

**Right of Way****BULLETIN**

SUBJECT Abandonment of Former Right of Way to Abutting Property Owners	FINAL NUMBER RW08-02(B)	EFFECTIVE DATE 05/15/2008	VALIDATION DATE 07/22/2009	SUPERSEDES or RESCINDS NEW
	WEB LINK(S) http://egov.oregon.gov/ODOT/HWY/TECHSERV/techguidance.shtml			
TOPIC/PROGRAM Right of Way	APPROVED SIGNATURE  Deolinda G. Jones State Right of Way Manager			

PURPOSE

To establish uniform procedures for ODOT staff for completing an abandonment of unused highway right of way to an abutting property owner.

GUIDANCE

This Right of Way Bulletin outlines a procedure for the abandonment of former highway right of way to an abutting property owner, when that right of way is owned via County Resolution and is no longer needed for public road purposes. This procedure has never been previously formalized.

DEFINITIONS

Abandon: To release or give up a less than fee property interest that the State holds via a County Resolution when the highway segment is to be eliminated from the state highway system because it no longer serves a statewide public highway purpose. An Abandonment releases the State's interests in the facility and the associated right of way upon which the facility is located. See ORS 366.300.

Abandonment Document: The conveyance document currently used only to abandon property to abutting property owners, when the State owns the property via County Resolution and no longer needs the property for a public highway purpose, and the property is not needed by a local public agency (LPA).

Abandonment-Retention (A&R) Agreement: This was the title used for an agreement related to transferring jurisdiction of a highway to an LPA, prior to changing the name to "Jurisdictional Transfer Agreements."

Abandonment-Retention (A&R) Resolution: This is one type of transfer document previously used when transferring to an LPA, but now a "Jurisdictional Transfer Document" is used.

Excess Property: Real property that has never been used, or no longer is being used to carry on ODOT activities. Excess property includes, but is not limited to, remnants of real property purchased and located outside of the developed right of way limits of a project, uneconomic remainders, potential material sources, depleted quarries, abandoned stockpile sites, and closed and inactive maintenance stations.

Jurisdictional Transfer: When a section of state highway (operating) right of way is no longer needed for state highway purposes, the State may transfer its interest (jurisdiction, maintenance, etc.) in the highway section to another governmental agency with the intent that the highway shall continue to be utilized for public road purposes. (NOTE: See Special Instructions on Page 5 for information on jurisdictional transfers)

Local Public Agency (LPA): Another governmental agency, i.e. City or County.

Non-Operating Right of Way: Property that was purchased as highway right of way that is now either "excess" to the needs of the State or has been declared "surplus" to the needs of the State.

Operating Right of Way: Property utilized for the construction and implementation of the highway infrastructure. This type of property designation generally includes all properties located within the bounds of the highway right of way (property lines) that are actively being used to support transportation uses.

Relinquishment Deed: A conveyance document used to convey a fee (and/or easement) property interest, which was acquired by the State, usually for a project, to an LPA for public road purposes. (See the ODOT web site for the official ODOT Technical Services, Right of Way Bulletin RW08-01(B), Relinquishment of Project Right of Way to Local Public Agency.)

Resolved Right of Way: Right of way that was formerly a county road but was given to the State by the county passing a resolution to convey the parcel to the State for state highway purposes.

Right of Way Owned in Fee and/or Easement: Right of way that was purchased by deed or other conveyance document, or through the exercise of the power of eminent domain.

Surplus Property: Excess property that has been approved for disposal (sale, trade, etc.). (NOTE: See Special Instructions on Page 5 for information on surplus property)

BACKGROUND/REFERENCE

The state highway system is comprised of thousands of parcels of land, with the ownership interests ranging from fee to easement. These parcels came into state ownership at different times and under different circumstances. For the most part, the earliest parcels were once county roads given to the state for use as a state highway by the counties passing resolutions conveying these parcels to the state. This type of right

of way is commonly referred to as resolute right of way because it is not owned in fee but by county resolution.

