

**Forest Service Manual
National Headquarters - Washington Office
Washington, DC**

Forest Service Manual 5409.13 – Land Acquisition Handbook

Chapter 70 - Condemnation

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Approved by: F. Dale Robertson, Chief

Date approved:

Responsible Staff:

Explanation of changes: Following is an explanation of the changes throughout the directive by section.

This amendment is a reissuance of FSH 5409.13 to conform the format and structure of the Handbook to the requirements of electronic directive issuance.

This amendment makes no substantive changes to the text. The only changes made are those necessary to meet new format requirements or to correct spelling, punctuation, or unit names.

This Handbook is now available electronically in the National Information Center in the same format as the paper copy. Henceforth, amendments to this Handbook will be issued to Forest Service units electronically on a document basis.

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71 - Basics of Condemnation

Federal law governs all aspects of Forest Service condemnation, and Federal courts process the cases. Rule 71A of the Federal Rules of Civil Procedure and the rules of the United States district courts govern the procedure for the condemnation of real and personal property.

71.1 - Condemnation Methods

There are two methods by which the Federal Government condemns property. One method involves filing a declaration of taking under the Act of February 26, 1931, along with the regular condemnation action (FSM 5481). The second method does not involve a declaration of taking and is commonly referred to as straight condemnation.

71.11 - With Declaration of Taking

Normally, the Forest Service uses a declaration of taking in condemnations because it accomplishes the following:

1. Vests title to the property in the Government by operation of law, without a court order or decree.
2. Gives the Government the right to possession.
3. Relieves the Government from paying interest on the deposited sum from the date of taking to the date of final judgment.
4. Gives the owner the right to withdraw and use the deposit.
5. Fixes the valuation date as the date of taking.

After the title vests in the United States, only a quitclaim deed or stipulation and appropriate order or judgment from the court can revest the title (sec. 73.8).

71.12 - Without Declaration of Taking

When there is no declaration of taking filed with the complaint, title does not vest in the United States until completion of the proceedings and payment of the award fixed by the court (sec. 73.2).

If immediate possession of the property is necessary, the court can give the Government possession before vesting of the title by issuing an order of delivery of possession. Base the recommended date of possession on an analysis that includes consideration of section 301 (4 and 5) of Public Law 91-646. Under this procedure, the Government pays interest on the full amount of the award from the date of possession to the date of payment.

The Government can dismiss the condemnation action at any time before taking possession or before title vests in the United States; however, once title vests in the Government, the court can only dismiss the case by stipulation accompanied by a judgment or court order. However, under Public Law 91-646, the Government must reimburse the landowner's litigation expenses if the court dismisses or abandons the action.

71.2 - Principal Steps in Condemnation Process

Exhibit 01 summarizes the principal steps and gives the responsible office in the condemnation process for acquiring land or easements, enforcing options, or clearing title. Assignment of responsibility for steps 1 through 4 may vary depending upon the Regional Forester's instructions.

The report (sec. 72.31) under step 2 of exhibit 01 can vary, depending on the class (sec. 71.5) of condemnation the Government undertakes. If the landowner appeals the case, it remains open (sec. 75.5).

71.2 - Exhibit 01

	Forest Supervisor	Regional Forester	Regional Attorney	Chief	Washington OGC	Secretary	Dept. of Justice	U.S. Attorney	Court
1. Assemble title information.	X								
2. Prepare condemnation report.	X								
3. Prepare written description and plat.	X								
4. Transmit case to Regional Forester.	X								
5. Review and approve report.		X							
6. Transmit case to Regional Attorney for legal review.		X							
7. Prepare title opinion.			X						
8. Draft declaration of taking and letter of transmittal from Secretary to the Attorney General.			X						
9. Return case to Regional Forester.			X						
10. Review draft declaration of taking, letter to the Attorney General and other case material and send case to Chief with request for condemnation.		X							
11. Review case, draft explanatory letter to the Secretary recommending condemnation, and forward case to Office of the General Counsel (OGC).			X						

71.2 - Exhibit 01 -- Continued

	Forest Supervisor	Regional Forester	Regional Attorney	Chief	Washington OGC	Secretary	Dept. of Justice	U.S. Attorney	Court
12. Review letter of Transmittal from Secretary to Department of Justice and legal documents and forward case to Secretary.					X				
13. Sign declaration of taking and letter to the Attorney General.						X			
14. Transmit case to Department of Justice.					X				
15. Send certified copy and two additional copies of letter of transmittal and declaration of taking to Regional Forester.				X					
16. Notify Forest Supervisor that declaration of taking has been signed.		X							
17. Deposit voucher in favor of clerk of the appropriate court and have it sent to U.S. Attorney. Send copies of schedules A & B to U.S. Attorney through Regional Attorney.	X	X							
18. Send case to U.S. Attorney							X		

