

CHAPTER 11

ACQUISITION BY CONDEMNATION PROCEEDINGS

TABLE OF CONTENTS

SECTION I - GENERAL

<u>Paragraph</u>	<u>Title</u>	<u>Page</u>
1.	<u>Purpose and Scope</u>	11-1
2.	<u>References</u>	11-1
3.	<u>Policy</u>	11-1
4.	<u>Necessity for Filing Condemnation Proceedings</u> ..	11-2
5.	<u>Authority to Acquire Real Property by Condemnation</u>	11-3

SECTION II - CONDEMNATION ASSEMBLY

6.	<u>Condemnation Assembly Contents</u>	11-4
7.	<u>Letter Transmitting Condemnation Assembly</u>	11-6
8.	<u>Preparation of Request for Institution of Condemnation Proceedings and Declaration of Taking</u>	11-8
9.	<u>Notice to Facilities Engineering Commands</u>	11-9
10.	<u>Notification to Property Owners</u>	11-9
11.	<u>Obtaining Checks for Deposit in Condemnation Proceedings</u>	11-9
12.	<u>Transmittal of Check and Other Data to the United States Attorney</u>	11-9

SECTION III - CONDEMNATION PROCEEDINGS

13.	<u>Condemnation Proceedings Without Declaration of Taking</u>	11-11
-----	---	-------

CHAPTER 11

ACQUISITION BY CONDEMNATION PROCEEDINGS

TABLE OF CONTENTS (Continued)

SECTION III - CONDEMNATION PROCEEDINGS

<u>Paragraph</u>	<u>Title</u>	<u>Page</u>
14.	<u>Distribution of Funds Deposited</u>	11-11
15.	<u>Orders of Possession</u>	11-11
16.	<u>Requests for Possession</u>	11-12
17.	<u>Parcels in Condemnation Proceedings on Which Agreements for Purchase Have Been Obtained</u>	11-12
18.	<u>Responsibility for Conduct of Condemnation Proceedings</u>	11-12
19.	<u>Assistance to United States Attorney</u>	11-13
20.	<u>Negotiations for Settlements in Condemnation Proceedings</u>	11-13
21.	<u>Execution of Stipulations and Offers of Settlement</u>	11-14
22.	<u>Time Allowed for Completion of Negotiations</u> ...	11-15
23.	<u>Authority of U.S. Attorneys to Compromise Land Condemnation Cases</u>	11-15
24.	<u>Delegation of Authority to FECs to Approve or Reject Offers of Settlement</u>	11-15
25.	<u>Action by FECs on Proposed Settlements</u>	11-16
26.	<u>Proposed Settlements Requiring Commander, Naval Facilities Engineering Command Action</u> ...	11-16
27.	<u>Approval or Rejection of Proposed Settlements</u> ...	11-17
28.	<u>Completion of Negotiations</u>	11-17

CHAPTER 11

ACQUISITION BY CONDEMNATION PROCEEDINGS

TABLE OF CONTENTS (Continued)

SECTION III - CONDEMNATION PROCEEDINGS

<u>Paragraph</u>	<u>Title</u>	<u>Page</u>
29.	<u>Awards in Condemnation Proceedings</u>	11-18
30.	<u>Payment of Awards, Deficiencies and Interest</u>	11-19
31.	<u>Disposition of Condemnation Records</u>	11-20

SECTION IV - FORMS/APPENDIX

Appendix 11-A	<u>Letter of Notification to Property Owners (Format)</u>	11-A1
Appendix 11-B	<u>Instructions for Preparation of Declaration of Taking Assembly</u>	11-B1
Appendix 11-C	<u>Form of Declaration of Taking (Format)</u>	11-C1
Appendix 11-D	<u>Format for Schedule "A" (Authority for Taking and Public Uses)</u>	11-D1
Appendix 11-E	<u>Format for Schedule "B" (Legal Description)</u>	11-E1
Appendix 11-F	<u>Format for Schedule "C" (Estate Taken)</u>	11-F1
Appendix 11-G	<u>Department of Justice, Environment and Natural Resources Division Directive No. 7-76, as amended</u>	11-G1
Appendix 11-H	<u>Approved Wording for Various Estates in Land</u>	11-H1

CHAPTER 11

ACQUISITION BY CONDEMNATION PROCEEDINGS

SECTION I - GENERAL

1. PURPOSE AND SCOPE

This Chapter prescribes the Department of the Navy policies and procedures relating to the acquisition of real property by condemnation. It recites the authorities for filing condemnation proceedings and describes the responsibilities of the Facilities Engineering Command (FEC), Commander, Naval Facilities Engineering Command (NAVFACENGCOM) and others in the acquisition of real property by this method. As used in this Chapter, the word "property" refers to real property unless otherwise noted.

2. REFERENCES

- (a) [18 U.S.C. §§ 431-432](#)
- (b) 40 U.S.C. § 3113
- (c) [10 U.S.C. § 2663](#)
- (d) (Reserved)
- (e) [77 Stat. 577, D.C. Code §§ 1351-1368](#)
- (f) [10 Comp. Gen. 320](#)
- (g) [10 U.S.C. § 2664](#)
- (h) [Uniform Relocation Assistance and Real Property Acquisition Policies Act \(42 U.S.C. §§ 4601-4655\)](#)
- (i) [42 U.S.C. §§ 4321-4347](#)
- (j) [16 U.S.C. § 470](#)
- (k) [10 U.S.C. § 2662](#)
- (l) [40 U.S.C. § 258f](#)

3. POLICY

A considerable portion of property controlled by the Department of the Navy (DON) was acquired through exercise of the Government's power of eminent domain. The Navy's urgent need for immediate possession of land during times of war and national emergencies have typically been facilitated through condemnation proceedings. However, it has been the consistent peacetime policy of DON

to acquire all authorized lands and interests in lands required to meet approved military missions by direct purchase based on negotiations conducted with the owner of the property involved under [reference \(h\)](#). Nevertheless, based on DON's past experience, it is reasonable to anticipate that in future land acquisitions, the Navy may find it necessary to resort to condemnation.

