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Common Errors and Misconceptions in Yellow Book Assignments

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Objectives:



- We will address what the Yellow Book is and when it is required
- The Yellow Book, USPAP and beyond.
- We will discuss the difference between should and shall.
- We will discuss the sections of the Yellow Book
- We will discuss common failures in complying with technical aspects of the Yellow Book. Typically reporting issues.
- We will discuss common failures in complying with the requirements of the Yellow Book in the development of the opinion or opinions of value.
- We will discuss some of the fatal flaws in Yellow Book assignments.
- We will provide examples of work which fails to meet Yellow Book requirements and examples of work which provides good examples of compliance.
- We will provides some examples and discuss the determination of larger parcel. These exercises are intended to facilitate a discussion of the relevant issues in the determination of the larger parcel.
- We will discuss ways to facilitate the appraisal process and avoid time consuming revisions of appraisals.

What the Yellow Book is and when it is required



The Uniform Appraisal Standards for Federal Land Acquisitions are appraisal guidelines which were developed by the Interagency Land Acquisition Conference.

- Originally published in 1971
- Revised in 1978, 1979, 1992 and 2000.
- The 2000 edition represents the fifth edition of the Appraisal Standards for Federal Land Acquisitions.

What the Yellow Book is and when it is required



The Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA or the Yellow Book) have been prepared for use by appraisers to **promote uniformity** in the appraisal of real property among the various agencies acquiring property on behalf of the United States. The Yellow Book sets out the policy of the Federal Government in acquiring property.

What the Yellow Book is and when it is required



The Yellow Book applies to acquisition of property by the Federal Government. These standards are required **only** when the Federal Government is acquiring property.

- Purchase
- Eminent Domain
- Leasing

The Yellow Book is not required when the Federal Government is selling or is the lessor however these standards are required when you agree to comply with them.

What the Yellow Book is and when it is required



Uniformity and fairness in the treatment of property owners and the public, which ultimately pays for the property acquired, are the underlying goals of the UASFLA.

The appraisal of property for acquisition by the United States presents unique problems not ordinarily encountered in appraisals prepared for other purposes. These problems result from the fact that the method of appraisal, the elements and factors to be considered and the weight given them, and the standards of valuation are determined to a great extent by law. The opinions of the individual appraisers must be governed by proper legal standards.

Policy Statement of the Yellow Book

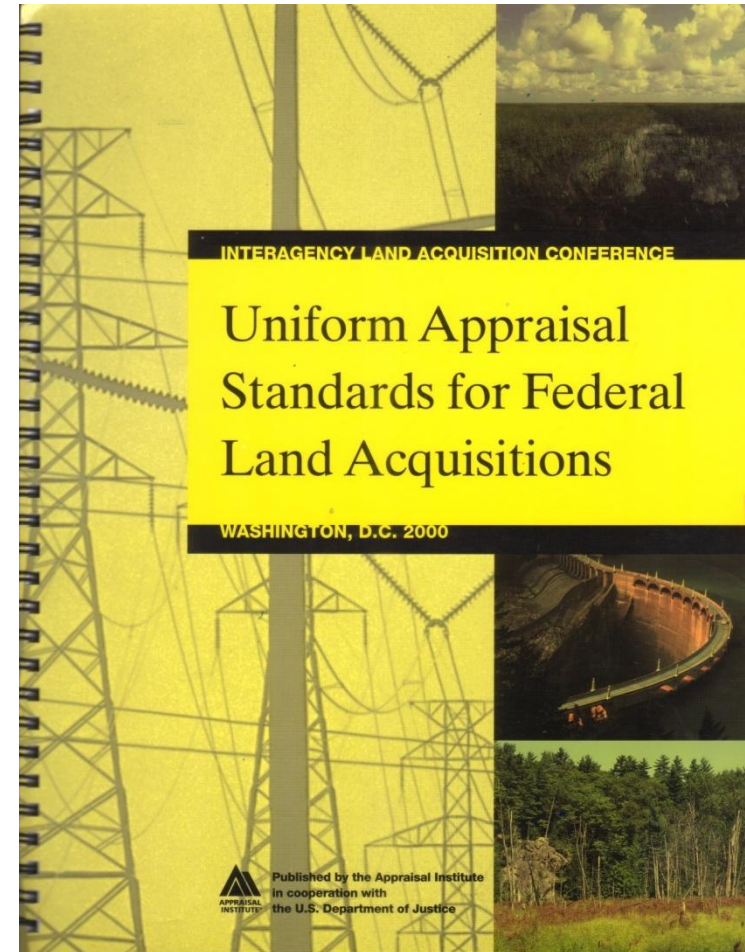
In acquiring real property or any interest therein, it is United States' policy to impartially protect the interests of all concerned. The Fifth Amendment of the United States Constitution asserts: "nor shall private property be taken for public use, without just compensation." Since "the courts early adopted, and have retained, the concept of market value" as the measure of just compensation, the United States, as a matter of general policy, bases its land acquisitions on market value appraisals: " It is the duty of the state, in the conduct of the inquest by which the compensation is ascertained, to see that it is just, not merely to the individual whose property is taken, but to the public which is to pay for it."

Acquisitions by the Federal Government



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www.usdoj.gov/enrd/land-ack



USPAP and Beyond

The Uniform Appraisal Standards for Federal Land Acquisitions (Yellow Book) are compatible with the Uniform Standards of Professional Appraisal Practice (USPAP) and the standards and practices of the appraisal industry.

The Uniform Appraisal Standards for Federal Land Acquisitions supplement the USPAP and represent additional standards or requirements the appraiser must adhere to in applicable valuation assignments. Both the Yellow Book and USPAP set forth minimum standards. The Yellow Book states that these standards conform to USPAP, but that, in certain instances, it has been necessary to invoke USPAP's Jurisdictional Exception Rule to conform these standards to federal law relating to the valuation of real estate for government acquisition purposes.

The difference between should and shall.



The Yellow Book uses the words “should” and “shall” . The word should appears 353 time and the word shall appears 117 times. Do the words should and shall have the same meaning? In one class made up of review appraisers employed by the Department of the Interior fully half of the appraisers present were of the opinion that the two words have the same meaning. Complicating the issue is that non-legal dictionaries generally define should as the past form of shall. This would tend to suggest that should and shall are both imperatives requiring an action and excluding discretion.

The difference between
should and shall.



This creates an interesting question since in common usage the word shall is interoperated as an imperative requiring an action whereas should is interoperated as allowing discursion.

This issue was raised with the Department of Justice. The chief appraiser with the DOJ response to the question of the meaning of the words shall and should was”

“The terms shall and should, as used in these standards, were intended to comply with their generally accepted signification. That is "shall" is compulsory, while "should" denotes a discretionary, but recommended action when that term is used in reference to actions to be taken by appraisers”.

Organization and content of the Yellow Book



The Yellow Book includes an introduction setting forth the Purpose, Scope and Policy of the standards. The actual sections of the Yellow Book are:

- A. Data Documentation and Appraisal Reporting Standards
- B. Legal Basis for Appraisal Standards for Federal Land Acquisitions
- C. Standards for the Review of Appraisals
- D. Standards for Unique and Miscellaneous Appraisal Problems
- E. Appendixes

Common failures in complying with the Yellow Book



Appraisers tend to prepare appraisal reports using the format that they typically use without referring to the Data Documentation and Appraisal Reporting Standards in Section A of the Yellow Book.

Some of these failures to comply with the Yellow Book are failures to comply with what can best be considered to be technical aspects of the Yellow Book and probably do not materially effect the credibility of the assignment results.

Other failures are more serious and may effect the credibility of the assignment results.

Common failures in complying with the Yellow Book

The best way to address these issues is to use the Data Documentation and Appraisal Reporting Standards in Section A of the Yellow Book and address the areas where appraisals fail to comply. These standards follow the report format and most appraisals will include **most** of the required information. It is only where the Yellow Book requires additional information that appraisers tend to fail to comply. We will address the items in each section that tend to be unique to the Yellow Book. We will also note which requirements are required (shall) and which are recommended (should).

Common failures in complying with the Yellow Book



Title Page. This **should** include in addition to the typical information the agency assigned tract, or parcel, number (if any), of the property appraised. Use the project name the agency is using.

Letter of Transmittal. This **should** include in additions to the typical information identification of any hypothetical conditions, extraordinary assumptions, limiting conditions, or legal instructions.

Common failures in complying with the Yellow Book

Appraiser's Certification. This section **requires** specific language that is no longer consistent with SR 2-3 of USPAP. The Yellow Book also has additional requirements. The YB has two additional requirements.

The certification **must** include a statement that the property owner, or his/ her designated representative, was given the opportunity to accompany the appraiser on the property inspection.

The appraiser's opinion of the market value of the property appraised as of the effective date of the appraisal is also required .

The Yellow Book also admonishes that the appraisers should avoid adding certifications that are not pertinent to the specific appraisal or that are beyond the scope of the appraisers' assignment (e. g., certifying an opinion of just compensation).

Common failures in complying with the Yellow Book

Summary of Salient Facts and Conclusions. The appraiser shall report the major facts and conclusions that led to the final estimate or estimates of value and include the following items.

