for all acquisitions for which the acquiring agency requires a survey, the title evidence should include or be accompanied by a plat or plan, based on a survey by a competent surveyor or engineer, sufficient to enable the reviewing attorney to locate the land described in the title evidence. Any encroachments or rights of way, on or over the land, should be shown or noted on the plat. If the land is described by metes and bounds, or by lands of adjoining owners, abutting streets, ways, etc., its boundaries should be defined on the plat by courses, distances, and monuments, natural or otherwise, and the ownership and contiguous boundaries of adjoining lands and names of abutting streets, ways, etc. When the land is part of a subdivision, a copy of the subdivision plat, or the section thereof in which the land is located, should be submitted. If necessary to identify the land with a United States patent or a state grant which is the source of title, a plat of the land being acquired should be superimposed on a copy of the plat of the United States survey or state grant. If the land being acquired is part of a larger tract described in an abstract, it should, when necessary for its identification, be shown drawn to a common scale on a map showing the larger tract and any successive diminishing tracts.

6. FINAL TITLE EVIDENCE

a. Abstracts

Abstracts must indicate that the search has been continued from the date of the preliminary title evidence to and including the recordation of i) the deed to the United States and ii) any necessary curative instruments, such as releases of mortgages.

b. Title Insurance Policies and Certificates of Title

When the preliminary title evidence is a title commitment or binder that contemplates the issuance of a title insurance policy or certificate of title, a title insurance policy or final certificate of title must be obtained. It should have effective date as of or subsequent to the date of recording of the deed to the United States and it must insure, guaranty or certify the title of the United States which was acquired under the deed. The purpose of the title insurance policy is to confirm that title is properly vested in the United States.

7. TITLE EVIDENCE FOR CONDEMNATION CASES

a. The unique purpose of title evidence in condemnation cases

The unique purpose of title evidence in condemnation actions is not to confirm that title is properly vested in the United States, but instead it is to identify all parties who have, or may have, or claim to have an interest in the land, so that they may be named and joined in the action. If the updated final title evidence reveals persons in interest not previously known, they should be added as parties.

b. Title should be updated to the filing of the Notice of Lis Pendens

When a condemnation case is filed, the government should file a notice of lis pendens in the appropriate local land records to give constructive notice to all parties of the federal condemnation action. The form of the lis pendens notice will be determined by the law of the particular state where the land is located. Often in Declaration of Taking (DT) cases (described below), the DT is filed as the notice of lis pendens. Since all parties who attempt or purport to acquire an interest in the land subsequent to the filing of the lis pendens are charged with notice of the condemnation action, any interest they may claim in the land is subject to the rights the government either has or will acquire in the land through the condemnation. Thus, for purposes of the condemnation, it is only necessary to update the title evidence to the date of the filing in the land records of the lis pendens notice.

c. Title insurance in condemnation cases

In condemnation cases the title insurance policy confirms and insures (see Insuring Provision 5 in the ALTA U.S. Policy - 9/28/91) that all parties who have, or may have, or claim to have an interest in the land, as disclosed by a search of the public records, have been identified. (Other parties with interests not of record may be identified by a physical inspection of the property.) Identifying these parties is critical so that the government may fulfill its obligation to pay just compensation to the owner(s) of the estate taken. The acquiring agency and the government's attorneys will compare the condemnation papers with the title evidence for this purpose. If the final policy reveals persons in interest not previously known, they will be added as parties to the condemnation. The government does not require or get insurance as to the validity or sufficiency of a condemnation proceeding (see Exclusion from Coverage 4 of the ALTA U.S. Policy - 9/28/91). The government acquires good title to the estate it describes in a condemnation action by operation of law.

There are two types of condemnation which will be distinguished here by the different point in the proceedings when title passes to the United States: i) In Complaint cases, title passes at the end of the case after a final judgment is rendered and the just compensation is paid into the registry of the court; and ii) in Declaration of Taking (DT) cases, title passes at the beginning of the case immediately upon the filing of the DT and the payment of the estimated just compensation into the registry of the court. This fundamental difference must be recognized when the title insurance policy is prepared, as discussed below.

d. How are title insurance policies prepared for condemnation cases?

1) "Schedule A"

The amount of insurance should comply with the Department's requirements, as set forth in these Standards. For condemnation acquisitions, since the determination of the value of the land acquired may not be made by the court until years after the lis pendens notice is filed, the title policy should be issued with an insurance amount equal to the best available estimated value of the land, which will usually be the government's approved appraised value of the estate taken. So long as the final determination of value does not cause the insurance amount to be less than the minimum amount of coverage provided for in these Standards, no endorsement increasing the amount of insurance will be required.

The effective date of the policy should be the date of the filing of the notice of lis pendens in the land records. (As noted above, in condemnation cases title may pass to the United States either before or after the filing of the notice of lis pendens; but by this filing the government utilizes the local recordation statute to give constructive notice to the world of the transfer, or pending transfer, of title.)

The four items in Schedule A of the policy should be prepared as follows:

i) name as the Insured "the United States of America"[5];

ii) identify the estate in the land acquired by the United States;

iii) **IN COMPLAINT CASES:** identify the owner of the estate being acquired;

IN DT CASES: show title vested in "the United States of America", and identify who the title was vested in immediately prior to the acquisition of title by the United States. An example of satisfactory wording which might appear in Schedule A, item 3 in a DT condemnation is as follows:

> Title to the estate or interest in the land is vested in:
>
> THE UNITED STATES OF AMERICA
>
> Immediately prior to the acquisition of title by the United States, title was vested in John Everyman and his wife, Matilda, as tenants by the entirety, by a deed dated December 6, 1998, recorded December 7, 1998, in Book 1156, page 138, among the land records of Fairfax County, Virginia; and

iv) describe the land.

2) "Schedule B"

[5]In some special circumstances title to land may be taken in a different name, such as Indian tribal land which is taken in the name of the United States of America as trustee for _____. For simplicity the Standards will only refer to acquisitions in the name of the United States of America.

