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## 510.01 General

Washington State Department of Transportation (WSDOT) Real Estate Services personnel participate in the project definition phase of a project to assist in minimizing right of way costs, defining route locations and acquisition areas, and determining potential problems and possible solutions.

Due to the variables in land acquisition, the categories of right of way costs considered in the project definition phase are:

- Purchase costs (acquisition compensation).
- Relocation assistance benefits payments.
- Other Real Estate Services staff expenses (acquisition services, relocation services, and interim property management services).

Right of way cost estimates are made by Real Estate Services specialists. When the parcels from which additional right of way will be acquired are known, title reports (including assessors' land areas) can be requested.

Real Estate Services personnel also make project field inspections at appropriate times throughout the development of a project to ensure adequate consideration is given to significant right of way elements involved (including possible social, economic, and environmental effects) in accordance with the [Right of Way Manual](#).

During plan development:

- Title reports are examined for easements or other encumbrances that would reveal the existence and location of water lines, conduits, drainage or irrigation lines, and so on, that must be provided for in construction.
- Easements that indicate other affected ownerships are added to the right of way and limited access plan.
- Arrangements are made to obtain utility, railroad, haul road, detour routes, or other essential agreements, as instructed in the [Utilities Manual](#) and the [Agreements Manual](#) (Consultants: Please contact your WSDOT Project Manager for access to the Agreements Manual).
- Right of way acquisition, disposal, and maintenance are planned.
- Easements and permits are planned (to accommodate activities outside of the right of way).

Engineering considerations for right of way are contained in many chapters in this manual. Examples include chapters in the 700 series related to bridges and walls and in [Chapter 1230](#). (See [Chapter 1102](#) as a recommended first read for discussion of right of way.)

Preliminary right of way widths are developed and may be modified based on Real Estate Services' input, but cannot be moved to coincide with property boundaries in anticipation of a total take. Jogs in the final widths of the right of way are held to a minimum. (See [Right of Way Manual](#), Chapter 6, for discussion of remainders.)

All acquisition documents are processed through Headquarters (HQ) Real Estate Services except temporary permits that are not shown on right of way plans and are not needed for the project (such as for driveway connections).

### **510.01(1) Environmental Site Assessments (New Section 2023)**

Environmental site assessments are required before acquisition of real property required for transportation purposes can be accomplished. These assessments are described in Chapter 447 of the [Environmental Manual](#) and occur in different scales and levels of detail, starting with the lowest level of detail with 1) transaction screening, then moving to 2) Phase I Environmental Site Assessment, and 3) Phase II Environmental Site Assessment. The sequence and timing of these assessments is related to the type of property and/or property rights to be acquired and project activities envisioned, and state of progress in design. At a minimum, a project footprint needs to be established in order to estimate the scope of property acquisitions that are involved.

Once a decision is made to acquire a permanent interest in a property, or to acquire a temporary interest where ground or water disturbance is anticipated as a result of project related actions, perform a Phase I Environmental Site Assessment and determine whether there is a finding of concern. In the case of a temporary acquisition in which there is no ground or water disturbance anticipated, perform a transaction screening instead.

If an assessment does not result in a finding of concern, then the project may proceed to acquire the property and/or property rights. If any assessment results in a finding of concern, then perform the next level of environmental assessment (either Phase I or Phase II). When a Phase II Environmental Site Assessment is performed, and one of the results is that contamination is found, consult with the appropriate representatives from the Environmental Services Office, and Real Estate Services Office to do a risk assessment to fully understand the impact and consequences to the project from acquiring the property and/or property rights and available alternatives. The Environmental Services Office and Real Estate Services Office will consult with Attorney General's Office as needed. Any decision to acquire the property and/or property rights after contamination is found is made by the Assistant Region Administrator.

## **510.02 Special Features**

### **510.02(1) Road Approaches**

On managed access highways, the department will reconstruct legally existing road approaches that are removed or destroyed as part of the highway construction. New approaches required by new highway construction are negotiated by the region with the approval of the Regional Administrator. The negotiator coordinates with the region's design section to ensure new approaches conform to the requirements of Chapter 1340 for road approaches. All new approaches will be by permit through the appropriate region office.