When it is determined that a segment of highway right of way is no longer needed for state highway transportation purposes, the State may eliminate the segment from the state highway system and divest itself of said right of way in a manner that conforms to state laws. If some part or all of a highway section to be eliminated is needed for the service of persons living thereon, or for a community served thereby, then those parts shall be maintained as some type of public roadway. In those instances, the State may enter into a Jurisdictional Transfer Agreement with an LPA to determine who will have jurisdiction and maintain those portions. (For information on Jurisdictional Transfers, see the ODOT web site for the official ODOT procedure ROW 10-01-01, Roadway Jurisdictional Transfer Process).

If the right of way is not to be used as a public roadway in the future, it is considered to be excess property. Excess property that is determined to be resolute right of way (owned by County Resolution) can be abandoned to an abutting property owner (ORS 366.300). If the segment is outside of any city limits, the State should only proceed with an abandonment to an abutting owner after obtaining approval from the County to verify that the segment is not needed for county road use. If the segment is within the limits of a City, the State must obtain approval from the City before proceeding with the abandonment (ORS 373.015). In this situation, there is no need to obtain consent from the County.

Excess property that is determined to be owned in fee title shall be declared "surplus" to the State's needs before it can be sold, leased, or exchanged (traded). ROW Program Management Unit manages excess and surplus property in a manner that provides the greatest return and benefit to the State. Any sale proceeds are returned to the Highway Fund for future State uses.

EXPLANATION

This procedure would be appropriate for right of way that fits the following criteria:

- **Right of way that was conveyed to the State via County Resolution, NOT owned in fee.
- **Right of way that is considered excess and no longer needed as part of the state highway system, or for any other public road use.

The Region Right of Way Manager is responsible for establishing an internal system in their respective office to identify the property and secure its abandonment to the abutting property owner.

RESPONSIBILITY:

STEP ACTION:

Region Right of Way
Manager

1 **Initiate Abandonment Concept.**
Request Region Right of Way Senior Agent or Project Manager to coordinate the process of abandoning the right of way to the abutting owner.

Region Right of Way
Agent

2 **Consent for Abandonment.**
Before proceeding with an abandonment, obtain consent from the following parties:
a) Abutting Property Owner (if they didn't make initial request)
b) City, if within city limits (see ORS 373.015)
c) County (if outside city limits)
d) Region Manager
e) District Manager
f) Transportation Data, Road Inventory & Classification

Consent from ODOT personnel should be obtained by filling out a Request to Abandon form and submitting it to all parties listed on the form. Consent from City/County should be obtained by sending a similar form on Region letterhead. Always attach a map that outlines the portion of right of way to be abandoned.

(See Attachments A, B & C for samples of the forms; forms can be obtained from Right of Way Headquarters (HQ) Jurisdictional Transfer Specialist.)

3 **Abandonment Number.** Obtain abandonment number from Right of Way HQ Jurisdictional Transfer Specialist. This number shall be used for the Resolution Eliminating a Section of Highway from the State Highway System and Minor Amendment to the Oregon Highway Plan and the Abandonment Document.

Region Right of Way
Agent

4 **Request for Abandonment.**
Submit request to Right of Way HQ Jurisdictional Transfer Specialist for property to be abandoned to the abutting owner. Included with the request are the signed approval forms and accompanying map.

NOTE: *Indicate Level of Priority when submitting request for abandonment, indicating if completion of the exhibits and abandonment is URGENT, NORMAL, OR LOW PRIORITY. This will enable the HQ Right of Way Engineering Group to prioritize the work and balance the needs of all 5 regions more efficiently.*

RESPONSIBILITY:

STEP ACTION:

Right of Way
Headquarters (HQ)
Jurisdictional Transfer
Specialist

5 **Draft Exhibit Map & Description Request.**
Send memo to the Right of Way Headquarters (HQ) Engineering Group requesting they prepare a formal exhibit map(s) and description(s) of the former right of way that needs to be abandoned. The Exhibit A description and Exhibit B map will be used as attachments to the recorded document. Included with the request should be the abandonment number, so it can be included on the exhibits.
NOTE: *Region Right of Way Description Writers/Surveyors may consult with Right of Way HQ Engineering Group to create maps, if necessary.*

Right of Way HQ
Engineering Group

6 **Draft Exhibit Map & Description Preparation.**
Prepare draft versions of the Exhibit A description and Exhibit B map, identifying the section to be abandoned.