Schedule B must include an exception to the recorded notice of lis pendens. It should also include exceptions to all other matters which affect the land, including those previously revealed in the commitment and those which were discovered of record subsequent to the effective date of the commitment but prior to the time of the recording of the lis pendens. If matters revealed in the commitment were released or otherwise satisfied of record before the filing of the lis pendens, they may be deleted from the final title policy. Any new parties in interest revealed by the updated title evidence should be joined in the action.

e. Should the final Judgment be recorded in the land records?

In condemnation cases, as noted above, title passes to the United States without the necessity of recording any document in the land records -- however, it is in the government's best interest that some document in the case be recorded, in addition to the Notice of Lis Pendens, to give permanent notice of the outcome of the condemnation litigation. Usually this document will be the Final Judgment. To best accomplish this purpose the Final Judgment should include a description of the land, confirmation that title is vested in the United States, and confirmation that payment of just compensation has been made into the registry of the Court. The acquiring agency should assume the responsibility of making sure that a certified copy of the final judgment is properly recorded in the land records where the land is located. This simple and inexpensive practice is recommended to give the public better notice of federal ownership of land.

8. DEED TO THE UNITED STATES

The deed to the United States should conform to local statutory requirements and generally adhere to the following requirements:

a. Be a general warranty deed. This requirement may be waived, on a case by case basis, and a special warranty deed or equivalent may be accepted in lieu of a general warranty deed, if the Department or the reviewing attorney determines that the following conditions have been satisfied:

1. the title is otherwise acceptable under the Attorney General's title regulations,

2. the acquiring agency has tried unsuccessfully to get a General Warranty Deed, and has satisfied itself that the basis for the vendor's inability or unwillingness to give a general warranty deed is <u>not</u> due to any flaw in ownership, but rather is due to a statutory or other restraint of the vendor's authority to convey, to corporate policy, to custom in the community, or to some other specifically identified justification which clearly has application beyond the bounds of the subject transaction,

3. the acquiring agency is willing to accept title conveyed by less than a general warranty deed, and

4. the acquiring agency will get a title insurance policy which does not contain an exclusion relating to the type of conveyance.

Quitclaim deeds or deeds without warranties may be accepted only to clear up defects or clouds on title, not to convey a good interest; or, when the Department or reviewing attorney has made the above determinations and the conveyance is from certain entities, especially governmental bodies and fiduciaries, which simply lack the authority to convey otherwise. For example, agencies of the United States which have authority to convey land or interests in land may only convey by quitclaim deed, unless Congress specifically provides otherwise, because the Anti-Deficiency Act prohibits agencies from incurring unfunded contingent future liabilities. Many states have similar statutory prohibitions.

b. Disclose the capacity in which any grantor acts who conveys in other than an individual capacity.

c. Show the name of the grantor in the body of the deed and its acknowledgment, be signed by the grantor exactly as his/her name appears as grantee in the conveyance to him/her; and account for any unavoidable difference by a recital identifying the grantor with the grantee in the preceding conveyance.

d. Disclose the marital status of each grantor.

e. Recite the true consideration and the receipt thereof.

f. Convey the land to the "United States of America and its assigns", except in the case of Indian trust lands, where the proposed insured will be "the United States of America in trust for [a named Indian or tribe]", and acquisitions of land in a different name when authorized by Congress.

g. Contain a proper description of the land.

h. Convey all the right, title and interest of the grantor in and to any alleys, streets, ways, strips, or gores abutting or adjoining the land.

i. Contain no reservations or exceptions not approved by the acquiring agency; however, when land is to be conveyed subject to certain rights, such as easements or mineral rights thought to be outstanding in third parties, they must not be "*excepted*" from the conveyance, but instead, the deed should be framed to convey all the grantor's right, title, and interest "*subject to*" such outstanding rights, unless the contract or option expressly provides otherwise.

j. Contain a derivation of title clause (i.e. Refer to the deed(s) to the grantor(s), or other source of grantor's title, by book, page, and place of record), wherever customary or required by statute.

k. Contain a reference to the name of the agency for which the lands are being acquired. This statement should follow the description of the land and in no instance should it be included in the granting, habendum or warranty provisions of the deed. The statement is to be included to identify the federal agency which has the responsibility for managing or overseeing the government's interest in the land. It is in no way intended to limit or restrict the government's use of the land, or the transfer of administrative responsibility for managing or overseeing the land from one agency to another. The suggested form of this statement is a simple declarative sentence, as follows:

The acquiring federal agency is the Department of the Interior, National Park Service.

l. Release all rights of homestead, dower, curtesy, and other interests of the grantor's spouse, as required by local law.

m. Be signed, sealed, attested, and acknowledged by all grantors and their spouses, as required by local law.

n. If executed by a corporation, be signed in the full and correct name of the corporation by its duly authorized officer or officers, sealed with the corporate seal, attested and acknowledged, as required by local law.

o. If executed by an attorney in fact, be signed in the name of the principal by the attorney, properly acknowledged by the attorney as the free act and deed of the principal, and be accompanied by the original or a certified copy of the power of attorney and satisfactory proof that the principal was living and the power in force at the time of its exercise.

p. Have affixed sufficient documentary revenue stamps and/or transfer tax documentation as required for recording.

9. SPECIAL STANDARDS FOR TEXAS

Texas strictly regulates the title insurance industry and has not adopted the ALTA U.S. Policy - 9/28/91. For this reason, in Texas, the federal government is still using the old form of policy adopted in 1963, referenced in the 1970 Standards. In Texas the old policy form is referred to as the Texas Land Title Association (TLTA) form T-11 U.S. Policy. An associated endorsement is referred to as the TLTA form T-12 U.S. Endorsement. Copies of these forms are included as part of these Title Standards 2001.

The principal difference between the Texas policy and the ALTA policy is procedural: the Texas Policy is intended to be issued to the United States before it acquires the property, although it may also be issued after. When it is issued before closing, it is endorsed after closing by the TLTA form T-12 endorsement, which, among other things, shows the United States as the owner of the land. An acceptable alternative procedure would be for acquiring agencies to get a commitment or binder in advance of closing, and a policy on the TLTA form after.

The guidelines in the Title Standards 2001 are applicable to the preparation of title evidence in land acquisitions in Texas by the United States in all respects except that the forms of title insurance to be used are the ones specified in this section, and the procedures followed in issuing those forms may vary as described.

10. FORMS

a. Certificate of Title

CERTIFICATE OF TITLE

Name of title company _____ Address _____.