4. NECESSITY FOR FILING CONDEMNATION PROCEEDINGS

a. Some of the circumstances that may require the acquisition of property or its interests by the filing of condemnation proceedings are:

(1) Where an examination of the title discloses title defects that are either too numerous or too complex to permit curative action, or title defects are disclosed that can only be cured through court proceedings;

(2) The inability to reach a mutually satisfactory purchase contract, or the inability to locate the proper parties for negotiations;

(3) The refusal by the parties to a purchase agreement or option to execute a conveyance of the property to the United States, or to comply with the terms and conditions of the agreement or option. Although an action for specific performance could be instituted, condemnation is selected because it assures acquisition without delay;

(4) In some instances, an immediate need for possession of property or its interests exists to meet urgent construction or operational requirements. The need for immediate possession may be obtained through the filing of a declaration of taking in a condemnation proceedings. Unless otherwise specifically authorized, construction still may not begin until receipt of the attorney general's or his/her delegatee's Opinion on Title. Typically, this requirement is waived in the authorizing legislation;

(5) Request by owners that title to their property or its interests be acquired through condemnation proceedings, or where owners such as fiduciaries, states, cities, counties, or other political entities lack legal authority to sell or otherwise dispose of property or its interests; and

(6) Where, because of statutory prohibitions, the property or its interests owned by a Member of, or a Delegate to, Congress may not be acquired by contract as provided by [reference \(a\)](#).

(7) Where deed restrictive covenants or reservations running with the land and that materially interferes with the Navy's intended use of the property cannot be removed except through condemnation proceedings, ([reference \(f\)](#)).

5. AUTHORITY TO ACQUIRE PROPERTY BY CONDEMNATION

a. Basic Authority. The power of eminent domain is an inherent attribute of sovereignty and does not depend on any constitutional grant. However, the exercise of that power by the Navy must be authorized by Congress, which has enacted numerous laws, both general and specific, that specifically authorize the condemnation of property for Government purposes. The basic authority to acquire property by condemnation is the Act of Congress dated 1 August 1888 ([reference \(b\)](#)). This Act states that, "(i)n every case in which. . .(an) officer of the Government has been or hereafter shall be authorized to procure real estate for the erection of a public building or for any other public uses, he may acquire the same for the United States by condemnation, under judicial process, whenever in his opinion it is necessary or advantageous to the Government to do so."

b. Secretary of the Navy's Authority to Condemn Property or Its Interests in Time of War or Imminence of War

(1) [Reference \(c\)](#) authorizes the Secretary of the Navy to initiate judicial proceedings to acquire title to or any interest in, property by condemnation, including temporary use, for the specified purposes. It further authorizes the Secretary to take and use property to the extent of the interest or title sought to be acquired in time of war or when war is imminent through filing of condemnation proceedings. In condemnation proceedings instituted pursuant to this Act of Congress, the courts will typically enter orders granting immediate possession of the property for use for military purposes.

(2) Additionally, [reference \(c\)](#) authorizes the acceptance of a gift of title to, or any interest in, property, including temporary uses, for the specified purpose.

c. Limitations on Authority. It should be noted that [references \(b\)](#) and [\(c\)](#) are procedural in nature and do not constitute legislative authority to acquire title to, or interests in, property. These authorities may be exercised only when Congress expressly authorizes the acquisition of property and appropriates funds pursuant to [reference \(g\)](#).

d. Authority for Declaration of Taking (Declaration). Most DON condemnation proceedings are now instituted under [reference \(b\)](#), which authorizes immediate possession by the Government upon the filing of the Declaration and the deposit of the estimated just compensation with the court.

e. Declarations in the District of Columbia.

In the District of Columbia, Declarations are filed by the District's Attorney General's Land Acquisition Office on behalf of the United States under the authority of [reference \(e\)](#).

SECTION II - CONDEMNATION ASSEMBLY

6. CONDEMNATION ASSEMBLY CONTENTS

a. When it has been determined that acquisition of title to or interests in lands through condemnation proceedings is necessary, a condemnation assembly will be forwarded to COMNAVFACENGCOM for each parcel. The assembly will normally contain the following items:

(1) Draft of the Proposed Declaration of Taking, [Appendix 11-C](#). Provide 1 copy;

(2) Schedule "A," Authority for Taking and Public Uses, [Appendix 11-D](#) (1 copy);

(3) Schedule "B," Legal Description without the surveyor's letterhead, [Appendix 11-E](#) (1 copy); and,

(4) Schedule "C," Estate Taken, including parcel number, name, and address of purported owner and additional parties having or claiming an interest in the parcel, and estimated just compensation, etc., [Appendix 11-F](#) (1 copy).

b. The following specific directions apply as needed:

(1) For individuals, list a street address for the service of process in addition to any post office box. (The U.S. Marshall must be able to serve the documents "in person.")

(2) If an address is unknown, prepare a memorandum documenting the sources checked.

(3) For corporations, state the registered agent and address. (Contact the secretary of state, corporations division, for the state involved.)

(4) For dissolved corporations, include an uncertified dissolution document and the names and addresses of those who received the corporation's assets. (This document may be obtained from the office of the secretary of state for the state involved.)

(5) For school districts with separate taxing authority, list their address and whom to serve, such as the superintendent.

(6) For taxing authorities, give their street address.

c. Schedule "D," attach a map or plat of the area to be acquired and delineate and designate the individual parcels (9 clear copies);

d. Vicinity map, an 8" x 11" map showing the subject parcel in relation to general area and other military property. A good source is the appraisal report. This is required for submission to the Assistant Secretary of the Navy (Installations and Environment);

e. Two copies of all appraisal reports, whether approved or not, together with all analyses and review reports. Only one copy is required for reports previously submitted to COMNAVFACENGCOM for approval;

f. Title report (See **P-73 Chapter 6, paragraph 8** for further guidance on title evidence in condemnation cases) consisting of a copy of the preliminary title opinion, statement of location of the title evidence, and efforts to cure title defects, if any, prior to condemnation. If condemnation is required because of title defects, forward the following:

(1) All title evidence,

(2) An analysis of the defects and opinion for the correct resolution of unresolved title issues,

(3) A list of attempts to have the title defects removed by the title company,

(4) The curative data that has been obtained to remedy the defects, if any, and

(5) The contracts to purchase from the apparent owners, if any.

g. A copy of the report on negotiations required by **P-73, Chapter 8**; and,

h. When applicable, a statement of the estimated value of growing crops to be acquired. Demonstrate that the value has been added to the value of the property and improvements in determining the amount to be deposited as estimated just compensation with a Declaration. This statement will include information on whether the value of the growing crops can be harvested by the owner of the land or his tenant.

