

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

UNITED STATES OF AMERICA,)
Plaintiff,)
)
v.)
)
8.31 ACRES OF LAND, more or less,)
situated in CAMERON COUNTY, TEXAS;)
and THE NATURE CONSERVANCY, et al.,)
)
Defendants.)

CASE NO. 1:08-cv-493

COMPLAINT IN CONDEMNATION

1. This is an action of a civil nature brought by the United States of America at the request of the Secretary of the Department of Homeland Security, through the Acting Executive Director, Asset Management, of U.S. Customs and Border Protection, for the taking of an interest in property, under the power of eminent domain through a Declaration of Taking, and for the determination and award of just compensation to the owners and parties in interest.

2. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1358.

3. The interest in property is taken under and in accordance with the Act of Congress approved on February 25, 1931, as 46 Stat. 1421 and codified at 40 U.S.C. Section 3114, and the Act of Congress approved August 1, 1888, as 25 Stat. 357 and codified at 40 U.S.C. Section 3113, and any acts supplementary thereto and amendatory thereof; the Act of Congress approved September 30, 1996, as Public Law 104-208, Division C, Section 102, Stat. 3009-546, 3009-554, as amended and codified at 8 U.S.C. Section 1103(b) & note; and the Act of Congress approved October 4, 2006, as Public Law 109-295, Title II, 120 Stat. 1355, which appropriated the funds which shall be used for the taking.

4. The public purpose for which said interest in property is taken is to construct roads, fencing, vehicle barriers, security lighting, and/or related structures designed to help secure the United States-Mexico border within the State of Texas.

5. A general description of the land being taken is set forth in Schedule "C" attached hereto and made a part hereof. A plan showing the property being taken is shown on Schedule "D" attached hereto and made a part hereof.

6. The interest(s) being acquired in the property is described in Schedule "E" attached hereto and made a part hereof.

7. The names and addresses of known parties having or claiming an interest in said property are set forth in Schedule "G" attached hereto and made a part hereof.

8. Local and state taxing authorities may have or claim an interest in the property by reason of taxes and assessments due and exigible.

In addition to those persons named, there are or may be others who have or may have some interest in the property or interests to be taken, whose names are unknown to the Plaintiff, and such persons are made parties in the action under the designation "Other Interested Parties."

WHEREFORE, Plaintiff requests judgment that the property and interests be condemned, and that just compensation for the taking be ascertained and awarded, and for such other relief as may be lawful and proper.

Respectfully submitted,

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SCHEDULE C

SCHEDULE "C"
LEGAL DESCRIPTION

Cameron County, Texas

Tract: RGV-FTB-1024 Owner: The Nature Conservancy Acreage: 8.31

BEING a certain tract of land containing 8.31 acres, more or less, of 197.61 acres, more or less, situated in El Jardin Subdivision, Cameron County, Texas, being more particularly described as follows:

BEING a strip of land encompassing the existing right-of-way of the levee from toe to toe, said strip being approximately 60 feet in width and approximately 6,035 feet in length, which crosses the land of the subject owner, and contains 8.31 acres, more or less, as shown on the attached map.

