

# No ROW Verification Process

WSDOT Local Programs  
Right of Way Services

**Dianna Nausley**, Local Programs ROW Manager  
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**Roger Millar**  
Acting, Secretary of Transportation

# Webinar Presenters

## **Dianna Nausley, Local Programs ROW Manager**

Currently, Dianna Nausley works at WSDOT's Local Programs Division, where she manages the Right of Way Program. She and her staff provide oversight, training, and technical guidance in real estate matters to local agency staff and consultants. She is responsible for establishing policies and procedures for the right of way program, providing oversight of local agency work and certifies projects that have federal financial assistance.

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## **Dawn Fletcher, Olympic & Southwest Region Local Agency Coordinator**

Currently, Dawn Fletcher is a Local Agency Coordinator with WSDOT's Local Programs Office, where her primary responsibility is to provide technical assistance, guidance, oversight and training regarding the provisions of the Uniform Act to local public agencies involved in federally funded transportation projects. She routinely coordinates with WSDOT staff to produce annual, state-wide training on technical and relevant right of way topics for local agencies and consultants. Throughout her career she has managed governmental real property transactions for three different Washington State agencies.

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# Webinar Instructions for Attendees

- Press the orange arrow toggle button to show and hide the GoToWebinar control screen. This is the screen where the question pod is located.
- You are in listen-only mode and will be automatically muted. We have the ability to unmute your phone line if you have a question.
- The question pod is located on the right side of your screen. Simply type in your question or identify that you have a question by either raising your hand electronically or just typing “I have a question” in the question pod. We will address questions or unmute you to ask questions at the appropriate time. If your question is not being answered immediately it likely because it will be addressed during the presentation as we move forward. We will review all questions at the end of each flowchart to ensure we haven’t missed anything.
- Webinar slides will be available on the LTAP training website.
- You are encouraged to participate!

# Training Objectives

You should be able to:

- Apply tools to assist you in determining if you have ROW needs
- Understand process to determine if you have ROW needs
- Understand roles/responsibility of agency Approved Reviewer & Program Administration function
- Understand what documentation needs to be retained by your agency

# No ROW

The past is experience;  
the present is experiment; and  
the future is expectation.



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## Where We've Been:

2014-2015 FHWA Program Review: *(Certification Program)*

- Majority of projects advertised for construction were authorized with No ROW statement in Project Agreement



## Where We're At:

Sufficient Property Rights

- Clarification & Guidance
- Flowchart Implemented

Approved No ROW Verification Process

- FHWA Concurrence
- Webinar training



## Where We're Headed:

Implementation of approved No ROW Verification Process

- Annual reviews
- Ongoing outreach/training

# Where We've Been:

## “Houston we have a problem!”

### 2014-15 FHWA Program Review of WSDOT's Certification Program:

#### Finding:

No standard Process to Verify “No ROW Needed”