7. LETTER TRANSMITTING CONDEMNATION ASSEMBLY

a. The FEC letter transmitting the condemnation assembly to NAVFACENGCOM will contain the following:

(1) A statement of the purpose for which the title or interests in property is being acquired;

(2) A citation of the Federal law authorizing the acquisition (reference (b)) and the law appropriating the funds;

(3) Justification for the acquisition of the title to or interests in the property through condemnation proceedings such as, but not limited to, defective title or failed negotiations;

(4) A precise statement of the estate or interests to be acquired;

(5) A statement of the outstanding interests that will be acquired such as minerals and easements for roads, public utilities, and any others;

(6) A statement that any exceptions and reservations will not interfere with the purposes for which the property is being acquired;

(7) A statement about which parcels are occupied, the number of occupants, and the date or dates they will be required to vacate;

(8) When applicable, a statement that the relocation provisions of [reference \(h\)](#) will be complied with;

(9) A statement regarding the requirements for possession, specifying the date or dates possession of the area is needed and why. If the area is comprised of several parcels and possession may be taken progressively, include in the statement a schedule listing the dates when possession of each parcel or group of parcels is required and why;

(10) When applicable, a statement of any arrangements made with the owner or tenant to harvest growing crops;

(11) A statement about the salvage value of any buildings or structures to be retained by the owner or tenant;

(12) A statement that all of the items in the appraisal report and to be acquired by the Government are located on the property;

(13) A statement of compliance with the provisions of [reference \(i\)](#), or a statement that a determination has been made that an environmental impact statement is not required and why;

(14) When applicable, a statement of compliance with [reference \(j\)](#);

(15) A statement of any conditions precedent to the acquisition imposed by applicable statutes and a certification that those conditions have been satisfied. (Example of conditions precedent includes requirement that acquisition cannot be made unless 30 days beforehand a report on the proposed acquisition has been submitted to Congress pursuant to [reference \(k\)](#). If there are no applicable conditions precedent, submit a statement to that effect;

(16) A statement of every limitation on the acquisition imposed by applicable laws and a certification that the acquisition will not exceed applicable limitations. (Examples of those limitations include those impacting the amount of acreage that can be acquired, or the type of estate that can be acquired, or the character of the property that can be acquired, or the geographic boundaries within which the property can be acquired.) In the case of acreage limitations, include an additional statement that this acquisition will bring the acreage acquired to a total of _____ acres. If there are no limitations on acquisition, include a statement to that effect;

(17) A statement that the acquisition should not exceed the monetary limits prescribed by law; and

(18) Information about any unusual features of the acquisition, including comments on the title.

8. PREPARATION OF REQUEST FOR INSTITUTION OF CONDEMNATION PROCEEDINGS AND DECLARATIONS OF TAKING

The Department of Justice, by or under the direction of the local United States Attorney, institutes condemnation proceedings pursuant to a letter of request signed by the General Counsel of the Navy to the Attorney General

prepared by NAVFACENGCOM. The letter contains all information required by applicable law and by the Department of Justice in these cases. NAVFACENGCOM, on behalf of the Department of the Navy, also prepares Declarations if one is going to be filed in the condemnation proceedings. The Declarations must be signed by the Secretary of the Navy or by the Assistant Secretary of the Navy (Installations and Environment). The Declaration must contain all facts and information required by [reference \(b\)](#). A Declaration may be filed at the time the complaint in condemnation is filed or at any time before judgment is entered.

9. NOTICE TO FACILITIES ENGINEERING COMMANDS (FECs)

NAVFACENGCOM will forward to the FEC two copies of the letter addressed to the Attorney General of the United States requesting the institution of a condemnation proceeding, with two signed copies of the Declaration, if a Declaration is going to be filed in the proceedings. The copies forwarded to the FEC will constitute notice that a condemnation proceeding will be instituted.

10. NOTIFICATION TO PROPERTY OWNERS

Unless previously accomplished, the FEC will inform the property owners in writing that condemnation proceedings are about to be instituted. The FEC notice to the property owners will be made upon FEC receipt of notice that condemnation proceedings are about to be instituted as provided in [paragraph 9](#) above, but prior to their institution. The written notice will be in substantially the same form as shown in [Appendix 11-A](#).

11. OBTAINING CHECKS FOR DEPOSIT IN CONDEMNATION PROCEEDINGS

Use the procedure outlined in **P-73 Chapter 7** for obtaining a check for deposit into the court of the amount determined as the estimated just compensation in condemnation proceedings.

12. TRANSMITTAL OF CHECK AND OTHER DATA TO THE UNITED STATES ATTORNEY

a. Mail or deliver the check to the United States Attorney for the judicial district in which the property is located for the U.S. Attorney to deliver to the Clerk of the Court. The FEC letter transmitting the check to the U. S. Attorney will also transmit, if available, the following:

- (1) the original title evidence and appraisal reports;
- (2) any agreements for the purchase of property;
- (2) any options to purchase property;
- (4) any notices of exercise of those options; and
- (5) any other agreements, documents, or other material that relate to the compensation that the Government is going to pay for the property or that contain information concerning the estimated value of the real property that will be included in the condemnation proceedings.

b. If any of the above information was provided to NAVFACENGCOCM and subsequently submitted by NAVFACENGCOCM to the Department of Justice with the request for condemnation, the United States Attorney may be advised that this information should be obtained from the Department of Justice. This letter will also contain the following information:

- (1) Reference to the General Counsel of the Navy's letter to the Attorney General requesting the institution of the proceedings;
- (2) Title of the proceedings as stated in the copy of the Declaration;
- (3) The payee, date, number and amount of the check;
- (4) Statement of the Government's requirements for possession, including the names and addresses of witnesses qualified to testify about those requirements;

(5) Any other pertinent information that may be of assistance to the United States Attorney in conducting the proceedings; and

(6) A statement that title evidence is being updated to a date just before the filing of the Declaration and that the appraisal reports are being updated to the date of taking and will be delivered to the United States Attorney. The FEC will take action to obtain these updated reports and furnish them to the United States Attorney when received.

SECTION III - CONDEMNATION PROCEEDINGS

13. CONDEMNATION PROCEEDINGS WITHOUT DECLARATION OF TAKING

Upon FEC receipt of notice that condemnation proceedings are about to be instituted, but that a Declaration will not be filed, the FEC will submit to the United States Attorney the appropriate data and information required in [paragraph 12](#) above.