71.2 - Exhibit 01 -- Continued

	Forest Supervisor	Regional Forester	Regional Attorney	Chief	Washington OGC	Secretary	Dept. of Justice	U.S. Attorney	Court
19. Prepare documents -- complaint, order for delivery of possession, and notice.								X	
20. File documents, including declaration of taking, and deposit check with court.								X	
21. Deliver possession to Forest Service.									X
22. Notify Regional Attorney that notice has been served on all parties (Regional Attorney informs the Forest Service.)								X	
23. Notify Forest Supervisor that notice has been served on all parties.		X							
24. Inform Attorney General that complaint has been filed.								X	
25. Inform Secretary and OGC that complaint has been filed (OGC informs Forest Service).							X		
26. Complete final certificate of possession and send copies to Regional Forester.	X								

71.2 - Exhibit 01 -- Continued

	Forest Supervisor	Regional Forester	Regional Attorney	Chief	Washington OGC	Secretary	Dept. of Justice	U.S. Attorney	Court
27. Have title evidence extended so it covers the United States from the date title was vested and send copies to Regional Forester.	X								
28. Award just compensation.									
29. Make agency recommendation on appeal of awards.				X					X
30. Voucher check and have it sent to U.S. Attorney for payment of award or deficiency.	X	X							
31. Issue final title opinion.							X		
32. Post status records.		X							

71.3 - Reasons for Condemning

The need for condemnation usually arises because:

1. The owner refuses to sell, at an acceptable price, property that is necessary for an authorized program or project or to protect valuable National Forest resources, or the landowner insists on conditions that are unacceptable to the Government.
2. The Government needs a more acceptable title than the owner holds.
3. The owner is unable to convey rights in the property.
4. The owner refuses to convey property in accordance with the option accepted by an authorized officer of the Government.
5. The owner refuses permission for access to the land for survey, appraisal, or other similar purposes.
6. There is a need to clear defects in the Government's title.

71.4 - Prerequisites To Initiate Condemnation

Before initiating condemnation action:

1. Verify that there is legislation authorizing acquisition of the property.
2. Ensure that the taking is for public use or protection of public resources. It can be assumed that all Forest Service programs and projects meet the legal requirements of public use.
3. Confirm that funds are available to pay any probable award by the court.
4. Obtain the Chief's prior approval for land acquisition and conservation easement cases (FSM 5480.3).
5. Ensure compliance with Public Law 91-646, National Environmental Policy Act, and the laws, Executive orders, regulations, and guidelines pertaining to real property acquisition by the United States.

71.5 - Condemnation Classes

For use in this chapter, condemnation cases are grouped into three major classes:

1. Acquiring real property.
2. Taking temporary possession for a limited use.

3. Clearing title or enforcing options.

71.51 - Acquiring Real Property

The condemnation cases under the classification of acquiring real property involve mandatory acquisitions where the landowner refuses to sell under acceptable terms and conditions property the Government needs for a specific, important public purpose (sec. 72.1).

Acquisitions of real property can be in either fee or some lesser estate.

1. Procedure. Usually, the request for condemnation originates at the forest level, and the Forest Supervisor is responsible for preparing the written report, property description, survey plat, and possibly the appraisal. Except in unusual circumstances, initiate condemnation with a declaration of taking (sec. 71.11).

2. Appraisal. See FSM 5404 for the appraisal approval delegations. However, since the Director of Lands, Washington Office, examines all condemnation cases for adequacy of appraisal techniques and procedures before their transmission to the Secretary and the Department of Justice, send all appraisals for condemnation for review while preparing the condemnation report to avoid later delays.

After a condemnation case has been submitted to the U.S. Attorney, the Regional Forester may approve a supplemental, revised, or updated appraisal if it meets all of the following conditions:

- a. The value of the whole property (larger parcel) is less than \$100,000 or the Director of Lands, Washington Office, approved the original appraisal.
- b. There has been no change in the estate.
- c. There is no change in the original appraisal premise or the appraisal approach.
- d. There is no change in the highest and best use.
- e. The updated or new value estimate does not exceed by more than 30 percent the value cited in the original appraisal report.
- f. No more than 2 years have passed since the original value estimate. (A period longer than 2 years requires a new appraisal, not an update.)