7 Forward the draft exhibit map and draft description to the Region Right of Way Agent and Right of Way HQ Jurisdictional Transfer Specialist.

Region Right of Way
Agent

8 Review draft exhibit map and draft description to be sure they accurately reflect what the region wants to be abandoned.

Right of Way HQ
Engineering Group

9 **Final Exhibit Map & Description.**
Revise exhibits as necessary and forward final versions of Exhibit A description and Exhibit B map to Region Right of Way Agent and Right of Way HQ Jurisdictional Transfer Specialist.

Right of Way HQ
Jurisdictional Transfer
Specialist

10 **Preparation of Resolution.**
Prepare the Resolution Eliminating a Section of Highway from the State Highway System and Minor Amendment to the Oregon Highway Plan.

11 **Information to Highway Plan Manager.**
Send a copy of the Resolution to the Highway Plan Manager's Planning and Implementation Unit, for use in starting the process to amend the OHP. Also send map and description.

RESPONSIBILITY:

STEP ACTION:

Highway Plan
Manager's Planning and
Implementation Unit

- 12 **Initiation of OHP Amendment.**
Begin process for correcting the OHP.
Prepare announcements to give public notice that
abandonment is underway. Prepare description of
corrections to map and list of state highways.

Right of Way HQ
Jurisdictional Transfer
Specialist

- 13 **Director's Approval of Resolution.**
Prepare memo to Director, for signature of Program Support
Manager, with brief explanation of abandonment and
elimination of segment from the state highway system.

- 14 Forward the memo and the Resolution to the Right of Way
HQ Program Support Manager for signature.

Right of Way HQ
Program Support
Manager

- 15 After review and approval, sign the memo to the Director.

Right of Way HQ
Jurisdictional Transfer
Specialist

- 16 **Director's Signature on Resolution.**
Submit Resolution and transmittal memo to the Director for
signature.

ODOT Director

- 17 Approve and sign the Resolution.

Director's Secretary

- 18 Return signed Resolution to the Right of Way HQ
Jurisdictional Transfer Specialist.

Right of Way HQ
Jurisdictional Transfer
Specialist

- 19 **Signed Resolution Distribution.**
Distribute copies of the signed Resolution to the following:

- Highway Plan Manager's Planning and Implementation
Unit
- Transportation Data Section, Road Inventory &
Classification Services
- Region Right of Way Senior Agent or Project Manager
- Right of Way HQ Abandonment File

Send the original Resolution to General Files/History Center.

Right of Way HQ
Jurisdictional Transfer
Specialist

- 20 **Preparation of Abandonment Document.**
Prepare Abandonment Document and attach the Exhibit A
description and Exhibit B map.

- 21 **Approval of and Signature on Abandonment Document.**
Prepare and submit memo for approval of Right of Way HQ Program Support Manager. The memo is addressed to the State Right of Way Manager, and requests signature on the Abandonment Document.
- Right of Way HQ Program Support Manager 22 After review and approval, forward the Abandonment Document to the Executive Assistant to State Right of Way Manager for the State Right of Way Manager's notarized signature.
- Executive Assistant to State Right of Way Manager 23 Obtain signature of State Right of Way Manager on Abandonment Document.
- 24 Notarize the Abandonment Document.
- 25 Return signed and notarized Abandonment Document to Right of Way HQ Jurisdictional Transfer Specialist.
- Right of Way HQ Jurisdictional Transfer Specialist 26 **Recording of Abandonment Document.**
Send Abandonment Document to county for recording.
NOTE: Both the Exhibit A description and Exhibit B map are attached to Abandonment Document for recording.
- 27 **Distribution of Abandonment Document.**
Upon receipt of original recorded Abandonment Document, send a copy of the recorded document, along with a transmittal letter, to the abutting owner. Send copies of the transmittal letter and recorded Abandonment Document to the parties listed at the end of this process.

