### IDJI 7.16.1 - Factors to be considered, partial take - severance damages

INSTRUCTION NO. \_\_\_

 In determining what compensation should be paid for damages, if any, to the remainder of the property, you should take into consideration the uses for which the land is adaptable before and after the taking, the character and quality of the property, the shape and condition in which the remaining property is left, the convenience of using the property before and after the taking, and such other factors as you find would affect the market value of the property.

Comments:

This instruction is somewhat redundant to IDJI 7.07. Where there is no benefit claimed to the remainder, the approach of State v. Dunclick, Inc., 77 Idaho 45 (1955), of determining just compensation by subtracting the fair market value of the remainder from the fair market value of the whole before the take would eliminate the necessity for this instruction. Where, however, the parcel taken and the parcel remaining are separately valued, this instruction might be useful.