Project Delivery Academy Module 4: Design and Clearances

Right of Way

Presentation by

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Manager, Right of Way Project Management

October 12, 2022



Module 4: Design and Clearances ADOT <u>Right of Way</u> Group

Infrastructure Delivery Operations (IDO) Section Engineering Building 205 S. 17th Ave. Phoenix, AZ (3rd Floor)

What we do!

- We provide the <u>Right of Way Clearance</u> required before you can receive approval to advertise, award & construct your project
- We in essence are your: Right of Way Engineer, Title Company, Appraisers, Realtor and Property Manager



Module 4: Design and Clearances ADOT Right of Way Group

- Adhere To All Federal & State Acquisition & Relocation Requirements
- Acquisition of Real Property Rights Required For Projects
- (Who) Legal Title Ownership and Conveying Instruments
- (Where) Establish existing Right of Way (R/W) R/W Survey
- R/W Engineering Plans and Legal Descriptions
- Appraisals Fair Market Value For Required Acquisitions & Damages
- One On One Offer & Negotiations With Owners & Escrow Closings
- Work With Attorney General's Office for Condemnations Relocate Owners Impacted By Projects
- Accounting, Contracts, Records Property Records Center, Title & R/W Archives Field Identify R/W Before Construction
- Monument R/W After Construction
- Prepare R/W Resolutions For State Transportation Board Approval
- Property Management For ADOT Owned Excess Land Rentals, Disposals, Demolition And Water Rights & Wells
- Federal (FHWA) Delegated R/W Oversight Responsibilities For Local Public Agency Transportation Projects
- Red Letter Program Interface With Local Jurisdictions, Developers, Attorneys, Architects, Engineers, Utility Companies







Goal:

Paint a picture to increase your understanding about a critical component that can destroy the success of your project(s).



Context Sensitivity

Thinking Beyond The Pavement





Journey

From "Don't Get It" (or wherever you are)

to

"Got it !"





There will be a <u>TEST</u> at the end of the presentation.



RIGHT-OF-WAY

Not Right Away!



RIGHT-OF-WAY

Right of Way is not an event





Right of way is a linear sequential process that requires. TIME!



Basic Question

Q. 3 Clearances <u>required</u> to advertise your project:

Environmental Right of Way Utilities and Railroad

(Materials Memo – No interrelationship with R/W)

(Any relationship to the order?)



FHWA Environmental NEPA Clearance is critical to Right of Way.

Without NEPA Clearance = no AZPR2X for R/W

Without NEPA Clearance and AZPR2X =

R/W <u>cannot initiate negotiations</u> for property acquisitions.

R/W <u>cannot Submit to Government Agencies</u> to begin their submittal process. (some take 1 yr.)



FEDERAL HIGHWAY ADMINISTRATION - ARIZONA DIVISION OFFICE LETTER OF AUTHORIZATION AND PROJECT AGREEMENT								
6	ARIZON	A DEPARTMENT OF TRANS	PORTATION			Authorization		Modified Project Agreemen
"In accordance with ADOT/FHWA operating partnership" "In accordance with ADOT/FHWA operating partnership" and will comply with the agreement provisions set forth in 23 CFR 830.112; and its signature constitues the making of the certificates, DUN's # 0944.0667								
FEDERAL AID PROJECT NO. SUFFIX				TRACS NO.(ADOT) COUNTY				
DATE AU	JTHORIZATI	ON EFFECTIVE			essi el	FMIS DA	TE	
GENER/	AL LOCATION	1						
GENERAL DESCRIPTION OF WORK								
YOU ARE AUTHORIZED TO PROCEED WITH THE WORK CHECKED BELOW:								
PHASE I PRELIMINARY ENGINEERING - Scoping, Location Studies, Environmental Studies and Preliminary Design PHASE II PRELIMINARY ENGINEERING - Final					CONSTRUCTION - Advertise for Receipt of Bids CONSTRUCTION - Proceed on an Agreed Price and/or			
Desl		of Contract Plans				CONSTRUCTION - Proc Force Account Basis OTHER -	ced on an Agree	ed Price and/or
FUNDING		TOTAL ESTIMATED PROJECT COST(\$)	FEDERAL PAR			FEDERAL FUNDS(\$)	APPN CODE	RATIO(%)
PREVIOUS	TIONS:	\$0	\$0.00)		110-11 110-11		0.00%
THIS AUTHORIZATION		\$0	\$0.00	,				94.30%
PROJECT TOTALS		\$0	\$0.00	,		\$0.00		
OTHER (SPECIFY) This agreement is subject to the following award terms: http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf and http://edocket.access.gpo.gov/2010/pdf/2010-22706.pdf THE WORK AUTHORIZED UNDER THIS PROJECT WILL BE HANDLED THROUGH								
A Requi	ested by			F	ьу	Authorization	Jan Ja	
D O Prepa	wed by			H	Jy	for Division Administrator		
	nized by uty Chief Fina	ncial Officer	Date	A	ьу	Agreement		

Form AZPR2X (8/00) - Approved by FHWA for use by ADOT



PM's Responsibility

Notify Right of Way when Federal Authorization is received to enable Right of Way to charge to a project and proceed.

OBTAINING FUNDING is key to our SUCCESS -No Authorization to Proceed for R/W + No \$\$\$ to initiate on-call contracts No Progress (possibly 60 to 75 days)



Right-of-Way Does <u>NOT</u>



Determine The Location (footprint/requirements) where the new Right of Way Line needs to be to construct, operate, maintain and protect the public and our highway facilities. (You/Designer tell us what you need and we go get it for you.)



Right-of-Way Does <u>NOT</u>



Make up the market value for property at a project. It's not some Arbitrary Number-By LAW we have to pay the fair market value for a property. (If R/W cost is too much for your project budget – buy less by finding a solution that requires less.)



LAWS

- Laws of Physics
- Laws for Mechanics of Materials
- What happens when you violate the laws of physics or strength of materials?

Can you spell...



D-i-s-a-s-t-e-r!



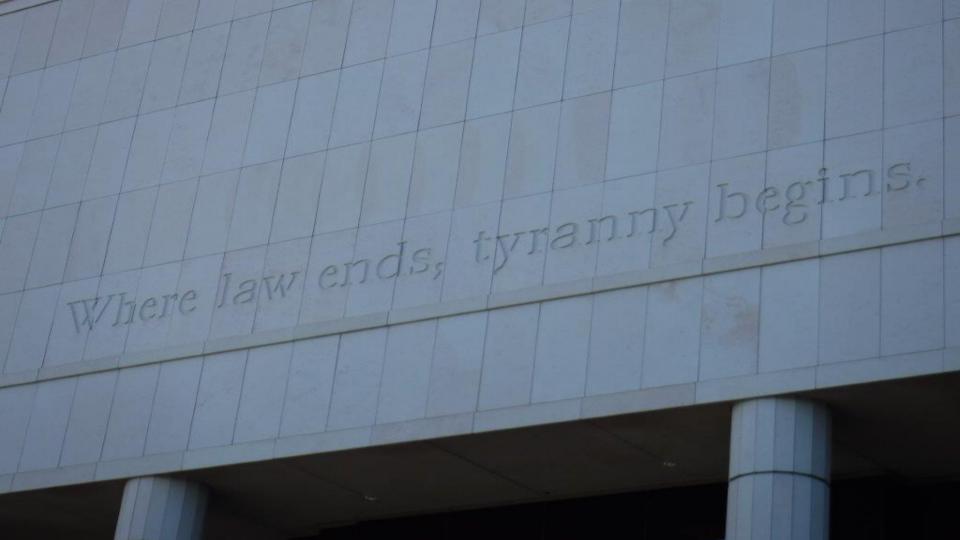


RIGHT-OF-WAY









Cite as: 582 U.S (2017)

Opinion of the Court

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions. Supreme Court of the United States. Washington D. C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

SUPREME COURT OF THE UNITED STATES

No. 15-214

JOSEPH P. MURR, ET AL., PETITIONERS v. WISCONSIN, ET AL.

ON WRIT OF CERTIORARI TO THE COURT OF APPEALS OF WISCONSIN, DISTRICT III

(June 23, 2017)

JUSTICE KENNEDY delivered the opinion of the Court.

The classic example of a property taking by the government is when the property has been occupied or otherwise seized. In the case now before the Court, petitioners contend that governmental entities took their real property – an undeveloped residential lot – not by some physical occupation but instead by enacting burdensome regulations that forbid its improvement or separate sale because it is classified as substandard in size. The relevant governmental entities are the respondents.