To (_____ and) United States of America:

The _____, a Corporation organized and existing under the laws of the State of _____, with its principal office in the City of _____, certifies that it has [made] [obtained a report showing] a thorough search of the title to the property described in Schedule A hereof, beginning with the _____ day of _____, 20____, and hereby certifies that the title to said property was indefeasibly vested in fee simple of record in _____ as of the _____ day of _____, 20____, free and clear of all encumbrances, defects, interests, and all other matters whatsoever, either of record or otherwise known to the corporation, impairing or adversely affecting the title to said property, except as shown in Schedule B hereof.

The maximum liability of the undersigned under this certificate is limited to the sum of $_____.

In consideration of the premium paid, this certificate is issued for the use and benefit of (said _____ and) the United States of America (and each of them).

In Witness Whereof, said Corporation has caused these presents to be signed in its name and behalf, sealed with its corporate seal, and delivered by its proper officers thereunto duly authorized, as of the date last above mentioned.

_____
(Name of title company)

By _____
(Name and Title of executing officer)

Attest:

_____
(Name and Title of attesting officer)

SCHEDULE A

The property covered by this certificate is accurately and fully described as follows _____

_____

_____

_____

SCHEDULE B

The property described in Schedule A hereof is free and clear from all interests, encumbrances, and defects of title and all other matters whatsoever of record, or which, though not of record, are known to this corporation to exist, impairing or adversely affecting the title to said property, except the following:

_____

_____

_____

b. Certificate of Inspection and Possession

CERTIFICATE OF INSPECTION AND POSSESSION
(form # 1)

This relates to an acquisition of the following described land, or an interest therein, by the United States of America.

A. Property and project information:

1. The acquiring federal agency is: [*name the agency*]

2. The name and address of the owner(s) of the property is:

   [*name and address of owner*]

3. The property is identified and/or described as follows:

   [*insert some or all of the following: agency parcel number and project name, street address, acreage, common name of property or other reference sufficient to identify it; plus the name of the county and state where it is located; plus, if available, a legal description here or on an attached exhibit*]

4. The estate(s) to be acquired is/are:

   [*insert and identify estate (ex: fee simple, utility easement*]

5. The condemnation proceeding name and civil action number are:

   [*if applicable, insert the condemnation proceeding name and civil action number*]

B. Certification: I hereby certify that on [date] _____ , I made a personal examination and inspection of that certain tract or parcel of land identified above, and that I am fully informed as to the boundaries, lines and corners of said tract. I also spoke with the above-named owner(s) and with any other occupants (identified below) of said land. <u>On the basis of my inspection and inquiry</u>, I hereby certify that the following statements are accurate, or, if one or more statements is not accurate I have marked it/them and I have indicated on this sheet or on an attachment my findings which vary from the statement:

_____ _____
(date) (signature)

_____
(print name, title, address and telephone number)

1. No work or labor has been performed or any materials furnished in connection with the making of any repairs or improvements on said land within the past ___ months that would entitle any person to a lien upon said premises for work or labor performed or materials furnished,

2. There are no persons or entities (corporations, partnerships, etc.) which have, or which may have, any rights of possession or other interest in said premises adverse to the rights of the above-named owner(s) or the United States of America.

3. There are no vested or accrued water rights for mining, agricultural, manufacturing, or other purpose; nor any ditches or canals constructed by or being used thereon under authority of the United States, nor any exploration or operations whatever for the development of coal, oil, gas or other minerals on said lands; and there are no possessory rights now in existence owned or being actively exercised by any third party under any reservation contained in any patent or patents heretofore issued by the United States for said land.

4. There are no outstanding rights whatsoever in any person or entity (corporation, partnership, etc.) to the possession of said premises, nor any outstanding right, title, interest, lien, or estate, existing or being asserted in or to said premises except such as are disclosed and evidenced by the public records, as revealed by the government's title evidence.

5. Said premises are now wholly unoccupied and vacant except for the occupancy of the following, from whom disclaimer(s) of all right, title and interest in and to said premises, executed on [date] _____ has (have) been obtained:

_____

_____

_____

CERTIFICATE OF INSPECTION AND POSSESSION

(form # 2)

This relates to an acquisition of the following described land, or an interest therein, by the United States of America.

A. Property and project information:

1. The acquiring federal agency is: [*name the agency*]

2. The name and address of the owner(s) of the property is:

   [*name and address of owner*]

3. The property is identified and/or described as follows:

   [*insert some or all of the following: agency parcel number and project name, street address, acreage, common name of property or other reference sufficient to identify it; plus the name of the county and state where it is located; plus, if available, a legal description here or on an attached exhibit*]

4. The estate(s) to be acquired is/are:

   [*insert and identify estate (ex: fee simple, utility easement*]

5. The condemnation proceeding name and civil action number are:

   [*if applicable, insert the condemnation proceeding name and civil action number*]

B. Certification (physical inspection): I hereby certify that on [date] _____ I made a personal examination and inspection of that certain tract or parcel of land identified above, and that I am fully informed as to the boundaries, lines and corners of said tract. On the basis of my inspection, I hereby certify that the following statements are accurate, or, if one or more statements is not accurate I have marked it/them and I have indicated on this sheet or on an attachment my findings which vary from the statement:

_____ _____

(date) (signature)

_____

(print name, title, address and telephone number)

1. No work or labor has been performed or any materials furnished in connection with the making of any repairs or improvements on said land within the past ___ months that would entitle any person to a lien upon said premises for work or labor performed or materials furnished,

2. There are no persons or entities (corporations, partnerships, etc.) which have, or which may have, any rights of possession or other interest in said premises adverse to the rights of the above-named owner(s) or the United States of America.

3. There are no vested or accrued water rights for mining, agricultural, manufacturing, or other purpose; nor any ditches or canals constructed by or being used thereon under authority of the United States, nor any exploration or operations whatever for the development of coal, oil, gas or other minerals on said lands; and there are no possessory rights now in existence owned or being actively exercised by any third party under any reservation contained in any patent or patents heretofore issued by the United States for said land.

4. There are no outstanding rights whatsoever in any person or entity (corporation, partnership, etc.) to the possession of said premises, nor any outstanding right, title, interest, lien, or estate, existing or being asserted in or to said premises except such as are disclosed and evidenced by the public records, as revealed by the government's title evidence.