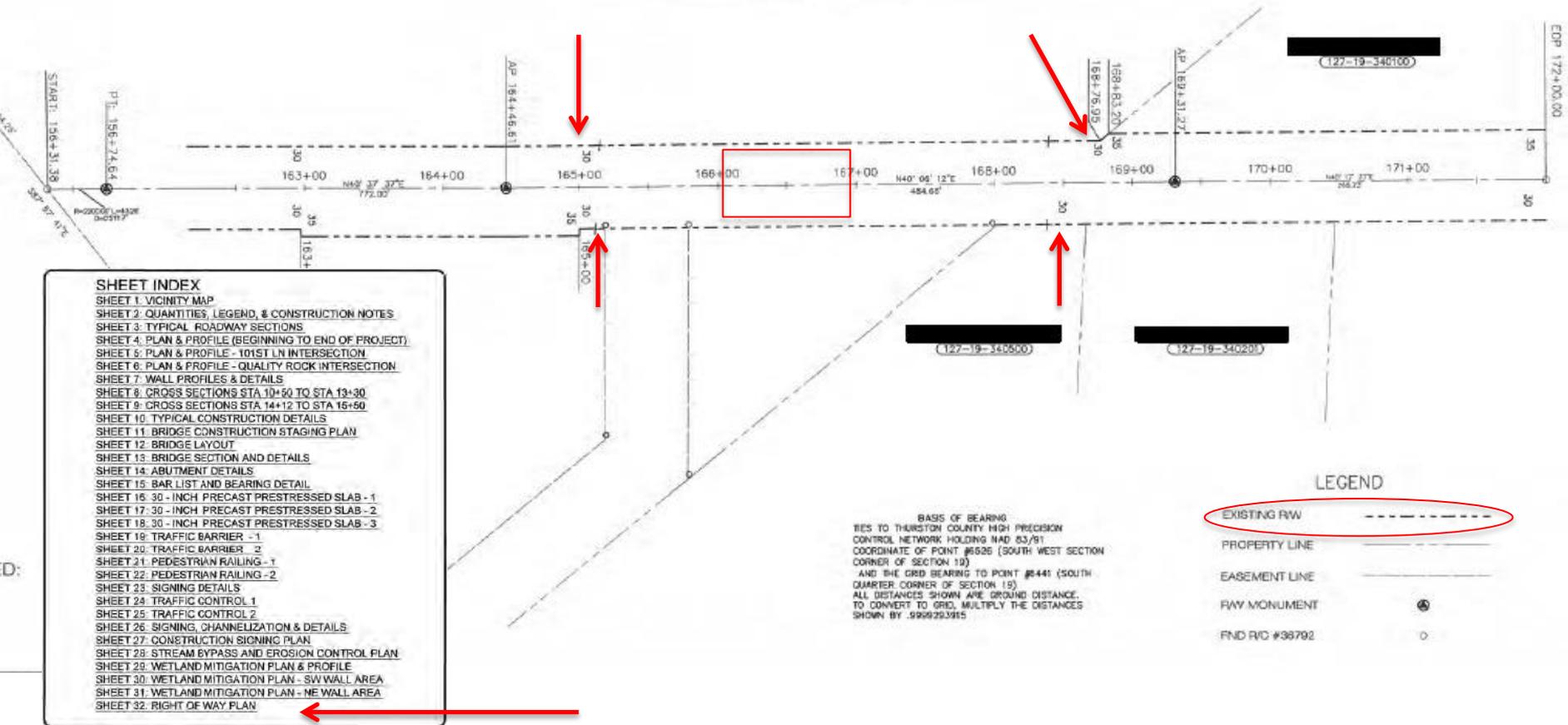


#### Recommendation:

1. Verification Process Required (if “No ROW Needed”)
2. Improve knowledge of WSDOT/LPA/Consultants (making determination)

# PS&E Example: No ROW Needed

(177-19-330300)



**SHEET INDEX**

- SHEET 1: VICINITY MAP
- SHEET 2: QUANTITIES, LEGEND, & CONSTRUCTION NOTES
- SHEET 3: TYPICAL ROADWAY SECTIONS
- SHEET 4: PLAN & PROFILE (BEGINNING TO END OF PROJECT)
- SHEET 5: PLAN & PROFILE - 101ST LN INTERSECTION
- SHEET 6: PLAN & PROFILE - QUALITY ROCK INTERSECTION
- SHEET 7: WALL PROFILES & DETAILS
- SHEET 8: CROSS SECTIONS STA 10+50 TO STA 13+30
- SHEET 9: CROSS SECTIONS STA 14+12 TO STA 15+60
- SHEET 10: TYPICAL CONSTRUCTION DETAILS
- SHEET 11: BRIDGE CONSTRUCTION STAGING PLAN
- SHEET 12: BRIDGE LAYOUT
- SHEET 13: BRIDGE SECTION AND DETAILS
- SHEET 14: ABUTMENT DETAILS
- SHEET 15: BAR LIST AND BEARING DETAIL
- SHEET 16: 30 - INCH PRECAST PRESTRESSED SLAB - 1
- SHEET 17: 30 - INCH PRECAST PRESTRESSED SLAB - 2
- SHEET 18: 30 - INCH PRECAST PRESTRESSED SLAB - 3
- SHEET 19: TRAFFIC BARRIER - 1
- SHEET 20: TRAFFIC BARRIER - 2
- SHEET 21: PEDESTRIAN RAILING - 1
- SHEET 22: PEDESTRIAN RAILING - 2
- SHEET 23: SIGNING DETAILS
- SHEET 24: TRAFFIC CONTROL 1
- SHEET 25: TRAFFIC CONTROL 2
- SHEET 26: SIGNING, CHANNELIZATION & DETAILS
- SHEET 27: CONSTRUCTION SIGNING PLAN
- SHEET 28: STREAM BYPASS AND EROSION CONTROL PLAN
- SHEET 29: WETLAND MITIGATION PLAN & PROFILE
- SHEET 30: WETLAND MITIGATION PLAN - SW WALL AREA
- SHEET 31: WETLAND MITIGATION PLAN - NE WALL AREA
- SHEET 32: RIGHT OF WAY PLAN

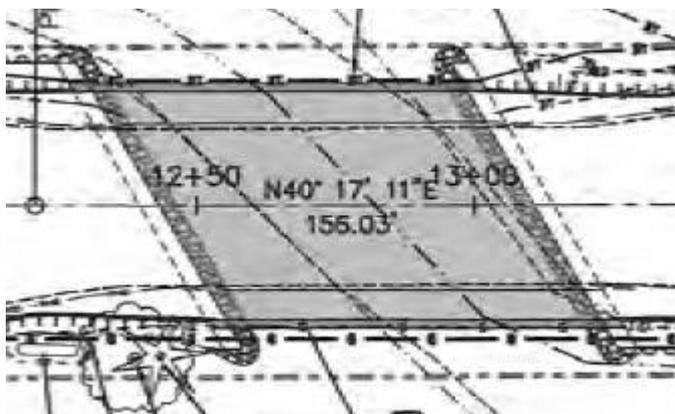
**BASIS OF BEARING:**  
 TIES TO THURSTON COUNTY HIGH PRECISION CONTROL NETWORK HOLDING NAD 83/91 COORDINATE OF POINT #6626 (SOUTH WEST SECTION CORNER OF SECTION 10) AND THE GRID BEARING TO POINT #8441 (SOUTH QUARTER CORNER OF SECTION 15). ALL DISTANCES SHOWN ARE GROUND DISTANCE. TO CONVERT TO GRID, MULTIPLY THE DISTANCES SHOWN BY .9999293915.