Against the background justifications for the challenged restrictions, respondents contend there is no regulatory taking because petitioners own an adjacent lot. The regulations, in effecting a merger of the property, permit the continued residential use of the property including for a single improvement to extend over both lots. This retained right of the landowner, respondents urge, is of sufficient offsetting value that the regulation is not severe enough to be a regulatory taking. To resolve the issue whether the landowners can insist on confining the analysis just to the lot in question, without regard to their



MURR v. WISCONSIN

Opinion of the Court

acter of the governmental action. Palazzolo, supra, at 617 (citing Penn Central Transp. Co. v. New York City, 438 U.S. 104, 124 (1978)).

By declaring that the denial of all economically beneficial use of land constitutes a regulatory taking, Lucas stated what is called a "categorical" rule. See 505 U.S., at 1015. Even in Lucas, however, the Court included a caveat recognizing the relevance of state law and land-use customs: The complete deprivation of use will not require compensation if the challenged limitations "inhere . . . In the restrictions that background principles of the State's law of property and nuisance already placed upon land ownership." Id., at 1029; see also id., at 1030-1031 (listing factors for courts to consider in making this determination).

A central dynamic of the Court's regulatory takings jurisprudence, then, is its flexibility. This has been and remains a means to reconcile two competing objectives central to regulatory takings doctrine. One is the individual's right to retain the interests and exercise the freedoms at the core of private property ownership. Cf. id., at 1028 ("[T]he notion . . . That title is somehow held subject to the 'implied limitation' that the State may subsequently eliminate all economically valuable use is inconsistent with the historical compact recorded in the Takings Clause that has become part of our constitutional culture"). Property rights are necessary to preserve freedom, for property ownership empowers persons to shape and to plan their own destiny in a world where governments are always eager to do so for them.

The other persisting interest is the government's well-established power to adjus[t] rights for the public good." Andrus v. Allard, 444 U.S. 51, 65 (1979). As Justice Holmes declared, "Government hardly could go on if to some extent values incident to property could not be diminished without paying for every such change in the



PROPERTY / LAND

Is Sacred Ground



RIGHT OF WAY

Is No Exception

With more laws, rules, regulations, guidelines, policies then can possibly be imagined.



Constitution and the Bill of Rights



Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Amendment II

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

Amendment III

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

Amendment IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.



Article. XIV.

Section 1.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2.

Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age,* and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 3.

No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.



The Uniform Act

Note: These Regulations and Statutes were printed in June 2001. You should check our website: http://www.fbwa.dot.gov/legerege/legislat.html for the most current copy of the regulations and statutes.

1Public Law 91-646 91st Congress, 3, 1 January 2, 1971

 (2As amended by Public I aw 100-17, Apr. 2, 1987, Title IV, Uniform Relocation Act Amendments of 1987.)
 (aAs amended by Public Law 102-240, Dec. 18, 1991, Sec. 1055, Relocation Assistance Regulations Relating to the Rural Electritication Administration.)
 (4As amended by Public Law 105-117, Nov 21, 1997, Sec. 104; Sec 2, an Alien not lawfully present in the United States.)

> Office of Real Estate Services Federal Highway Administration

AN ACT

To provide for uniform and equitable treatment of persons displaced from their homes, businesses, or farms by Federal and federally assisted programs and to establish uniform and equitable land acquisition policies for Federal and federally assisted programs.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 19/U".

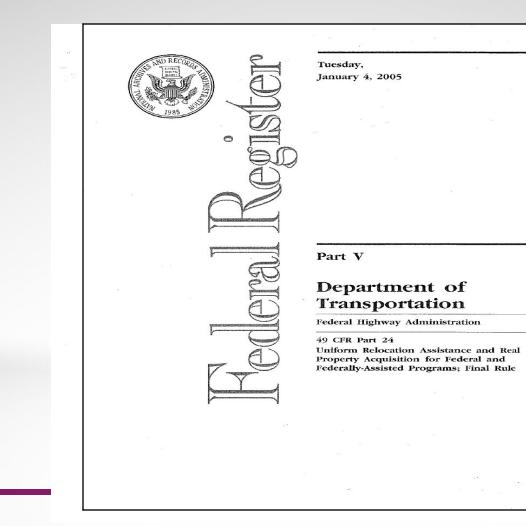
TITLE I-GENERAL PROVISIONS

SEC. 101. As used in this Act-

(1) The term "Federal agency" means any department, agency, or instrumentality in the executive branch of the Government, any wholly owned Government corporation, the Architect of the Capitol, the Federal Reserve banks and branches thereof, and any person who has the authority to acquire property by eminent domain under Federal law.

(2) The term "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, the Trust Territory of the Pacific Islands, and any political subdivision thereof.

(3) The term "State agency" means any department, agency, or instrumentality of a State or of a political subdivision of a State, any department, agency, or instrumentality of two or more States or of two or more political subdivisions of a State or States, and any person who has the authority to acquire property by eminent domain under State law.



ADOT



25 CFR 169 Rights-of-Way over Indian Lands



Department of the Interior Bureau of Indian Affairs March 2019





Rights-of-Way over Indian Lands

 If a project with new right of way crosses over Tribal Reservation Land, approval is required from the BIA and the Tribe.





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Part III

Department of Transportation

Federal Highway Administration

23 CFR Parts 635, 710, and 810

Right-of-Way and Real Estate; Final Rule





28-7092. Land acquisition; transportation purposes A. In the name of this state, the director may acquire, either in fee or a lesser estate or interest, real property that the director considers necessary for transportation purposes by purchase, donation, dedication, exchange, condemnation or other lawful means with monies from the state highway fund or any other monies appropriated to the department.

B. Property acquired for transportation purposes includes land or any interest in the land necessary for:

1. Rights-of-way, campsites, roadside rest areas, water or material needed in the construction, improvement or maintenance of state highways, airports, runways, taxiways or other property under the jurisdiction, possession or control of the department.

2. Spoil banks, rock quarries, gravel pits, sand or earth borrow pits,

Rights-of-way to the place where material required in the construction, improvement or maintenance of state highways, airports, runways or taxiways may be located.

4. Offices, shops, maintenance camps, storage yards, inspection or weighing stations or radio transmitter or repeater stations.

5. Rights-of-way for access to any location prescribed in this subsection.
6. Relocation of existing utility or irrigation facilities and rights-of-way that are required to be relocated to facilitate a transportation purpose.
7. Legal access to property acquired by the director through adjacent property.
8. Environmental mitigation or banking credits, if necessary to satisfy the

requirements of federal or state environmental laws or regulations or requirements to obtain a permit, grant or right to use property from a federal or state agency. For the purposes of this paragraph:

(a) "Banking credits" means payment in lieu of costs of acquisition, preservation or maintenance of habitat or other environmentally protected locations.

(b) "Environmental mitigation" means replacement of habitat or other

environmentally protected locations that are taken for or affected by a transportation facility.

C. If part of a parcel of land is to be taken for transportation purposes and the remainder is to be left in such shape or condition as to be of little value to its owner or to give rise to claims or litigation concerning severance or other damage, the director may acquire the whole parcel by any means provided in subsection A, and the remainder may be sold, exchanged for other property needed for transportation purposes or used for rights-of-way for relocated utility or irrigation facilities.



Arizona Division

Stewardship and Oversight Agreement for Arizona

Introduction

Guiding Legislation

This Agreement outlines the roles and responsibilities of both the Federal Highway Administration (FHWA) Arizona Division and the Arizona Department of Transportation (ADOT) in the oversight and administration of the federal-aid highway program (FAHP) in Arizona.

Since 1991, federal transportation legislation has provided flexibility in delegating certain FAHP program and project-level responsibilities to states. The Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991, the Transportation Equity Act for the 21st Century (TEA-21) of 1998, and the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA LU) of 2005 provided flexibility to FHWA and the states in ensuring project actions are carried out in accordance with applicable laws, regulations, and policies. TEA-21, Section 1305 (a), required that FHWA and the state enter into an agreement showing the extent of the state's assumption of responsibilities of the Secretary of Transportation. These laws allowed the states to assume greater program and project responsibilities, and accountability in the management of the FAHP. With the passage of SAFETEA-LU, greater flexibility was granted for FHWA and the states to enter into a more comprehensive agreement that covers all aspects of the FAHP and mechanisms to effectively and efficiently execute the federal-aid program relating to program and project delivery, including financial integrity.