Supplemental, revised, or updated appraisals that do not meet all of these six conditions must receive approval from the Director of Lands, Washington Office, before being sent to the U.S. Attorney.

3. Report. Prepare a written report to support the recommendation to condemn, stating the circumstances justifying the proposed action (sec. 72.31).

71.51a - Tracts of Land in Fee

A tract can consist of all or part of the contiguous property in the ownership. The Government may acquire road rights-of-way as tracts in fee in the special situations discussed in FSM 5461.03a.

71.51b - Road and Trail Easements

The Government acquires interest in land for a road or trail by easement. Generally the easement includes the right to construct, reconstruct, improve, use, control, and maintain the road or trail, and may carry the right to clear timber, crops, and improvements from the right-of-way for construction of the facility. The road or trail may occupy the entire right-of-way or only a part of it. Even though the Government has only an easement over the land, if the deed contains the proper estate language, the Government is the sole owner of any facility it builds on the easement.

71.51c - Conservation Easements

The interests the Government acquires in a conservation easement are positive, negative, or a combination of both. The positive interest gives the Government the right to enter and use or maintain the property for specific uses. The negative interest limits the way the landowner may use or develop the property.

71.52 - Taking Temporary Possession for Limited Use

The United States can acquire rights of possession for a specified time to perform examinations, surveys, appraisals, or to conduct feasibility studies. The Government can condemn these rights if they cannot be obtained by negotiations. Limit such temporary possession to the rights of ingress and egress and short-term use of the property for conducting necessary work. In these cases restore or rehabilitate the property to substantially the same condition as before entry.

1. Procedure. When a landowner does not permit the Forest Service or its contractors to enter the property for the purpose of doing work, the Forest Supervisor initiates a request for the filing of a complaint (Sec. 71.71). Either obtain an order for temporary possession of a limited estate or file a declaration of taking. The term of possession is usually for a specific number of days beginning with the date of filing. Usually the Forest Service does not use a declaration of taking.

After completion of the work and expiration of the period of possession, it may still be necessary to condemn the land or needed interests if the landowner refuses to sell on acceptable terms and conditions.

2. Appraisal. If uncorrectable damage is likely to occur from use of the property, make an appraisal to estimate the damage. In this case consider filing a declaration of taking so the appraised amount could be deposited with the court. Later, when the actual extent of damage is known, supplement the appraisal with the exact figures.

If the property is not expected to suffer damage, an appraisal is not necessary to initiate condemnation. Deposit one dollar with the court, and an order for temporary possession of a limited estate will probably be issued.

3. Report. Prepare a written report to support the recommendation to condemn, stating the circumstances involved and justifying the proposed action (sec. 72.31). Usually, the report is not as detailed as the report for the acquisition of real property.

71.53 - Clearing Title or Enforcing Options

This class involves cases in which the landowner has executed either a deed or option that grants or obligates the landowner to grant certain property rights to the Government. The rights may be either a partial interest or fee.

If the title has defects that the responsible party (landowner or Government) has not cured, and the Attorney General does not waive the defects, the Secretary of Agriculture can condemn the property to clear title. Undertake condemnation only after all other reasonable efforts to clear title fail.

When the landowner executes an option that an authorized Government official accepts, the option becomes a binding contract for the landowner to sell. If the landowner refuses to honor the terms of the option, the Government usually condemns to acquire the property rights.

1. Procedure. Before requesting condemnation, submit all pertinent facts to the Regional Attorney for review and advice. The Regional Attorney makes all decisions about title and legal matters. The Regional Attorney also informs the Regional Forester when condemnation is necessary. The Regional Forester initiates the condemnation action by preparing the condemnation report and recommending the case to the Director of Lands, Washington Office. Ordinarily, use a declaration of taking.

Before submitting a request to enforce an option, submit items a through c, through the Chief, for Department of Justice review:

- a. A current statement from the negotiator indicating the actions leading to execution of the option, including any statements to the owner about price.
- b. The name and telephone number of the individual who would testify about the option at a hearing and the substance of the testimony.
- c. A copy of the accepted option.

When the Department of Justice determines that the option is enforceable, prepare and transmit the condemnation report and recommendation. This submission is not necessary when condemnation is recommended to clear title.