List of recipients for distribution:

- County or City
- Region Manager
- District Manager
- Region Right of Way Manager
- Right of Way Outdoor Advertising Program
- Right of Way HQ Engineering
- Traffic Management
- Financial Services
- Transportation Data Section, Road Inventory & Classification Services
- Right of Way HQ Abandonment File

Send original recorded document to General Files/History Center.

SPECIAL INSTRUCTIONS

This procedure would NOT be appropriate for sections of state highway that qualify for Jurisdictional Transfer. (For information on Jurisdictional Transfers, see the ODOT web site for the official ODOT procedure ROW 10-01-01, Roadway Jurisdictional Transfer Process).

This procedure would NOT be appropriate for parcels of state-owned property that qualify as excess or surplus property. (For information on surplus property, see the ODOT web site for the official ODOT Technical Services, Right of Way Bulletin RW06-01(B), Process for the Disposal of Surplus Property).

This procedure would NOT be appropriate for pieces of project right of way to be conveyed to an LPA upon project completion. (For information on the conveyance of project right of way to an LPA, see the ODOT web site for the official ODOT Technical Services, Right of Way Bulletin RW08-01(B), Relinquishment of Project Right of Way to Local Public Agency).

CONTACT INFORMATION

Title: Program Support Manager
Branch/Section: Right of Way
Phone: (503) 986-3651
E-mail: Janie.S.Olson@odot.state.or.us

ATTACHMENT A

TECHNICAL SERVICES

INTEROFFICE MEMO

TO: ___ Region ___ Manager
___ District ___ Manager
___ Transportation Data, Inventory & Mapping
___ City of _____ (if inside city limits, per ORS 373.015)
___ County of _____ (if outside city limits)

DATE: July 21, 2009

FROM: Region ___ Right of Way Manager

SUBJECT: Tentative Abandonment

This Office proposes to abandon a portion of old alignment of the _____
Section of the _____
Highway, No. _____ in _____ County, to the
abutting property owner, _____, approximately as shown
on the attached map.

We are requesting that your office indicate below whether or not the subject
section is clear for such abandonment.

Clear for Abandonment Not Clear for Abandonment

REMARKS: _____

By _____

Date _____

Note: Please return completed form to Region ___ Right of Way Office.

ATTACHMENT B

July 21, 2009

_____ County

RE: Tentative Abandonment

Pursuant to ORS 366.300(3), the State may abandon to the abutting property owners portions of the right-of-way of the former route of a state highway that are no longer needed for public road use and are not owned by the Department of Transportation in fee.

This Office proposes to abandon a portion of old alignment of the _____
_____ Section of the _____
Highway, No. _____ in _____ County, to the
abutting property owner, _____, approximately as
shown on the attached map.

We are requesting that your office indicate below whether or not the subject section is needed for county road use.

Clear for Abandonment

Not Clear for Abandonment

REMARKS: _____

By _____

Date _____

Note: Please return completed form to Region ____ Right of Way Office.

ATTACHMENT C

July 21, 2009

City of _____

Attn: Mayor

RE: Tentative Abandonment

Pursuant to ORS 366.300(3), the State may abandon to the abutting property owners portions of the right-of-way of the former route of a state highway that are no longer needed for public road use and are not owned by the Department of Transportation in fee.

This Office proposes to abandon a portion of old alignment of the _____
_____ Section of the _____

Highway, No. _____ in _____ County, to the
abutting property owner, _____, approximately as
shown on the attached map.

Pursuant to ORS 373.015, we are requesting that your office indicate below
whether or not the City has any objection to such abandonment.

Clear for Abandonment

Not Clear for Abandonment

REMARKS: _____

By _____

Date _____

Note: Please return completed form to Region ____ Right of Way Office