- Identification of the property appraised
- The highest and best use of the property (both before and after the acquisition if a partial acquisition)
- A brief description of improvements (both before and after the acquisition if a partial acquisition)
- The indicated value of the property by each approach to value employed (both before and after the acquisition if a partial acquisition)
- **The final estimate of value (both before and after the acquisition if a partial acquisition)**
- **Any hypothetical conditions, extraordinary assumptions, limiting conditions or instruction; and the effective date of the appraisal.**

Common failures in complying with the Yellow Book



Photographs of Subject Property. Pictures **shall** show the front elevation of the major improvements, any unusual features, views of the abutting properties on either side and that property directly opposite and interior photographs of any unique features.

Each photograph **should** be **numbered**, and **show the identification of the property, the date taken, and the name of the person taking the photograph.** The location from which each photograph was taken and the direction the camera lens was facing should be shown on the plot plan of the property in the report's addenda. **This requirement is almost never complied with.**

Common failures in complying with the Yellow Book

Aerial view of the west end (developable portion) of the subject with the Kilauea River in the background. Photographed 5 taken by Jane Smith on September 10, 2007.



Common failures in complying with the Yellow Book



Statement of Assumptions and Limiting Conditions. Any assumptions and limiting conditions that are necessary to the background of the appraisal **shall** be stated. The appraiser **must** avoid including "boiler-plate" type of assumptions and limiting conditions, this is a common problem. Any client agency or special legal instructions provided the appraiser **shall** be referenced and **a copy of such instructions shall be included in the addenda** of the appraisal report.

If the appraisal has been made subject to any encumbrances against the property, such as easements these **shall** be stated. **It is unacceptable to state that the property has been appraised as if free and clear of all encumbrances, *except as stated in the body of the report*; the encumbrances *must* be identified in this section of the report.**

Common failures in complying with the Yellow Book

Scope of the Appraisal. The appraiser **shall** describe the scope of investigation and analysis that was undertaken in making the appraisal. The appraisal's scope **should** conform with its purpose and intended use. The geographical area and time span searched for market data **should** be included, as **should** a description of the type of market data researched and the extent of market data confirmation. The appraiser **should** state the references and data sources relied upon in making the appraisal.

The applicability of all standard approaches to value **shall** be discussed and the exclusion of any approach to value **shall** be explained. **The appraiser has the burden of clearly explaining the implications of any hypothetical condition or extraordinary assumption adopted. The required explanation and discussion of the implications of such hypothetical condition or extraordinary assumption must be included in this section of the appraisal report.**

Common failures in complying with the Yellow Book



Purpose of the Appraisal. This section **shall** include an explanation of the reason for the appraisal, and the definition of all value estimates required, and a description of the property rights appraised, which **should** be provided to the appraiser by the client agency.

This section **should** specifically identify the intended use and the intended user of the appraisal report. Generally, the intended user of the appraisal report will be the client agency, and the intended use of the appraisal report will be to assist the client agency in its determination of the amount to be paid for the property rights acquired or conveyed.

It is imperative that the appraiser utilize the correct definition of market value and the definition must be placed in this section of the appraisal report.

Common failures in complying with the Yellow Book

The Definition of Market Value

The Yellow Book states that contrary to USPAP Standards Rule 1-2 (c), this definition of market value does not call for the estimate of value to be *linked* to a specific *exposure time* estimate, but merely that the property be exposed on the open market for a *reasonable* length of time, given the character of the property and its market. Therefore, the appraiser's estimate of market value **shall not** be *linked* to a specific exposure time when conducting appraisals for federal land acquisition purposes under these Standards. **The appraiser may not report exposure time in the report.** Reporting exposure time is a clear violation of the Yellow Book requirements and a common error. **Do not under any circumstances report exposure or marketing time. This would seem to qualify as a Jurisdictional Exception.**

Common failures in complying with the Yellow Book

Summary of Appraisal Problems. This section gives the appraiser the opportunity to acquaint the reader of the appraisal report with the specific appraisal problems, if any, which have been encountered by the appraiser and that will be discussed in detail in the body of the appraisal report. In a simple appraisal assignment this may not be an issue, however federal land acquisitions are seldom that simple.

Appraisers almost never provide a good discussion of the appraisal problem. Take this opportunity to tell the user of the appraisal what you did, what problems you encountered and what data and methodology you relied on.

Common failures in complying with the Yellow Book

Data Documentation and Appraisal Reporting Standards

This section of the YB relates to the General Data and the Property Date sections of the report.

If the government's acquisition is a partial acquisition, it is imperative that the sections of the appraisal report be reported separately for the before and after situation. The appraiser **should** not attempt to combine the discussion of the factual data after the acquisition with the factual data relating to the before situation. The appraiser **must** provide the information addressed in this discussion for both the before and after situations.

Common failures in complying with the Yellow Book

Legal Description. This description **shall** be complete as to properly identify the property appraised. If lengthy, it should be referenced and included in the addenda of the report. If the client agency has assigned a parcel, or tract, number to the property, that number **should** also be referenced.

Area, City, and Neighborhood Data. This data (mostly social and economic) **must** be kept to an absolute minimum and should only include such information that directly effects the appraised property, **together with the appraiser's conclusions as to significant trends.** The use of "boilerplate" or demographic and economic data is unnecessary and, unless the appraiser demonstrates that the specific data directly impacts the current market value of the subject property, it **should** be excluded. **Don't include boilerplate this is a common problem.**

Common failures in complying with the Yellow Book

Property Data: Generally consider these as requirements

Site. Describe the present use, accessibility and road frontage, land contours and elevations, soils, vegetation (including timber), views, land area, land shape, utilities, mineral deposits, water rights associated with the property, easements, etc. **A statement must be made concerning the existence or nonexistence of commercially valuable mineral deposits.** Also discuss the beneficial and detrimental factors inherent in the location of the property. An affirmative statement is required if the property is located within a flood hazard area.

Common failures in complying with the Yellow Book

Improvements. Describe the following: all improvements including their dimensions; square foot measurements, chronological and effective age, dates of any significant remodeling/renovation; condition; type and quality of construction; and present use and occupancy. **Where appropriate, a statement of the method of measurement used in determining rentable areas such as full floor, multi-tenancy, etc. should be included.** All site improvements, including fencing, landscaping, paving, irrigation systems, domestic and private water systems, require description. The appraiser **should** coordinate such description with the photographs of the property included in the report and with the plot plan in the report.

Common failures in complying with the Yellow Book



Use History. State briefly the purpose for which the improvements were designed and the dates of original construction and major renovations, additions, and/ or conversions. **Include a ten-year history of the use and occupancy of the property.** If any of the forgoing information is indeterminable, the appraiser **must** report that fact.

This requirement is almost never met!

Common failures in complying with the Yellow Book

What part of this do appraisers not understand?

Sales History. Include a ten-year record of **all sales** and, if the information is available, any offers to buy or sell the subject property. If no sale of the property has occurred in the past ten years, the appraiser **shall report the last sale of the property, irrespective of date.** If the information is not available and the last sale occurred prior to any of the comparables make a statement that you were unable to determine information about the sale but that it is not relevant to developing an opinion of the present market value.

Information to be reported shall include name of the seller, name of the buyer, date of sale, price, terms and conditions of sale, and the appraiser's opinion as to whether the sale price represented market value at the time, and, if not, the reasons for the appraiser's conclusion. This technically means that the appraiser must develop an opinion of value for each date of sale reported. This is probably not realistic.

Common failures in complying with the Yellow Book

Discussion Question Sales History.

The assignment involves 42 acres of irrigated land which is part of a larger 218 acre parcel. The property sold 30 months prior to the date of value. Only the irrigated land is included in the assignment. The dry grazing land is not included in the assignment. The property to be appraised is in an area subject flooding, is zoned agricultural and lacks municipal utilities. The appraiser concluded the highest and best use is to rezone the land and develop it as a business park.

The appraiser reported the name of the seller and buyer, date of sale, price, terms and conditions of sale, and the document numbers.

The appraiser relies on sales of industrially zoned land most of which are finished lots. There are sales recent of dry grazing land. But no sales of potential development land. There is no analysis of the prior sale of the subject .

Do you think the appraisers complied with the requirements of UASFLA and USPAP ?

Common failures in complying with the Yellow Book

Discussion Question Sales History.

The appraiser failed to make a statement of whether the sale price represented market value at the time.

USPAP requires when the value opinion to be developed is market value, an appraiser must analyze all sales of the subject property that occurred within the three (3) years prior to the effective date of the appraisal. When reporting an opinion of market value, a summary of the results of analyzing the subject sales, options, and listings in accordance with Standards Rule 1-5 is required.

A-17 Since any recent and unforced sale of the subject property may be the best evidence of its value, any such sale is treated as a comparable sale in this approach to value. It **shall** be analyzed like any other comparable sale and given appropriate weight by the appraiser in concluding a final estimate of value of the property.

In this case it may be possible to extract an indicated value of the land with development potential from the prior sale of the subject this may be a better indicator of value than the sales of land which is zoned and improved.

Common failures in complying with the Yellow Book



Rental History. Report the historical rental or lease history of the property for at least the past three years, if this information can be ascertained. All current leases **should** be reported, including the date of the lease, name of the tenant, rental amount, term of the lease, parties responsible for property expenses, and other pertinent lease provisions. The appraiser **shall** state his or her opinion as to whether any existing lease of the property represents the property's current market or economic rent, and, if not, the reasons for the appraiser's conclusion. An unsupported statement that the rent does not represent market or economic rent is unacceptable.

