

# Rural Settings

## Valuation of Partial Acquisitions and Damages

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**A**s an appraiser who values partial property acquisitions and their associated damages, I have faced a myriad of challenges in the acquisition of new land rights. Whether the acquisition is for a state agency, a county, a regional public entity or a utility company, there are usually similarities in the process. Of particular interest are those rural appraisal projects that involve the acquisition of partial property rights or all the rights on a portion of the property.

While some assignments may appear quite simple at first glance, the potential impacts to value should be closely examined to ensure a thorough and defensible report. Often times, additional effort and research above and beyond the initial property inspection is required. Before starting an assignment, it's important to identify the entire project scope. For example, an appraiser may want to allocate time for meeting with the landowner to explain the appraisal process and the landowner's rights. Taking photos, documenting findings and finding comparable properties deemed appropriate to the assignment all take time. By anticipating this up front, a more accurate bid for the client is ensured, and potential frustration can be avoided in the event the assignment requires extra effort.

Public acquisitions of property rights can be fee title or a permanent easement and may require a variety or combination of land rights from a landowner. A temporary easement is typically requested in situations where construction activity or access to the work area is needed, to store equipment/materials or utilize bore equipment that can minimize impacts. If necessary, other rights can also be acquired to meet the specific needs of the project and maintain public safety once improvements are in place.

In some project expansions, the prior land rights may have been obtained by prescriptive rights or as permanent easement, and the new acquisition is in fee title. The differences in the land rights acquired may accordingly require some augmentation of the prior land right acquired in order to establish a title, whereby all the land rights are consistent with one another (i.e., convert prior permanent easements to fee title along with new fee title land acquisitions). When the rights acquired take part of a property, it is deemed a partial acquisition and the remainder may have some or no damages imposed on it from the acquisition. A partial acquisition assumes that there is a viable economic interest in the "after" acquisition condition. If there is no viable remainder, what is left is deemed to be an uneconomic remnant, and the acquisition should be

considered as a total take. In such a situation, there are either insignificant or no rights remaining for the landowner.

### Consideration for Damages

When fee title or a permanent easement is taken from a rural property that is producing crops or livestock, considerations must be made for any damages caused to the remaining property. Impacts might include the disbursement of gravel or rocks into a nearby adjacent field, damage to fences and the need to install short-term temporary fencing for livestock, the loss of agricultural improvements, such as drain tile or lift stations to remove water from fields, saturation or inundation of soils from revised drainage systems and new ponds, excessive or insufficient soil compaction impacts, mixing poor mineral soils with prime organic cultivated soils, loss of field access driveways, loss of access between fields, triangulation concerns and loss of economy of scale, production loss due to the establishment of additional end rows or grade changes and the list goes on.

In more urban areas, projects may require the appraiser to find comparable properties that include corporate business campus settings, heavy industrial sites, parks and commercial malls. Agricultural settings provide a completely different array of uses to consider. Such uses might include livestock feedlots, indoor hog or poultry operations, commercial sites, industrial sites, ethanol production, cold storage, saw mills, pulp or hardwood timber production operations, crop production, mining activity or aquatic operations. In this article, I will address the potential use considerations to crop and livestock production within a standard farm setting.

Each rural appraisal project will likely have some unusual features to analyze, even if at first glance the project appears to traverse an area comprised of similar uses. When assigned to determine a range in land values for a pipeline expansion, the values varied substantially depending upon the type of land traversed (based on soil types, uses and vegetation cover), the uses and parcel sizes. When the parcel sizes and soil types were relatively consistent in a county, the primary consideration of value was the land size. If the uses varied substantially, then use was more closely scrutinized in addition to parcel size.

When the pipeline passed by municipalities, the land near these communities had a higher use potential and the highest and best use analysis needed to be

examined more closely. In some instances, soil types changed dramatically in a short distance, which in turn affected productivity and value. An appraisal must identify such changes, the effect of such changes, and the rationale of why such changes impact value.

When new ponds are added to reduce water runoff from a proposed project, proper planning is appreciated by those concerned. Such efforts attempt to contain sedimentation, diminish impacts from saline mixtures and restrict nutrient excess from flowing into rivers and lakes. Still, the local impacts can be substantial. Where a new pond is planned or new swales are established, there is, in the “after” condition, additional water held in place to allow more infiltration into the soil. This additional soil hydration may impact water retention to the point where land that once supported specific crops can no longer support that plant type. Tile systems that once drained fields may no longer be adequate to carry the additional water that is now retained, and additional changes may be required. Ponds or swales designed to allow or hold back specific storm events can also result in new slopes that no longer allow the cultivation practices previously applied.

