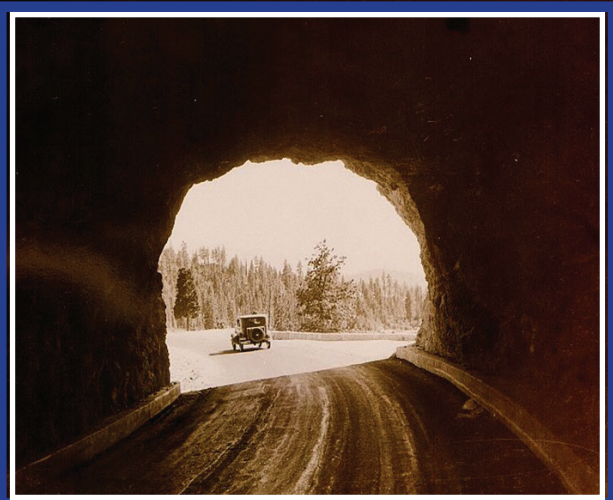


Right-of-Way Manual

2019

Waiver Valuation Supplemental





STEVE SISOLAK
Governor

STATE OF NEVADA
DEPARTMENT OF TRANSPORTATION

Right-of-Way Division
1263 S Stewart ST
Carson City, NV 89712

KRISTINA SWALLOW, P.E., *Director*
In Reply Refer to:

April 12, 2022

The following sections on Waiver Valuations are intended to be supplemental to the relevant sections of the Nevada Department of Transportation Right-of-Way Manual 2019 edition. Waiver Valuations as described in this Supplemental are hereby approved for use.

Sincerely,

DocuSigned by:
A handwritten signature in blue ink that reads "Craig Reynoldson".
E543F34A4B714A2...

Craig Reynoldson
Chief, Right-of-Way Agent

1.404 Negotiations

Under the supervision of an Assistant Chief Right-of-Way Agent and Supervisory Right-of-Way Agent for Acquisitions this Section conducts all activities necessary to acquire property rights to construct and maintain the transportation system, and initiates and follows the condemnation process when negotiations have reached an impasse. The Supervisory Right-of-Way Agent for the Acquisitions section oversees preparation of Waiver Valuation and appraisal reports performed by Right-of-Way Agents under their control, as well as negotiation, relocation, and property management within their area of responsibility.

1.453 Assistant Chief Right-of-Way Agents for Negotiations and Utilities

Assistant Chief Right-of-Way Agent – Acquisition & Relocation

The Assistant Chief for Acquisitions and Relocation has specific authority for:

- A. Setting Just Compensation
- B. Authorizing Waiver Valuations

By delegation of authority from the Deputy Chief Right-of-Way Agent, the Assistant Chief Right-of-Way Agent for Negotiations and Relocation coordinates and directs the activities of the following section of the Right-of-Way Division:

- A. Right-of-Way Negotiations Section

Section 1.500 Definitions

Waiver Valuation

The valuation process used and the product produced when the Agency determines that an appraisal is not required, pursuant to [49 CFR 24.102 \(c\) \(2\)](#) Appraisal Waiver Provisions.

1.623 Notices to Owner

- A. The following is a list of the required notices to be made to the property owner or tenant:
 - 1. Notice to Owner (Form 520)
 - a. As soon as feasible after the Right-of-Way Setting, the Nevada Department of Transportation shall notify those property owners whose property have been identified as being affected by the proposed project that their property will be acquired by the Department in the near future. This notice, Notice to Owner (Form 520) and Waiver of Appraisal (Form 520B), if applicable, shall briefly identify the property rights to be acquired and discuss the

basic legal protections provided the owner.

- b. Waiver of Appraisal (Form 520B) shall be sent out with the Notice to Owner (Form 520) when:
 - i. It has been determined that the acquisition is non-complex and there is time in the project schedule to use the Waiver Valuation process described in Section 5.433 of this Manual and
 - ii. The value of the parcel is estimated to be greater than \$10,000 but less than \$25,000.

4.203 Appraisal Prior to Negotiations

Unless the property owner has waived the appraisal by signing the Waiver of Appraisal (Form 520B) or the Department has determined an appraisal is unnecessary and is valued at less than \$10,000, all real property needed for a Department of Transportation project must be valued by an appraisal. If Waiver Valuations are being used, see Sections 5.396 and 5.433 of this Manual.