Common failures in complying with the Yellow Book

Zoning and Other Land Use Regulations. Identify the zoning for the subject property. This **must** be reported in descriptive terms rather than by zoning code. You **must** report all other land use regulations, including a discussion of the requirements of the regulations. The appraiser **should** also note any master, or comprehensive, land use plan in existence that may effect the utility or value of the property.

If the property was recently rezoned, that must be reported. The appraiser shall determine whether such rezoning was a result of the government's project for which the subject property is being acquired. If the rezoning of the property is imminent or probable, discuss in detail the investigation and analysis that led to that conclusion, the mere assertion by an appraiser that a property could be rezoned is insufficient. Even if it is your opinion that the property can be rezoned **do not value the property as if the zoning is already in place!**

Common failures in complying with the Yellow Book

In addition to zoning, the appraiser **should** identify all other land use and environmental regulations that have an impact on the highest and best use and value of the property. The impact of the regulations **must** also be discussed. The appraiser **should** also discuss the impact of any private restrictions on the property, such as deed and/ or plat restrictions.

Appraisers seem to be of the opinion that stating the current zoning and possibly the general plan designation meets this requirement. You should indicate if the present use is consistent with the zoning and if a change in zoning is likely.

Common failures in complying with the Yellow Book

Data Analysis and Conclusions

Analysis of Highest and Best Use. This is one of the biggest problem areas and can result in having an appraisal rejected. The determination of a credible opinion of the highest and best use is key to the entire appraisal process. The Yellow Book requires that you address the four tests of highest and best use in your appraisal report. A mere statement of highest and best use with no support is not acceptable.

Essential to the appraiser's conclusion of highest and best use is the determination of the larger parcel. **You must make a determination of the larger parcel in every appraisal conducted under the Yellow Book.** Your analysis that led to the larger parcel determination and the determination itself must both be reported. Both the highest and best use and the larger parcel may be different in the before and after condition in a partial acquisition.

Highest and Best Use Discussion Question

Zoning retail

Land value is \$10.00 per square foot with a typical land to building ratios of four to one.

Cost to construct excluding lease up and developer's profit.

- Component Unit Price
- Building Shell \$ 60.00
- Tennant Improvements \$ 15.00
- On Site Improvements \$ 22.00
- Indirect Costs \$ 18.00
- Land Cost \$ 40.00
- Total Cost per SF of Building \$ 155.00

Highest and Best Use Discussion Question

Recent sales of retail properties in the market area were from \$115 to \$150 per square foot. All of the properties were at stabilized occupancy, had no deferred maintenance but none of the buildings were new. The highest sale was for a building which was only two years old.

Based on this information what is the highest and best use of the property?

It appears that the cost exceeds current market value and no use other than retail is allowable so it is not economically feasible to develop the property at this time .

Hold with future development to a retail use

Common failures in complying with the Yellow Book

Land Value and the Sales Comparison Approaches

The YB identifies elements of comparison which **must** be addressed they are; property rights conveyed, financing terms, conditions of sale, market conditions, location, and physical characteristics. This list should be considered a minimum and other relevant elements of comparison must be considered and addressed. The appraiser shall provide adequate information concerning each comparable sale used and the comparative analysis to enable the reader of the report to follow the appraiser's logic.

All comparable sales used shall be confirmed by the buyer, seller, broker or other person having knowledge of the price, terms, and conditions of sale. Unconfirmed information from commercial data services is not acceptable.

Common failures in complying with the Yellow Book

Land Valuation. The appraiser **shall** estimate the value of the land for its highest and best use, as if vacant and available for such use. In doing so, **the appraiser's opinion of value shall be supported by confirmed sales of comparable or nearly comparable lands having similar highest and best use and similar utility.** Differences between the subject and the comparable sales **shall** be weighed and explained to show how they indicate the value of the land being appraised. Simply stating that a property is superior or inferior with no explanation is unacceptable.

Common failures in complying with the Yellow Book

Value Estimate by the Cost Approach. This section **should** be in the form of computational data, arranged in sequence, beginning with reproduction or replacement cost and should state the source (book, page, including last date of page revision, if a national service) of all figures used. **Entrepreneur's profit, as an element of reproduction or replacement cost, must be considered and discussed, and if applicable, should be derived from market data whenever possible.** If the appraiser will place considerable weight on this approach to value in developing his final opinion of value, consideration **should** be given to retaining the services of a contractor or professional cost estimator to assist in developing the reproduction or replacement cost estimate.

Common failures in complying with the Yellow Book

Value Estimate by the Cost Approach continued.

The dollar amount of depreciation from all causes, including physical deterioration, functional obsolescence and economic, or external, obsolescence **shall** be explained and deducted from reproduction or replacement cost. The preferred methods of estimating depreciation are the breakdown method and the market extraction method. The estimating of depreciation by the use of published tables or age-life computation is to be avoided. This is a requirement which is seldom met.

What is not acceptable is a statement that I have relied on Marshall Valuation Service cost tables and the indicated value from the cost approach is \$X's. **Even if the cost approach is not the most significant value indicator this is a good way to ensure you will not receive a second assignment.**

Common failures in complying with the Yellow Book

Value Estimate by the Sales Comparison Approach. The sales comparison approach is probably the most appropriate value indicator for most properties in YB assignments. There is more space devoted to this approach to value in the YB and not surprisingly it is probably the area where the most minor and major problems occur. Some of the failures to comply fall into the minor administrative area but many are serious failures which effect the credibility of the assignment results and some fall into a mid ground.

Common failures in complying with the Yellow Book



Value Estimate by the Sales Comparison Approach continued

Since any recent and unforced sale of the subject property may be the best evidence of its value, any such sale is treated as a comparable sale in this approach to value. It shall be analyzed like any other comparable sale and given appropriate weight by the appraiser in concluding a final estimate of value of the property. As noted earlier an unsupported claim that a sale of the subject property was a forced sale or not indicative of its value is unacceptable. Failure to comply with this requirement will probably result in the appraisal being returned for correction or rejection of the appraisal.

Common failures in complying with the Yellow Book

Value Estimate by the Sales Comparison Approach continued

A narrative comparative analysis of each comparable sale **shall** be made explaining how the sale relates to the property under appraisal in respect to those features which have an effect on market value. In selecting the comparable sales to be used in valuing a given property, **it is fundamental that all sales have the same economic highest and best use as the property being appraised and that the greatest weight be given to the properties most comparable to the subject property.**

This is one of the frequent areas cited in compliance reviews. **Do not rely on sales which do not have the same or similar economic highest and best as the subject.**

Common failures in complying with the Yellow Book

Value Estimate by the Sales Comparison Approach continued

The preferred method of adjusting comparable sales is through the use of quantitative adjustments whenever adequate market data exists to support them. The adjustment can be expressed as either dollar or percentage amounts. Factors that cannot be quantified are dealt with in qualitative analysis. Only when adequate market data does not exist with which to support quantitative adjustments should the appraiser resort to qualitative adjustments. Quantitative and qualitative adjustments are not mutually exclusive methodologies. When quantitative and qualitative adjustments are both used in the adjustment process, all quantitative adjustments should be made first.

What do you think about that statement?

Common failures in complying with the Yellow Book

Value Estimate by the Sales Comparison Approach continued

When appraisers must resort to qualitative adjustments, they **must** recognize that this form of comparative analysis will often require more extensive discussion of the appraiser's reasoning. This is also true where the market date is less conclusive. This methodology may also require the presentation of a greater number of comparable sales. The appraiser **should** specifically state whether each comparable sale is generally either overall superior or inferior to the property under appraisal. To develop a valid indication of value of the property it is essential that the comparable sales utilized **include both sales that are overall superior and overall inferior to the property being appraised.**

Discussion Question

Developing Quantitative Adjustments



Sale #	Area	Date of Sale	Price AC	Access	Utilities	Mkt. Cond.	Adj. Mkt.	Adj. Location	Adjust
5	31.52	4/10/06	\$872	no	no	18.07%	\$1,030		\$1,030
6	80.00	2/28/02	\$1,625	paved	Yes	87.57%	\$3,048	\$1,280	\$1,768
3	130.00	3/26/04	\$265	no	no	52.82%	\$405		\$1,030
1	160.00	6/4/05	\$844	dirt	no	31.97%	\$1,114		\$1,114
4	160.00	6/21/05	\$1,475	dirt	no	31.97%	\$1,947	\$818	\$1,129
10	319.00	12/1/05	\$502	dirt	no	23.63%	\$621	\$261	\$360
7	320.00	7/25/02	\$406	dirt	no	38.92%	\$564		\$564
Subject	320.00	9/3/04	\$625	dirt	no	44.48%	\$903		\$903
subject	320.00	8/24/05	\$688	dirt	no	29.19%	\$889		\$889
2	320.00	9/5/05	\$688	dirt	no	27.80%	\$879		\$879
8	497.72	4/27/01	\$454	paved	no	101.47%	\$915	\$384	\$531
9	640.00	4/1/05	\$1,000	dirt	no/water	34.75%	\$1,348	\$566	\$782

Discussion Question

Developing Quantitative Adjustments



The sales used in the appraisal of a property are shown on the proceeding chart. The appraisers stated he could not quantify the adjustment. Elements of comparison were location, market conditions, access, utilities, and size. Color denotes the location.

Sales 1 and 4 are matched pairs for location. Sales 7 and 2 and the sales and resale of the subject property are matched pairs for market conditions.

