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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, including temporary rights).
- 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) are to 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 third-party utilities, 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).
- Relocation planning begins by identifying impacts to persons or personal property, which may include property owner occupancy surveys and site inspections.
- 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.)

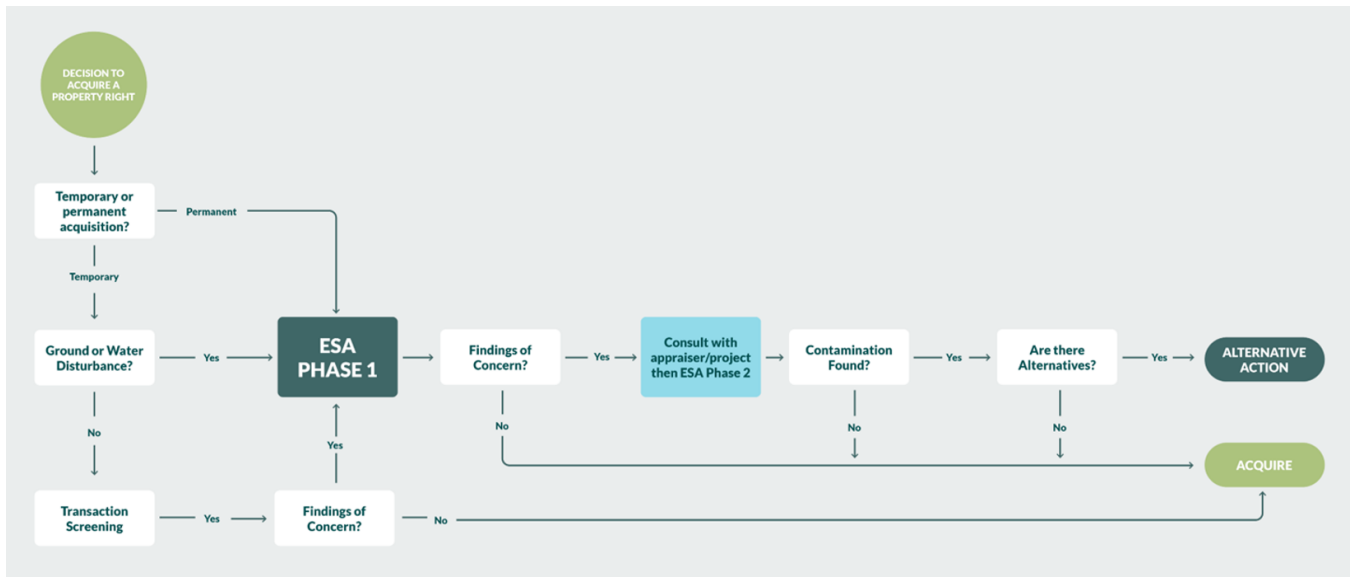
State and Federal regulations require the payment of just compensation for property and/or property rights. All right of way activities are processed through Real Estate Services Office, including temporary permits that are not shown on right of way plans and are not required for the completion of the project (such as for driveway connections or pre-scoping permits). Acquisitions for pre-scoping permits for State or Federal Agencies and Railroads take special consideration, time, and coordination with Real Estate Services or the HQ Design Office Railroad Liaison.

### 510.01(1) Environmental Site Assessments

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. [Exhibit 510-1](#) is a flow chart showing the screening process. 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.

#### Exhibit 510-1 Environmental Site Assessment (ESA) Screening Process (New 2024)



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 Permits (Rewritten 2024)**

Permits do not give any legal property rights, are not enforceable, and can be revoked at any time by the issuer. They are not used when WSDOT needs a perpetual right. A permit is only valid with the current owner and must be renegotiated if property ownership changes before construction begins.

#### **510.03(1) Construction permits**

Construction permits are used for relatively minor work that is strictly beneficial or acceptable to the property owner, and are non-compensable such as a driveway, parking lot approach, slope flattening, and/or contouring. In most cases WSDOT uses a construction permit when no other property rights from the same ownership as part of the same project are needed. This type of permit does not require payment to the property owner.

A construction permit or right of entry may be used for publicly owned property. State, Federal or Local agencies might require the use of specific forms when applying for these rights. 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). Consult the region Real Estate Services offices for exceptions.