4.224 Appraisal of Donated Right-of-Way

The Chief Right-of-Way Agent must approve all donations. Once a title report has been secured, all real property needed for a Department of Transportation project must be valued using the following methods:

- A. For Real property whose value is below \$10,000 and the Department has determined that an appraisal is unnecessary, a Waiver Valuation will be performed.
- B. For Real property whose value is between \$10,000 and \$25,000 and whose owner has completed the Waiver of Appraisal (Form 520B), a Waiver Valuation will be performed.
- C. For all real property with a value above \$25,000 or which the Department has determined does not meet the Waiver Valuation criteria, the property shall be valued through the appraisal process.

4.251 Waiver Valuation Determination

The Waiver Valuation process is when the Agency determines an appraisal is not required, pursuant to 49 CFR 24.102(c)(2) Appraisal Waiver Provisions. The Assistant Chief of Acquisitions will determine if an acquisition qualifies for the Waiver Valuation process. If it's determined an appraisal is not required due to a noncomplex valuation process, and the anticipated value of the proposed acquisition is less than \$10,000, the Waiver Valuation process will be utilized. The \$10,000 threshold may be exceeded up to a maximum of \$25,000 if the

property owner is offered the option of having an appraisal. See Sections 5.396 and 5.433 of this Manual

The purpose of a Waiver Valuation is to reduce the time and costs associated with the appraisal process to enhance the Right-of-Way schedule.

A Waiver Valuation is not an appraisal, and the criteria for developing and reporting an appraisal does not apply. A Waiver Valuation is a recommended amount of Just Compensation based on current market values and is developed and reported by a qualified Right-of-Way Agent.

The Right-of-Way Supervisor of Acquisitions analyzes the complexity of the valuation process and examines design plans thoroughly for any indication of possible damages to property impacted by the project. The Right-of-Way Chief Review Appraiser may also be asked to provide Right-of-Way Agents with proper direction to current market values, resources and trends when needed on a case-by-case basis.

5.351 General Negotiations Policy

- A. When the value is estimated to be greater than \$10,000 and less than \$25,000, the Owner must be given the opportunity to have an appraisal completed in lieu of the Waiver Valuation. The Waiver of Appraisal must be mailed along with the Notice to Owner immediately after the right-of-way setting. The Agent performing the valuation must ensure this mailing occurs and have receipt of the signed Waiver of Appraisal prior to performing the valuation.
- B. Waiver Valuations are not appraisals, and an appraisal review is not required. **Note:** Waiver valuations can only be used in a very limited role; only when a condemnation process will not be implemented.
- C. The Right-of-Way Agent will send:
 - 1. Notice to Owner (Form 520) and, if applicable, Waiver of Appraisal Form 520B.
 - 2. Waiver of Appraisal (Form 520B) is to be sent to any owner of property estimated to be over \$10,000 but less than \$25,000 and for which a Waiver Valuation will be prepared. This Waiver is not required for parcels under \$10,000.
 - 3. Form 520B shall be sent Certified Mail, Return Receipt Requested **and** regular U.S. First-Class Mail.
 - 4. The assigned Agent shall follow up on owner's approval of the Waiver of Appraisal within ten (10) calendar days of delivery of the Waiver to the Owner. Waivers not received within twenty (20) calendar days shall be

referred to the Supervisory Right-of-Way Agent for possible appraisal of the required property.

5.355 Initiation of Negotiations (ION) 49 CFR §24.2

- A. All initial purchase offers must include:
 - 2. Appraisal Summary Statement (Form 563) or Waiver Valuation (Form 548)
 - 3. Copy of the Appraisal and Appraisal Review or Waiver Valuation (Form 548)

5.357 Negotiation Contacts

- A. Nevada Resident Owners and Lessees
The Department's designated negotiator shall:
 - 4. Make a written offer in the amount of the approved estimate of Just Compensation for the property using the Valuation Letter-Letter Presenting Written Offer (Form 517) Present a summary of the basis for the amount established as just compensation for the real property to be acquired and for damages to the remaining real property, if any, using the Appraisal Summary Statement (Form 563) or Waiver Valuation (Form 548) and use appropriate clauses from the Appraisal Summary Statement Clauses (Form 501) and Appraisal Summary Statement Clause Guide (Form 502). Provide a copy of the Public Highway Agreement (PHA) and Deed to be signed to the Grantor.