14. DISTRIBUTION OF FUNDS DEPOSITED

It is within the discretion of the court to make a partial or total distribution of funds that are deposited in the court with the filing of a Declaration. Offer the United States Attorney assistance and information to expedite the distribution of those funds so that land owners may receive either partial or total payment soon after a Declaration has been filed. The partial or total distribution may be made upon a showing to the court that the claimant is the proper person to receive the money on deposit. Partial or total distribution of the funds may be made without prejudice to the owner's right to claim an award higher than the sum deposited by the United States. An examination of the title evidence by the United States Attorney, together with a physical inspection of the property, either by him/her or by an FEC representative, is usually sufficient to ascertain the proper claimants so that consent may be given to the entry of an order of partial or total distribution.

15. ORDERS OF POSSESSION

A Declaration may be filed in any condemnation proceeding before the entry of final judgment. When filed in a proceedings instituted under [reference \(b\)](#), DON requests a special hearing immediately following the filing to obtain an order of possession that it will then serve upon the owner when actual possession is needed..

16. REQUESTS FOR POSSESSION

(a) Local Naval authorities should determine the date that possession of the property should be surrendered to the Government to meet Navy requirements.

b. Determine these requirements carefully and have the order of possession served to minimize hardships to occupants, enable owners or tenants to harvest growing crops, and allow as long a period as possible to facilitate their relocation. Wherever possible, take possession on a progressive basis, i.e., in projects involving numerous parcels it is not always necessary to obtain simultaneous possession of all of them. Schedule possession to meet Navy requirements.

17. PARCELS IN CONDEMNATION PROCEEDINGS ON WHICH AGREEMENTS FOR PURCHASE HAVE BEEN OBTAINED

In cases involving parcels under Agreements for Purchase that are in condemnation proceedings because of title defects or other reasons, make this fact known to the United States Attorney and deliver a signed copy of the Agreement to him/her. The agreed price is binding on the vendor even though title to the property will be acquired through condemnation proceedings. In no case where an Agreement for Purchase has been obtained will the FEC or its subordinates make a decision that the United States Attorney will not be informed of the existence of the Agreement and a signed copy delivered to him/her. This applies whether or not a Purchase Agreement has been accepted on behalf of the Government.

18. RESPONSIBILITY FOR CONDUCT OF CONDEMNATION PROCEEDINGS

After institution of condemnation proceedings, all matters pertaining to them, including the conduct of

negotiations for settlements, are the responsibility of the Department of Justice and the United States Attorneys. However, after the institution of proceedings, it is desirable that every effort be made to reach settlements with the owners. Therefore, the FEC should continue negotiations with the owners for a reasonable period of time. Before undertaking negotiations, obtain written consent of the United States Attorney.

19. ASSISTANCE TO UNITED STATES ATTORNEYS

a. Render all possible assistance to the United States Attorneys and representatives of the Department of Justice in preparing condemnation proceedings for trial and in conducting trials. The FEC will determine from the United States Attorney, or the representative of the Department of Justice, who has responsibility for conducting the proceedings, whether FEC representatives' assistance is desired, and if so, its nature. The FEC can assist in the following ways:

(1) Obtain or prepare maps and other necessary exhibits for trial;

(2) Obtain expert witnesses and assist in preparing them for trial;

(3) Take necessary action to insure the presence of witnesses at the trials;

(4) Offer a representative at the trial who is thoroughly familiar with the details of the project affected by the proceedings; and

(5) Conduct negotiations for offers to settle or stipulations with the owners and other interested parties defendant.

20. NEGOTIATIONS FOR SETTLEMENTS IN CONDEMNATION PROCEEDINGS

a. Stipulations, or agreements between the United States and the parties in interest after condemnation proceedings have been instituted, may be consummated under the provisions of [reference \(1\)](#).

b. Settlements negotiated by the FEC for acquisition of title to, or interests in, property will include interest and all compensable claims of any nature arising as a result of the acquisition of title to, or interests in, property, and will reflect all the terms of the proposed settlement. In every case, advise the owner(s) during negotiations for settlements that their offers to settle or stipulate are not binding on the Government until accepted by an authorized representative of the Department of Justice or the United State Attorney.

c. Stipulations or offers for settlements for parcels in which owners will be permitted to remove crops, timber, buildings, or improvements should include a reservation or exception of these items, and a provision for the right to remove them. The stipulations or offers should specify the date on or before which these items will be removed. They should also state that if the crops, timber, buildings, or improvements are not removed on or before the designated date, the right of removal will terminate automatically and the United States will have title to these items without notice. The consideration to the Government for the reservation of crops or timber will be in an amount not less than their appraised value. Deduct that amount from the price fixed in the stipulation as the fair market value for the property to be acquired.

d. Negotiate the consideration to the Government for the reservation of buildings and improvements on the basis of the value of the buildings and improvements to the owner, but never less than their appraised salvage value. Deduct that amount from the consideration fixed in the stipulation as the fair market value of the property to be acquired.

21. EXECUTION OF STIPULATIONS AND OFFERS OF SETTLEMENT

Stipulations and offers of settlement shall be executed by all parties of interest. In questionable cases, obtain and follow the advice of the United States Attorney responsible for the conduct of the condemnation proceedings. Inform the United States Attorney where additional information is obtained and a determination made that all parties in interest have not executed the stipulations or offers. Any additional signatures deemed

necessary by the United States Attorney should be obtained by him/her unless he/she requests that the FEC obtain those signatures. The FEC or its representative will not execute stipulations and offers of settlement.

22. TIME ALLOWED FOR COMPLETION OF NEGOTIATIONS

The FEC will establish a reasonable time within which negotiations conducted by its representatives, with the consent of the United States Attorney, will be completed. The time so established should consider the number of owners involved, the value of the property involved in the condemnation proceedings, the possibilities of reaching settlements, and the complexity of the acquisition. Establish a maximum of 90 days, beginning with the date the condemnation proceedings are instituted, for the completion of negotiations, except in unusual cases. Inform NAVFACENCOM of any established period greater than 90 days or any extension of time beyond the 90-day period.

23. AUTHORITY OF UNITED STATES ATTORNEYS TO COMPROMISE LAND CONDEMNATION CASES

The Attorney General of the United States has authorized United States Attorneys to accept or reject offers in compromise of claims against the United States for just compensation in condemnation proceedings; provided, the gross amount of the proposed settlement does not exceed \$500,000, except under specific limitations.