If shared wells, lift stations, irrigation systems or other production enhancements must be moved as a result of a project, damages to such infrastructure must be allocated according to an acceptable formula. In particular, attention is required to determine what portion of the replacement must be paid by the project and to the affected landowners. The allocation of costs for improvements can become a complex issue. One example of a shared facility is a sump lift station that moves water from low-elevation farm area to higher



swales that allow a natural flow away from the low areas. Typically, such improvement costs and maintenance are based on who owns a particular area and the amount of contributed runoff collected from that area. With the proposed project may come changes in the existing ponds, swales, and runoff calculations, and a new formula may be needed to determine who will pay for the improvements and continued operation of that infrastructure. This new formula, whether based on area, original allocation of expenses or a prior arrangement, needs to be rationale and defensible.

Now with modern farming practices, farms are larger. The fields are larger and utilized to the fullest extent possible with minimal obstacles (like fences and utilities), avoiding acute angles and minimizing improvements or structures. With the large fields come large pieces of equipment, which cannot be easily hauled across and down highways or through narrow steep field roads. Once in the field, they cannot turn sharp corners, and therefore require large expanses of land to operate. Accordingly, fences cannot be adjusted without some consideration, field road locations must be adequately planned to provide suitable accessibility and triangulation impositions upon each field should be considered.

### Effects on Soil

A revised right of way can effect agricultural improvements such as fences, which may need to be replaced with temporary fences, and permanent fences once the project is complete. Drain tile located in rural farm fields may be crushed, cut, or have a reduced effectiveness once the enclosing soil is trenched, moved or crossed by heavy equipment. For safety reasons, well established field access



roads may need to be moved or eliminated and require landowners to find other access roads. Such changes can hinder the efficiency of the farm operation or even create a marginally valued field.

Cultivated soils or fields that are affected by utility and public projects must be considered in light of the production potential of that soil or field. Soils can be affected by either excessive compaction (which requires a number of years to re-aerate and restore), or insufficient compaction (which requires care when cultivating given the settling). Soils near roadways can be interspersed with rocks brought in from road improvements or mixed with poorer quality soils found under the road. The reduction in crop production on a per-acre basis may be affected by several factors. These could include cultivated areas that receive more or less runoff, or nearby construction equipment that compacts or disturbs the soil for one or several production cycles, changes the grade or effects the field orientation.

When assessing damages, other considerations include reduced efficiency due to an increase in the amount of the perimeter distances resulting from additional angles (and the associated increase in edge rows, inefficiencies, etc.), shading changes, triangulation issues (increased number of corners), two fields where there was once one (loss due to economy of scale) and inaccessibility. There are certainly other considerations that appraisers encounter, but these are the ones most frequently discussed. And while some impacts may only affect crops for one or a few growing seasons, others may impact the production in perpetuity. Damages must be explained accordingly.

### Highway Impact

Highways that can no longer allow continued access rights in a specific project area have enacted controlled access restrictions, and thereby remove existing landowner rights. While such changes perhaps only impact the subject property in a nominal manner, the impact should be examined nonetheless. If there is a road that must be eliminated because of the controlled access, the consequences to the subject property may be more pronounced than if no such access were present.

For a recently planned railroad corridor enhancement and expansion, the railroad corridor improvements had to take into account broken access points between parcels on each side of the railroad. Among other



things, the expansion eliminated some cattle underpasses, severed roads that were used to provide access from the homestead on one side of the tracks to pastures and fields on the other, altered grade changes, eliminated driveways (increasing the drive time for rural homesteads) and moved rails closer to livestock operations. All impacts were considered and addressed in a consistent manner. And while some impacts were deemed compensable, others were non-compensable. Eliminating access between the fields and homesteads, creating substandard field sizes or irregular shapes and determining the impacts to crop production were of particular concern, and were addressed as individual damage comments in the reports.