5.359 Separation of Functions

The negotiation function cannot be conducted by any person who made the appraisal of the property or who was the reviewing appraiser for the property, nor can the negotiator act as relocation Agent. The negotiator may also be the preparer of the waiver valuation if one was used.

5.396 Waiver Valuations

The Waiver Valuation process is when the Agency determines an appraisal is not required, pursuant to [49 CFR 24.102\(c\)\(2\)](#) Appraisal Waiver Provisions. The Assistant Chief of Acquisitions will determine if an acquisition qualifies for the Waiver Valuation process. The appraisal process may be waived if valuation of the property is noncomplex, and the anticipated value of the proposed acquisition is less than \$10,000, the Waiver Valuation process will be utilized. The \$10,000 threshold may be exceeded up to a maximum of \$25,000 if the property owner is offered the option of having an appraisal.

An examination of the subject acquisition is necessary to determine if a subject acquisition is eligible for the Waiver Valuation process. Factors to consider include the following:

- Potential changes to the highest and best use
- Damages to the remainder property, including detrimental changes to the utility of the subject caused by irregular shape or reduction of size to one that is non-conforming to the highest and best use,
- Any damages caused by the construction of the improvement in the manner proposed, as required by NRS 37.110. Damages caused by the construction of the improvement typically include but are not limited to restrictions in access due to the construction of medians, acceleration and deceleration lanes, walls, fencing, and changes in grade. Construction plans must be available for this investigation.

The purpose of a Waiver Valuation is to reduce the time and costs associated with the appraisal process and enhance the Right-of-Way schedule.

A Waiver Valuation is not an appraisal, and the criteria for developing and reporting an appraisal does not apply. A Waiver Valuation is a recommended amount of Just Compensation based on current market value information and is developed and reported by a qualified Right-of-Way Agent.

The agent performing the Waiver Valuation must employ sufficient understanding of the respective real estate market, resources, and trends to be qualified to recommend the waiver valuation. The Supervisory Right-of-Way Agent makes the determination that a Right-of-Way Agent is qualified and has a sufficient understanding of the local real estate market prior to assigning a Right-of-Way Agent.

Waiver Valuations may be used when there are minor damages that are both physically and economically curable. Examples are fencing or irrigation system rehabilitation.

The minimum payment of \$1,000.00 per parcel per the ROW Manual shall apply to all waiver valuations.

5.404 Preparation of Required Negotiations Documents

- A. After becoming familiar with the negotiation assignment, the Agent shall prepare the acquisition documents. The basic documents are:
 - The Letter of Offer;
 - The Appraisal Summary Statement (Form 563) or Waiver Valuation (Form 548);

- If the purchase offer is based on a Waiver Valuation, the Agent prepares a Letter of Offer using Form 517 instead of Form 517A.
1. Appraisal Summary Statement (Form 563) or Waiver Valuation (Form 548).
 - a. A separate Appraisal Summary Statement or Waiver Valuation must be attached to the Letter of Offer.
 - b. In the lower portion of the form, Description of Real Property to be Acquired, the Agent shall provide a general description of the type of property and/or property rights to be acquired. An identification is made of the building, structures, and other improvements that are included in the offer of just compensation. Where appropriate, the statement shall identify any separately held ownership interest in the property, e.g., tenant-owned improvements.
 - c. Toward the bottom of the Appraisal Summary Statement following the description of the real property to be acquired, the Agent must insert a statement that generally covers the type of appraisal considerations that apply to the subject property. The statements can be found in the Appraisal Summary Statement Clauses (Form 501) and Appraisal Summary Statement Clause Guide (Form 502).

5.433 Waiver Valuation Procedures

The Waiver Valuation process may be used when the valuation process is deemed uncomplicated, and the anticipated value of the proposed acquisition is estimated at \$10,000 or less. The Waiver Valuation process may also be used if the anticipated value of the proposed acquisition is estimated to be between \$10,000 and \$25,000, and if the property owner has waived the appraisal option by signing the Waiver of Appraisal (Form 520B).

When the Waiver Valuation process for non-complex parcels has been approved for use by the Assistant Chief Right-of-Way Agent, the assigned Right-of-Way Agent shall follow the procedures indicated below to prepare the Waiver Valuation. The agent preparing the Waiver Valuation may act as the negotiator of the parcel.