The point here is that the appraiser could have developed quantitative adjustments for two of the elements of comparison, this represents 40% of the elements of comparison. Don't just say the adjustments can't be quantified.

Common failures in complying with the Yellow Book

Value Estimate by the Sales Comparison Approach continued

In developing a final value estimate by the sales comparison approach, **the appraiser shall explain the comparative weight given to each comparable sale**, whether quantitative or qualitative adjustments, or a combination thereof, are used. A comparative adjustment chart, or graph, is recommended and may assist the appraiser in explaining his or her analysis in this regard.

The following slide contains a chart which was included in an appraisal. The adjustments have been delegated. The chart is in your handout along with the reviewer's comments to the appraiser. The appraiser's opinions of value for the three types of properties included in the assignment are not consistent with the data in the chart.

Discussion Question



	Price	Acres	\$/Acre	Net Price/Acre	Indicated \$/Acre
1	\$6,201	40	\$155.03	\$155.03	\$85.65
2	\$56,160	240	\$234.00	\$234.00	\$129.29
3	\$55,000	240	\$229.17	\$229.17	\$126.61
4	\$14,000	40	\$350.00	\$350.00	\$193.38
5	\$66,000	240	\$275.00	\$275.00	\$151.94
6	\$63,630	360	\$176.75	\$176.75	\$97.65
7	\$160,000	640	\$250.00	\$250.00	\$138.13
8	\$500,000	872	\$573.39	\$168.98	\$168.98
		Median	\$242.00	\$231.58	\$133.70
		Mean	\$276.15	\$229.87	\$136.45

Appraisers Opinion of Value		
Acres	\$/acre	Indicated
200	\$175	\$35,000
640	\$150	\$96,000
120	\$200	\$24,000

Review appraiser's comments to the appraiser:

You concluded at \$175 per acre for the 200 acre parcel, but your sales adjust to \$136 to \$151 per acre for the most similar comparables which are 240 acres. You concluded at \$150 per acre for the 640 acre property, yet the only 640 acre sale you have adjusts to \$138.13 per acre. For the 120 acre property you concluded at \$200 per acre, there were no +/-120 acre sales, BUT, at the same time, your adjusted range only goes to \$194 per acre for a 40 acre sale and the next closest is at \$168 per acre.

Common failures in complying with the Yellow Book

Value Estimate by the Income Capitalization Approach. The appraisal report **shall** include adequate factual data to support each figure and factor used and **should** be arranged in detailed form to show at least the estimated rent, a allowance for vacancy and credit losses; an itemized estimate of total expenses; and an itemized estimate of the reserves for replacements, if applicable.

The capitalization rate **should** be the prevailing rate for this type of property and location. The capitalization technique, method, and rate used **should** be explained in narrative form supported by a statement of sources of rates and factors. **The preferred source of an applicable capitalization rate is from actual capitalization rates reflected by comparable sales, make ever effort not to use the “Band of Investment” or rates from surveys.**

Common failures in complying with the Yellow Book

Value Estimate by the Income Capitalization Approach continued.

If the property is actually rented, its current rent is often the best evidence of its economic, or market, rent and should be given appropriate consideration by the appraiser in estimating the gross economic rent of the property. Likewise, the appraiser **should** attempt to obtain at least the last three years' historical income and expense statements for the property. If this historical income and expense information is available, it **should** be included in this section or in the appraisal report's addenda.

Common failures in complying with the Yellow Book

Correlation and Final Value Estimate. The appraiser **shall** explain the reasoning applied to arrive at the final opinion of value and how the results of each approach to value were weighed in that opinion, and the reliability of each approach to value for solving the particular appraisal problem.

The appraiser **shall** also state his or her final estimate of value of all of the subject property as a single amount, including the contributory value of fixtures, timber, minerals, and water rights, if any. The appraiser **must** avoid making a summation appraisal.

If the appraisal involves a before and after analysis all of these sections **must** be readdress for the after condition. There is also a requirement for an acquisition analysis

Common failures in complying with the Yellow Book

Acquisition Analysis

Recapitulation. The appraiser **shall** show the difference between the value of the whole property and the value of the remainder by deducting the property's after value from its before value. **Do not label this number as just compensation or the value of the easement.**

Common failures in complying with the Yellow Book

Acquisition Analysis

Allocation and Explanation of Damages. Damages, as such, are not appraised. However, the appraiser **shall** briefly explain any damages to the remainder property and allocate the difference in the value of the property before and after the acquisition between the value of the acquisition and damages to the remainder. **The appraiser should note that such allocation is an accounting tabulation and not necessarily indicative of the appraisal method employed.**

Explanation of Special Benefits. The appraiser shall identify any special benefits accruing to the remainder property and explain how and why those benefits have occurred.

Common failures in complying with the Yellow Book

Excerpt from a letter of transmittal

Based on the investigation and analysis, as described in the attached report, it is our opinion that the Market Value of the proposed acquisitions, subject to the attached General and Extraordinary Assumptions and Limiting Conditions, as of October 8, 2009, is:

Value of the XXXX Permanent Easement

\$16,500

Value of the Temporary Construction and Access Easements

\$1,225

TOTAL COMPENSATION

\$17,725, rounded to \$17,800

Common failures in complying with the Yellow Book

Excerpt from a letter of transmittal

The bi-annual rent for the temporary rights to be acquired was concluded to be:

\$9,040

(Nine Thousand Forty Dollars)

SUMMARY OF SALIENT FACTS AND CONCLUSIONS

VALUE CONCLUSIONS:

Before Condition: \$8,351,000

After Condition: \$7,516,500

Acquisition Value: \$834,500

Common failures in complying with the Yellow Book

This section of the Yellow Book addresses Exhibits and the Addenda. There are specific requirements that you should review. The information is included in your handouts. One of the requirements of the YB involves your qualifications if you the appraisal was prepared for trial purposes.

Qualifications of Appraiser. Include the qualifications of all appraisers or technicians who made significant contributions to the completion of the appraisal assignment. If appraisal reports are being prepared for trial purposes, appraisers must insure that the content of their qualifications conform with Rule 26(a)(2)(B) of the Federal Rules of Civil Procedure, as described in Section D-2 of these Standards.

Fatal Flaws in Yellow Book assignments

- Non economic highest and best use
- Inconsistency of the highest and best use of the comparables and subject
- Inconsistencies in market and economic data and the conclusion of highest and best use or a failure to support your opinion of the highest and best use of the subject property
- Failure to use a before and after methodology (unless pre approved) in the valuation of a partial acquisition
- Use of sales of easements in the valuation of CE's (or any easements)
- Failure to identify the larger parcel, unreasonable opinion of larger parcel, or failure to actually value the property based on the larger parcel

Fatal Flaws in Yellow Book assignments

- The use of Extraordinary Assumptions which are unapproved and inappropriate for the assignment
- Significant errors in factual data
- Clearly inappropriate valuation methodology
- Inconstancies between the valuation analysis and the opinion of value
- Opinion of value outside of the range of the comparable sales
- The use of only government and/or NGO sales. See D-9 of UASFLA

Basis for determining the Larger Parcel

The determination of the larger parcel is essential to all Yellow Book assignments. Without a determination of the larger parcel it is not possible to determine if an acquisition is of the entire property or a partial acquisition. The determination of the larger parcel and the highest and best use are interrelated questions, the answer to one effects the other. We have two variables which effect one another in YB assignments

Determination of the larger parcel is a physical, legal and economic questions and it is not static since it is effected by actions of the courts.

Basis for determining the Larger Parcel

There are several sections of the Yellow Book which address the larger parcel issue.

The determination of the larger parcel requires a unity of ownership and an integrated or unity of use. The test of unity of ownership is a legal issue and is not uniformly applied by all courts and is in transition.

The YB discusses a unity or consistent highest and best use. In making the determination of the larger parcel the YB states;

“...to meet this test the lands in question merely have to have the same, or an integrated, highest and best use”.

Basis for determining the Larger Parcel

The courts have long held that it is not necessary to have the same highest and best use merely an integrated highest and best use which creates an economic unit.

Questions tend to arise when the appraiser is confronted with multiple properties under common ownership with the same highest and best use but where there is no integrated use. An example would be two detached single family residences in an area of owner occupied homes which are contiguous, under common ownership and with the same highest and best use. The properties meet the test of common ownership and a common highest and best use but there is no integrated use. The highest and best use is to sell the homes to different buyers. Do we have two larger parcels or a single larger parcel?

Case Study 1 (What is the larger parcel?)

- The subject property consists of 33 separate legal parcels totaling 87.3 acres, the parcels are non-contiguous.
- BLM wishes to acquire all 33 parcels and you are to provide an opinion of value for all the properties which BLM will use as a basis for purchasing the properties.
- The properties range in area from .01 to 10 acres.
- All properties are under common ownership.
- The properties were assembled by the present owner.
- All properties have the same current use, passive recreation. It is concluded there is no near term potential for development and the most likely use is passive recreation.
- The comparable sales are individual lots which range in area from 1 to 10 acres.
- There is an inverse relationship in the per acre price of the comparable sales to their size. The larger properties sell at a lower per acre price.

Case Study 1 (What is the larger parcel?)

What is the “Larger Parcel” and what effect may this determination have on methodology and your opinion of value?

Factors to consider, there must be a unity of ownership in all parts of the whole. The second requirement is that there must be a unity of highest and best use for all parts of the whole. What does this mean? While it has been found that, to meet the unity of use test, all parts of the whole must actually be devoted to a unitary use. The weight of the law seems to be that to meet this test, the lands in question merely have to have the same, or an integrated, highest and best use.