5. Said premises are now wholly unoccupied and vacant except for the occupancy of the following, from whom disclaimer(s) of all right, title and interest in and to said premises, executed on [date] _____ has (have) been obtained:

_____

_____

_____

C. Certification (owner inquiry): I hereby certify that on [date] _____ I spoke with the above-named owner(s) and with any other occupants (identified below) of said land. <u>On the basis of my inquiry</u>, I hereby certify that the following statements are accurate, or, if one or more statements is not accurate I have marked it/them and I have indicated on this sheet or on an attachment my findings which vary from the statement:

_____ _____

(date) (signature)

_____

(print name, title, address and telephone number)

1. No work or labor has been performed or any materials furnished in connection with the making of any repairs or improvements on said land within the past ___ months that would entitle any person to a lien upon said premises for work or labor performed or materials furnished,

2. There are no persons or entities (corporations, partnerships, etc.) which have, or which may have, any rights of possession or other interest in said premises adverse to the rights of the above-named owner(s) or the United States of America.

3. There is no outstanding unrecorded deed, mortgage, lease, contract, or other instrument adversely affecting the title to said premises.

4. There are no vested or accrued water rights for mining, agricultural, manufacturing, or other purpose; nor any ditches or canals constructed by or being used thereon under authority of the United States, nor any exploration or operations whatever for the development of coal, oil, gas or other minerals on said lands; and there are no possessory rights now in existence owned or being actively exercised by any third party under any reservation contained in any patent or patents heretofore issued by the United States for said land.

5. There are no outstanding rights whatsoever in any person or entity (corporation, partnership, etc.) to the possession of said premises, nor any outstanding right, title, interest, lien, or estate, existing or being asserted in or to said premises except such as are disclosed and evidenced by the public records, as revealed by the government's title evidence.

6. Said premises are now wholly unoccupied and vacant except for the occupancy of the following, from whom disclaimer(s) of all right, title and interest in and to said premises, executed on [date] _____ has (have) been obtained:

_____

_____

_____

c. Disclaimer

DISCLAIMER

County of _____

ss:

State of _____

We (I) _____ (wife) (husband), being first duly sworn, depose and say (deposes and says) that we are (I am) occupying all (a part) of the land (proposed to be) acquired by the United States of America from _____, described as _____ acres, Tract No. _____, lying in _____ County, State of _____; that we are (I am) occupying said land as the tenants (tenant) of _____; that we (I) claim no right, title, lien or interest in and to the above-described premises or any part thereof by reason of said tenancy or otherwise and that we (I) will vacate said premises upon demand for the possession of said lands by the United State of America.

Dated this _____ day of _____, _____.
(month) (Year)

_____
(Tenant)

Witnesses: _____
(Spouse)

_____

_____

d. Affidavit of heirship

AFFIDAVIT OF HEIRSHIP

I, _____, residing
(Name of affiant)
at _____ in _____
(Street and number)
_____, _____, _____
(City or town) (State) (County)
being of full legal age, for the purpose of establishing the legal ownership of certain land in
_____,
(City or town)
_____, _____, proposed
(County) (State)
to be purchased by the United States of America from all the lawful heirs

of _____
(Name of decedent)
late of _____, _____
(City or town) (County)
_____, who died on the _____ day of
(State)
_____, ___, at the age of ___ years, a resident of

_____, _____, _____,
(City or town) (County) (State)
on oath depose and say as follows:

(1) That I was personally acquainted with the above-named

decedent for the period of _____ years from _____

19___ until his death, and that my relationship to said decedent was

_____.

(2) That said decedent was married but once and then to

_____ at _____,
(Spouse) (location)
in 19___, who [survived] [predeceased]. (The affiant should cross out any statement enclosed in brackets which is not applicable to said decedent.)

(3) That the following is a list of the full names, relationships to the decedent, ages, marital status, and addresses of all surviving issue or other heirs of said decedent:

Full name	Relationship to decedent	Age	Married to	Address

(4) [That said decedent left no will, no issue, or no collateral heirs other than those named above and no unpaid debts or claims except as stated below.] (All statements made by the affiant will be considered to be made on the affiant's personal knowledge unless the contrary is expressly indicated.) [That I have made careful inquiry and that to the best of my information and belief said decedent left no will, no issue, or no collateral heirs other than those named above, and no unpaid debts or claims except as stated below.] (The affiant should cross out any statement enclosed in brackets which is not applicable.)

_____

_____
(Unpaid debts)

(5) That the value of the decedent's entire estate at death, including all property, real and personal, then owned by the decedent, did not exceed $_____, and that all funeral expenses and debts against the estate have been paid.

(6) That I am [not] interested financially or by reason of relationship to said decedent in the proposed conveyance to the United States of America in connection with which this affidavit is furnished, and understand that it is secured for the purpose of inducing the United States to purchase land owned by said decedent.

_____

_____, 20___

_____
ss:
_____,

Then personally appeared before me the above-named _____ _____, who subscribed the foregoing affidavit and made oath that the statements contained therein are true.

_____
(Title)

e. ALTA U.S. Policy - 9/28/91

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UNITED STATES OF AMERICA

POLICY OF TITLE INSURANCE

Issued by

BLANK TITLE INSURANCE COMPANY

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B AND THE CONDITIONS AND STIPULATIONS, BLANK TITLE INSURANCE COMPANY, a Blank corporation, herein called the Company, insures, as of Date of Policy shown in Schedule A, against loss or damage, not exceeding the Amount of Insurance stated in Schedule A, sustained or incurred by the insured by reason of:

1. Title to the estate or interest described in Schedule A being vested other than as stated therein;

2. Any defect in or lien or encumbrance on the title;

3. Unmarketability of the title;

4. Lack of a right of access to and from the land.

5. In instances where the insured acquires title to the land by condemnation, failure of the commitment for title insurance, as updated to the date of the filing of the lis pendens notice or the Declaration of Taking, to disclose the parties having an interest in the land as disclosed by the public records.