**LEGEND**

- EXISTING RW
- PROPERTY LINE
- EASEMENT LINE
- RAW MONUMENT
- RND RIC #38792

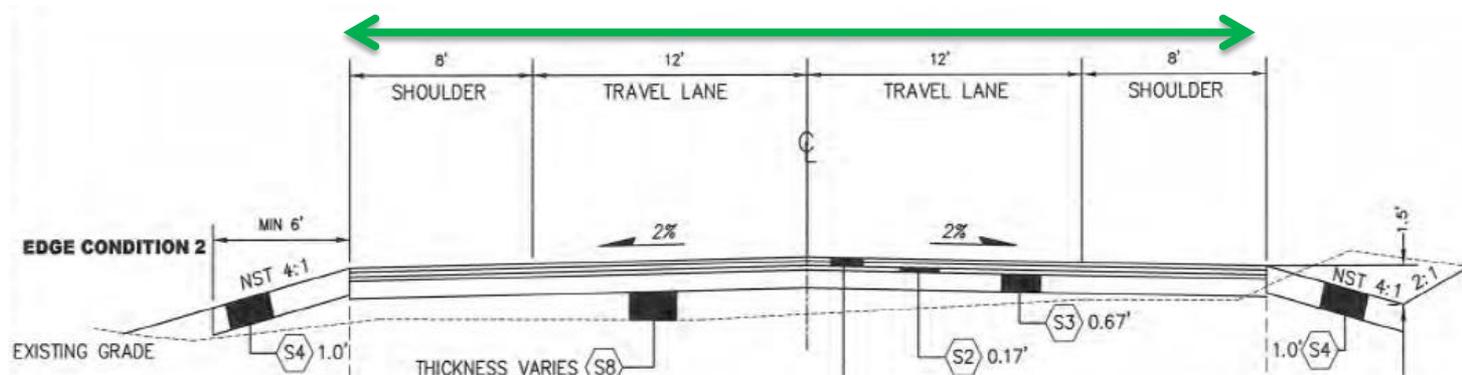
# PS&E Example: No ROW Needed

## Plan & Profile (plan view)



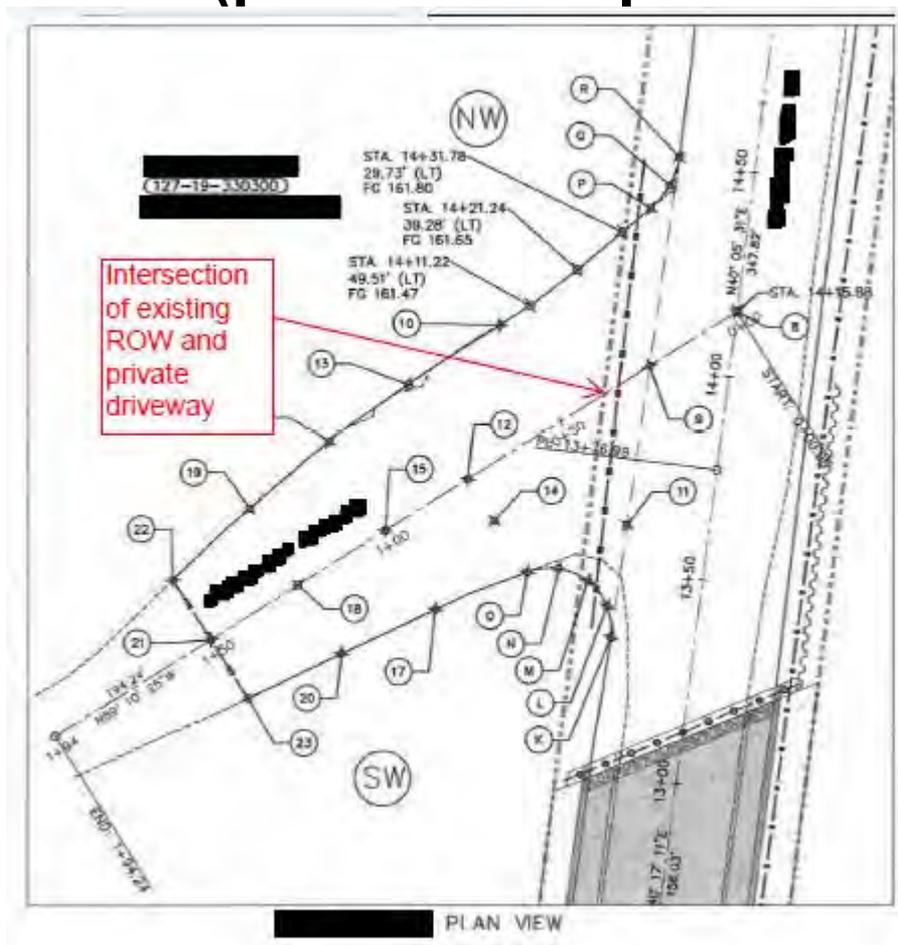
(Existing ROW)