While holding that it is not essential that parcels be contiguous, physical proximity has usually been considered to the extent that it bears on the physical and economic practicalities of a single unitary highest and best use. While the properties have the same highest and best use they are not contiguous and there is no integrated highest and best use.

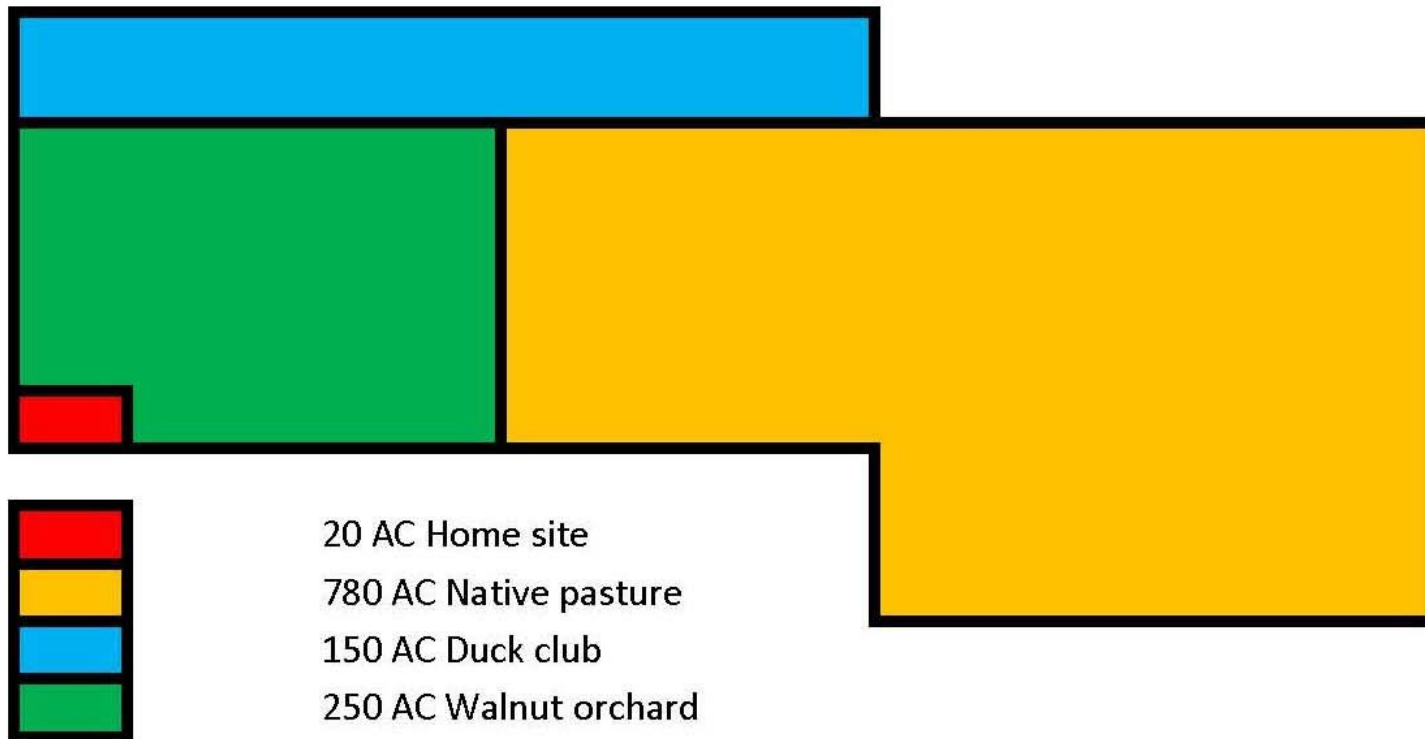
Case Study 2 (What is the larger parcel?)

The appraiser was hired to provide an appraisal of three properties that the USF&WS wishes to acquire as part of the expansion of the NWR. The properties to be acquired include:

- 20 acre rural home site with an existing dwelling which has no contributor value.
- 780 acre native (dry or rolling) pasture land with no structures.
- 150 acre of riparian habitat along a river with a duck club with 15 duck blinds and a club house.
- All properties are under common ownership. In addition to the properties the USF&WS wishes to acquire there is a 250 walnut orchard under the same ownership. The 20 acre rural home site is located in the southwest corner of the walnut orchard. The 150 acres of riparian habitat/duck club is located north of the walnut orchard and partially along the north side of the native pasture. The native pasture land is located east of the walnut orchard.



Case Study 2



Case Study 2 (What is the larger parcel?)

All of the four land uses are separate legal parcels. The owner leases out the native pasture and the riparian habitat land and farms the walnut orchard.

Your market investigation produced the following results;

- All sales are in the subject's market area.
- 8 sales of walnut orchards occurred in the last 18 months. The properties range in size from 100 to 320 acres and sold from \$10,000 to \$13,500 per acre.
- 11 sales of rural home sites in the last 12 month. The properties range in size from 11 to 30 acres and sold from \$135,000 to \$260,000 per acre.
- 7 sales of native pasture occurred in the last 24 months. The properties range in size from 550 to 1350 acres and sold from \$700 to \$1,000 per acre.
- 5 sales of riparian habitat used for duck hunting which occurred in the last 24 months. The properties range in size from 80 to 320 acres and sold from \$2,500 to \$4,500 per acre.
- Each of the four properties uses represents the highest and best use of the property.

What is the larger parcel?

What valuation methodology would you use?

Are there issues regarding a summation value and is it necessary to do a development analysis?

Case Study 2

Suggested Solution

The four properties are under common ownership. Three of the properties have the same highest and best use of agriculture though they have different specific highest and best uses. The properties are not an integrated farming unit. Since they are not an integrated unit and have different specific highest and best uses they probably are not a single larger parcel. The market is not likely to attempt to sell the properties as a single unit. The properties are worth more as separate units sold to different buyers. The market data clearly suggests that there is an active market for similar properties and the properties could be sold with no delay as separate units.

Case Study 2

Suggested Solution

B-13 The Unit Rule

Normally, each parcel should be appraised separately, but appraisers must recognize that agency and/or local taxing authority mapping does not control what constitutes a separate larger parcel. Since unity of use is one of the elements for an integrated unit, it would not necessarily follow that a contiguous body of land in the same ownership constitutes a single unit if the highest and best use for various parts are different. Failure to value the property as an integrated whole, however, must always be explained and supported. In this regard, appraisers must follow the guidelines set out for larger parcel determination,

Basis for determining the Larger Parcel



Your decision regarding the larger parcel may have a profound effect on your opinion of highest and best use as well as the methodology you use and the assignment results. This is one of the most critical areas of the appraisal assignment. It is also one of the areas which cause a disproportionately high number problems in YB assignments.

Poor analysis for determining the Larger Parcel from an appraisal

- Larger Parcel
- To be considered a "Larger Parcel" a property must meet the following three requirements:
- Unity of Ownership
- Contiguity
- Unity of Use
- In the subject's case, the parcel is owned by the same entity (see Statement of Ownership section for details): therefore the first requirement (Unity of Ownership) Is *(sp)* met. The subject consists of only one parcel thus meeting the second requirement (Contiguity). The final requirement (Unity of Use) Is *(sp)* met by the subject because the entire property has similar legal and physical use (vacant, unimproved land). In summary the Subject meets all of the three requirements to be considered a "Larger Parcel."

Poor analysis for determining the Larger Parcel

The weakness of this analyses was that it only dealt with the subject property. The owner of the subject property owned other contiguous properties, land which had the same highest and best use. The appraiser was aware of this fact but failed to discuss the other land under common ownership.

The review appraiser concluded that while the other properties were under common ownership, were contiguous, and had the same highest and best use they were separate legal parcels and there was no integrated use. It was the review appraiser's opinion that the subject was the larger parcel but the appraiser failed to meet the minimum requirements of the YB since he failed to explain why the subject was the larger paces. The right answer for the wrong reason.

Case Study 3A (What is the larger parcel?)