On limited access highways, road approaches of any type must be approved by the Director & State Design Engineer, Development Division, before there is legal basis for negotiation by Real Estate Services. When approved, approaches will be specifically reserved in the right of way transaction and will contain the identical limitations set by the Director & State Design Engineer, Development Division, and as shown on the approved right of way and limited access plan.

### **510.02(2) Cattle Passes**

The desirability of or need for a cattle pass will be considered during the appraisal or negotiation process. A cattle pass will be approved only after complete studies of location, utilization, cost, and safety elements have proved its necessity. Upon approval, such an improvement and appurtenant rights will be established. Future right of access for maintenance is negotiated during acquisition.

On limited access highways, approval by the Director & State Design Engineer, Development Division, and the addition of a traffic movement note on the right of way and limited access plan (see the [Plans Preparation Manual](#)) are required.

### **510.02(3) Pit, Stockpile, and Waste Sites**

These sites are investigated and planned as outlined in the [Plans Preparation Manual](#). Detour and haul road agreements, approved by the Regional Administrator, are necessary when the state proposes to use city streets or county roads for the purpose of detouring traffic or hauling certain materials. (See the [Utilities Manual](#) for detour and haul road agreement guidelines.)

### **510.02(4) International Boundaries**

Construction proposed “within a 20-foot strip, 10 feet on each side of the international boundary,” must be coordinated between the department and the British Columbia Ministry of Highways and Public Works.

Permission of the International Boundary Commission is required to work “within 10 feet of an international boundary.” Their primary concern is monumentation of the boundary line and the line of sight between monuments.

The Commission requires a written request stating what, when, and why construction will be done, sent to:

International Boundary Commission  
United States and Canada  
2000 L Street NW, Suite 615  
Washington, DC 20036  
([www.internationalboundarycommission.org](http://www.internationalboundarycommission.org))

## **510.03 Easements and Permits**

### **510.03(1) General**

If others request rights within existing WSDOT ownership, they are to contact the region Real Estate Services Office.

Easements and permits to accommodate WSDOT activities outside the right of way usually fall into one of the categories defined below.

Easements and permits are processed in accordance with the requirements of the [Right of Way Manual](#). The region Real Estate Services Office drafts the legal descriptions for all easements and permits for acquisition of property and property rights. HQ Real Estate Services drafts the legal description for all easements and permits for disposition of property or property rights. The region Real Estate Services Office either obtains or assists in obtaining easements and permits. The region is responsible for compliance with and appropriate retention of the final documents. Records of permanent property rights acquired are maintained by HQ Real Estate Services. Easements and permits are to be shown on the contract plans in accordance with the [Plans Preparation Manual](#).

### **510.03(2) Perpetual Easements**

Perpetual easements are shown on the right of way plans in accordance with the [Plans Preparation Manual](#).

#### **510.03(2)(a) State Maintenance Easement**

Used when the state is to construct a facility and provide all maintenance. Examples are slope and drainage easements.

#### **510.03(2)(b) Dual Maintenance Easement**

Used when the state is to construct and maintain a facility and the owner is to maintain the remainder. Examples include the surface area above a tunnel and the area behind a retaining wall or noise wall.

#### **510.03(2)(c) Transfer Easement**

On occasion an easement must be acquired for transfer to another party. In these cases, contact the region Real Estate Services Office for early involvement. The right of way and limited access plan is modified to identify the party to whom the easement will be transferred. The department cannot obtain easements for transfer across lands under the jurisdiction of the Department of Natural Resources, and WSDOT cannot condemn for a transfer easement.

### **510.03(3) Temporary Easements**

Temporary easements are used when the state requires a temporary property right that involves either more than minor work or construction activities on privately owned property. In the cases where the rights required or the work to be performed is not beneficial to the property owner, just compensation must be paid.