## Typical Roadway Section



# PS&E Example: No ROW Needed (?)

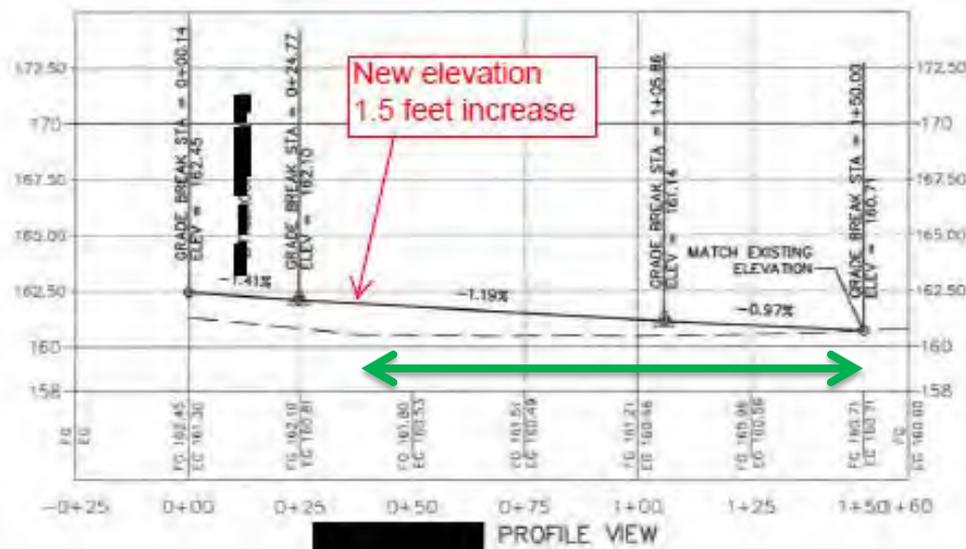
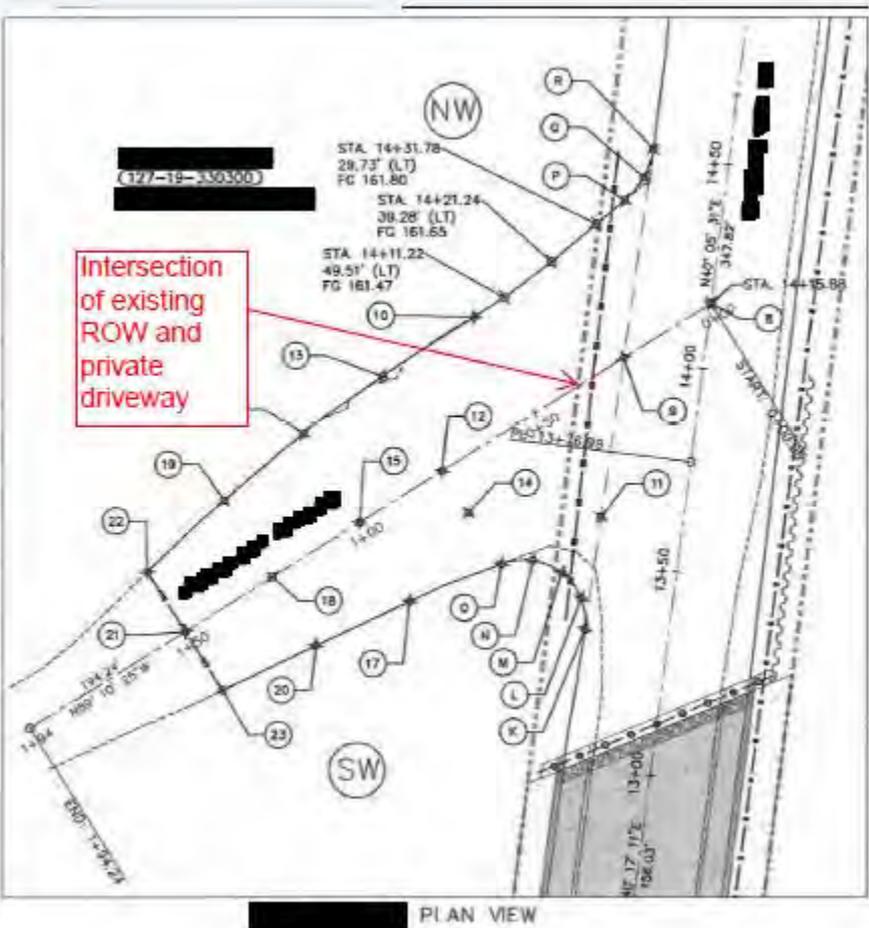
Plan & Profile (plan view of private road intersection)



# PS&E Example:

## ROW Needed!

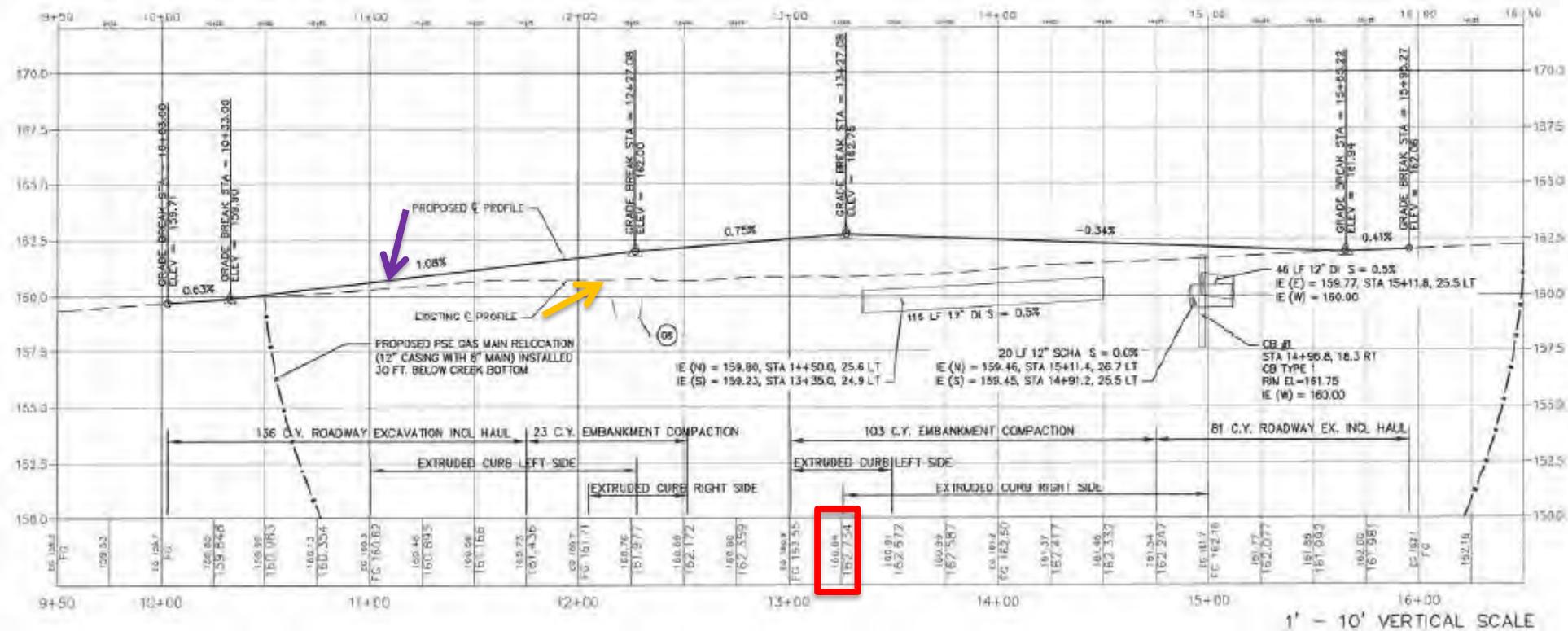
### Plan & Profile (private road intersection)



