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DEPARTMENT OF THE ARMY
Little Rock District, Corps of Engineers
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LRDR 405-1-2

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Regulation
No. 405-1-2

21 April 1972

REAL ESTATE

Acquisition of Rights-of-Entry

1. Purpose. This regulation prescribes the procedure to be followed in obtaining rights-of-entry for survey and exploration, and construction; the procedure in conducting activities under rights-of-entry; the procedure to be followed upon completion of work or at expiration of right-of-entry; and the method of payment for damages resulting from exercising the right-of-entry.

2. Applicability. The regulation is applicable to all employees who plan and select access routes, prepare and obtain rights-of-entry, and enter upon privately owned land pursuant to terms of rights-of-entry.

3. References.

- a. Paragraphs 2-7 and 2-8, AR 405-10.
- b. ER 405-1-661.

4. Activities conducted under rights-of-entry.

a. It is the policy of the Department of the Army that no entry on privately owned land for work to be performed under rights-of-entry be made prior to negotiations with the landowner for such right.

b. Any unconventional entry, such as by helicopter or other aircraft or boat, shall be explained to the landowner in advance of such entry.

c. It is necessary to recognize not only the effects of entry upon a particular parcel of land but also the effects of the passage of any vehicle (land, air, or water) on the area traversed. Cattle, horses, or sheep (particularly during the lambing season) may be injured as a result of their reaction to the passage of a helicopter or other low-flying aircraft. Fowl, particularly turkeys, are subject to panic, which may result in mass death among the flock. Land vehicles may have a similar effect, although to a lesser degree. The passage of power boats may disturb traps or nets set by fishermen. All of these possibilities of disturbing effects on the countryside shall be considered and routes selected so as to eliminate or at least minimize such disturbances.

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5. Procedure in obtaining, processing, and disposing of rights-of-entry.

The following procedures are prescribed for obtaining and processing rights-of-entry within the District.

a. Rights-of-entry for survey and exploration. Rights-of-entry for survey and exploration will be obtained by field personnel unless Real Estate Division is specifically requested to obtain them. Rights-of-entry will be obtained in triplicate on ENG Form 1258. One copy will be left with the landowner and two signed copies transmitted to the Real Estate Division for acceptance on behalf of the United States of America. It will be the responsibility of the Real Estate Division to maintain the expiration date file and to assure that action is taken to either extend the permit or to obtain from Engineering Division a determination that extension of the permit is not necessary prior to the expiration date and, where appropriate, obtain the necessary releases.

b. Rights-of-entry for construction. Rights-of-entry for construction will be obtained by the Real Estate Division. ENG Form 2803 will be used for this purpose unless specific authority has been obtained to use a special form. Under no circumstances will rights-of-entry for construction be obtained until after acquisition of necessary real estate interests has been approved.

c. Inspection of premises under rights-of-entry for construction. It is important that claims for damages under rights-of-entry be held to a minimum, to avoid excessive costs and embarrassment to the Corps of Engineers, and in the interest of good public relations. Every effort will be made to keep the amount of damages resulting from exercise of the right-of-entry to a minimum, consistent with the purposes for which it was obtained. Immediately upon completion of the work performed under a right-of-entry for construction, a joint inspection of the premises will be made by representatives of the using unit, the Real Estate Division, the contractor (if involved), and the landowner, to ascertain the extent of damages (if any) caused by the work under the right-of-entry and whether restoration will be required. If there are no damages, a release will be obtained from those executing the permit or their legal successors or assigns.

d. Claims for damages. It is expected that the procedure set forth in subparagraph 5c above will reduce the number of claims filed by the landowners. However, in the event a claim for damages results from exercise of the right granted under either right-of-entry form, the Real Estate Division will process the claim in accordance with the provisions of Sections III, IV, V, and VI of ER 405-1-910.

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6. Modification of forms. Forms ENG 1258 and ENG 2803 may be modified where necessary to meet the requirements of landowners, provided such modifications do not increase the scope of the liability or responsibility of the Government over that contained in the standard forms.

FOR THE DISTRICT ENGINEER:



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