The Company will also pay the costs, attorneys' fees and expenses incurred in defense of the title, as insured, but only to the extent provided in the Conditions and Stipulations. [Witness clause optional]

BLANK TITLE INSURANCE COMPANY

BY:_____
PRESIDENT

BY:_____
SECRETARY

EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.

   (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.

2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.

3. Defects, liens, encumbrances, adverse claims or other matters:

   (a) created, suffered, assumed or agreed to by the insured claimant;

   (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under the policy;

   (c) resulting in no loss or damage to the insured claimant; or

   (d) attaching or created subsequent to Date of Policy.

4. This policy does not insure against the invalidity or insufficiency of any condemnation proceeding instituted by the United States of America, except to the extent set forth in insuring provision 5.

SCHEDULE A

[File No.] Policy No.

Amount of Insurance $
[Premium $]

Date of Policy_____ [at a.m. p.m.]

1. Name of Insured:

2. The estate or interest in the land which is covered by this policy is:

3. Title to the estate or interest in the land is vested in:

4. The land referred to in this policy is described as follows:]

[If Paragraph 4 is omitted, a Schedule C, captioned the same as Paragraph 4, must be used.]

SCHEDULE B

[File No.] Policy No.

EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. [POLICY MAY INCLUDE REGIONAL EXCEPTIONS IF SO

2. DESIRED BY ISSUING COMPANY]

[VARIABLE EXCEPTIONS SUCH AS TAXES, EASEMENTS, CC & Rs, ETC.]

3.

CONDITIONS AND STIPULATIONS

1. DEFINITION OF TERMS.

The following terms when used in this policy mean:

(a) "insured": the insured named in Schedule A, and, subject to any rights or defenses the Company would have had against the named insured, those who succeed to the interest of the named

insured by operation of law as distinguished from purchase including, but not limited to, heirs, distributees, devisees, survivors, personal representatives, next of kin, or corporate or fiduciary successors.

(b) "insured claimant": an insured claiming loss or damage.

(c) "knowledge" or "known": actual knowledge, not constructive knowledge or notice which may be imputed to an insured by reason of the public records as defined in this policy or any other records which impart constructive notice of matters affecting the land.

(d) "land": the land described or referred to in Schedule [A][C], and improvements affixed thereto which by law constitute real property. The term "land" does not include any property beyond the lines of the area described or referred to in Schedule [A][C], nor any right, title, interest, estate or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways, but nothing herein shall modify or limit the extent to which a right of access to and from the land is insured by this policy.

(e) "mortgage": mortgage, deed of trust, trust deed, or other security instrument.

(f) "public records": records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge. With respect to Section 1(a)(iv) of the Exclusions From Coverage, "public records" shall also include environmental protection liens filed in the records of the clerk of the United States district court for the district in which the land is located.

(g) "unmarketability of the title": an alleged or apparent matter affecting the title to the land, not excluded or excepted from coverage, which would entitle a purchaser of the estate or interest described in Schedule A to be released from the obligation to purchase by virtue of a contractual condition requiring the delivery of marketable title.

2. CONTINUATION OF INSURANCE AFTER CONVEYANCE OF TITLE.

The coverage of this policy shall continue in force as of Date of Policy in favor of an insured only so long as the insured retains an estate or interest in the land, or holds an indebtedness secured by a purchase money mortgage given by a purchaser from the insured, or only so long as the insured shall have liability by reason of covenants of warranty made by the insured in any transfer or conveyance of the estate or interest. This policy shall not continue in force in favor of any purchaser from the insured of either (i) an estate or interest in the land, or (ii) an indebtedness secured by a purchase money mortgage given to the insured.

3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT.

The insured shall notify the Company promptly in writing (i) in case of any litigation as set forth in Section 4(a) below, (ii) in case knowledge shall come to an insured hereunder of any claim of title or interest which is adverse to the title to the estate or interest, as insured, and which might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if title to the estate or interest, as insured, is rejected as unmarketable. If prompt notice shall not be given to the Company, then as to the

insured all liability of the Company shall terminate with regard to the matter or matters for which prompt notice is required; provided, however, that failure to notify the Company shall in no case prejudice the rights of any insured under this policy unless the Company shall be prejudiced by the failure and then only to the extent of the prejudice.

4. DEFENSE AND PROSECUTION OF ACTIONS; DUTY OF INSURED CLAIMANT TO COOPERATE.

(a) Upon written request by the insured and subject to the options contained in Section 6 of these Conditions and Stipulations, the Company, at its own cost and without unreasonable delay, shall provide for the defense of an insured in litigation in which any third party asserts a claim adverse to the title or interest as insured, but only as to those stated causes of action alleging a defect, lien or encumbrance or other matter insured against this policy. The Company shall have the right to select counsel of its choice (subject to the right of the insured to object for reasonable cause) to represent the insured as to those stated causes of action and shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs or expenses incurred by the insured in the defense of those causes of action which allege matters not insured by this policy.

(b) The Company shall have the right, at its own cost, to institute and prosecute any action or proceeding or to do any other act which in its opinion may be necessary or desirable to establish the title to the estate or interest, as insured, or to prevent or reduce loss or damage to the insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable hereunder, and shall not thereby concede liability or waive any provision of this policy. If the Company shall exercise its rights under this paragraph, it shall do so diligently.

(c) Whenever the Company shall have brought an action or interposed a defense as required or permitted by the provisions of this policy, the Company may pursue any litigation to final determination by a court of competent jurisdiction and expressly reserves the right, in its sole discretion, to appeal from any adverse judgment or order.

(d) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding, the insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, and all appeals therein, and permit the Company to use, at its option, the name of the insured for this purpose. Whenever requested by the Company, the insured, at the Company's expense, shall give the Company all reasonable aid (i) in any action or proceeding, securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act which in the opinion of the Company may be necessary or desirable to establish the title to the estate or interest as insured. If the Company is prejudiced by the failure of the insured to furnish the required cooperation, the Company's obligations to the insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.