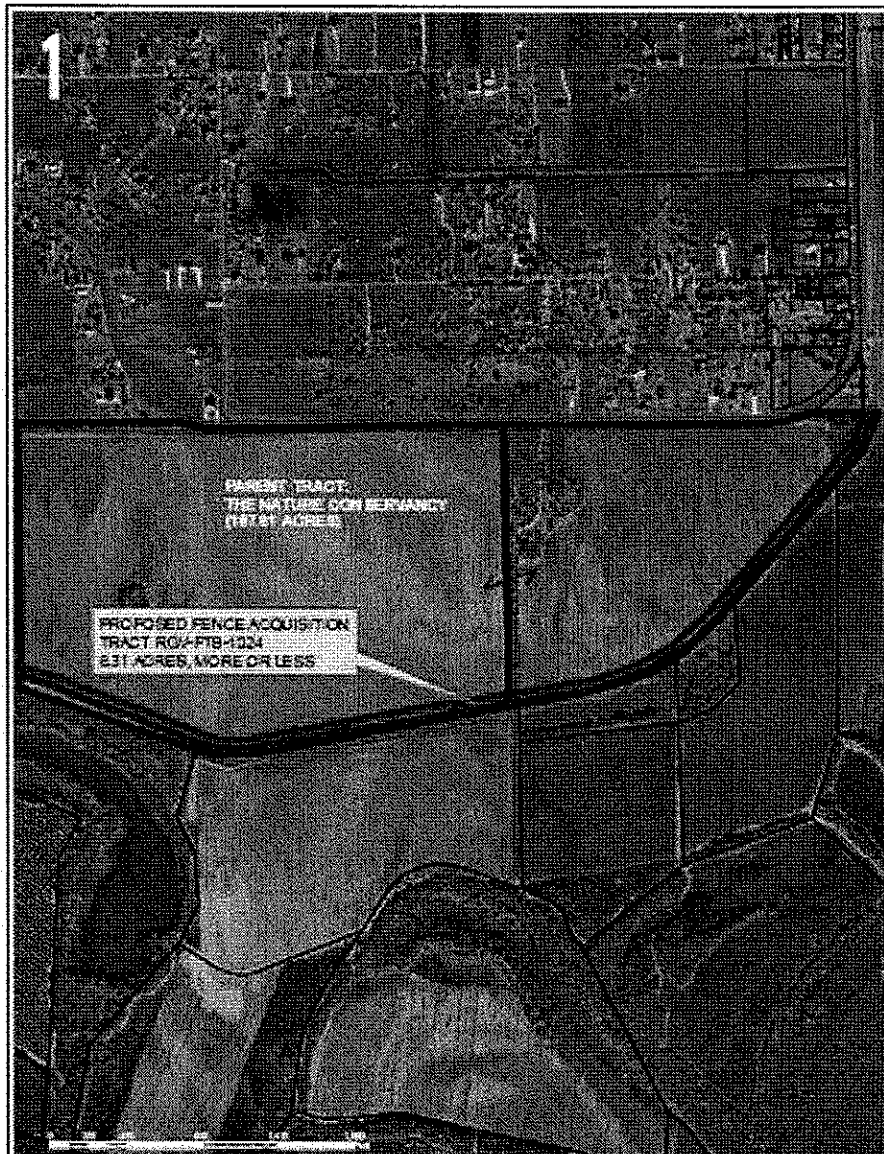
IT IS THE INTENT of the foregoing description to include part of the same land as that in a Deed from H. Julia Armstrong Jitkoff to The Nature Conservancy, dated November 15, 1999, and filed for record in Volume 5941, Page 164 as Instrument No. 49377, in the records of Cameron County, Texas.

NOTE: This tract is further identified in the Cameron County Appraisal District records as Property Id. Nos. 116109, 116112, 116113, and 116114.

Tract: RGV-FTB-1024

SCHEDULE D

SCHEDULE "D"



LAND TO BE CONDEMNED

Tract: RGV-FTB-1024

Owner: The Nature Conservancy, et al.

Acreage: 8.31

Cameron County, TX

Deed Reference: Volume 5941, Page 164, Deed Records of Cameron County, Texas

NOTE: This tract is further identified in the Cameron County Appraisal District records as Property Id. Nos. 116109, 116112, 116113, and 116114.

SCHEDULE E

SCHEDULE "E"
ESTATE TAKEN

The estate taken is fee simple, subject to existing easements for public roads and highways, public utilities, railroads and pipelines; excepting and excluding all interests in minerals and the rights appurtenant thereto; reserving the following rights and interests in the property being acquired by the United States as described herein: a perpetual right-of-way on both sides of the Federal border barrier for the purpose of gaining access to condemnee's land on the other side of the border barrier; and, the United States grants to the condemnee a perpetual right-of-way across other lands of the United States along and on both sides of the border barrier to reach and utilize the nearest border barrier gate for the purpose of crossing over the levee and accessing condemnee's lands on the other side. This reservation and grant does not create any new rights to traverse any part of the levee, and does not change the nature of any such rights, if any, which may now exist. The purpose of this provision is to clarify that the United States is not prohibiting access to condemnee's remaining lands between the border barrier and the Rio Grande River, but is providing a permanent right-of-way to condemnee and all landowners similarly situated to access the nearest border barrier gate which allows entry to the other side of the border barrier from which unacquired land can be accessed.

SCHEDULE G