A recent example of severed rights was anticipated where a cattle underpass connecting two fields split by the highway was proposed to be eliminated with the termination of the cattle pass, which had been in existence for many years. One of the adjacent property owners claimed that the loss of the cattle pass would damage their farm operation substantially. Typically, such damage is determined based on the loss of potential to retain livestock. Upon consideration of the claim, a determination was made that, because the subject was a seasonal tree farm without livestock, and a finding that the other side of the highway was under a different ownership, the requested diminution was not supportable. All claims must have a basis that supports the damage claim. Whether or not a claim is valid is determined only with proper inspection and documentation.

In a similar case, one impacted landowner claimed that the additional land taken across the street from their home was the source of all their organic produce. The loss of that property, which was adjacent to the highway, was claimed to cause irreparable harm given that they must now travel substantial distances to find the same produce. When the proposed acquisition was examined more closely, it was determined that the property did, indeed, contain a large garden that was well groomed and oriented to minimize runoff. There was also a garden shed and perennial plants. An additional credit was made for the loss of the perennial plants, the work to berm the garden, the quality of the on-site humus and the garden shed. The travel for finding organic vegetables was non-compensable, however. It was perceived that the price offered for the land and all the improvements acquired should allow for the establishment of a similar garden nearby.

Damage claims vary considerably, and such claims can be made based upon the size of the remainder or improvement impacted. While some diminution is non-compensable, others can be considered. In rural areas, there is a particular emphasis to lost production and income associated with horticulture, mining, timber production and livestock operations.

Overall, examples of associated concerns include drainage changes, soils impacts, field changes and decreased efficiencies. Non-compensable diminutions are also frequently requested by landowners and may include items such as additional value for the loss of sentimental items, changes in traffic design, median installations, loss of volunteer growth buffers, diminished views, noises, fumes or general visibility changes. Each damage consideration needs to be made in a consistent manner throughout a project. Volunteer growth and timber, for example, cannot be valued like prime landscape specimens, nor are large trees valued on the same per-inch trunk value of newly planted stock. This is where the appraiser's expertise becomes important.

### Federal Land Acquisitions

When the acquisition of wetlands or unique natural resources are proposed, the appraiser is sometimes unable to find similar open-market comparables for the subject valuation. It is not prohibitive to use public acquisitions as comparable properties when acquiring land for other public projects, but care must be exercised in their application, and additional analysis should be conducted to ensure that such transactions are not associated with unusual circumstances. The Uniform Appraisal Standards for Federal Land Acquisitions

(UASFLA) lends insight as to why governmental transactions do not always reflect market value, and the statements are worth noting. UASFLA states that governmental acquisitions may not reflect the market value for such reasons as follows:

1. There is a fear that there might be a threat of imminent destruction of the property for the government's intended use.
2. It might be in the public interest to pay in excess of market value.
3. The tract being acquired is a key parcel of land.
4. The cost of project delay by the failure to acquire the property offsets the price paid in excess of market value.
5. Sales to environmental organizations who direct land to government agencies, when funding becomes available, were also mentioned as being suspect as the purchaser's motivation is not market driven.

Often a pipeline, railroad or road will approach the corporate bounds of a municipality. In this instance, a landowner may claim that the property has an inherent value due to the subdivision potential (based on the principle of "anticipation") of the land. When such a claim is posed as a rationale for a higher land value, the comparables

utilized must be of the same potential and not more. UASFLA summarizes the concern succinctly: "Appraisers cannot merely assume that such a rezoning/permit is in place for the property under appraisal, or assume that such a rezone/permit will be granted. They must appraise the property only in light of the probability of obtaining the rezone/permit..."

The acquisition of wetlands (for mitigation needs or conservation) presents its own unique challenges. Since wetlands are not frequently sought by buyers, pure wetland transactions are not a prevalent sale type. They are more typically purchased as part of a larger transaction or by conservation groups or government entities that have an interest in ensuring that a particular wetland's pristine qualities remain intact, preserving valuable wetland habitat, preventing eutrophication and/or restoring localized storm-water runoff filtering capacities. Such comparables sales need to be carefully scrutinized relative to the needs of the purchasing entity.

For the appraiser to be adequately prepared, all considerations need to be examined and applied as appropriate. If it becomes necessary to address the condemnation commissioners, a complete explanation may be required. Road, pipeline, railroad, park and trail improvements impacting rural property often impact feed lots, hobby farms, rural residences, poultry processing facilities, gravel operations and other rural property. Each setting has its own unique challenges. Any and all potential impacts should always be considered and addressed.