(e) Notwithstanding Conditions and Stipulations Section 4(a-d), the Attorney General of the United States shall have the sole right to authorize or to undertake the defense of any matter which would constitute a claim under the policy, and the Company may not represent the insured without authorization. If the Attorney General elects to defend at the Government's expense, the Company shall, upon request,

cooperate and render all reasonable assistance in the prosecution or defense of the proceeding and in prosecuting any related appeals. If the Attorney General shall fail to authorize and permit the Company to defend, all liability of the Company with respect to that claim shall terminate; provided, however, that if the Attorney General shall give the Company timely notice of all proceedings and an opportunity to suggest defenses and actions as it shall recommend should be taken, and the Attorney General shall present the defenses and take the actions of which the Company shall advise the Attorney General in writing, the liability of the Company shall continue and, in any event, the Company shall cooperate and render all reasonable assistance in the prosecution or defense of the claim and any related appeals.

5. PROOF OF LOSS OR DAMAGE.

In addition to and after the notices required under Section 3 of these Conditions and Stipulations have been provided the Company, a proof of loss or damage signed and sworn to by the insured claimant shall be furnished to the Company within 90 days after the insured claimant shall ascertain the facts giving rise to the loss or damage. The proof of loss or damage shall describe the defect in, or lien or encumbrance on the title, or other matter insured against by this policy which constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage. If the Company is prejudiced by the failure of the insured claimant to provide the required proof of loss or damage, the Company's obligations to the insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such proof of loss or damage.

In addition, the insured claimant may reasonably be required to submit to examination under oath by any authorized representative of the Company and shall produce for examination, inspection and copying, at such reasonable times and places as may be designated by any authorized representative of the Company, all records, books, ledgers, checks, correspondence and memoranda, whether bearing a date before or after Date of Policy, which reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the insured claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect and copy all records, books, ledgers, checks, correspondence and memoranda in the custody or control of a third party, which reasonably pertain to the loss or damage. All information designated as confidential by the insured claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Unless prohibited by law or governmental regulation, failure of the insured claimant to submit for examination under oath, produce other reasonably requested information or grant permission to secure reasonably necessary information from third parties as required in this paragraph shall terminate any liability of the Company under this policy as to that claim.

6. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS; TERMINATION OF LIABILITY.

In case of a claim under this policy, the Company shall have the following additional options:

(a) To Pay or Tender Payment of the Amount of Insurance.

To pay or tender payment of the amount of insurance under this policy together with any costs, attorneys' fees and expenses incurred by the insured claimant, which were authorized by the

Company, up to the time of payment or tender of payment and which the Company is obligated to pay.

Upon the exercise by the Company of this option, all liability and obligations to the insured under this policy, other than to make the payment required, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, and the policy shall be surrendered to the Company for cancellation.

(b) To Pay or Otherwise Settle With Parties Other than the Insured or With the Insured Claimant.

(i) Subject to the prior written approval of the Attorney General, to pay or otherwise settle with other parties for or in the name of an insured claimant any claim insured against under this policy, together with any costs, attorneys' fees and expenses incurred by the insured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay; or

(ii) to pay or otherwise settle with the insured claimant the loss or damage provided for under this policy, together with any costs, attorneys' fees and expenses incurred by the insured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay.

Upon the exercise by the Company of either of the options provided for in paragraphs 6(b)(i) or (ii), the Company's obligations to the insured under this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute or continue any litigation. Failure of the Attorney General to give the approval called for in 6(b)(i) shall not prejudice the rights of the insured unless the Company is prejudiced thereby, and then only to the extent of the prejudice.

7. DETERMINATION AND EXTENT OF LIABILITY.

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by the insured claimant who has suffered loss or damage by reason of matters insured against by this policy and only to the extent herein described.

(a) The liability of the Company under this policy shall not exceed the least of:

(i) the Amount of Insurance stated in Schedule A; or,

(ii) the difference between the value of the insured estate or interest as insured and the value of the insured estate or interest subject to the defect, lien or encumbrance insured against by this policy.

(b) The Company will pay only those costs, attorneys' fees and expenses incurred in accordance with Section 4 of these Conditions and Stipulations.

8. APPORTIONMENT.

If the land described in Schedule [A][C] consists of two or more parcels which are not used as a single site, and a loss is established affecting one or more of the parcels but not all, the loss shall be computed and settled on a pro rata basis as if the amount of insurance under this policy was divided pro rata as to the value on Date of Policy of each separate parcel to the whole, exclusive of any improvements made subsequent to Date of Policy, unless a liability or value has otherwise been agreed upon as to each parcel by the Company and the insured at the time of the issuance of this policy and shown by an express statement or by an endorsement attached to this policy.

9. LIMITATION OF LIABILITY.

(a) If the Company establishes the title, or removes the alleged defect, lien or encumbrance, or cures the lack of a right of access to or from the land, or cures the claim of unmarketability of title, all as insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals therefrom, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused thereby.

(b) In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals therefrom, adverse to the title as insured.

(c) The Company shall not be liable for loss or damage to any insured for liability voluntarily assumed by the insured in settling any claim or suit without the prior written consent of the Company.

10. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY.

All payments under this policy, except payments made for costs, attorneys' fees and expenses, shall reduce the amount of the insurance pro tanto.

11. LIABILITY NONCUMULATIVE.

It is expressly understood that the amount of insurance under this policy shall be reduced by any amount the Company may pay under any policy insuring a mortgage to which exception is taken in Schedule B or to which the insured has agreed, assumed, or taken subject, or which is hereafter executed by an insured and which is a charge or lien on the estate or interest described or referred to in Schedule A, and the amount so paid shall be deemed a payment under this policy to the insured owner.

12. PAYMENT OF LOSS.

(a) No payment shall be made without producing this policy or an accurate facsimile for endorsement of the payment unless the policy has been lost or destroyed, in which case proof of loss or destruction shall be furnished to the satisfaction of the Company.

(b) When liability and the extent of loss or damage has been definitely fixed in accordance with these Conditions and Stipulations, the loss or damage shall be payable within 30 days thereafter.

13. SUBROGATION UPON PAYMENT OR SETTLEMENT.

(a) The Company's Right of Subrogation.

Whenever the Company shall have settled and paid a claim under this policy, all right of subrogation shall vest in the Company unaffected by any act of the insured claimant.

The Company shall be subrogated to and be entitled to all rights and remedies which the insured claimant would have had against any person or property in respect to the claim had this policy not been issued. If requested by the Company, the insured claimant shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect this right of subrogation. The insured claimant shall permit the Company to sue, compromise or settle in the name of the insured claimant and to use the name of the insured claimant in any transaction or litigation involving these rights or remedies.