Pursuant to 23 USC 105(c), only certain project-level actions and authorities, as further defined in this Agreement, can be delegated; these involve: design, plans, specifications, estimates, contract, awards, and inspections of projects. However, actions under the following non-Title 23 authorities cannot be delegated: National Environmental Policy Act (excepted as permitted under Title 23). Uniform Relocation Assistance & Real Property Acquisitions Act; and Clean Air Act. Also, the non-Title 23 requirements apply to all projects. In those situations where ADOT has assumed responsibility for project oversight through the delegations provided in Title 23 USC 106, ADOT is responsible acting in the relative role of FHWA. While federal law allows a state to assume certain project responsibilities. FHWA is ultimately accountable for assuring that the FAHP is delivered consistent with established requirements. Delegation authority to the state can be withdrawn at anytime if the state operates in a manner which violates federal laws or regulations.

23 USC 105(b) also permits states to approve, on a project-by-project basis, plans, specifications, and estimates for projects to resurface, restore, and rehabilitate highways on the National Highway System (NHS), and further permits the states to request that the Secretary no longer review and approve highway projects on the NHS (including the Interstate) with an estimated construction cost of less than \$1,000,000.

FHWA recognizes there are some projects on the Interstate System that are routine and inherently low risk that are generally non-controversial and in which the state DOTs have a high-level of experience and documented procedures and processes in place for ensuring compliance with federal requirements.

It is also mutually desirable for the FHWA to streamline the approval process of these routine and inherently low-risk projects. For that reason, the FHWA issued guidance on February 22, 2007, that allows for evaluation and revision of the \$1,000,000 threshold and the shifting of responsibilities to the states for inherently low-risk projects on the Interstate.

Accordingly, this Agreement incorporates, by programmatic agreement, inherently low-risk projects on the Interstate System on the basis of the following:

 Inherently low-risk oversight projects include those that are routine, low-risk projects and generally non-controversial in which the state DOTs have a high-level of experience and documented procedures and processes in place for ensuring compliance with federal requirements. These projects would not include complex or unique engineering features, would not traditionally involve major changes in scope or cost, would satisfy design



Arizona of Transportation Infrastructure Delivery and Operations Division

> Right of Way Procedures Manual



PROJECT MANAGEMENT SECTION UNIT 4950

FHWA Certified: January 01, 2016



FUNDEMENTAL POWERS OF THE STATE

Police Power Eminent Domain Taxation



Eminent Domain

The power of government to take private property and convert it into public use, with the payment of compensation.





- 1. To get into one's possession by force
 - a. To capture physically; seize; take on enemy fortress
 - b. To seize with authority; confiscate
 - c. To kill, snare, or trap (fish or game for example)

EMINENT DOMAIN ACQUISITION = "TAKING"



Property – Bundle of Rights

<u>Ownership</u> Quiet Possession <u>Use</u>



Ownership

The right to sell, buy, bequeath, give, exchange, lease (in whole or part), split, transfer (in whole or fractional interests.



Quiet Possession

The right to possess property free of interference or encroachment from others, without due process of law and just compensation.



Use

The right of an Owner to use his property as he sees fit within the constraints of law, custom, and contracts.



REAL ESTATE

In the past, rights to property have often been represented as a bundle of sticks, with each stick representing a right. Although certainly useful in a symbolic way, this visualization does not adequately portray what really goes on in today's complex three-dimensional real estate world of condominiums, time-shares, air rights, zoning, conservation easements, life estates, overlapping uses, etc. Rights to property can better be portrayed as layers, as in layers of a cake, with each layer representing a right. Each of these layers can not only have separate value as part of the whole, but also separate ownership. Thus, property may be considered as a volume.



4-1)===

Valuation Considerations and Issues

Easements • Rights from other properties on it • Rights into an adjoining property - Utility Easements through the property - Mineral and Water Rights • Air Rights • Zoning/Construction Rights or Restrictions, Limitations, or Rights Imposed by Government • Views • Visibility - Set Backs - Deed Restrictions - HOA and Common Areas, Requirements • Conservation Easements • Leasehold Interests • Time Limitations (leases, rentals, life estates, time shares) - Tax Liens and Certificates of Purchase • Federal Land Transfers • Access ...



IMPACT?

Impacts have consequences!

Time & Money



Best Practices:

- Avoid (creating the damage)
- Do the <u>minimal</u> amount of damage (amount often does not have a direct correlation to the amount of time required to obtain owners approval or acquire the interest required)

Will require compensation for damages, mitigation, or possibly a land exchange.



THE Gold Rule

HE WHO HAS THE GOLD RULES.



REMEMBER

(The Gold Rule)

When FEDERAL provides the GOLD...

FEDERAL Provides The RULES!

(DON'T FORGET THE GOLDEN RULE!)



Question

Q.Are you working on a project that is funded by Federal-Aid?

Remember \$1.00 of Federal Money in your project anywhere "federalizes" your project...and if you want to keep the Federal Money you must play by all the Federal Rules...everywhere.



Question

Q. What could be one of the worst <u>financial</u> <u>consequences</u> (nightmare) that can happen to you and your project?

...Lose the federal funding



Have you ever?

Seen the FHWA Presentation by Dave Leighow FHWA Realty Specialist, Salem, OR.

titled: "50 Ways to Lose Your Money"

... it's all about right-of-way



Question

Q. Ever been responsible for a project when the Feds pulled over \$40 Million from your project?

"A call like that would go straight to the Governor's Office." (The storm rolls downhill.)

> Gov. D. Ducey J. Halikowski G. Byres S. Boschen S. O'Brien/PM



Solution?

Don't ask us to break the law (rules)

Please know-

We will do everything within our power and ability that is not illegal or immoral to make your project scheduled due date.

Your Job-

You have to develop a <u>Realistic Schedule</u>



Clue:

Scheduling your Right of Way Clearance prior to your scheduled Environmental Clearance or the same date as your Environmental Clearance is an indication you have a problem ...or you are going to have.





with your Right of Way Coordinator about when they will be able to provide you a Right of Way Clearance as you develop the schedule for your project.

You need a Right of Way Clearance no sooner than your Bid Ready Date. (Scheduling a Right of Way Clearance 3 to 6 months ahead of your Bid Ready Date is not necessary!)



Question

Q. Do you know what Trespassing is?





TRESPASSING

If you do not own the land and you are on it <u>without permission</u> – you are



Trespassing:

- 1. To commit an offense.
- 2. To commit an <u>unlawful</u> injury to property, or <u>rights of another</u>. To enter onto another's land wrongfully.
- 3. To infringe on the privacy of another. An intrusion or infringement on another.

(Certain trespasses are *privileged*, such as trespasses to prevent waste, to serve legal service and to use reasonable airspace for flights by aircraft.)



Question

Q. What would happen if during construction the sheriff shows up and stops the work or you have to tell the contractor they have to skip over an area because ADOT does not have the rights to be on a property and they cannot work at that location and will have to come back later?



<u>Answer</u>

Can you say... "Claim for Damages" ...And how much does mobilization or

re-mobilization cost?



Original Contract vs. Change Order





Question

Q. Do Feds participate in delay claim change orders?

FEDERAL GOVERNMENT DOES NOT PARTICIPATE IN COSTS ASSOCIATED WITH DAMAGE CLAIMS OR BREAKING THE LAW.

NO!