24. DELEGATION OF AUTHORITY TO ENGINEERING FIELD DIVISIONS/ENGINEERING FIELD ACTIVITIES TO APPROVE OR REJECT OFFERS OF SETTLEMENT

a. Authority is hereby delegated to the FEC commander to approve or reject an offer of settlement as just compensation for the taking of property in a condemnation proceeding under the following conditions:

(1) Approve or reject an offer of settlement that the United States Attorney may approve without reference to the Department of Justice pursuant to Department of Justice delegation to United States Attorneys (See [Appendix 11-G](#)). This delegation does not include authority to:

(a) Approve settlements involving the

revesting of title or any other property interests.

(b) Approve settlements involving a novel question of law or a question of policy or any other offer of settlement that, in the opinion of the FEC, should receive the attention of NAVFACENGCOM.

(2) This authority may be redelegated.

25. ACTION BY FACILITIES ENGINEERING COMMANDS (FECs) ON PROPOSED SETTLEMENTS

Evaluate each proposed settlement before approving or rejecting it. The amount of the settlement must be compatible with the appraisals upon which the Government would rely in the event of trial. However, also give consideration to other factors, such as the probable amount of the final awards in view of past experience in the area, and the possible effect on other parcels of land the Navy is acquiring in the area, either by direct purchase or condemnation. Discuss these factors, the probable costs and risks of trial, and any other pertinent considerations with the United States Attorney before approving or rejecting a proposed settlement.

26. PROPOSED SETTLEMENTS REQUIRING COMMANDER, NAVAL FACILITIES ENGINEERING COMMAND ACTION

a. In every case involving a settlement requiring the approval of NAVFACENGCOM, the FEC will obtain the approval of NAVFACENGCOM prior to submitting its approval or rejection to the United States Attorney. Proposed settlements submitted to NAVFACENGCOM for approval will be accompanied by a letter containing the following information:

(1) The title and civil case number of the condemnation action;

(2) The parcel number and the name of the owner;

(3) The area by acreage or square footage, whichever is appropriate;

(4) The names of the appraisers and their estimates of value;

(5) Amount of the offer;

(6) A statement of the testimony, in terms of money, that the Government will rely upon in the event of trial;

(7) The possible adverse effect on negotiations for direct purchase, settlements, or trials of other parcels in the area being acquired by the Government;

(8) A short analysis of the appraisal reports;

(9) Support and justification for approval or rejection; and

(10) Recommendations for approval or rejection.

27. APPROVAL OR REJECTION OF PROPOSED SETTLEMENTS

When it has been determined to approve or reject a proposed offer of settlement, or the approval or rejection of NAVFACENCOM has been received, inform the United States Attorney in writing and deliver a copy to NAVFACENCOM.

28. COMPLETION OF NEGOTIATIONS

a. Upon completion of negotiations within the time limit established pursuant to [paragraph 22](#) above, the FEC will submit to the United States Attorney a letter report with the following:

(1) The short title of the condemnation action and the civil case number;

(2) A list of all parcels, by parcel number, on which settlements have been negotiated;

(3) Appraised values on settled parcels as estimated by appraisers under contract to the Government or staff appraisers;

(4) A list of parcels, by parcel number, on which settlements could not be reached;

(5) Appraised values on unsettled parcels as estimated by appraisers under contract to the Government or

staff appraisers;

(6) Amounts, if any, demanded by the owners;

(7) Information concerning unusual features of any settlement negotiated by the FEC, such as the reservation to the owner for improvements, crops, or interests outstanding in third parties; and

(8) Any other unusual features relating to any parcels in the proceeding.

b. This letter will also inform the United States Attorney that the FEC has completed negotiations and future action will not be undertaken unless requested by the United States Attorney.

c. Provide a copy of the letter report sent to the United States Attorney to NAVFACENGCOM so that NAVFACENGCOM may inform the Department of Justice concerning the status of negotiations conducted by the FEC and request that any unsettled parcels be set for trial. NAVFACENGCOM will deliver a copy of its letter sent to the Department of Justice to the FEC, that will advise of the date on which trial is set.

29. AWARDS IN CONDEMNATION PROCEEDINGS

a. Inform NAVFACENGCOM by letter concerning the trial of any parcel or group of parcels in a condemnation proceedings at the earliest possible date after trial.

This letter will contain the following information:

(1) Title of the condemnation action, civil case number, name of owner and parcel number;

(2) The amount of the award;

(3) Names of the appraisers with identification as to whether they were acting as Department of the Navy, Department of Justice or Defendant's witnesses;

(4) The appraisal valuations given in testimony by all Government witnesses;

(5) The appraisal valuation given in testimony by the property owners, or by real estate experts or other witnesses appearing on their behalf;

(6) A statement of any informal recommendations of the local representatives of the Department of Justice as to the suitability of the award;

(7) Any other matters that should be considered by NAVFACENCOM in determining whether awards are satisfactory, such as history of past awards and amounts paid for direct purchase from other owners; and

(8) The recommendation of the FEC about the suitability of the award, possibility of obtaining a more favorable award in a new trial, and whether NAVFACENCOM should recommend an appeal.

30. PAYMENT OF AWARDS, DEFICIENCIES AND INTEREST

a. Upon FEC receipt of a request from the United States Attorney together with copies of judgments, take action to obtain checks for deposit into the registry of the court in satisfaction of the judgments. If the judgment so provides, interest will be paid on any deficiency at the same time the judgment is satisfied. In certain instances, the United States Attorney may consider it desirable to obtain checks before actual entry of judgment. In these cases, the FEC will obtain checks upon receipt of a request from the United States Attorney.

b. FECs will obtain checks in accordance with **P-73, Chapter 7**. If sufficient funds are not available from the specific project, the FEC shall immediately request additional funds from the appropriate FEC Finance Office. These requests will include the following:

(1) a computation of project funds to be obligated and those available for payment of a portion of the deficiency;

(2) a copy of the judgment or the U.S. Attorney's request for additional funds;

(3) the interest rate, if applicable, and the effective date from which interest will be computed; and

(4) total funding request (estimate the interest costs by projecting to date of expected payment).

31. DISPOSITION OF CONDEMNATION RECORDS

Upon receipt, NAVFACENGCOM will transmit certified copies of the final judgments and the original opinion of the Attorney General to the FEC for electronic documentation and retention as a part of the permanent land records of DON. The FEC will transmit the electronically documented condemnation records to NAVFACENGCOM according with **P-73, Chapter 27**.