2. Appraisal. The Secretary's estimate of just compensation is the amount cited in the deed or option. Because the selling price is already confirmed, an appraisal is not necessary to support the amount the Government deposits with the court at the time of filing. However, be prepared to furnish a copy of the appraisal if the U.S. Attorney requests it.

3. Report. Prepare a brief report to support the recommendation to condemn (sec. 72.31). In this case the Government has already decided to purchase the property, therefore, condemnation completes the action already taken and approved by both parties.

71.53a - Easement Acquisitions

When there is a defect in the title, condemnation for easement acquisition probably is unnecessary. Generally, the Regional Attorneys approve the title to easements subject to those infirmities that, in their opinion, are not likely to jeopardize the interests of the United States.

Regional Attorneys usually submit doubtful cases for title approval to the Attorney General, through the Washington Office of the General Counsel, accompanied by a request for waiver of the title defect, rather than have the Regional Forester prepare the case for condemnation. For a discussion of additional material necessary for the title assembly, see FSH 5409.17, chapter 20, for road easements, and FSM 5440 for conservation easements. If the Attorney General does not approve the title, the case can go to condemnation.

71.53b - Land-for-Land Exchanges and Donations

For policy about the use of condemnation to clear title in land exchanges, see FSM 5437.3; in donations of land, see FSM 5425.4.

71.6 - Estate To Be Taken

In a condemnation proceeding, take all the interests needed in accordance with law and congressional direction. Do not attempt to acquire by condemnation those interests or rights which the Government may not acquire later by voluntary conveyance. Obtain voluntary conveyance interests before filing the condemnation.

Describe the estate clearly and concisely to facilitate both the appraisal and the trial. Incorporate the estate into the declaration of taking format used by the U.S. Attorney handling the case. Base any appraisal on the exact estate cited in the declaration of taking; make sure the appraiser understands the rights, controls, and limitations of both the Government and the landowner.

After receiving advice about administrative needs from the Regional Forester, the Regional Attorney drafts the estate to be taken. Where standard estate language is available, the Regional Forester may draft this standard estate language for review and approval by the Regional Attorney. The estate normally acquires for the Government

the same interests that were the basis of negotiation with the landowner. Any significant difference may indicate that the landowner did not receive the benefit of negotiating the exact interests the Government needed.

71.61 - Tracts of Land in Fee

When the United States accepts an option and condemnation is necessary to enforce its terms or to clear title, the estate taken must coincide with the estate the option describes. For cases in which the Regional Forester recommends condemnation for acquiring property which the owner is unwilling to sell, the estate taken must be sufficient to meet the present and future management objectives and to protect the property from unacceptable damage from the exercise of outstanding rights. For example, the Government would acquire the third-party mineral interest involving a bed of strippable coal when the tract of land is necessary for an administrative site. In all instances, recommend condemnation only after making all reasonable efforts to contact the various owners and negotiate the purchase of all the needed interests in the property.

71.62 - Road and Trail Easements

71.62a - Basic Estate for All Road Easements

Use the Department of Justice standard wording for the estate the Government is to take in these easements. Vary the wording only to reflect factual changes for each particular case.

The estate hereby taken for public use is (a) a perpetual exclusive easement to construct, reconstruct, improve, use, control, and maintain a road for all lawful purposes by the United States of America and its assigns, including contractors, licensees, permittees, and easement grantees, and (b) the title to all timber now or hereafter growing on the lands within the easement, together with the right to clear the easement of the timber and to keep the same clear and to dispose of such timber bysale or other means for the use and benefit of the United States, subject to:

1. The right of the servient landowners to use the roads, or any segment thereof, subject only to:

(a) Compliance with traffic control regulations and rules as provided in 36 CFR 261.12, and

(b) The bearing of road maintenance costs proportionate to use as provided in 36 CFR 212.7(d).

2. The right of adjacent landowners to cross and recross the easements and roads at any place by reasonable means and for any purpose in such manner as will not unreasonably interfere with use of the roads by the United States, its authorized users, and assigns.

In the event the Regional Forester determines that the road, or any segment thereof, is no longer needed, the easement traversed thereby shall terminate. The termination shall be evidenced by a statement in recordable form furnished by the appropriate Regional Forester to the Grantors or their successor in interest.

If more than one easement is involved, refer to the estate in the plural form. If the land does not have commercial timber or the potential for producing commercial timber, it is permissible to omit clause b (sec. 71.62c).