ROADSIDE

TRAFFIC

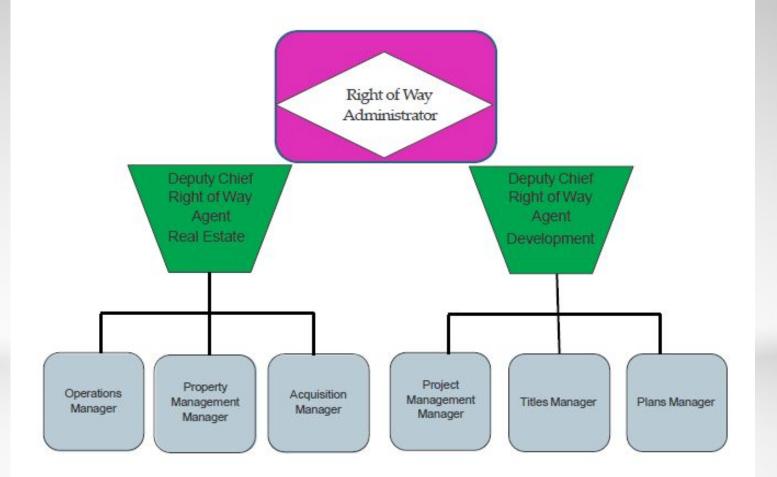
SIGNALS/LIGHTING/ITS

BRIDGE/STRUCTURES

DRAINAGE



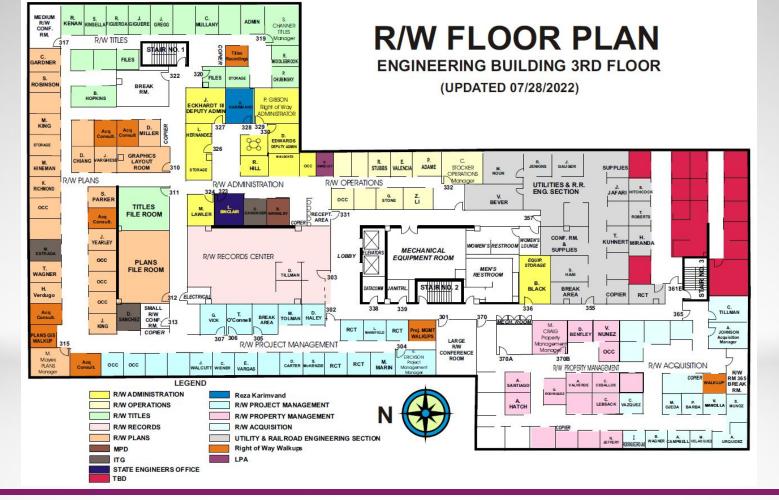














RIGHT OF WAY PHONE LIST 9/29/2022

4945	ADMINISTRATION - RM 331	PHONE	PGR/CELL	4949	ACQUISITION - RM 365	PHONE	PGR/CELL
HIEF	GIBSON, PAULA	602-712-8758	602-316-8497 (C)	MGR	JOHNSON, ALYSSA	602-712-7142	602-501-8264 (C
AA	HILL, ROCHELLE	602-712-7316	480-714-5172 (C)		BARBA, PATTY (Elva) (c)	602-712-7175	2000 - 10 COL 1000
	BLACK, BEN	602-712-7143	602-203-0198 (P)		CAMPBELL, AMBER (c)	602-712-8746	
	ECKHARDT III, JOHN	602-712-7900	602-920-7167 (C)		VACANT		
	EDWARDS, DAVE	602-712-8803	480-438-9559 (C)		MUNOZ, SONIA	602-712-7515	2
	HERNANDEZ, LORRAINE	602-712-8059	602-463-8269 (C)		OJEDA, MARTHA (c)	602-712-8795	2
	LAWLER, MARK (c)	602-712-7108	602-377-4674 (C)	-	RODRIGUEZ-ROJAS, ZOILA (C		
946	OPERATIONS - RM 331	PHONE	PGR/CELL		TILLMAN, CAROLINE	602-712-8503	480-322-8151 (0
	STOCKER, CAROLYN	602-712-8796	480-490-6270 (C)		URQUIDEZ, ALICIA (c)	602-712-7315	400-022-010110
	VACANT	602-712-8806	400-400-6270 [C]	-	VAZQUEZ, CHRISTIAN (c)	602-712-8816	
	ADAME, PAMELA	602-712-6606		-	VELAZQUEZ, MARIA	602-712-8016	600 710 7507 //
				-			602-712-7587 (0
	U, ZHENZHEN	602-712-7583		10.00	WAGNER, BEATRIX (c)	602-712-8737	-
	STONE, GINA	602-712-7912			PROJECT MGMT - RM 302	PHONE	PGR/CELL
	STUBBS, ROSIE	602-712-4476		MGR	ERICKSON, RICHARD	602-712-7085	480-518-3966 (0
	VALENCIA, ESTHER	602-712-8793		-	CARTER, DEBRA (c)	602-712-7933	
	PROPERTY MGMT - RM 365	PHONE	PGR / CELL		HALEY, DENNIS (c)	602-712-7432	
MGR	CRAIG, MICHAEL	602-712-6568	602-329-4495 (C)	2	MANSFIELD, LINDA (c)	602-712-7710	ŝ.
	BENTLEY, DONNA	602-712-8808			MARIN, MERRISA	602-712-6341	2
	CEBALLOS, CHRISTINA	602-712-8529			MCKENZIE, STACIE (c)	602-712-7167	
	HATCH, AMY	602-712-8021	480-417-7078 (C)		O'CONNELL, TIMOTHY	602-712-7160	480-518-3181 (0
	JEFFERY, ROBERT	602-712-7146			TOLMAN, MATT	602-712-4701	
	LEBSACK, CRAIG (c)	602-712-7022			VARGAS, ELISABETT	602-712-7053	2
	MANCILLA, VIDAL (C)	602-712-7516			VERDUGO, HENRI (c)	602-712-8763	
	NUNEZ, VANESSA	602-712-7184	480-645-4178 (C)		VICK, GERARD	602-712-8655	
	RODRIQUEZ, GREG	602-712-7144	480-259-9122 (C)		WALCUTT, JIM (Tucson)	520-591-7923	520-591-7923 (0
	SANTIAGO, ATHENA	602-712-8738	480-482-0805 (C)	-	WENER, CINDY (c)	602-712-8779	020 051 1525 10
	VALVERDE, ANNETTE (c)	602-712-7186	400-402-0000 (0)	-	R/W FAX MACHINES	PHONE	TO RESERVE
	TITLES - RM 319	PHONE	PGR/CELL	-	Acquisition	602-712-3453	TORESERVE
	CHANNER, STEVE	602-712-6891	602-341-0510 (C)			602-712-3051	S
NGR			602-341-0510 (C)		Project Management		
-	CHUBINSKY, PAUL (c)	602-712-6124		-	Property Management	602-712-3070	24
	FIGUEROA, RANDY (c)	602-712-7911		-	Titles	602-712-8756	The second second
_	GIGUERE, JENNIFER (c)	602-712-6126		-	R/W CONFERENCE ROOMS	PHONE	TO RESERVE
	GREGG, JIM	602-712-7546		-	Large Conf. Rm - RM 301	602-712-6567	*602-712-7316
	HOPKINS, BYRON	602-712-6946		-	Medium Conf. Rm - RM 317	602-712-7035	*602-712-7316
	KENAN, RYAN (c)	602-712-7208		-	Small Conf. Rm - RM 313	602-712-7506	*602-712-7316
	KINSELLA, SHERRY (C)	602-712-8797			*See your org's secretary to reserve con	ference rooms	
	MIDDLEBROOK, RON	602-712-8160			Or call 602-712-7316. Medium & Small		OW use Only
	MULLANY, CHUCK (c)	602-712-6967	Norman and American		R/W FILE ROOMS	PHONE	Service and the service of the servi
1948	PLANS - RM 302	PHONE	PGR/CELL		R/W Titles File Room - RM 311	602-712-7509	
IGR	MAYES, MICHAEL	602-712-8782	480-356-8586 (C)		R/W Plans File Room - RM 312	602-712-7508	
	CHIANG, DANIEL	602-712-8109			R/W Records Center - RM 303	602-712-8805	
	GARDNER, CARWIN	602-712-8521			OTHER GENERAL NUMBERS	PHONE	8
	HINEMAN, MICHAEL	602-712-8739			General Operations (Facilities)	602-712-7888	
	KING, JOHN	602-712-7492			ADOA Help deal-locked out of yes	602-542-4700	
9	KING, MICHAEL	602-712-8787		1	ADOT Help Desk	602-712-7249	
	MILLER, DAN	602-712-6174	-	-	ADOT Mel Room	602-712-8163	602-712-7475
	PARKER, SCOTT	602-712-7589		-	ADOT Motor Pool Durango Site	602-542-3118	
-	in the second second			1		002-042-0110	
	RICHMOND, KEN	602-712-7957			ADOT Motor Pool Capitol mail shop on Jackson	602-542-3206	
9	ROBINSON, SUSAN	602-712-7514		1	ADOT Payrol	602-712-7496	2
	VACANT	602-712-7203	-	-	Human Resources (Personnel)	602-712-8188	602-712-6940
1	VARGHESE, JACOB	602-712-8772		1	Seculty to 205 Bidg - Lobby Aree	602-712-4394	
				1	CAPITOL POLICE 602-542-458		15
	WAGNER, TIM	602-712-8725		-			1
	YEARLEY, JAMES	602-712-8724		-	(CP) Clerical Pool	2	5
				-	(SI) Summer Inter		
_					G Drive: \RightonWay\Phone Lists\RW Phone Lists.xis		
_				-		1	
					(c) Onsite Consultant		
		5. 2			(c) Onsite Consultant (P) Pager		
	ADOT MEDIA RELATIONS 1-				(c) Onsite Consultant		



ARIZONA DEPARTMENT OF TRANSPORTATION

Infrastructure Delivery and Operation

RIGHT OF WAY GROUP

Mission:

To acquire and dispose of public / private lands and administer the relocation program in accordance with <u>state laws</u>, <u>rules</u> and <u>federal</u> <u>regulations</u>.