CHAPTER 11

ACQUISITION BY CONDEMNATION PROCEEDINGS

SECTION IV - FORMS/APPENDIX

APPENDIX 11-A

LETTER OF NOTIFICATION TO PROPERTY OWNERS

Name & Address of Owner

Sir/Madam:

The Department of the Navy is acquiring lands in _____ County in the vicinity of the _____.
The acquisition is _____ in _____, subject to _____.

This acquisition of land, necessary for national defense purposes, has been authorized and funds appropriated therefor by Acts of Congress.

Your Company (You) appears to have an interest in certain of the lands included in the area selected for acquisition. It has been determined that it is necessary to acquire title to your property through condemnation proceedings which will be instituted at an early date. A representative of the Navy is prepared to conduct negotiations for the purpose of agreeing on the compensation to be paid to you. If a Navy representative does not contact you shortly, it is suggested that you communicate with this office and arrangements will be made for one to meet with you to begin negotiations to arrive at a fair price for the property.

This does not mean that if there is a delay in reaching a settlement that funds will not be made available to you. In most instances when it is necessary to institute condemnation proceedings, a Declaration of Taking is filed and an amount estimated to be just compensation for the property is deposited with the Clerk of the Court having jurisdiction of the proceedings. You may make application to the Court to withdraw the funds so deposited. The Courts typically permit withdrawal of a portion of the amount deposited. Withdrawal by you of all or a portion of the deposit will not prejudice your right to assert before the Court your claim for greater compensation. The condemnation proceedings will be filed in the U.S. District Court,

_____.

The Department of the Navy wishes to assure you that every effort will be made to carry out this necessary national defense program with the least inconvenience to you and to promptly pay you the fair value for the property acquired. A booklet concerning condemnation proceedings is enclosed for your information.

Should you have any questions regarding this land acquisition, you are requested to contact

Mr./Ms. _____ of this Command, at _____..

Very truly yours,

Encl:

(1) Booklet titled "How and Why the Federal Government Acquires Property For Public Purposes"

Copy to: (w/o encl)

Mission Component Command

Command

Activity

U.S. Attorney having Cognizance

APPENDIX 11-B

INSTRUCTIONS FOR PREPARATION OF DECLARATION OF TAKING ASSEMBLY

1. Instructions for preparation of Declaration of Taking-(Appendix 11-C)

- a. Use the **Appendix 11-C** format for preparation of all Declarations of Taking.
- b. Type Declarations of Taking on standard (letter) size paper.
- c. Complete blank spaces provided in **Appendix 11-C** as follows:

1/ Insert proper designation of the United States District Court for the Judicial District in which the Declaration of Taking is to be filed. The Civil Number on the right side will be inserted by the U.S. Attorney when the Declaration of Taking is filed in the Court.

2/ Insert the number of acres to be affected by the condemnation proceedings.

3/ Insert name of the city in which land is located.

4/ Insert name of county and state in which land is located.

5/ Insert name(s), city and state, of principal land owner(s) and additional parties having or claiming an interest in the land (all parties that appear on **Appendix 11-F** as defendants.)

6/ Insert name of Assistant Secretary of the Navy .

7/ Insert the number of acres to be affected by the condemnation proceedings.

8/ Write amount to be deposited in court in all capitals followed by the amount in numbers in parenthesis.

9/ Leave the day, month and year blank for completion when the Declaration of Taking is signed.

10/ Leave name of county and state blank for completion when the Declaration of Taking is signed.

11/ Leave space for the Assistant Secretary of the Navy signature blank.

12/ Type the name of the Assistant Secretary of the Navy below the signature line.

2. Instructions for preparation of Schedule "A"-Authority for Taking (Appendix 11-D)

- a. Complete blank spaces provided in **Appendix 11-D** as follows:

13/ Insert date the President approved the authorization act that authorized the project. Insert the number of the Public Law that authorized the project.

14/ State purpose of acquisition.

15/ Insert name of activity/installation.

16/ Insert name of activity/installation.

3. Instructions for preparation of Schedule “B”-Legal Description-(Appendix 11-E)

a. Complete **Appendix 11-E** as follows:

17/ Provide a description of the estate, by parcel number, or estates to be acquired using those provided in **Appendix 11-H**. Note: According to **P-73 Chapter 3**, an estate other than those provided in **Appendix 11-H** requires the FEC Counsel review for legal sufficiency.

4. Instructions for preparation of Schedule “C”-Estate Taken (Appendix 11-F)

a. Complete blank spaces provided in **Appendix 11-F** as follows:

18/ Insert the number of acres to be affected by the condemnation proceedings.

19/ Use the appropriate terminology for the estate taken.

20/ State any such rights reserved to the owners. If none, omit this line.

21/ Fill in the names and addresses of the purported owners.

22/ Fill in the number of the Parcel involved.

23/ Fill in the names and addresses of additional parties having or claiming an interest in the above parcel.

24/ Insert the parcel number and estimated just compensation (amount to be deposited in Court).

NOTE: Repeat steps 21-24 as needed for each parcel.

APPENDIX 11—C DECLARATION OF TAKING

IN THE UNITED STATES DISTRICT COURT
FOR THE _____ DISTRICT OF _____

1/

The United States of America

Plaintiff,

vs.

2/ _____ acres of land, more or less,)

3/ in _____,)

4/ _____ County of _____;)

5/ _____; _____; _____;)

_____, Unknown Parties)

Defendants

Declaration
of
Taking

Civil No. _____

To the Honorable, the United States District Court:

6/ I, _____, Assistant Secretary of the Navy, do

hereby declare that:

1. The estate described below is taken under and in accordance with the authority set forth in Schedule "A" attached to and made a part of this Declaration.

2. The public uses for which the estate is taken are also set forth in Schedule "A."

3. A general description of the real property in which the estate is being taken is set forth in Schedule "B" attached to and made a part of this Declaration.

4. The estate taken for public uses, and the estimated just compensation for it, are set forth in Schedule "C", attached to and made a part of this Declaration.

5. The names and addresses of the parties who or which have, or who or which may claim, an interest in the estate being taken are set forth in Schedule "C" attached to and made a part of this Declaration.

6. A plat entitled _____, depicting the real property in which the estate is being taken is attached as Schedule "D" and made a part of this Declaration.

7. The gross sum estimated by me as just compensation for the taking of all the land,

which 7/ aggregates _____ acres, more or less, including any and all interest taken in
it 8/ is _____ (\$ _____),
which sum I cause to be deposited in the Registry of the Court for the use and benefit of the
persons or entities who or which are entitled to it. I am of the opinion that the ultimate award for
the real property rights probably will be within limits prescribed by law on their price.