#### **510.03(2) Pre-scoping permits**

Pre-scoping permits are used for more invasive work than is allowed with a right of entry or notice of right of entry per RCW 47.01.010, such as preliminary testing that is disturbing to the property, archaeological and geotechnical work, or piezometers, etc. This type of permit may require payment to the property owner. The executed permit is retained in a file created for that purpose and retained until expiration. The permit may need to be submitted for certification of ROW.

If it becomes apparent that the permit no longer meets the qualifying characteristics or project needs, WSDOT acquires a temporary easement.

For private ownerships, a temporary easement is required if property rights are necessary for the project.

### **510.04 Programming for Funds**

For plan development, the phases in [Exhibit 510-2](#) 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 510-2](#) 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 510-2](#) if unusual hardships result for the individual or the state. The approval of right of way hardship, protective buying or early acquisition actions will be based on the individual parcel merit and is processed in accordance with Early and Advanced Acquisition Policies (see the [Right of Way Manual](#)).

### 510.05(3) Easements (New 2024)

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

### 510.05(4) Temporary Easements (New 2024)

Temporary easements are used when the state requires a temporary property right on real property. In cases where the work to be performed is for the sole benefit of the property owner and the project is not required to do the work, just compensation is not required.

Temporary easements are shown on the right of way plans, in accordance with the [Plans Preparation Manual](#). Consult the region Right of Way Plans office 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.

### 510.05(5) Perpetual Easements

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

#### 510.05(5)(a) State Maintenance Easement

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

### 510.05(5)(b) 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.

### 510.06 Transactions

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

#### 510.06(1) Private Ownerships

Right of way acquired from private property owners must be completed by Real Estate Services. Negotiation must occur between the owner and the right of way agent, according to the State and Federal regulations.

#### 510.06(2) Utilities (Rewritten 2024)

Third party Utilities are accommodated on the highway right of way through authorizations of either franchises or permits and may be in conflict with projects. These documents must not be confused with utility easements, which are compensable property rights.

Utility conflicts can pose a serious risk to project timelines and early coordination can help mitigate these risks. When starting a project design, contact the regional Utilities Office for assistance with third party utilities that may be in conflict with a project. The regional Utilities Office will begin utility coordination directly with utilities to determine the best way to mitigate conflicts. Utility locates are required to get accurate depth information since utility authorizations, as-builts, or other records are often not reliable enough to form a basis for mitigation solutions. Utility conflicts can be mitigated by avoiding them through design, protect-in-place measures, or relocation of the utility facility. Utility coordination must also include determining the cost responsibility for any of the conflict mitigation work.

Utility agreements are required if the utility has a compensable right or if WSDOT's contractor will perform work on behalf of the utility, such as trenching, or manhole or valve adjustments. The development of utility relocation agreements must begin as soon as possible due to the considerable time required to execute an agreement. Agreements for utility work that include typical bid items must also be included in the contract Summary of Quantities.

If a utility is on an easement, or some type of compensable property interest, and needs to be relocated, WSDOT is obligated to pay for its relocation costs and make the utility whole for the property right. Utility easements must be shown on the right of way plans with the same engineering detail as highway right of way (see [Plans Preparation Manual](#)).

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.)

### **510.06(2)(a) Dig Once – Broadband Utilities (New 2024)**

In accordance with federal regulations and state legislation the department is required to coordinate the installation of broadband infrastructure concurrently with department projects when the effort does not delay or pose a risk to the project. The project team does not have to do anything pro-actively during design to find a dig once partner. A project will be contacted by the department Broadband Utility Coordinator to start the coordination efforts after an inquiry by a broadband company is made. The department must attempt coordination but is not required to install broadband infrastructure in order to fulfill the requirements. Broadband infrastructure installed under the dig once policy must have authorization documents (utility permit or franchise issued by the regional Utility Office) prior to performing work.

### **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 an impasse in negotiations between the department and the owner regarding just compensation, or in some circumstances a faulty property title. Several months might elapse between the filing of a condemnation case and a court decision, therefore consideration and contingencies need to be considered regarding project schedule. Time for condemnation may vary but typically takes 6-12 months after filing to acquire possession and use for construction. Consultation with Real Estate Services is required.

## 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

[Utilities Accommodation Policy](#), M 22-86, WSDOT



Exhibit 510-2 Appraisal and Acquisition Plan Development Phases

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.