Operations

Accounting

Contracts

Records



Titles

Titles Research

Condemnation

Resolutions and Disposals



Plans

Survey

Plans

Plans Review

Delineation (Legal Descriptions)



Project Management

Appraisals Review Appraisals Local Agency Liaison Red Letter Program



Acquisitions

Acquisitions Relocations



Property Management

Rentals

Disposals

Demolition

Water Rights and Wells



Right of Way Property Acquisitions ARE <u>NOT</u>!

Like your Residential Sale where you have A willing Seller and A willing Buyer



PROJECT DEVELOPMENT

Right of Way Acquisition Process

- ROW Clearance process starts after Stage
 III/60% Submittal
- <u>New ROW</u> can take 6 months or much, much longer:

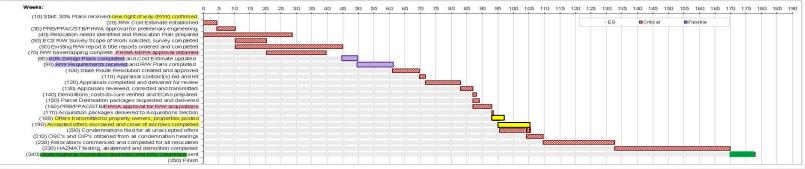




Right of Way Critical Path

Critical Path Method LIPITOX42 DRAFT (11/01/16) - patoni ANY PROJECT-estimated Right of Way Acquisition Process-multiple parcels HELP (change above to date created-author) (change above line to your specific project description) @ 2010 Vertex4211 C Start Date Weeks to Completion (change to appropriate start date) 177.97 (CAUTION I If the project R/W requirements affect numerous parcels, the "most likely" and "maximum" Finish Date times should be appropriately increased for those relevant tasks-delete messages in green when finished) 03/30/20 (finish date will be automatically calculated) Times (in Weeks) Time Distribution: Triangular M Predecessors Duration Task Name Slack co time Start: 30% Plans received-new right of way (R/W) confirmed 20 **R/W Cost Estimate established** 10 4.33 0.00 4.33 0.00 0.00 0.00 30 PRB/PPAC/STB/FHWA approval for preliminary engineering 20 10 6.00 4.33 10.33 0.00 0.00 0.00 40 0.00 Relocation needs identified and Relocation Plan prepared 10 30 28.67 0.00 28.67 0.00 50 ECS R/W Survey Scope of Work solicited, survey completed 10 20.33 10.00 10 33 0.00 0.00 0.00 60 Existing R/W report & title reports ordered and completed 30 10 26 52 34.67 10.33 45.00 0.00 0.00 0.00 R/W basemapping complete, FHWA NEPA approval obtained 50 10 19 26 19.33 20.33 39.67 0.00 0.00 0.00 80 70 60 50 60% Design Plans completed and Cost Estimate updated л 4.67 45.00 49.67 0.00 90 R/W Requirements received and R/W Plans completed 80 14 11.33 49.67 61.00 0.00 0.00 0.00 State Route Resolution created and approved 90 10 8.67 61.00 69.67 0.00 0.00 0.00 110 Appraisal contract(s) bid and let 100 90 2.00 69.67 71.67 0.00 0.00 0.00 Appraisals completed and delivered for review 110 100 90 1 11.33 71.67 83.00 0.00 Appraisals reviewed, corrected and transmitted 120 4.00 83.00 87.00 0.00 0.00 0.00 140 Demolitions, costs-to-cure verified and EOAs prepared 130 1.07 87.00 88.07 0.00 0.00 0.00 Parcel Delineation packages requested and delivered 130 2.00 87.00 89.00 0.00 0.00 0.00 130 90 87.00 PRB/PPAC/STB/FHWA approval for R/W acquisitions 6.00 93.00 0.00 Acquisition packages delivered to Acquisitions Section 160 140 130 0.4 0.53 93:00 93:53 0.00 0.00 0.00 Offers transmitted to property owners, properties posted 170 160 150 140 100 2.00 93 53 95 53 0.00 0.00 0.00 190 Accepted offers escrowed and close of escrows completed 180 43 14 8.77 95.53 104,30 0.00 0.00 0.00 0.00 0.00 Condemnations filed for all unaccepted offers 4.3 14 8.77 95.53 104.30 0.00 OSC's and OIP's obtained from all condemnation hearings 200 180 160 100 5.33 104.30 109.63 0.00 0.00 0.00 Relocations commenced and completed for all relocatees 210 190 52 23.00 109.63 132.63 0.00 0.00 0.00 HAZMAT testing, abatement and demolition completed 220 190 36 44 37.33 132.63 169.97 0.00 0.00 0.00 240 230 177.97 0.00 on approved and R/W Clearance set 8.00 169.97 0.00 250 Finish 240 0.00 177.97 177.97 0.00 0.00 0.00

CAUTIONI: Times for completion of the Right of Way Acquisition Process will be increased if any revisions of the original 60% Plan impact target parcels!









EARLY INVOLVEMENT Preliminary Engineering Activities Right of Way

- Title Search
- Existing Right of Way Report (ERW)
- R/W Field Survey
- Base Mapping / Right of Way Drawings
- Ownership Records
- MAP 21-Property Appraisals prior to completion of the environmental document.

(90 days prior to Environmental Clearance otherwise – Becomes Outdated)

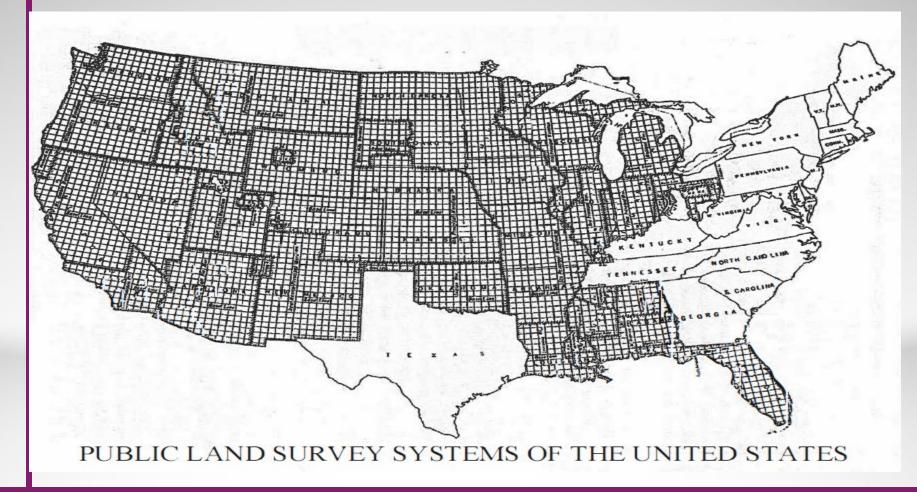


History Trivia

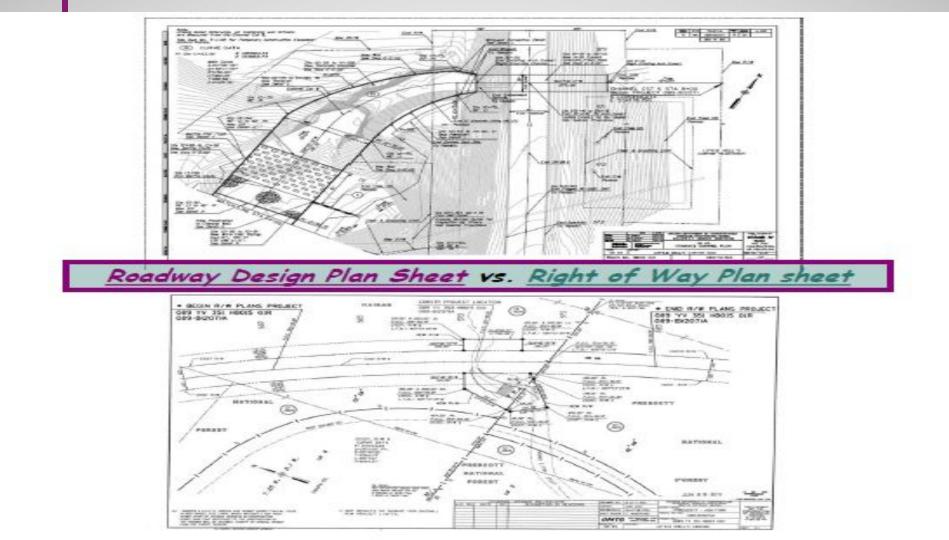
1785 Continental Congress adopted and implemented the United States Rectangular Grid System.