IN WITNESS WHEREOF, the Plaintiff has caused this Declaration to be signed this
9/ _____ day of _____, _____, in the County of
10/ _____, _____.

THE UNITED STATES OF AMERICA
By the Assistant Secretary of the Navy

11/

By: _____

12/

Assistant Secretary (Installations & Environment)

APPENDIX 11-D

SCHEDULE "A"

AUTHORITY FOR THE TAKING:

The authority for the taking of the land derives from and in accordance with the Act of Congress approved February 26, 1931 (40 U.S.C. § 258a)**, and supplementary and amendatory acts, Act of Congress approved August 1, 1888 (40 U.S.C. § 257), and under the further authority of the Act of congress approved

13/ _____, _____ (Public Law _____ - _____), which authorizes the acquisition of 14/ land required for military purposes for _____
15/ at the _____,
using funds previously appropriated for those purposes.

PUBLIC USES:

The public uses for which the real property is taken are for military purposes in 16/ connection with _____, and for other uses that may be authorized by Congress or by Executive Order.

** For Declarations of Taking filed in the District of Columbia, use the following citation in lieu of 46 Stat. 1421, (40 U.S.C. § 258a):

“45 Stat. 1415; District of Columbia Code 16-628”

APPENDIX 11-E

**SCHEDULE "B"
LEGAL DESCRIPTION OF PROPERTY**

17/

11-E1

APPENDIX 11-F

SCHEDULE "C"

The estate taken in the 18/ _____ acres of land described in Schedule "B" is 19/ _____ - subject to existing easements of record for public roads, public utilities, railroads, and pipelines.

Reserving to the Owners and their assigns 20/ _____

NAME AND ADDRESS OF PURPOTED OWNERS 21/

22/ Parcel _____

NAME AND ADDRESS OF ADDITIONAL PARTIES HAVING OR CLAIMING AN INTEREST IN THE ABOVE PARCEL: 23/

24/ ESTIMATED JUST COMPENSATION FOR PARCEL NO. _____ : \$ _____

APPENDIX 11-G

DEPARTMENT OF JUSTICE

**PORTION OF ENVIRONMENT AND NATURAL RESOURCES DIVISION
DIRECTIVE NO. 7-76 AS AMENDED
BY DIRECTIVE NO. 16-78**

**REDELEGATION OF AUTHORITY TO COMPROMISE
ENVIRONMENT AND NATURAL RESOURCES DIVISION CASES**

This directive supersedes Land and Natural Resources Directives Nos. 4-72. and 5-72. By virtue of the authority vested in me by Part 0 of Title 28 of the Code of Federal Regulations, and particularly sections 0.65, 0.160, 0.162, 0.164, 0.166, and 0.168 thereof, I hereby redelegate to the United States Attorneys the following authority to compromise Environment and Natural Resources Division cases:

* * *

SECTION II - AUTHORITY TO COMPROMISE, DISMISS, OR CLOSE CASES

* * *

C. Delegations to United States Attorneys

* * *

3. Compromise of Condemnation Cases. (a) Subject to the limitation imposed in Paragraph D of this section, United States Attorneys are hereby authorized, without prior approval of the Environment and Natural Resources Division, to accept or reject offers in compromise of claims against the United States for just compensation in condemnation proceedings in any case in which

(i) The gross amount of the proposed settlement does not exceed \$500,000; and

(ii) The settlement is approved in writing (the written approval to be retained in the file of the United States Attorney concerned) by the authorized field representative of the acquiring agency if the amount of the settlement exceeds the amount deposited with the declaration of the taking as to the particular tract of land involved; and

(iii) The amount of the settlement is compatible with the sound appraisal, or appraisals, upon which the United States would rely as evidence in the event of trial, due regard being had for probable minimum trial costs and risk; and

(iv) The case does not involve the reversion of any land or improvements or any interest, or interests, in land under the Act of October 21, 1942 (40 U.S.C. § 258(f).3(b)). When a United States Attorney has settled a condemnation proceeding under the authority conferred upon

Him/her by the foregoing subparagraph, he/she shall promptly secure the entry of judgment and distribution of the award, and shall take all other steps necessary to dispose of the matter completely. The United States Attorney concerned shall also immediately forward to the Department a report, in the form of a letter or memorandum, bearing his/her signature or indicating his/her personal approval, stating the action taken, and containing an adequate statement of the applicable reasons. In routine cases, a form containing the minimum elements of the required report may be used in lieu of a letter of memorandum. In any case, special care shall be taken to see that the report contains a statement about what the valuation testimony of the United States would have been if the case had been tried.

D. Limitations of Delegations. The authority to compromise, close or dismiss cases delegated by Paragraphs A, B, and C of this section may not be exercised when,

(a) For any reason, the compromise of a particular claim, as a practical matter, will control or adversely influence the disposition of other claims totaling more than the respective amounts designated above.

(b) Because a novel question of law or a question of policy is presented, or for any other reason, the offer should, in the opinion of the officer or employee concerned, receive the personal attention of the Assistant Attorney General in charge of the Environment and Natural Resources Division; and

(c) The agency or agencies involved are opposed to the proposed closing or dismissal of a case, or acceptance or rejection of the offer in compromise.

If any of the conditions listed above exist, the matter shall be submitted for resolution to the Assistant Attorney General in charge of the Environment and Natural Resources Division.

28 C.F.R. pt. 0-69

11-G2

APPENDIX 11-H

APPROVED WORDING FOR VARIOUS ESTATES IN LAND

1. **Fee.** The fee simple title (to Parcel Numbers _____, _____, and _____), subject however, to existing easements for public roads and highways, public utilities, railroads, and pipelines.

2. **Flowage Easement.** The perpetual right, power, privilege, and easement occasionally to overflow, flood, and submerge (the land described in Exhibit "A") (Parcel Nos. _____, _____ and _____) (and to maintain mosquito control) in connection with the operation and maintenance of the _____ project as authorized by the Act of Congress approved _____, and to operate the project in a manner that will fulfill the purposes of its construction and other purposes that may develop in the future and do not greatly vary from present purposes, together with all right, title, and interest in and to the structures and improvements now situated on the land (excepting (here, or in attached list, identify those structures not designed for human habitation which, the project representative determines, may remain on the land); provided that no structures for human habitation shall be constructed or maintained on the land except that which may be approved in writing by the representative of the United States in charge of the project; reserving, however, to the landowner(s), his/her/their heirs, personal representatives, and assigns, all rights and privileges that may be used and enjoyed without interfering with or abridging the rights and easements hereby acquired. The above estate is taken subject to existing easements for public roads and highways, public utilities, railroads, and pipelines.