71.62b - Right of Use

The basic estate allows the landowner to use the road on the easement. If the owner of the land crossed by the easement is likely to use the road for commercial hauling, the appraiser shall reflect this benefit in the appraisal.

If the road is necessary for or in any way enhances the operation or use of the property for its highest and best use, such as by providing access to the property or relieving the owner of construction costs or the burden of maintenance, the appraiser must reflect these benefits in the appraisal.

Include paragraph 1, section 71.62a, in the estate except when there are outstanding rights in third parties. If there are contractual or established nonexclusive rights in third parties to use the existing roads and the Forest Service intends to allow those parties the right to continue to use the road, change paragraph 1 to read:

1. The right of any person, firm, or corporation, or their successors-in-interest, having a present right to use any existing roads or segments thereof, to continue to exercise such right to use said roads, or segments thereof, subject only to:

Ordinarily, do not use the above paragraph to subject the estate to possible outstanding rights in individuals or the general public that are not documented by contracts, deeds, or other written instruments. When changes occur in third parties' rights as a result of traffic laws and maintenance requirements, ensure that the third parties are named in the action. Make an appraisal to determine the compensation, if any, due those parties.

Outstanding rights may be appurtenant to lands other than the lands the Forest Service easement crosses. Consider all of the property as the larger parcel in the appraisal.

If an exclusive right to use any segment of the road exists, determine the effect of the outstanding rights on the proposed condemnation action. If the rights the Forest Service needs are vested in the easement holder, the easement holder may be the principal defendant instead of the servient landowner. In any event, appraise the effect of the Forest Service taking on the outstanding rights.

71.62c - Timber on Easement

When there is commercial timber on the road or trail right-of-way easement, word the estate so the United States acquires title to "all timber now or hereafter growing." This phrase also applies to timber-producing land not currently supporting merchantable timber. Because it is difficult to satisfy the court that the landowner can recover the value of timber cut in construction of the road but left in the landowner's possession, the final award usually includes its value.

When there is no commercial timber on the easement and it is not likely to have any in the future, do not word the estate to give the United States title to the timber; for example, an easement that crosses rangeland containing only sagebrush and grass and possibly some noncommercial timber, such as juniper.

To take only part of the timber and leave the rest with the landowner is an unacceptable alternative in condemnation. The Forest Service shall take all of the timber in condemnation actions because any timber not removed in the initial construction could not be removed later in the reconstruction, improvement, maintenance, or protection of the road without the landowner's permission. If such permission were unobtainable, condemnation action could be necessary to acquire title to a few trees.

71.62d - Right To Cross and Recross

Do not interpret the right to cross and recross the easements, as cited in paragraph 2, section 71.62a, as an unqualified right to interfere with use of the road or to damage or destroy it in the exercise of this right. Also do not misconstrue the qualification "as will not unreasonably interfere" as cancelling or prohibiting the right to cross and recross. Consider the reservation in its entirety. Follow the practice used by the Forest Service and by private owners on comparable roads in the area as to what is a reasonable exercise of this right. If the practice in similar terrain, on similar roads, is to skid across the road to landings adjacent to the road and later to restore the damage, consider this a reasonable exercise of the right to cross and recross and not an unreasonable interference with the road.

The reason for this language in the estate is to except from the taking and assure the landowner of the common law right to cross the easement and also avoid severing the remaining property into two or more parts with a possible reduction in its value.

71.62e - Crossing Prior Easement

Occasionally the right-of-way needed by the Government must cross or encroach upon an easement that a third party owns. In most cases, the prior easement serves a road, powerline, telephone line, or pipeline. When administratively acceptable, as determined by the Regional Attorney and Regional Lands Staff, the Government's right-of-way may be taken subject to the prior easement. Specifically identify the prior easement in the estate by the type of grant, grantee, date, and recording information. Avoid using general language such as "Easements, if any, for existing public roads and public

utilities. . . ." Do not identify the prior easement in those cases where the Government's right-of-way is close to, but does not actually encroach on a prior easement.

Arrange with the owner of a prior easement to remedy any interference that would result from construction and use of the road. Obtain a letter of consent or agreement from the easement holder. See FSH 5409.17, chapter 20, for specific information about this subject. If the easement holder does not consent, if the parties cannot reach an agreement, or if exercise of this prior easement would interfere with the purpose for which the Government is acquiring the right-of-way, name the owner of the easement as a defendant in any condemnation action.