- In use today in 30 of 50 States.
- Excluded from the system are 13 original U.S. colonies and lands that later comprised West Virginia, Kentucky, Tennessee, Hawaii and Texas.
- Florida is the only Atlantic coast state that is included in the rectangular grid system.



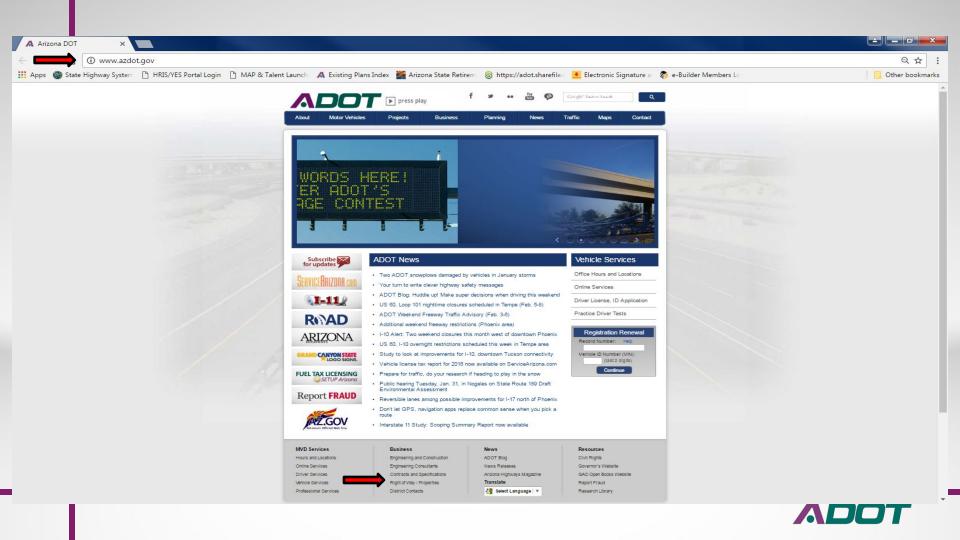


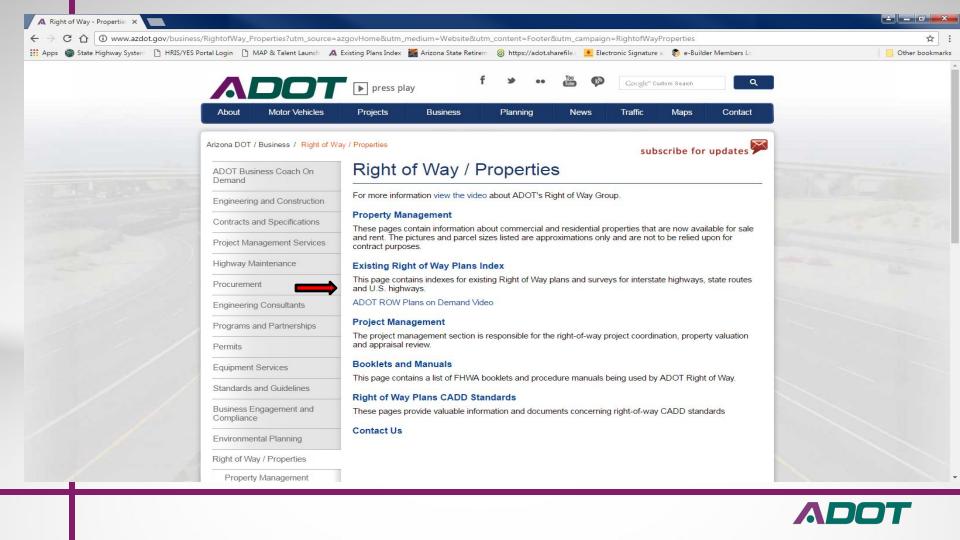


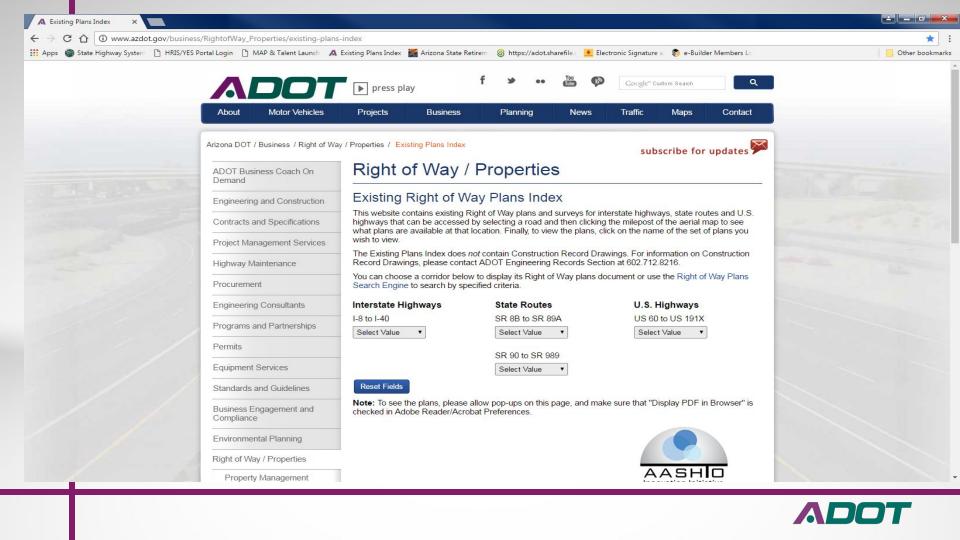


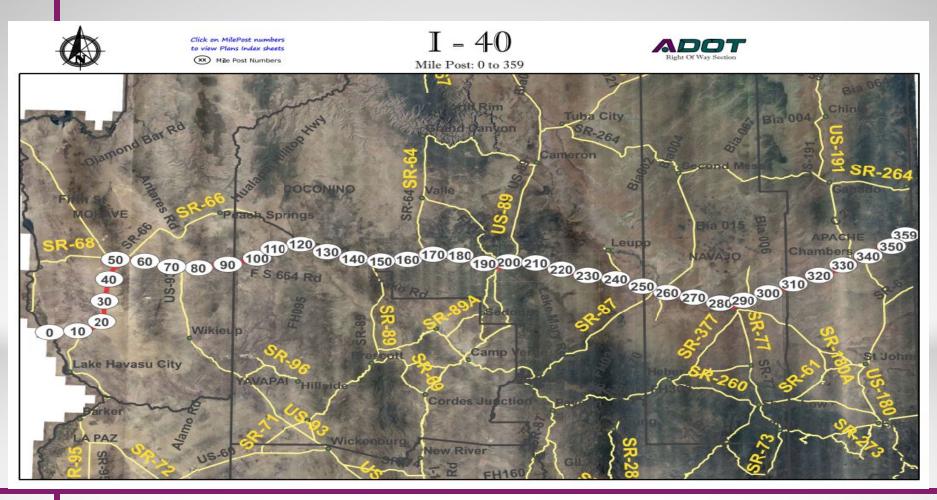
EXISTING Right of Way Plans Index



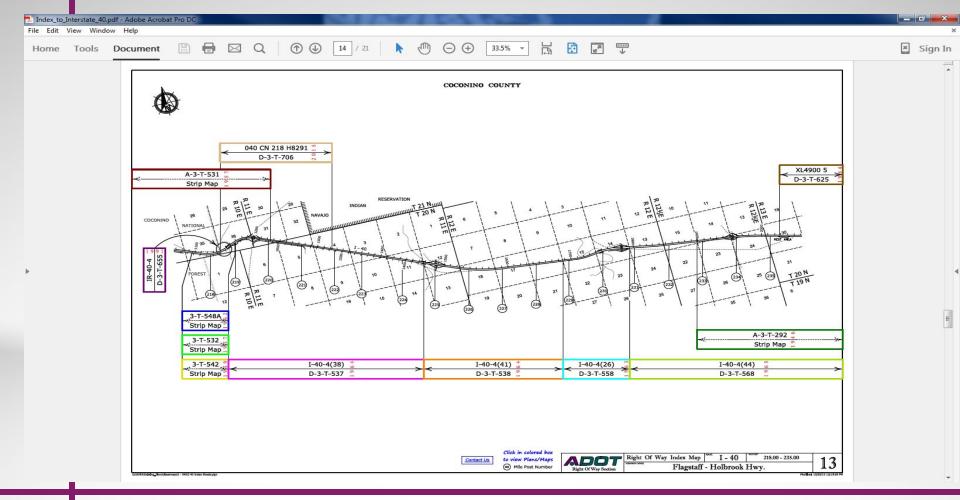




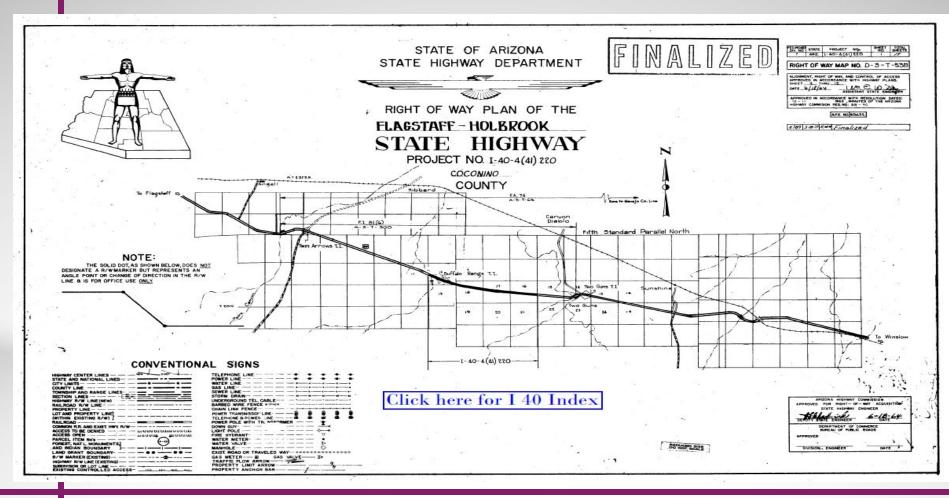








ADOT





👍 Project and Schedule Information

<u>F</u> ile <u>G</u> o To <u>H</u> elp								
BerBun < Back PROJECT & SCHEDULE INFO ==Click HERE if this Info is Incorrect== Image: Click HERE if this Info is Incorrect==								
CPS ID		Schedule Tea	am List R A	YourGroup				
H892701C	LOCAL TIP	PRE DESIGN COMP:	NEPA APPROVAL:	P.E. FED AUTHORIZ.:	BID PACKG READY DATE: 222			
PROJECT NAME H8827CAX L I-10 MARICOPA, MP 54 - I-10 PAPAGO, MP 76	BID OPENING	OPTIMUM START DATE:	NEPA RE-EVALUATION:	STAGE 1 PLANS:	BID AWARD DATE:			
TYPE OF WORK DESIGN CONSTRUCT & MAINTAIN NEW FREEWAY	DBE % IGA ONLY	KICK-OFF MTNG DATE:	ENVIRONMENTAL CLEARANCE:	STAGE 2 PLANS:	EST CONST DURATION:			
PROJECT MANAGER AMY RITZ 602-712-4691	5YR PLAN ITEM#s	MAP / SURVEY	RIGHT OF WAY	STAGE 3 PLANS:	TRAFFIC CNTRL PLANS:			
DIST FY LENGTH PROJ BUDGET CL (E) 16 22 \$ 442,646,000 RECid (TPD) FEDERAL ID # RESOURCE #	5825	VALUE ANALYSIS:	04/06/2017 A UTILITY / RR CLEARANCE:	STAGE 4 PLANS:	ACTUAL AWARD DATE:			
202-D(200)S		GEOTECH	02/08/2016 A MATERIAL	STAGE 5	2/26/2016 A CONSTRUCTION			
Cover Sheet Map DESIGN TYPE Consultant		SURVEY COMP:	MEMO COMP:	PLANS:	COMPLETE:			
BID ADVERTISEMENT DATE (All dates are projected, unless an "A" Follows, "A" = "ACTUAL FINISH") ??? Click Blue Labels to view AIDW Documents OR VIEW ALL DOCS								
South Mountain Freeway. Public-Private-Partnership (P3) project which includes the design, construction, and 30-year maintenance of 22 miles		Project Scheduler is Jeff Ross @ 602-712-8477						
of new freeway.	Email Project Scheduler							