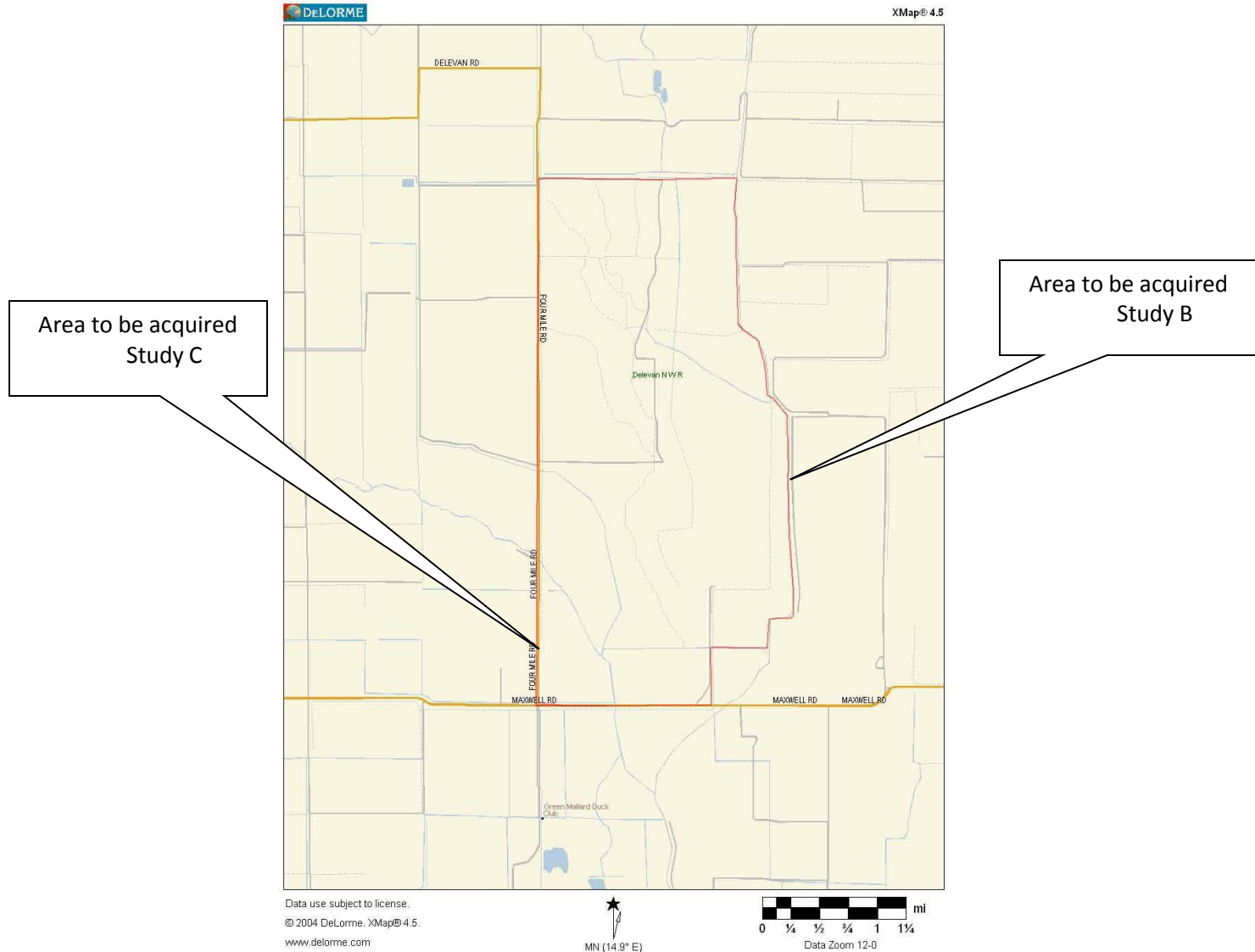
The subject property consists of 20 separate but contiguous legal parcels totaling 2,507 acres.

- All properties are under common ownership.
- All properties have the same current use and the same highest and best use of irrigated farm land.
- The properties have been assembled into an integrated farming unit though each property could operate as a standalone farming unit. This is how they were acquired and they could easily be sold as separate economic farming units. The trend in the area has been to assemble farm land into larger economic units.
- The highest and best use is continued use of the property as an integrated farming unit though they can be sold as 20 separate units or in combination with other properties. You have no sales which support a lower per unit value up to 365 acres.

Case Study 3A (What is the larger parcel?)

- The comparable sales range in size from 120 to 365 acres. There have been no recent sales of properties larger than 365 acres in the market area. An analysis of the sales suggests that within this size range, size does not appear to be a factor effecting the per acre price. Several of the comparable sales were purchased by adjacent property owners. These were the highest sales on a per acre basis. Several of the buyers interviewed stated that they are interested in acquiring more land if it is near their existing holdings. While there are other assembled farming operations which bracket the subject in terms of total area, none of these larger unites have been offered for sale in the last 15 years. The limit of your search for market trends.
- All of the sales in the area sold to existing land owners and none involved Realtors all sales were word of mouth.
- The intended use of the appraisal is to provide an opinion of value for a proposed acquisition of the entire property by the USF&WS.
- What is the “Larger Parcel” and what effect may the determination have on methodology and your opinion of value?

Case Study 3



Case Study 3A

Suggested Solution

The property meets the test of unity of ownership, unity of highest and best use (an integrated, highest and best use) and the properties are all contiguous. The entire property is **probably** the larger parcel.

We have sales of smaller properties but no sales of properties of similar size to the subject. The sales we have do not suggest that within the size range for which we have data that larger properties sell for less than smaller properties. Does this mean that a 2,570 acre parcel would sell for the same price? Would using these sales raise the issue of a summation appraisal? Maybe the question is would the subject sell for less on a per acre basis than the comparable sales we have? We don't have enough data to answer this question.

Case Study 3B (What is the larger parcel?)

The Same facts except that the intended use of the appraisal is to provide an opinion of value for a proposed acquisition of 4.5 acres along a portion of the east property line for a canal by the BOR. The area to be acquired has no road frontage and is 200 feet wide and 980 feet long. The proposed acquisition involves portions of several legal parcels. In addition to the 120 to 365 acres comparable sales, there are sales of 1 to 20 acres properties which were acquired as rural home sites. These sold at much higher per acre prices than the 120 to 365 acre parcels.

- What is the “Larger Parcel” and what effect may the determination have on methodology and your opinion of value?
- Which comparables are appropriate?
- What about severance damages?

Case Study 3B

Suggested Solution

The entire property **probably** meets the test of a larger parcel but the larger parcel may be only the individual parcels effected by the project. The 200 by 980 foot property is not something that is likely to sell in the open market and it is not likely that most government bodies would allow it to be created. There is no demand in the broader market for the canal site.

Which comparables are appropriate? The largest sales we have are for a 365 acre property but there is no discount between this property and the 120 acre parcel. Is the market likely to treat this 4.5 acre parcel as a stand alone property? The analysis should be a before and after.

Case Study 3C (What is the larger parcel?)

Same facts as 3B except the intended use of the appraisal is to provide an opinion of value for a proposed acquisition of 4.5 acres at the southwest corner of the property. The area has frontage on two roads and will be acquired by the USF&WS for a visitor center for the nearby NWR. The area to be acquired is 400 feet by 490 feet and is an existing legal parcel.

While the area to be acquired is a part of the 2,507 acre property it is a separate legal parcel. The zoning would allow the property to be split from the larger parcel and the county has historically allowed these small lots to be created.

- What is the “Larger Parcel” and what effect may the determination have on methodology and your opinion of value?
- Which comparables are appropriate?
- What about severance damages?

Case Study 3C

Suggested Solution

The entire 2,570 acre property meets the test of the larger parcel same owner and integrated use. In this case the 4.5 acre parcel is clearly something for which there is a market. It is a separate legal parcel and could easily be sold at a price much higher than the price for the entire property. The buyer only wants to buy this smaller parcel. Why not value the 4.5 acres based on sales of smaller rural home sites?

Case Study 4 (The Larger Parcel)



You have been hired to by the Forest Service. The Forest Service wants to acquire a 40 acre legal parcel. The highest and best use of this property is recreation/cabin site. You have numerous sales of 20 to 60 acre parcels in the market area. In investigating the subject property you discover that the owner of the subject property also owns an additional 460 acre of forest land which is contiguous to the subject and which is composed of fifteen legal parcels ranging in area from 20 to 60 acres. There is no merchantable timber on the property and there are no sales of larger parcels. It appears the only effective demand is for smaller cabin sites and recreational land. You have identified no economic use for the single 500 acre holding other than to subdivide it (the subject is already subdivided) and sell off the individual lots. In the past the owner has periodically sold off smaller parcels though he is not actively attempting to sell either the entire parcel or individual parcels. There are no sales of large properties in the general area.

What are we appraising a single 40 acre parcel or a before and after analysis of the enticer 500 acres and then the remaining 460 acres?

Case Study 4

Suggested Solution

The 40 acre parcel meets the test of common ownership and has the same highest and best use as the remainder of the 460 acres. It is however not an integrated highest and best use. The market is likely to treat the 40 acre parcel as a single unit. The buyer is not interested in buying the entire 500 acre which is made up of multiple smaller parcels. It is like buying one lot in a subdivision verse buying the entire subdivision. See discussion regarding the unit rule.

Case Study 5 (to discount or not to discount?)

NPS wishes to place a conservation easement on a portion of a property.

Before Analysis:

- The larger parcel includes five contiguous tax parcels with a total area of approximately 49.75 acres.
- The existing improvements are an old drive-in theater occupying approximately 6 acres.
- The remaining 43.75 acres of property is vacant land.
- The highest and best use is to raze the existing drive-in and construct a multifamily residential development.
- The before value is 140 units at \$10,000 per unit or \$1,400,000.

Case Study 5 (to discount or not to discount?)

After Analysis:

- You have 20.86 acres of property which is unencumbered by the easement with a highest and best use as 83 multifamily units at \$14,000 per unit or \$1,162,000.
- The portion of the property which will be encumbered by the easement has the following uses; 2.99 acres of retail at \$25,000 per acre or \$74,750. This value is based on a 40% downward adjustment to the sales developed from a comparison of sales of unencumbered and encumbered agricultural land which had some development potential in the before condition. The easement designates this area as retail but places no significant limitations on the retail uses. Development would be similar to what is allowed on other retail property. If the 40% adjustment were removed from the adjustment grid the indicated value would be \$44,000 per acre.
- The value, based on an income approach, of the 6 acres drive-in theater that must remain would be \$74,750.
- The remaining 19.9 acres is limited to open space land at a value of \$2,000 per acre or \$39,800.