When there are no identifiable prior easements that the Government's right-of-way crosses, make no mention of this in the estate.

71.62f - Mineral Interests

Where the surface owner owns the mineral rights, acquisition of an easement subordinates mineral activity on the fee estate. In the case of outstanding mineral rights, name the mineral owners as parties defendant to subordinate their mineral interests. Remember that the objective is to protect the public use and investment on the right-of-way, not to prohibit mineral operations. Mineral activities that do not damage the road or interfere with its use should not be affected by the acquired estate. Carefully coordinate with the Regional Attorney rights-of-way acquisitions involving outstanding mineral rights.

If it is evident that the right-of-way is likely to cross land containing valuable minerals and the road may interfere with mining operations, it may be administratively acceptable, as determined by the Regional Attorney and Regional Lands Staff, to take the right-of-way subject to the mineral interests or to take an interruptible easement. The Regional Lands Staff determines whether the Government's interest or the mineral interest should be superior based on the facts in each case including probable cost, the amount of investment, and the risk.

71.7 - Legal Documents

The declaration of taking is a legal document enabling the Government to take possession and title of property in advance of final judgment.

71.71 - Complaint

The complaint is a legal document prepared by the Department of Justice containing (1) the nature of the action, (2) the statutory authority, (3) the use for which the property is to be taken, (4) the interests to be acquired, (5) the property description, and (6) the persons who have or may have an interest in the property.

Legal action for condemnation begins when the U.S. Attorney files the complaint in the United States District Court. At this time the case receives a civil identification number.

71.72 - Order for Delivery of Possession

The court issues an order stating the date the landowner shall surrender the property to the Government. Recommendations for the date of possession must be consistent with section 301 (4 & 5) of P.L. 91-646 (see sec. 73.31).

When the Government does not request that a declaration of taking be used, although the order grants possession, the Government does not obtain title until the court determines just compensation and issues a final judgment.

71.73 - Notice

When filing the complaint the U.S. Attorney delivers to the court joint or separate notices directed to the defendants in the complaint. Ask the U.S. Attorney to notify the Regional Forester as soon as notice has been served on all defendants. The Regional Forester then notifies the Forest to take possession when the court grants it.

71.74 - Lis Pendens

Lis Pendens is a notice informing the public that title to certain property is in litigation and that the United States has filed an action against the defendant to condemn an interest in land. The U.S. Attorney decides if a Lis Pendens is needed.

71.75 - Answer

The answer by the defendant challenges the right of the Government to take the property, objecting to or defending the taking of the property.

If the defendant does not file an answer or if the allegations in an answer are not upheld by the court, the right to a trial on the issue of just compensation is not affected. At the trial the defendant may present evidence concerning the amount of compensation and share in the distribution of the award.

71.8 - Rules of Compensation

71.81 - Court Power To Determine Compensation

The fifth amendment to the Constitution requires the payment of just compensation, but does not define it. In the absence of legislative direction, the court determines what is just compensation and what rules apply.

71.82 - Just Compensation

To comply with constitutional mandates, the court awards just compensation to the property owner. Just compensation represents the full equivalent in money of the taken property, considering the value of damages and benefits to any remaining property.

Just compensation does not include all losses a landowner may suffer, but includes only those elements of damage that the courts recognize as compensable. Generally just

compensation need not include consequential or speculative damages or costs incurred by the property owner as a result of the taking. In partial takings, just compensation reflects not only the value of the part taken, but also the value of offsetting benefits and damages to the remaining property (sec. 71.83b).

71.83 - Determining Just Compensation

The courts use the fair market value concept to determine just compensation. Market value represents something tangible and transferable from one individual to another. Only that value inherent in the property is subject to compensation.

Use the definition of market value in the Uniform Appraisal Standards for Federal Land Acquisitions prepared by the Interagency Land Acquisition Conference. That document defines market value as the amount in cash, or on terms reasonably equivalent to cash, for which in all probability the property would be sold by a knowledgeable owner willing but not obligated to sell to a knowledgeable purchaser who desires but is not obligated to buy.

For all practical purposes, market value and just compensation are equivalent.

For information about valuing property rights, see FSM 5410.

71.83a - Whole Property

When the Government acquires an entire property for public use, the appraiser estimates the value using standard appraisal methods.

71.83b - Partial Taking

When the Government acquires part of a property for public use, the appraiser determines the value of the entire property and the value of the remaining real property after the acquisition. The difference is just compensation for the acquired real property.