Click to go to <u>PRB Actions</u> <u>Schedule</u> <u>PM Report</u> <u>E2C2 Inf</u>	to <u>Project Reference</u>	EPG PTS Rep	port DICE Applicat	ion DICE Repor	t Clos <u>e</u>			



- - ×

Project and Schedule Information							
<u>File G</u> o To <u>H</u> elp							
BerBun < Back							
CPS ID	COG \ MPO [[Schedule \ Team List \	B/W YourGr				
LZ1N TRACS				oup			
RTE CO MP H882701C C 202L MA 54.0 H882701D D	LOCAL TIP	GENERAL INFO					
PROJECT NAME H8827CAX L I-10 MARICOPA, MP 54 - I-10 PAPAGO, MP 76	BID OPENING	ROUTE 202L	CO MA	R/WTRACS NUMBER			
TYPE OF WORK DESIGN CONSTRUCT & MAINTAIN NEW FREEWAN	D ALCODO LECT NAME						
PROJECT MANAGER AMY RITZ 602-712-4691	5YR PLAN ITEM#s	R/W COORDINATOR Rector, Reggie @ 602-	712-7710				
DIST FY LENGTH PROJ BUDGET CL (E) 16 22 \$ 442,646,000	5825	R/W REQUIREMENTS		RECEIVED			
RECid (TPD) FEDERAL ID # RESOURCE # 202-D(200)S	< +	R/W TARGET		FINAL CLEABANCE PENDING			
Cover Sheet Map DESIGN TYPE Consultant	PROJECT TYPE			- COMPANY (COMPANY)			
BID ADVERTISEMENT DATE 222		Go to R/W Plans Web					
PROJECT COMMENTS Jeff Ross on 09/11/151							
South Mountain Freeway. Public-Private-Partnership (P3) project which includes the design, construction, and 30-year maintenance of 22 miles of new freeway.		Project Scheduler is					
		Jeff Ross @ 602-712-8477 Email Project Scheduler EXIT					
Click to go to <u>PRB Actions</u> <u>Schedule</u> <u>PM Report</u> <u>E2C2 In</u>	fo <u>Project Reference</u>	EPG PTS Report DI	ICE Application D	ICE Report Close			



Many Possible Complex Schedule Impacts beyond R/W Control

(continued)

- Indian Nations
- Government Agencies (BIA, BLM, BOR, RR, SLD, FS, CAP...)
- Easement Restriction Releases
- Legal Ownership
- Federal Tax Lien
- Lender Releases
- Out of State/Country Owners

- Home Owner Assoc.
- Hazardous Materials
- 4(f) properties
- 6(f) properties
- Conservation Easements
- Historic Properties
- Bankruptcy
- Death
- Relocation
- Condemnation



Many Possible Complex Schedule Impacts beyond R/W Control

- Receipt of Right of Way requirements (from PM)
- Receipt of available funding (FARA submitted by PM)
- Project Design Changes (Under control of PM)

...Your Right-of-Way Clearance is as near as the completion of <u>the last</u> acquisition required for your project!