# PS&E Example:

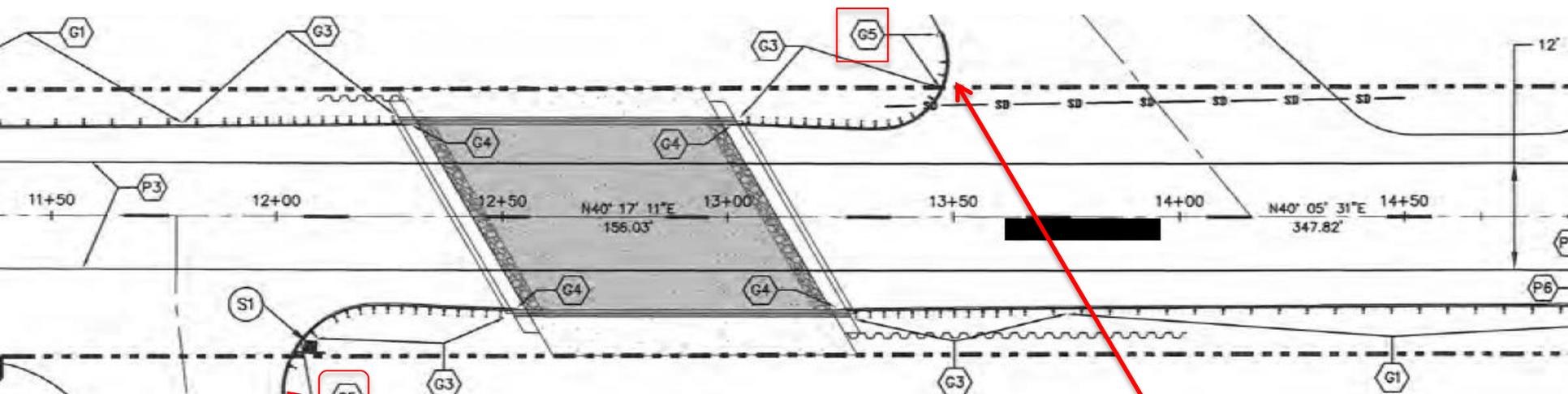
## ROW Needed!

Profile (beginning to end of project)



# PS&E Example: ROW Needed!

## Signing, Channelization & Guardrail Plan



### GUARDRAIL NOTES

- G1 INSTALL BEAM GUARDRAIL TYPE 31 W/ 8\" STEEL POSTS PER STND. PLAN C-20.10-01
- G2 INSTALL BEAM GUARDRAIL TYPE 31 NON-FLARED TERMINAL PER STND. PLAN C-22.40-02
- G3 INSTALL BEAM GUARDRAIL (TYPE 31) TRANSITION SECTION TYPE 21 PER STND. PLAN C-25.20-05
- G4 INSTALL TYPE \"D\" GUARDRAIL CONNECTION TO CONCRETE BARRIER PER STND. PLAN C-24.10-00
- G5 INSTALL BEAM GUARDRAIL (TYPE 31) ANCHOR TYPE 10 PER STND. PLAN C-23.60-02

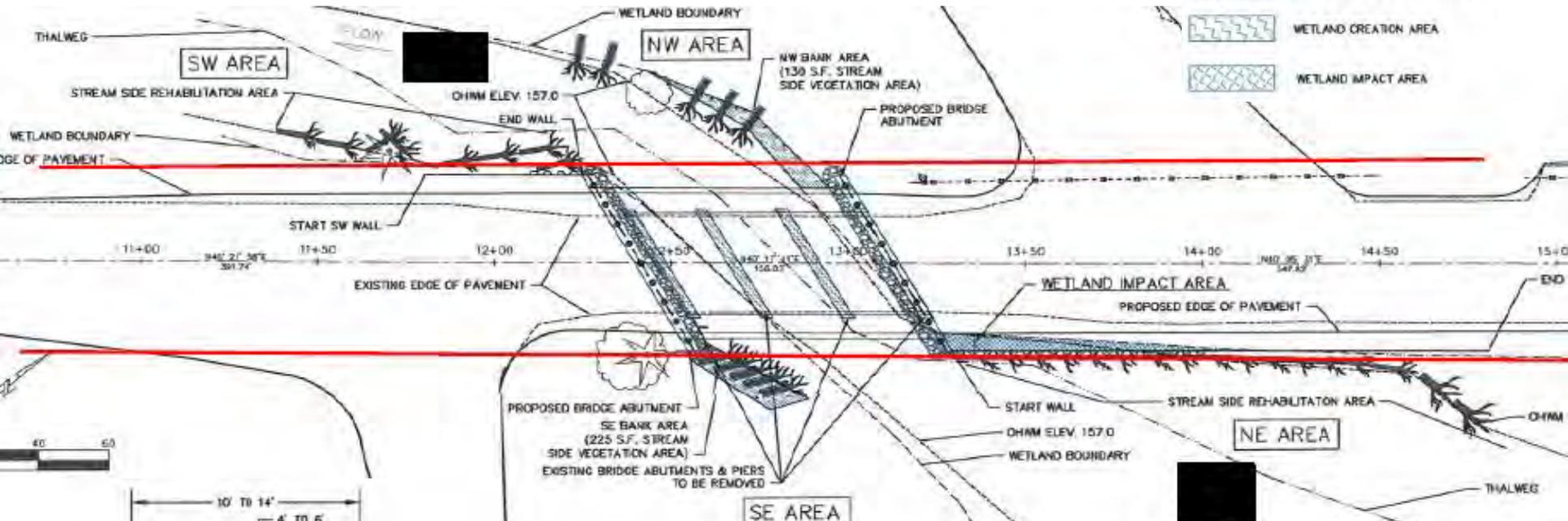
# PS&E Example:

## ROW Needed!

### Wetland Mitigation Plan

**LEGEND**

-  STREAM SIDE REHABILITATION AREA
-  STREAM SIDE VEGETATION AREA
-  WETLAND CREATION AREA
-  WETLAND IMPACT AREA



LARGE WOODY DEBRIS AREA = 1.5' AVERAGE WIDTH X 12.0' AVERAGE LENGTH = 18 S.F. TO BE SUPPLIED BY THURSTON COUNTY

L.W.D. AREA CALC.

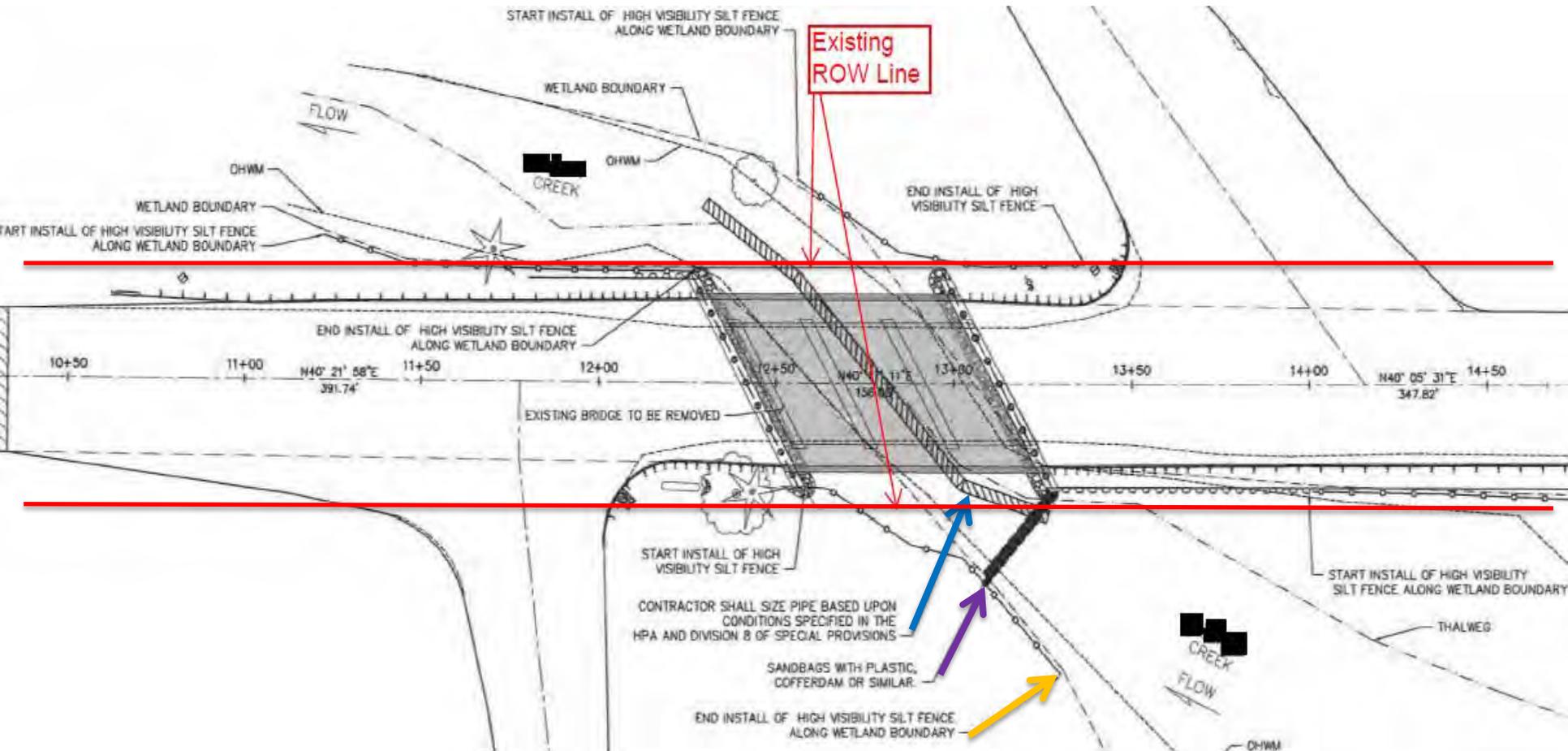
**CATEGORY II WETLAND IMPACTS - 343 S.F.**