When WSDOT is paying for the rights or when the encroachment is significant, temporary easements are shown on the right of way plans, in accordance with the [Plans Preparation Manual](#). Consult the region Plans and Real Estate Services personnel for exceptions. If the easement is not mapped, mark and submit plans according to the following information.

- The region provides a right of way plan with the required temporary easement(s) delineated in red to the region Real Estate Services Office. These plan sheets provide:
- Ownership boundaries. Confirmation of ownership and parcel boundaries may be completed by a search of county records and mapping; a formal title report is required for temporary easements.
- A parcel number assigned to each ownership.
- Sufficient engineering detail to write legal descriptions.
- A statement of the intended use of each temporary easement area.
- In limited access areas, contact the HQ Access and Hearings Office.

### **510.03(4) Construction Permits**

Construction permits are used for temporary rights during construction. They are not used when WSDOT needs a perpetual right. A construction permit is only valid with the current owner and must be renegotiated if property ownership changes before construction begins. For private ownerships, a temporary construction easement is recommended. A construction permit is recommended for rights of entry to publicly owned property. Local agencies might require the use of specific forms when applying for these rights of entry. Regardless of the form or its name, the region is responsible for appropriate central storage of the original document.

When there is a benefit to the property owner (for example, driveway or parking lot approach improvements) the construction permit is usually obtained without the payment of compensation (for example, donation or mutual benefits). Consult the region Plans and Real Estate Services offices for exceptions.

### **510.04 Programming for Funds**

For plan development, the phases in [Exhibit 510-1](#) apply to the authorization of stage programming.

When federal funds are involved, special attention must be given to Federal Highway Administration (FHWA) requirements. When federal participation in right of way costs is anticipated, specific authorization must be obtained from the FHWA. The rules and procedures provided in [RCW 8.26](#), [WAC 468-100](#), and the [Right of Way Manual](#) must be followed to ensure federal and state participation. In many cases, federal funds are contingent upon the department setting up a relocation advisory procedure for any owner or tenant who is displaced by a project and desires such assistance. Relocation advisory assistance is a function of HQ Real Estate Services.

### **510.05 Appraisal and Acquisition**

#### **510.05(1) All Highways**

[Exhibit 510-1](#) shows plan development phases for both limited access highways and managed access highways; thus, it applies to the authorization of right of way acquisition for all state highways.

#### **510.05(2) Exceptions**

Exceptions can be made to the requirements in [Exhibit 510-1](#) if unusual hardships result for the individual or the state. The approval of right of way hardship action will be based on the individual parcel merit and is processed in accordance with hardship acquisition policy (see the [Right of Way Manual](#)).

### **510.06 Transactions**

#### **510.06(1) Private Ownerships**

Right of way is ordinarily acquired from private property owners by region-level negotiation between the owner and the right of way agent.

#### **510.06(2) Utilities**

The region determines the ownership of all utilities and makes arrangements for necessary adjustment, including relocation of portions of the utility, if necessary. Provisions for relocation or adjustment are included in the Plans, Specifications, and Estimates (PS&E) when:

- The items are normal construction items and the department is obligated for the moving expense.
- The utility requests that relocation be performed by the department and the department has approved the request.

Readjustment may require WSDOT to purchase substitute rights of way or easements for eventual transfer to the utility. Such rights of way or easements must be shown on the right of way plans with the same engineering detail as highway right of way. On limited access highways, if an approach is required for maintenance of a utility, the approach will be shown on the approach schedule. (See the [Utilities Accommodation Policy](#) regarding location of and access to utilities.) Negotiations with the utilities are often done by HQ Real Estate Services.

Because of the considerable time required to obtain approvals, processing of utility relocation agreements must begin as soon as possible.

### **510.06(3) Railways**

Right of way is generally not acquired in fee from a railroad company. Instead, the state acquires a perpetual easement for encroachment or crossing. A construction and maintenance agreement may also be required. The easement must be shown on the right of way plan and identified by both highway and railroad stationing.