The Supervisory Right-of-Way Agent will give the recommendation to the Assistant Chief Right-of-Way Agent via Waiver Valuation Transmittal (Form 550). The Assistant Chief Right-of-Way Agent's concurrence on this memo will serve as the authorization.

The Right-of-Way Supervisor analyzes the complexity of the valuation process and must examine design plans thoroughly for any indication of possible damages to property impacted by the project. The Right-of-Way Chief Review Appraiser may also be asked to provide Right-

of-Way Agents with proper direction to market values, resources and trends when needed on a case-by-case basis.

Waiver Valuation (Form 548) shall be used for all Waiver Valuation assignments and shall be signed by the Agent performing the Waiver Valuation, the Supervisory Right-of-Way Agent and the Assistant Chief Right-of-Way Agent. The Waiver Valuation shall be accompanied by the Certificate of Waiver Valuation (Form 549).

A. Waiver Valuations being created shall be prepared as follows:

1. A Waiver Valuation is not an appraisal, and the criteria for developing and reporting an appraisal does not apply. A Waiver Valuation is a recommendation of Just Compensation based on current market values and is developed and reported by a qualified Right-of-Way Agent. It is recommended that the agent work with their supervisor when determining the best method to secure relevant market information and determine fair market value, this may include having at least one initial appraisal completed on the project.
2. In the case of multiple acquisitions of a similar type where an initial appraisal is being utilized to determine impacts and value, the Agent will review the required construction plans to verify that the property they will be valuing has the same impacts. The agent must confirm that there are no additional negative impacts created by the proposed design features.
3. The agent will use information they have gathered, and the construction plans to make a preliminary estimate of value of the acquisition and any minor damage to the remainder property for the purpose of determining if the parcel exceeds the \$10,000 or \$25,000 limits.

If the value is estimated to be greater than \$10,000 but less than \$25,000, the property owner **shall** be offered the opportunity to have an appraisal performed in lieu of a Waiver Valuation using the Waiver of Appraisal form (Form 520B).

The Agent must be diligent in following through on receipt of the appraisal waiver to prevent a delay of the project. If the appraisal waiver is not received within 10 days, the Agent must contact the owner personally and advise the Supervisory Right-of-Way Agent.

4. Whenever it is practical and possible, the Right-of-way Agent shall inspect the property to verify all real and personal property within the proposed right-of-way. A waiver valuation does not require a written invitation to accompany the Agent on the Agents' inspection of the property. However, it is recommended and been the practice of this Division to extend the invitation. Form 531, Waiver Valuation

Determination Introductory Letter, invites the property owner to accompany the agent or appraiser during the property inspection. The person responsible for the inspection must send this notice to the property owner prior to inspection. No Review Appraisal Report is required of Waiver Valuations.

- B. The Right-of-Way Agent shall prepare a Waiver Valuation using the approved Waiver Valuation (Form 548) with accompanying Certificate of Waiver Valuation (Form 549)
 - 1. The Supervisory Right-of-Way Agent will approve the Waiver Valuation based on the information supplied by the Right-of-way Agent.
 - 2. The Supervisory Right-of-Way Agent will provide the Waiver Valuation to the Assistant Chief Right-of-Way Agent for the approval of Just Compensation.
 - 3. The Agent performing the valuation will maintain the highest level of ethics.

5.435 Project Coordinator

- A. Ensure the Consultant is aware that after the appraisal and review are completed, copies will be provided to the Department prior to the written offer being presented to the owner. Review Appraisals done by an appraiser outside the Department, requires that the Assistant Chief Right-of-Way Agent issue a "Memo" establishing Just Compensation. When the consultant receives the Memo of Just Compensation, they can then proceed to present the offer package and begin the negotiations.

If the review appraisal is done by the Department, the signed review may replace the Memo of Just Compensation. If the property is valued at less than \$25,000, the Department may elect to use Waiver Valuations. A memo from the Assistant Chief Right-of-Way Agent to the Consultant will be required to approve the use of Waiver Valuations.

548	Waiver Valuation
549	Certificate of Waiver Valuation
550	Waiver Valuation Transmittal

6.400 Definitions

Waiver Valuation:

The valuation process used and the product produced when the Agency determines that an appraisal is not required, pursuant to [49 CFR 24.102 \(c\) \(2\)](#) Appraisal Waiver Provisions.