SHEET #	MAXIMUM MITIGATION RATIOS (TABLE 24.30-3)	IMPACT AREA	RE-ESTABLISHMENT OR CREATION	
			1:1	6:1
	PROJECT WETLAND IMPACTS/ FILLED AREA	343 S.F.	(343 S.F.)	(1,372 S.F.)
3	REMOVAL OF EXISTING IN-STREAM PIERS AND ABUTMENT		337 S.F.	
1	STREAM SIDE REHABILITATION AREA - SOUTHWEST WALL			100 S.F.
1	STREAM SIDE REHABILITATION AREA - NORTHEAST WALL			500 S.F.
2	STREAM SIDE VEGETATION AREA - NORTHWEST BANK AREA			130 S.F.
2	LARGE WOODY DEBRIS - SOUTHWEST WALL			144 S.F.
3	LARGE WOODY DEBRIS - NORTHEAST WALL			324 S.F.
2	LARGE WOODY DEBRIS - NORTHWEST BANK AREA			90 S.F.
3	LARGE WOODY DEBRIS - SOUTHEAST BANK AREA			90 S.F.
	<b>TOTALS</b>	<b>343 S.F.</b>	<b>337 S.F.</b>	<b>1,378 S.F.</b>

# PS&E Example:

## ROW Needed!

### Stream Bypass and Erosion Control Plan



# Where We're At:

## “We're not in Kansas Anymore!”

- ✓ Created & implemented Sufficient Property Rights Flowcharts
  - Terminology confusion (TCP vs TCE)
  - Misunderstanding of “Mutual Benefits”
- ✓ Created a verification process
  - Solicited stakeholder input
  - Developed tools and training
  - Minimized impacts
  - Implementation plan



# You might Need ROW if...

1. There is acquisition\*
  2. There is a change in limited access rights\*
  3. Your agency performed early acquisition\*
1. Activities to obtain an interest in, and possession of, real property.
  2. The right of ingress to and egress from a property that abuts a street or highway.
  3. Acquisition of real property by State or local governments in advance of Federal authorization or agreement.

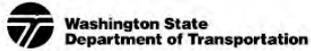


# You might Need ROW if...

4. Project limits are beyond your existing Right of Way\*
  5. You only need an easement\*
  6. Real Property\* is needed for environmental commitments
4. Real property and rights therein used for the construction, operation, or maintenance of a transportation or related facility funded under title 23 of the United States Code.
  5. An interest in real property that conveys a right to use a portion of an owner's property or a portion of an owner's rights in the property.
  6. Land and any improvements thereto, including but not limited to, fee interests, easements, air or access rights, and the rights to control use, leasehold, and leased fee interests.