Counts Only In:

Hand Grenades

And

Horseshoes



There are **OTHER GOVERNMENT AGENCIES**

With Other Mandates & Requirements for their lands...and it is not Transportation



STATE OF ARIZONA TOTAL LAND AREA

OWNER	ACRES	PERCENT	ACRES	PERCENT
		u		
FEDERAL LANDS			51,393,000	70.70
INDIAN RESERVATIONS	19,625,000	27.00		
U S FORESTS	11,392,000	15.67		
BUREAU OF LAND MAN.	12,750,000	17.54		
NAT PARKS AND MON	2,490,000	03.42		
DEPT OF DEFENSE	3,640,000	05.01		
ALL OTHER FED LANDS	1,496,000	02.06		
STATE LANDS			9,637,000	13,26
STATE LAND DEPT	9,594,000	13.20		
\$TATE PARKS	23,000	00.03		
STATE GAME AND FISH	20,000	00.03		
PRIVATE LAND		·	11,658,000	16.04
TOTAL			72,688,000	100.00
		-		
				·
			-	-
т.				
AZ DEPT OF ECONOMIC PLANNING				
AND DEVELOPMENT 1971				
HISTORICAL ATLAS OF AZ 1983			-	JWE

NEPA before FHWA Process

Time & \$\$\$ 120 Days 0\$ same same deal directly \$

1 Year + & \$\$ directly IGA/JPA directly \$ 75 Days+ & \$\$

BOR / SRP directly land exchange



Condemnation and what it takes to get possession of R/W

- Legal file to Attorney General's Office general rule 6 to 7 weeks to get OSC hearing date. (If near Nov., Dec., Jan., expect to add 1 to 2 more weeks.)
- OSC Hearing Date is set by the Judge. (based upon the Court Calendar)
- More time needed for parties to obtain discovery of facts if taking is contested.
- More time needed for out of state defendant.
- Considerably more time is added to the process when addresses are unknown requiring publication.
- All owners, lien holders, tenants or others involved on a parcel are part of the condemnation process.
- If a bankruptcy, federal tax liens or agency of the federal government are involved, time increases dramatically.
- Service not within proper time OSC Hearing postponed.
- Not Cheap Court Costs, Attorney Fees, 40% and 50% Factor \$12K Offer vs. Judge required \$100K posting.



Entry Agreement

- Exception not the norm.
- Must first be approved by FHWA.
- FHWA requirement Terminate in one year and if not settled required to go to condemnation.
- <u>Owner</u> is entitled to be <u>paid</u> fair rental value.
- Interest paid on the offer amount <u>until the</u> possession is completed.



Conditional Clearance

- Must first be approved by FHWA.
- Does not mean the contractor can go on all properties for construction.
- Usually used to obtain approval to <u>advertise</u> a project because of a demanding project schedule.
- If construction allowed with a Conditional Clearance FHWA requirement is contractor must stay 1,000 feet away from subject property and project is such there is a way for the contractor to accomplish the work without experiencing any delay because of the restriction.



Four FHWA Factors evaluated or addressed before a Conditional Clearance is considered

- How long (by what date) will it likely take to resolve the circumstances that caused the need for the conditional clearance?
- 2. How confident are LPA, ADOT, & FHWA collectively that those circumstances will in fact be resolved by the anticipated date?



Four FHWA Factors evaluated or addressed before a Conditional Clearance is considered

3. What effect will the conditional clearance have on the construction of the project?

a. What would be the anticipated sequence of construction?

b. Can a contractor accomplish meaningful other work without being restricted by the conditional clearance situation?



Four FHWA Factors evaluated or addressed before a Conditional Clearance is considered

4. Are special provisions needed to advise prospective bidders of the conditional clearance – specifically what areas a contractor would need to avoid until after some anticipated clearance date. If so, have these special provisions been drafted and incorporated into the Plans, Specifications and Estimate (PS&E)?



Change in Scope has consequences

Time and Dollar impact depends on when change is initiated and what the change involves.

TCE (Legal Document with Description, Payment and Time Limitation Requirements) New Permanent Right of Way Controlled Access Existing Building Impact Relocation & Demolition Vacant Land City Approved Planned Project





elevation at 1/4 scale



MAIN ENTRY at Southern Avenue phase where are not scalle

THESMAN RESIDENTIAL Owner / Developer POIN land planners Flandscope arthrops REDOCE POWEUL& Assessance regiment



eshibis A



THESHAM RESIDENTING, Denser / Developer POSA landgeberrers: / Bandos age, and Mexica RESIDENT POWERS, & Association anglessers

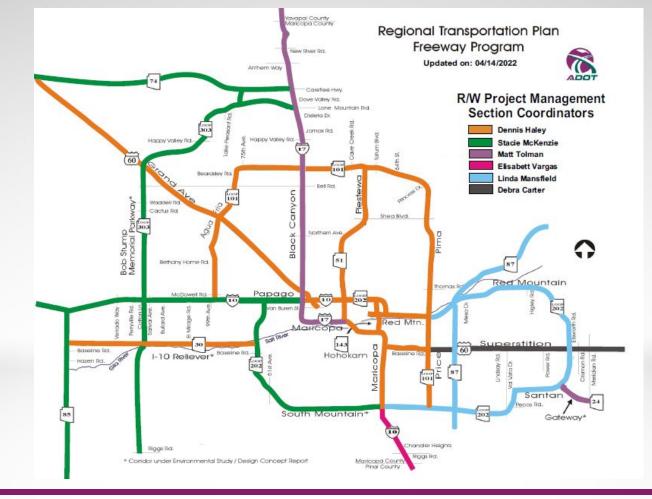
Las Palmas del

estates B

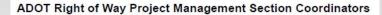
2016 Garretson Case

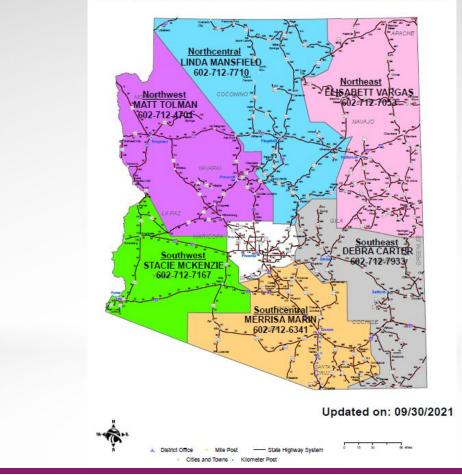
- TCE only parcel.
- No physical taking other than TCE.
- COP offered \$0.00 for loss of access.
- Owner had testimony of damages in excess of \$3,000,000.
- Supreme Court ruling jury returned verdict of \$2,869,360.
- Impact decisions have consequences.



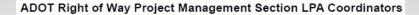


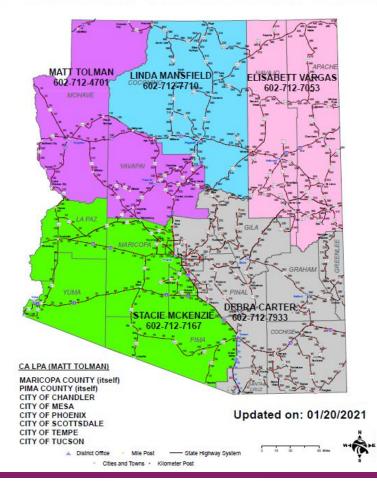




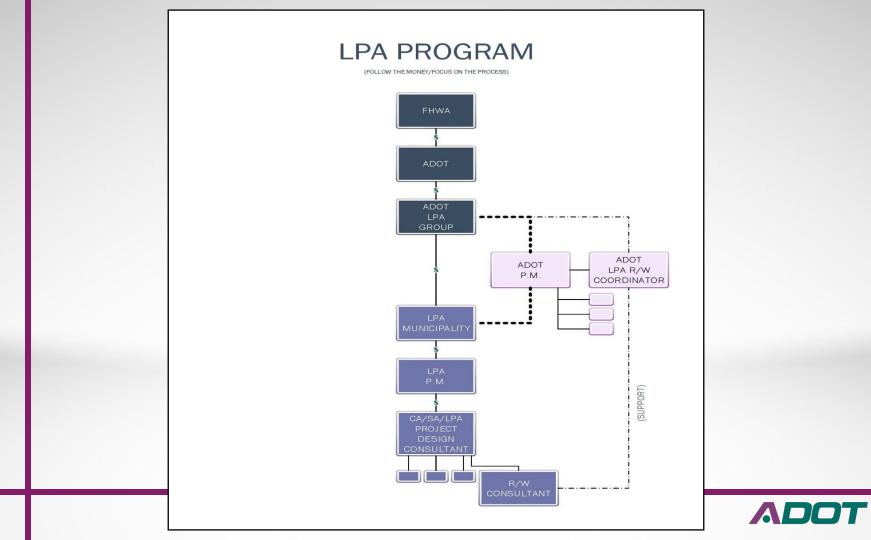














Q. 3 THINGS YOU NEED TO KNOW ABOUT RIGHT OF WAY

1.Involve R/W right away! (Sooner the better)

2.R/W Coordinators phone number3.Acquiring property for public use takes





My Job:

Obtain the Right of Way required for your project.

Your Job:

- •Keep R/W involved and informed.
- Plan and schedule your project accordingly!
- Provide the Right of Way requirements
- •No R/W changes after 60%



Questions



Thank you!