3. **Access Road Easement.** A perpetual and assignable easement(s) to locate, construct, operate, maintain, and repair a roadway and utility lines under, upon, over, and across (the land described in Exhibit "A") (Parcel Nos. _____, _____ and _____), together with the right to trim, cut, fell and remove all trees, underbrush, obstructions, and any other vegetation, structures, or obstacles within the limits of the easement area; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines. Reserving, however, to the landowner(s), (his/her/its/their) heirs, personal representatives, successors, and assigns the right to use the surface of the land as access to his/her/its/their adjoining land.

4. **Borrow Easement.** A perpetual and assignable right and easement to clear, borrow, excavate and remove soil, dirt, and other materials from (the land described in Exhibit "A") (Parcel Nos. _____, _____ and _____), subject to existing easements for public roads and highways, public utilities, railroads and pipelines, and reserving to the owners, their heirs, personal representatives, and assigns all rights and privileges in the land that may be used and enjoyed without interfering with or abridging the right and easement hereby acquired.

5. **Borrow Pit and Spoil Area Easement and Right-of-Way.** The temporary easement for a period not to exceed _____, under, over, and across (the land described in Exhibit "A") (Parcel Nos. _____, and _____) for the purpose of removing borrow material and/or of depositing on it waste material in connection with the construction, operation, and maintenance of _____ project; together with the right to

trim, cut, fell, and remove timber, underbrush, and any other vegetation, structures, or any obstructions or obstacles; reserving, however, to the owners of the land, their heirs, personal representatives, successors, and assigns, all such rights and privileges as may be used and enjoyed without interfering with or abridging the rights and easements hereby acquired; the above estate is taken subject to existing easements for public roads and highways, public utilities, railroads, and pipelines.

6. Drainage Ditch Easement. A perpetual and assignable easement under, over, and across (the land described in Exhibit "A") (Parcel Nos. _____, _____ and _____), to construct, maintain, repair, operate, patrol, and replace a drainage ditch; subject, however, to existing easements for public roads and highways, public utilities, railroads, and pipelines.

7. Extinguishment of Rights in Cemetery. All outstanding right, title and interest (in the land described in Exhibit "A") (Parcel Nos. _____, _____ and _____), subject to existing easements for public roads and highways, public utilities, railroads, and pipelines.

8. Leasehold Estate for Unimproved Land. A term for years ending June 30, ____, extendible for yearly periods thereafter at the election of the United States until June 30, ____, notice of which election shall be filed in the proceeding at least thirty (30) days prior to the end of the term hereby taken, or subsequent extensions, together with the right to remove, within a reasonable time after the expiration of the term taken, or any extension, any and all improvements and structures placed thereon by or for the United States; subject, however, to existing easements for public roads and highways, public utilities, railroads, and pipelines.

9. Moratorium on Outstanding Minerals. The free and unrestricted use of (the land described in Exhibit _____) (Parcel Nos. _____, _____ and _____) free and clear of all rights of ingress and egress or all use of the surface thereof for any and all purposes, including exploration or removing oil, gas and other minerals therefrom for a period of _____ years, or for such shorter periods as may be determined by the Secretary of the _____; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

10. Railroad Easement. A perpetual and assignable easement in, on, over, and across (the land described in Exhibit "A") (Parcel Nos. _____, _____ and _____) for the location, construction, operation, maintenance, replacement, and/or removal of a railroad and appurtenances in connection with _____ project; together with the right to trim, cut, fell, and remove underbrush, obstructions, and any other vegetation, structures, or obstacles within the limits of the easement area; reserving, however, to the landowners, their heirs, personal representatives, administrators, successors, and assigns, all right, title, interest and privileges that may be used and enjoyed without interfering with or abridging the rights hereby taken for public use. The above estate is taken subject to existing easements for public roads and highways, public utilities, railroads, and pipelines.

11. Road Easement. A perpetual and assignable easement in, on, over and across (the land described in Exhibit "A") (Parcel Nos. _____, _____ and _____) for the location, construction, operation, maintenance, replacement, and/or removal of roads and highways and appurtenances thereto; together with the right to trim, cut, fel, and remove

11-H2

underbrush, obstructions, and other vegetation, structures, or obstacles within the limits of the easement area; reserving, however, to the landowners, their heirs, personal representatives, successors, and assigns, all right, title, interest, and privileges that may be used and enjoyed without interfering with or abridging the rights hereby acquired by the Government. The above estate is taken subject to existing easements for public roads and highways, public utilities, railroads, and pipelines.

12. Temporary Easement for Exploratory Purpose. An easement, in, across, and over certain land designated and described as Parcel No. _____ for a period of _____ months beginning (date) (or with the date of possession under this proceeding), the estate consisting of the right of the Government, its representatives, agents, and contractors to survey, appraise, conduct test borings, and conduct other exploratory work necessary to the design of a public works project, subject to existing easements for public roads and highways, public utilities, railroads, and pipelines; reserving, however, to the landowners, their heirs, personal representatives, successors, and assigns all right, title, interest and privilege that may be used and enjoyed without interfering with or abridging the rights being acquired.

13. Utilities and/or Drainage Easements. A perpetual and assignable easement(s) to locate, construct, operate, maintain, repair, replace, patrol, and remove utilities (specifically name them) and/or drainage easements (specifically name them) under, upon, over, and across (the land described in Exhibit "A" (Parcel Nos. _____, _____ and _____)), together with the right to trim, cut, fell, and remove therefrom all trees, underbrush, obstructions, and any other vegetation, structures, or obstacles within the limits of the easement area; subject, however, to existing easements for public roads and highways, public utilities, railroads, and pipelines; reserving, however, to the landowner(s), (his/her/its/their) heirs, personal representatives, successors and assigns all right, title, interest, and privileges that may be exercised and enjoyed without interference with or abridgment of the easement(s) and right(s) hereby taken for public uses.

NOTE: The above described estates are reproduced from Department of Justice "Procedural Guide for the Acquisition of Real Properties by Government Agencies" (1972).

11-H3