If a payment on account of a claim does not fully cover the loss of the insured claimant, the Company shall be subrogated to these rights and remedies in the proportion which the Company's payment bears to the whole amount of the loss.

If loss should result from any act of the insured claimant, as stated above, that act shall not void this policy, but the Company, in that event, shall be required to pay only that part of any losses insured against by this policy which shall exceed the amount, if any, lost to the Company by reason of the impairment by the insured claimant of the Company's right of subrogation.

(b) The Company's Rights Against Non-insured Obligors.

The Company's right of subrogation against non-insured obligors shall exist and shall include, without limitation, the rights of the insured to indemnities, guaranties, other policies of insurance or bonds, notwithstanding any terms or conditions contained in those instruments which provide for subrogation rights by reason of this policy.

(c) No Subrogation to the Rights of the United States.

Notwithstanding the provisions of Conditions and Stipulations Section 13(a) and (b), whenever the Company shall have settled and paid a claim under this policy, the Company shall not be subrogated to the rights of the United States. The Attorney General may elect to pursue any additional remedies which may exist, and the Company may be consulted. If the Company agrees in writing to reimburse the United States for all costs, attorney's fees and expenses, to the extent that funds are recovered they shall be applied first to reimbursing the Company for the amount paid to satisfy the claim, and then to the United States.

14. ARBITRATION ONLY BY AGREEMENT.

Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the insured arising out of or relating to this policy, any service of the Company in connection with its issuance or the breach of a policy provision or other obligation. All arbitrable matters shall be arbitrated only when agreed to by both the Company and the Insured.

The law of the United States or, if there be no applicable federal law, the law of the situs of the land shall apply to an arbitration under the Title Insurance Arbitration Rules.

A copy of the Rules may be obtained from the Company upon request.

15. LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT.

(a) This policy together with all endorsements, if any, attached hereto by the Company is the entire policy and contract between the insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.

(b) Any claim of loss or damage, whether or not based on negligence, and which arises out of the status of the title to the estate or interest covered hereby or by any action asserting such claim, shall be restricted to this policy.

(c) No amendment of or endorsement to this policy can be made except by a writing endorsed hereon or attached hereto signed by either the President, a Vice President, the Secretary, an Assistant Secretary, or validating officer or authorized signatory of the Company.

16. SEVERABILITY.

In the event any provision of the policy is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision and all other provisions shall remain in full force and effect.

17. NOTICES, WHERE SENT.

All notices required to be given the Company and any statement in writing required to be furnished the Company shall include the number of this policy and shall be addressed to the Company at (fill in).

NOTE: Bracketed [] material optional

k. TLTA U.S. Policy form T-11 for use in federal land acquisitions in Texas.

POLICY OF TITLE INSURANCE

Issued by

BLANK TITLE INSURANCE COMPANY

Policy Number ____ Amount $ _____

Blank Title Insurance Company, a blank corporation, herein called the Company, for a valuable consideration

Hereby Insures

The United States of America

hereinafter called the Insured, against loss or damage not exceeding $_____ , together with costs and expenses which the Company may become obligated to pay as provided in the Conditions and Stipulations hereof, which the Insured shall sustain by reason of: any defect in or lien or encumbrance on the title to the estate or interest covered hereby in the land described or referred to in Schedule A, existing at the date hereof, not shown or referred to in Schedule B or excluded from coverage by the General Exceptions: All subject, however, to the provisions of Schedules A and B and to the General Exceptions and to the Conditions and Stipulations hereto annexed: all as of the _____ day of _____ , 20____ the effective date of this policy.

In Witness Whereof, Blank Title Insurance Company has caused its corporate name and seal to be hereunto affixed by its duly authorized officers.

Countersigned:

_____

_____

Blank Title Insurance Company
By _____
President
By _____
Secretary

SCHEDULE A

1. The estate or interest in the land described or referred to in this schedule covered by this policy is:

(Will be shown as a fee or such lesser estate or interest owned by the person or party named in paragraph 2 of this Schedule.)

2. Title to the estate or interest covered by this policy at the date hereof is vested in:

3. The land referred to in this policy is situated in the County of _____ State of _____ _____ , and is described as follows:

(This phraseology may be modified to eliminate a specific description by including it by reference to the description as contained in a specific instrument.)

SCHEDULE B

This policy does not insure against loss or damage by reason of the following:

1. Current and delinquent taxes and assessments as follows:
   (List all taxing districts in which the land is situated and other taxing authorities that have jurisdiction over said land for the levy of taxes: showing lien date for each and amounts for all such assessments that have not been paid on the date of the policy.)

2. *(Continue with the Special Exceptions such as recorded easements, liens, etc., showing in addition the persons or parties holding such interests of record, and who the Company would require to convey such interest or who would be the proper parties defendant in a condemnation proceeding to eliminate such matter. The writeup could be substantially as follows: An easement for road purposes conveyed to _____ _____ , by deed recorded _____.)*

GENERAL EXCEPTIONS
Governmental Powers

1. Because of limitations imposed by law on ownership and use of property, or which arise from governmental powers, this policy does not insure against:

   (a) consequences of the future exercise or enforcement or attempted exercise or enforcement of police power, bankruptcy power, or power of eminent domain, under any existing or future law or governmental regulation: (b) consequences of any law, ordinance or governmental regulation, now or hereafter in force (including building and zoning ordinances), limiting or regulating the use or enjoyment of the property, estate or interest described in Schedule A, or the character, size, use or location of any improvement now or hereafter erected on said property.

Matters Not of Record

2. The following matters which are not of record at the date of this policy are not insured against:

   (a) rights or claims of parties in possession not shown of record;
   (b) questions of survey;
   (c) easements, claims of easement or mechanics' liens where no notice thereof appears of record; and
   (d) conveyances, agreements, defects, liens or encumbrances, if any, where no notice thereof appears of record; provided, however the provisions of this subparagraph 2(d) shall not apply if title to said estate or interest is vested in the United States of America on the date hereof.

Matters Subsequent to Date of Policy

3. This policy does not insure against loss or damage by reason of defects, liens or encumbrances created subsequent to the date hereof.