Case Study 5 (to discount or not to discount?)

- The after value of the unencumbered area is \$1,162,000 and the encumbered area is \$190,550 for a total retail value of \$1,352,550.
- The retail value of the four land uses was discount for a bulk sale based on a five year holding period and a discount rate of 15%. The after value of the property assuming a bulk sale is \$672,000 rounded.
- Before value \$1,400,000
After value \$ 672,000
Difference \$ 728,000
- Are there any issues?

Case Study 5

Suggested Solution

The appraiser applied a 40% discount to the land which will be encumbered by a conservation easement, the easement allows retail use of this encumbered area. The highest and best use of this area in the unencumbered condition was multifamily residential but the only use now allowed is retail. The appraiser uses other retail land sale to value this area. There is no additional limitation on the use of this property so why use a discount developed from the effect of conservation easements on agriculture land?

Is the larger parcel all four land uses see B-13 unit rule? The properties all have different highest and best uses in the after condition but are an integrated highest and best use in the before condition.

Case Study 5

Suggested Solution

Where there is a dominate land use should all land uses be discounted? The value of the multifamily land alone in the after condition was \$1,162,000 is it likely that by adding a bunch of other land the value would decline to \$672,000? While the entire property must be appraised is it likely that the market would sell to a single buyer? If you determine that the property should be sold to a single buyer isn't it more likely that the buyer would be the purchaser of the dominate land use with the intention of selling off the minor land uses?

Does the discounting methodology appear to have been done correctly? This analysis assumes that the present value of the individual components will be the value of the components in five years. The appraiser then brings the projected value of the property (actually today's value) back to a present value. Some sort of a development analysis would be appropriate for the portions of the property that the buyer will resell.

Case Study 5

Suggested Solution

Do you see any issues with the increase in the per unit value of the unencumbered portion of the property to \$14,000? There is no change in the per acre density of the units. The only change is a reduction in the total number of units to be built since almost half of the property can no longer be developed to its unencumbered highest and best use. Based on this analysis the value of the unencumbered portion of the property plus the undiscounted value of the area which is heavily encumbered is nearly the same as the unencumbered value of the entire property.

D-6 Zoning and Other Land Use Regulations

Zoning is a factor to be considered in evaluating property. The appraiser needs to identify the zoning and the impact of the zoning and other land use restrictions on the utility and value of the subject property. The appraiser needs to not only address zoning but all land use regulations which may effect the utility of the property. The appraiser should select those sales that have the same or similar zoning as the property being appraised.

Merely stating what the zoning of the subject property is does not comply with this requirement. The appraiser should address if the present use of the property complies with the existing zoning and other land use regulations.

D-6 Zoning and Other Land Use Regulations

If an appraiser concludes that a property has a highest and best use that is physically and economically contrary to existing zoning, an investigation of the probability of obtaining such a rezoning shall be undertaken. Areas of enquiry should include the following:

- Interviews of zoning administrators;
- Interviews of members of the legislative body that make final zoning determinations;
- A review of all rezoning activity of nearby property, both approvals and denials;
- A review of land use patterns in the neighborhood and recent changes, if any in such patterns;
- A review of the physical characteristics of the subject and nearby properties;

D-6 Zoning and Other Land Use Regulations

- A review of neighborhood growth patterns;
- Investigation of neighborhood attitudes concerning rezones;
- A review of the provisions of land use planning documents;
- A determination of the age of the zoning ordinance;
- Analysis of sales of similar property to determine whether the sale prices reflect anticipated rezoning.

If an appraiser concludes a highest and best use that will require a rezoning of the property under appraisal, the appraisal report shall include a description of the investigation undertaken by the appraiser to determine that a probability of rezoning exists, the appraiser's analysis of the information gathered, and the factual support for the appraiser's conclusion.

D-6 Zoning and Other Land Use Regulations

Under no circumstances can a property be valued as if it were already rezoned for a higher use. The property must be valued only in light of the probability of obtaining a rezoning. Risk of being denied a rezoning, or that an exaction or other condition may be placed on the rezoning, always exists. The time delay and costs associated with the rezoning process must also be considered.

If the probability of a rezoning is impacted, either positively or negatively, by the government project for which the property under appraisal is being acquired, such impact must be disregarded.

Discussion Question

Zoning and Other Land Use Regulations

The property is presently zoned for only agricultural uses, lacks utilities and is in a flood zone. The investigation into the probability of a rezoning includes a discussion with the planning director and a letter stating they would support the rezoning of the property to a more intensive use.

The appraiser uses sales of properties which are already zoned for the higher use

There is no discussion of the cost of extending utilities and other infrastructure or the availability of water and sewer.

There is no discussion of how the location of the in the flood zone would impact development cost or potential uses.

Discussion Question

Zoning and Other Land Use Regulations

The property is presently zoned for only agricultural uses. The investigation into the probability of a rezoning does not meet Yellow Book standards.

The appraiser uses sales of properties which are already zoned for the higher use but there is no discount for risk, cost to rezone the property or the time to secure the rezoning..

The appraiser failed to address the cost of extending utilities and other infrastructure.

The appraise fails to adequately address the effect of the location of the property in a flood zone. Even is a rezoning is possible is development to a more intensive use economically feasible?

D-9 Comparable Sales Requiring Extraordinary Verification and Treatment



This section of the YB addresses when extraordinary verification is necessary, why it is necessary and what must be done.

Section D-9 of the YB addresses sales to government entities and conservation groups. Since government agencies and conservation groups may be motivated by non-economic considerations sales, and conservation groups may be acting as an agent for the government, sale to both of these types of buyers require special verification. If these sales are used they should be immediately viewed by appraisers as suspect and they will almost assuredly be viewed as suspect by the reviewer. The steps and information necessary to verify these sales will vary with the circumstances of the sale but the additional steps necessary to determine if these sales are comparable are required.

D-9 Comparable Sales Requiring Extraordinary Verification and Treatment

There is a third category of sales that must be verified and treated with great care. This consists of those sales used in the appraisal of a property that has a highest and best use for some form of development that will require the procurement of rezoning or a land use permit. Sales of such property in the private market will generally take the form of initial options or contingency sales, the contingency being the purchaser's ability to procure the necessary rezoning or permitting to develop the property to its highest and best use. Again if you encounter these types of sales refer to section D-9 of the YB.

Depending on how much reliance you placed on these types of sales failure to comply with the requirements of the YB may result in your appraisal being rejected.

Case Study 6 (Review of a Conservation Easement Assignment)



This case study is based on an actual review of an appraisal of a proposed conservation easement. A summary of the reviewer's comments are included in the handouts. Review the case study and see what issues you identify.

Suggested Solutions Case Study 6

- Is there much support for the opinion of highest and best use “future low-density residential development with interim agricultural use”? Seems contrary to the facts maybe “agriculture with future low-density residential”?
- What do you think about the valuation of the agricultural buildings and the improved 12 acre site (this site will not be encumbered by the conservation easement)? The appraiser simply described the improvements on the 12 acre property and stated that based on discussions with local brokers and their knowledge of the market the value of the buildings is \$70,000 and the value of the 12 acre site with associated improvements is \$267,000. These two figures are then added to the value determined for the unimproved land and a total market value is concluded. Probably doesn’t meet the requirements of the YB but how significant is this omission? Are the before and after values likely to be very if any different?
- Are there issues with the confirmation of Sales 2 and 3 to government agencies? It doesn’t appear that the appraiser complied with the requirements of D-9. Comparable Sales Requiring Extraordinary Verification and Treatment.

B-13 The unit rule

There are two elements in the Unit Rule. The first aspect of the unit rule requires that property be valued as a whole rather than by the sum of the values of the various interests into which it may have been divided. This is an application of the principle that it is the property, not the various interests, that is being acquired. Since it is more common for property to be acquired where essentially the fee simple interest will be acquired this is generally not an issue.

A second aspect of the unit rule is that different elements or components of a tract of land are not to be separately valued and added together. For example, the value of timber, as an independent component, cannot be added to the value of minerals in the same property as an independent component, and this sum further added to the value of the land. Such a procedure results in a summation or cumulative appraisal, which is forbidden in appraisals for federal acquisitions, as it is in general real estate appraisal practice.

The unit rule

The summation appraisal is an invalid procedure because the entire unit is being sold in its entirety, not as separate parts individually. Care must be taken if you are valuing a property where there are different elements or uses and you are relying on different comparables or valuation methodology to develop an opinion of value for the various parts. Where a property has different land uses say open farmland, timber, and improvements and you are relying on sales of each of the land uses and the cost approach to value the improvements there needs to be some discussion and support that each of the elements contributes to the whole proportionally. The support may be anecdotal from interviews with buyers where they render an opinion as to what they thought the contributory value of the components were or that typically properties in the area are composed of various elements and that this may be by design.

The unit rule

The presence of multiple highest and best uses also raises the issue of the larger parcel. If the different land uses (highest and best uses) are not integrated into some economic unit the uses may not constitute a single larger parcel. This is addressed in this section.

Since unity of use is one of the elements for an integrated unit, it would not necessarily follow that a contiguous body of land in the same ownership constitutes a single unit if the highest and best use for various parts is different . Failure to value the property as an integrated whole, however, must always be explained and supported. In this regard, appraisers must follow the guidelines set out for larger parcel determination.

Case Study 7A (What type of methodology is being used and is there Project Influence?)