The HQ Design Office coordinates with the railroad design staff to determine a mutually agreeable location before the proposed easement is sent to Real Estate Services. The negotiations with the railroads are generally done by HQ Real Estate Services. Because of the considerable time required to obtain approvals, processing of railroad agreements must begin as soon as possible. The perpetual easement document is executed by the Real Estate Services Director.

### **510.06(4) Federal Agencies**

Acquisition of right of way from most federal agencies must be negotiated and processed through several federal offices. Allow at least one year for efficient and economical right of way acquisition. Depending upon the particular federal agency involved, special exhibit maps and other documentation may be required, and the right of way may be acquired as an easement rather than in fee. The negotiations with the federal agencies are generally done by HQ Real Estate Services.

### **510.06(5) Other State Agencies**

Acquisition from other state agencies must be negotiated and processed through the individual agencies or designees. Negotiations with other state agencies are generally handled by HQ Real Estate Services. As in the case of federal agencies, substantial time must be allowed for compliance with applicable statutes and regulations peculiar to the agency before right of way will be granted.

### **510.06(6) Condemnations**

Condemnation can result from a disagreement between the department and the owner regarding a fair settlement or a faulty title. Since several months might elapse between the filing of a condemnation case and a court decision, the region Real Estate Services Office can be requested to investigate the possibility of obtaining a negotiated possession and use agreement as in the case of an emergency project or when a sundry site is required immediately.

## 510.07 References

### 510.07(1) Federal/State Laws and Codes

[23 Code of Federal Regulations \(CFR\) Part 710](#)

[49 CFR Part 24](#), Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs

[Revised Code of Washington \(RCW\) 8.26](#), Relocation assistance – Real property acquisition policy

[Washington Administrative Code \(WAC\) 468-100](#), Uniform relocation assistance and real property acquisition

### 510.07(2) Design Guidance

[Agreements Manual](#), M 22-99, WSDOT (Consultants: Please contact your WSDOT Project Manager for access to the Agreements Manual)

[Plans Preparation Manual](#), M 22-31, WSDOT

[Right of Way Manual](#), M 26-01, WSDOT

[Utilities Manual](#), M 22-87, WSDOT

## Exhibit 510-1 Appraisal and Acquisition

Plan Approval	Plan Approval	Programming of Funds for Appraisal and Acquisition
<b>Limited Access Highways</b>		
PHASE 1 Access Report Plan	Director & State Design Engineer, Development Division*, approves access report plan for prehearing discussion with county and city officials. The access report plan may be used for preparation of federal-aid program data for appraisals if federal funds are to be used for right of way acquisition. It may be used for requesting advance appraisal funds through the Planning and Capital Program Management for all projects with either state or federal funds.	Program appraisals of total takes. (No acquisition.)
PHASE 2 Access Hearing Plan	Director & State Design Engineer, Development Division*, approves access hearing plan for use at a public access hearing. R/W information is complete.  The access hearing plan may be used for the preparation of federal-aid program data for negotiations on federally funded projects and for the preparation of true cost estimates and fund requests.	Program all appraisals and acquisitions. Note: Do not appraise or purchase partial takes in areas subject to controversy. Appraise or purchase total takes only if federal design hearing requirements are met.
PHASE 3 Findings and Order Plan	No signature required. Results of findings and order access hearing are marked in red and green on access hearing plan and sent to HQ R/W Plans Section.	Program appraisals of partial takes where data is available to appraisers. Acquisition of total takes.
PHASE 4 Final R/W and L/A Plan	Director & State Design Engineer, Development Division*, approves final R/W and L/A plans or approves revisions to established R/W and L/A plans.	Program all remaining appraisals and all remaining acquisitions. Note: If appeal period is not complete, delay action in areas subject to controversy and possible appeal.
<b>Managed Access Highways</b>		
PHASE 5 Final R/W Plan	R/W plan submitted to HQ R/W Plans Section for approval.	Program appraisals.
	Director & State Design Engineer, Development Division*, approves new R/W plans or approves revisions to established R/W plans.	Program all appraisals and acquisitions.

\*Or a designee.