Refusal to Purchase

4. This policy does not insure against loss or damage by reason of the refusal of any person to purchase, lease or lend money on the property, estate or interest described in Schedule A.

CONDITIONS AND STIPULATIONS

Notice of Actions

1. If any action or proceeding shall be begun or defense asserted which may result in an adverse judgment or decree resulting in a loss for which this Company is liable under this policy, notice in writing of such action or proceeding or defense shall be given by the Attorney General to this company within 90 days after notice of such action or proceeding or defense has been received by the Attorney General; and upon failure to give such notice then all liability of this Company with respect to the defect, claim, lien or encumbrance asserted or enforced in such action or proceeding shall terminate. Failure to give notice, however, shall not prejudice the rights of the party insured, (1) if the party insured shall not be a party to such action or proceeding, or (2) if such party, being a party to such action or proceeding be neither served with summons therein nor have actual notice of such action or proceedings, or (3) if this Company shall not be prejudiced by failure of the Attorney General to give such notice.

Notice of Writs.

2. In case knowledge shall come to the Attorney General of the issuance or service of any writ of execution, attachment of other process to enforce any judgment, order or decree adversely affecting the title, estate or interest insured said party shall notify this company thereof in writing within 90 days from the date of such knowledge; and upon a failure to do so, then all liability of this Company in consequence of such judgment, order or decree or matter thereby adjudicated shall terminate unless this Company shall not be prejudiced by reason of such failure to notify.

Defense of Claims

3. This company agrees, but only at the election and request of the Attorney General of the United States, to defend at its own cost and expense the title, estate or interest hereby insured in all actions or other proceedings which are founded upon or in which it is asserted by way of defense, a defect, claim, lien or encumbrance against which this policy insures, provided, however, that the request to defend is given within sufficient time to permit the Company to answer or otherwise participate in the proceeding. If any action or proceeding shall be begun or defense be asserted in any action or proceeding affecting or relating to the title, estate or interest hereby insured and the Attorney General elects do defend at the Government's expense, the Company shall upon request, cooperate and render all reasonable assistance in the prosecution or defense of such proceeding and in prosecuting appeals.

If the Attorney General shall fail to request and permit the Company to defend, then all liability of the Company with respect to the defect, claim, lien or encumbrance asserted in such action or proceeding shall terminate; provided, however, that if the Attorney General shall give the Company timely notice of all proceedings and an opportunity to suggest such defenses and actions as it shall conceive should be taken and the Attorney General shall present the defenses and take the actions of which the Company shall advise him in writing, then the liability of the Company shall continue; but in any event the Company shall permit the Attorney General without cost or expense to use the information and facilities of the Company for all purposes which he thinks necessary or incidental to the defending of any such action or proceeding or any claim asserted by way of defense therein and to the prosecuting of any appeal.

Compromise of Adverse Claims

4. Any compromise, settlement or discharge by the United States or its duly authorized representative of an adverse claim, without the consent of this Company shall bar any claim against the Company hereunder; provided, however, that the Attorney General may at his election submit to the issuing company for approval or disapproval any proposed compromise, settlement or discharge of any adverse claim and in the event of the consent of the issuing company to the proposed compromise, settlement or discharge it shall be liable for the payment of the full amount paid.

Statement of Loss

5. A statement in writing of any loss or damage sustained by the party insured, and for which it is claimed this Company is liable under this policy, shall be furnished by the Attorney General to this Company within 90 days after said party has notice of such loss or damage and no right of action shall accrue under this policy until 30 days after such statement shall have been furnished. No recovery shall be had under this policy unless suit be brought thereon within one year after said period of 30 days. Failure to furnish such statement of loss or to bring such suit within the times specified shall not affect the Company's liability under this policy unless this company has been prejudiced by reason of such failure to furnish a statement of loss or to bring such suit.

Policy Reduced by Payments of Loss

6. All payments of loss under this policy shall reduce the amount of this policy pro tanto.

Amendment of Policy

7. No provision or condition of this policy can be waived or changed except by writing endorsed hereon or attached hereto signed by the President, a Vice President, the Secretary, and Assistant Secretary or other validating officer of the Company.

Notices, Where Sent

8. All notices required to be given the Company and any statement in writing required to be furnished the Company shall be addressed to it at (insert proper address).

g. TLTA U.S. Policy Endorsement form T-12 for use in federal land acquisitions in Texas.

ENDORSEMENT

Attached to Policy No.

Issued by

BLANK TITLE INSURANCE COMPANY

1. Schedule A of the above policy is hereby amended in the following particulars:
   (a) Paragraph 1 of Schedule A is hereby deleted and the following is substituted:
      1. The estate or interest in the land described or referred to in this Schedule covered by this policy it:
      (An easement for _____ .)
   (b) Paragraph 2 of Schedule A is hereby deleted and the following is substituted:
      2. Title to the estate or interest covered by this policy at the date hereof is vested in:
      THE UNITED STATES OF AMERICA
      (Follow with appropriate reference to Declaration of Taking or Deed.)
   (c) Paragraph 3 of Schedule A is hereby deleted and the following is substituted:
      3. The land referred to in this policy is situated in the County of _____ _____ State of _____ , and is described as follows: (Here give description of land actually acquired.)
2. Schedule B of the above policy is hereby amended in the following particulars:
   (a) Paragraphs numbered ___ , ____, ___ and ___ of Schedule B are hereby deleted.
   (Enumerate those paragraphs eliminated by proper releases, conveyances, etc.)
   (b) Schedule B of the above policy is amended by adding the following paragraphs numbered _____ to _____, inclusive.
3. Subparagraph 2(d) of the General Exceptions of the above policy is hereby deleted.
4. The effective date of the above policy is hereby extended to _____ .
   (Date of recording of Deed or Notice of Action, since no insurance is to be afforded as to regularity of proceedings.)

The total liability of the Company under said policy and this endorsement thereto shall not exceed, in the aggregate, the sum of $ _____ and costs which the Company is obligated under the Conditions and Stipulations thereof to pay.

This endorsement is made a part of said policy and is subject to the Schedules, General Exceptions and the Conditions and Stipulations therein, except as modified by the provisions hereof.

Dated:

Blank Title Insurance Company,

By_____
(Authorized officer)