- You have been hired by the Office of Valuation Service to provide an opinion of value for the acquisition of a corridor of land for a canal that will be built by the Bureau of Reclamation (BOR).
- The acquisition will be in fee for a strip of land 200 feet wide and 5,692 feet long with a total area of 28.46 acres.
- The acquisition is along the north side of a 980 acre tract of land on the Arizona Mexican border. The property is irrigated farm land which relies on deep wells. The highest and best use of the property is an integrated irrigated farming operation.
- The canal is being acquired as part of a water project which will provide irrigation water to a defined project area. The subject is within the area which will receive water from the project. Water costs for properties within the project will be substantially lower than the cost of pumping from deep wells.
- The project has been well published and market participants are well aware of the boundaries of the projects.

Case Study 7A Continued

- The BOR has already acquired property for the canal through the use of eminent domain where they have not been able to acquire the properties through negotiation.
- While the project is still being developed properties similar to the subject which are located within the boundaries of the project have seen a sharp increase in prices. Land prices are in the range of \$6,000 to \$7,000 per acre.
- Similar irrigated farm land in the area which is outside of the project area is selling for \$3,000 to \$4,000 per acre.

What methodology would you use? Which comparable sales are appropriate for this assignment?

Suggested Solutions to Case Study 8A

The property is within the boundaries of a defined project and the project has resulted in much higher values for properties within the project area. You should use a before and after analysis and you should probably rely on the sales outside the project area, this is a legal issue and you may want to get an opinion for the solicitor.

B-10. Enhancement or Diminution in Value Due to the Project addresses the issue of project enhancement and when it must be excluded. Essentially the United States cannot be charged in federal land acquisitions for values it has created in constructing the project for which the property is being acquired; nor can an owner be penalized for any diminution in value attributable to the project. Accordingly, any increase or decrease in the market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired, must be disregarded in estimating the market value of the property for federal acquisition purposes.

Special benefits to the remainder property resulting from the project for which the land is acquired (a kind of project enhancement) are to be offset against the award of compensation in a partial acquisition. This rule, which is not inconsistent with the no-project-enhancement rule, is discussed in detail in Section B-12.

The availability of irrigation water to the subject property constitutes as special benefit.

Case Study 7B

Because you are already involved in the appraisal for the Office of Valuation Services regarding the acquisition of a corridor of land for a canal that will be built by the Bureau of Reclamation (BOR). The Department of Homeland Security has hired you to provide an opinion of the effect on value of the acquisition of a portion of the subject property for the border fence.

- The acquisition will be in fee for a strip of land 100 feet wide and 5,692 feet long with a total area of 13.07 acres.
- The acquisition is along the south side of the same 980 acre tract of land along Arizona/Mexican border. The property is irrigated farm land which relies on deep wells. The highest and best use of the property is an integrated irrigated farming operation.
- All information relative to the irrigation project is applicable.
- While the irrigation project is still being developed properties similar to the subject which are located within the boundaries of the project have seen a sharp increase in prices. Land prices are in the range of \$6,000 to \$7,000 per acre.
- Similar irrigated farm land in the area which is outside of the project area is selling for \$3,000 to \$4,000 per acre.

Case Study 7B Continued

What methodology would you use?

Which comparable sales are appropriate for this assignment?

Is there a project which may effect the value of the property?

What about other damages to the subject property?

Lack of access?

Effect on the existing irrigation system and how the property irrigates.

Maybe increased value as a result of greater safety from people crossing the border? Project influence?

Suggested Solutions to Case Study 8B

This acquisition is for a different project and we have no information that the border fence project has any effect on the value of the properties in the project area. The value of the subject has been enhanced because of the BOR project. Since this land is not being acquired for the BOR project the project enhancement is not excluded. Use a before and after analysis and rely on the sales from inside the BOR project area.

Case Study 8 (Permanent and Temporary Easements)



The appraiser was to provide an appraisal for the acquisition of a 2.36 acre, temporary construction easement and the acquisition of a permanent access easement which will encumber 1.1 acres.

The temporary construction easement is for a term of 24 months. The appraiser developed an opinion of value of the 1.1 acre access easement based on a before and after analysis and concluded the difference in the before and after value to be \$16,500.

The appraiser estimated economic rent for the area to be encumbered by the temporary easement to be \$180 per acre on an annual basis and that an appropriate rate of return would be 6%.

The analysis of the temporary easements was;

Suggested Solutions for Case Study 8



The assignment involves a 2.52 temporary construction easement and a permanent access easement of 1.1 acres. Once the appraiser valued the permanent access easement there was no need to pay rent on this area during the 24 construction period. Effectively the appraiser estimated rent for the easement which had already been acquired.

Case Study 9 (Before and After Analysis Plus Lost Rent)

The appraiser was hired to provide an appraisal of a 350.11 acre agricultural property. The Bureau of Reclamation (BOR) will acquire 2.82 acres of land at the intersection of a slough and a BOR canal for a fish screen project. In addition to the fee acquisition, BOR will acquire a temporary construction easement over 6.95 acres for a term of 24 month.

The appraiser developed a before and after analysis of the value of the 350.11 acres which he determined was the larger parcel. The present use of the property is as irrigated pasture land. The property is adjacent to a community which until the recent down turn, was growing at a relatively rapid rate. The property is within a specific plan area and is designated for low density residential development. The appraiser concluded that the highest and best use of the property is interim agriculture use with future residential development consistent with the East Cypress Corridor Specific Plan.

Case Study 9 Continued

Because of the weakness in the market for residential land the appraiser is of the opinion that development of the property is probably ten years in the future. The proposed take is in an area designated in the Specific Plan as levees which must be constructed by the developer as part of the flood zone requirements. In order to develop the subject property, the owner will have to construct levees along the entire length of the canal and slough frontage. As part of the project the BOR will construct a levee in the take area. It is estimated that cost of the levee is \$450 per linear foot and the BOR will construct approximately 570 linear feet of levee in the take area (the length of levee for the larger parcel is unknown). This means that the developer will be relieved of \$256,500 worth of levee construction that is required as a condition of development.

Based on market data the appraiser had developed an opinion of the per acre value of the land of \$25,000. This value is supported by sales of similar land adjusted for the elements of comparison.

Case Study 9 Continued



	Acres		\$/AC	
Value Before Take	350.11	\$	25,000	\$ 8,752,750
Value of Part Taken	2.82	\$	25,000	\$ 70,500
Value of Remainder Before Take				\$ 8,682,250
Remainder Value After Take Before Benefits				\$ 8,682,250
Interim Value of Rent on Take Area Until H&BU is realized . Rent \$180/AC Term 10Yr. Discount Rate 6%				\$ (3,736)
				\$ 8,678,514
Damage to the Remainder				\$ (3,736)
Special Benefits				\$ 256,500
Net Damages to the Remainder				\$ (252,764)
Value of the Take				\$ 70,500
Just Compensation				\$ (182,264)
Payment for Loss of the TCE Income	6.95	\$	180	\$ 1,251
Present Value of lost Income Two Years @ 6%				\$ 2,294

Case Study 9 Continued

The appraiser's valuation analysis is summarized below.

The assignment results were reported as:

Value of the Take

\$0

Value of the Temporary Construction Easements

\$2,294

TOTAL COMPENSATION

\$2,294

What issues do you see with this appraisal which might cause you concern?

Suggested solutions for Case Study 9

This should have been a before and after analysis with a recognition of the special benefits from the levee (\$256,500) BOR will construct. The appraiser correctly developed an opinion of the property in the before condition and then developed an opinion of the value of the property in the after condition which was greater than the before value. He then developed an opinion of the rent for the TCE. The rent for the TCE (\$2,294) has to be included in the before and after analysis so there is no loss in value and no compensation.

D-10. Temporary Acquisitions: Appraisers must remember that the loss in value caused by a TCE acquisition is not an independent acquisition, and the compensation for it cannot be added to the indicated diminution in value by reason of the associated permanent acquisition. The rent loss associated with a TCE should be used as the basis for an adjustment to the remainder property's after value, not as something to be added to the difference between the before and after value of the property.

Suggested solutions for Case Study 9



	Acres	\$/AC		
Value Before the Take	350.11	\$25,000		\$ 8,752,750
Value of the Property After the Take	347.29	\$25,000		\$8,682,250
Special Benefits		<u>\$ 256,500</u>		
Total Value of the Property After the Take but Before TCE				\$8,938,750
Payment for Loss of the TCE Income	6.95	\$180		\$1,251
Present Value of lost Income Two Years @ 6%				\$2,294
Value of the Property Before the Take				\$8,752,750
Value of the Property After the Take				\$8,936,456
Difference				\$ (183,706)

Common Errors and Misconceptions in Yellow Book Assignments



Questions?

Summary

- We have address what the Yellow Book is and when it is required
- We have discussed the Yellow Book, USPAP and beyond.
- We have discuss the difference between should and shall.
- We have discuss the sections of the Yellow Book
- We have discuss common failures in complying with technical aspects of the Yellow Book.
- We have discuss common failures in complying with the requirements of the Yellow Book in the development of the opinion or opinions of value.
- We discussed some of the fatal flaws in Yellow Book assignments.
- We provided examples of work which fails to meet Yellow Book requirements and examples of work which provides good examples of compliance.
- We provided some examples and discuss the determination of larger parcel.
- We discussed ways to facilitate the appraisal process and avoid time consuming revisions of appraisals.