# Determining Whether or Not Land or Property Rights or Interests are Needed



## Local Agency Guidelines

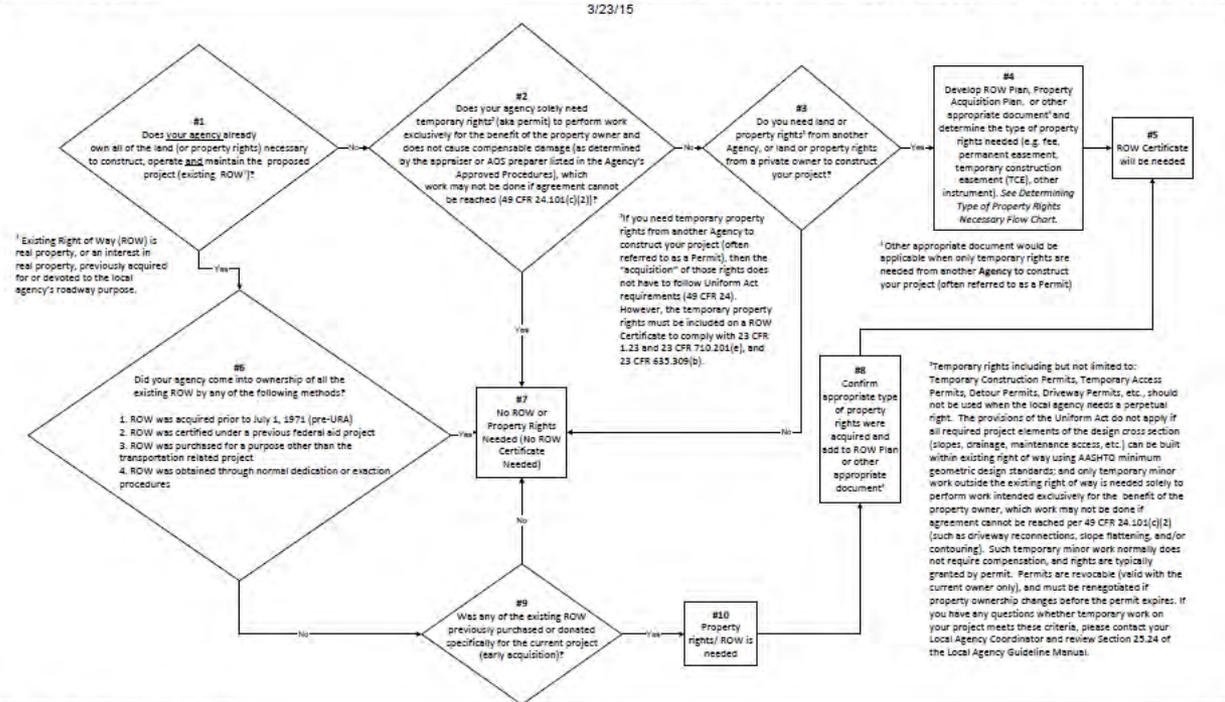
M 36-63.28  
June 2015

Local Programs  
Engineering Services



Appendix 25.174

Determining Whether or Not Land or Property Rights or Interest are Needed



# Determining the Type of Property Rights Necessary

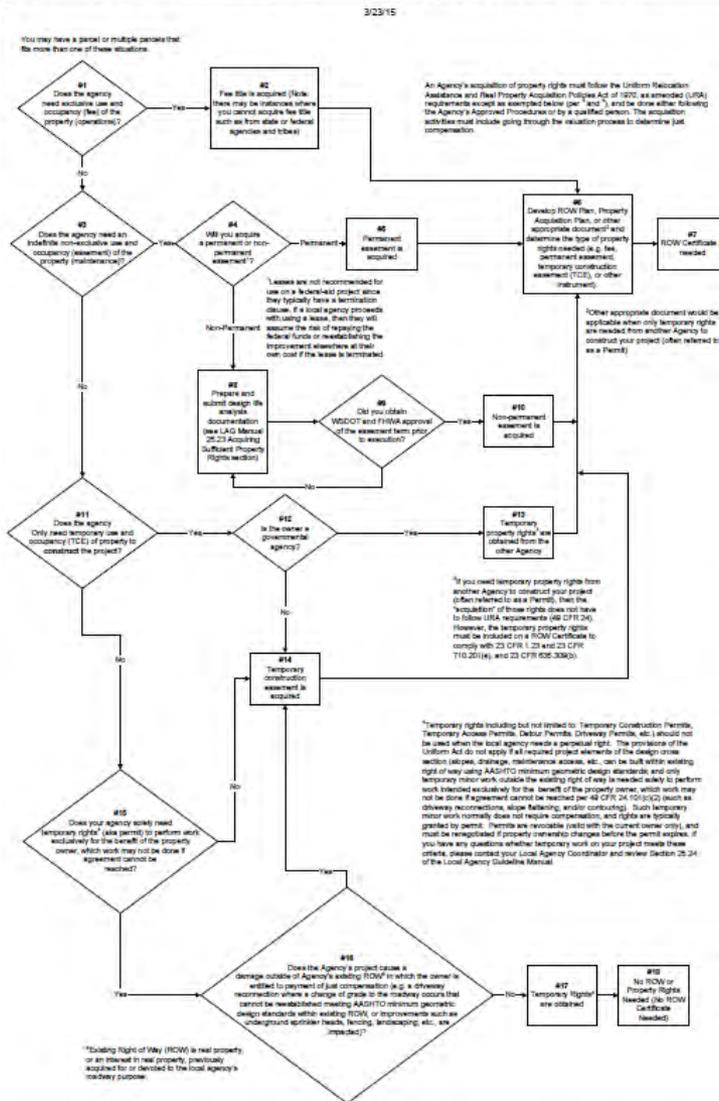


## Local Agency Guidelines

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# Verification Process

- ✓ Compare/review PS&Es for consistency with ROW determination
- ✓ Required training – Approved Reviewers (webinar)
- ✓ New checklist & updated Design Approval Documentation Form
- ✓ Annual QA/QC reviews
- ✓ FHWA Concurrence



# Design Approval Documentation Form (Appendix 43.62)



## Local Agency Guidelines

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Local Programs  
Engineering Services



### Appendix 43.62

### Example of Design Approval Documentation

#### Design Approval Documentation

[Agency Name]

[Project Title]

All items on the appropriate design matrix have been followed. Items that have been reviewed and addressed include:

- Traffic Data
- Pavement Design Criteria
- NEPA
- \*Right of Way (See Appendices 25.174 & 25.175)
  - No ROW Needed - See Appendix 25.176
  - ROW Needed
- Project Cost Estimate

\*If Right of Way needs change at any time, the following documents are required to be updated or re-evaluated:

1. Design Approval
2. Project Prospectus
3. NEPA

The [title of the approving authority as outlined on the agency's Certification Acceptance Agreement or Responsible Charge for Non-CA agency] has reviewed and approved the Design Documentation.

\_\_\_\_\_  
Name  
Title  
Agency

\_\_\_\_\_  
Date

# No ROW Needed Verification Checklist (Appendix 25.176)



## Local Agency Guidelines

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### Appendix 25.176

### No Right-of-Way (ROW) Needed Verification Checklist

This verification checklist is a tool to be used during the completion of the Project Prospectus (Appendix 21.47) to aid in determining if ROW is needed for a project. Please verify each of the following statements by comparing the ROW plan against the PS&E (refer to Appendix 25.174 & Appendix 25.175 for additional guidance):	Yes	N/A
The project can be constructed, operated AND maintained entirely within the acquiring agency's existing ROW, which was obtained under one or more of the following methods:		
1. ROW acquisition occurred prior to July 1, 1971/the Uniform Act;		
2. ROW was certified under a previous federal aid project;		
3. ROW was purchased for a purpose other than this project, and is no longer needed for its original purpose; and/or		
4. ROW was obtained through normal dedication or exaction procedures not related to this project (there was no unconstitutional taking).		
Early acquisition or donation was not obtained specifically for this project.		
The acquiring agency does not need to obtain any interest in, or possession of, real property (including temporary uses, easement, access rights, air rights and/or airspace) to construct, operate and maintain the proposed project.		
The acquiring agency solely needs temporary rights to perform work exclusively for the benefit of the property owner and does not cause compensable damages, which work may not be done if agreement cannot be reached.		
Real property improvements are not encroaching into the existing ROW and/or airspace.		
If all the answers to the above are "Yes" or "NA" then no ROW acquisition is needed, sign the Design Approval Documentation form (Appendix 43.62) and place a copy in the project file.		

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

#### Regulatory Definitions:

**Access rights** mean the right of ingress to and egress from a property that abuts a street or highway.

**Acquiring agency** means a State agency, other entity, or person acquiring real property for title 23 of the United States Code purposes.

**Acquisition** means activities to obtain an interest in, and possession of, real property.

**Air rights** mean real property interests defined by agreement, and conveyed by deed, lease, or permit for the use of airspace.

**Airspace** means that space located above and/or below a highway or other transportation facility's established grade line, lying within the horizontal limits of the approved right-of-way or project boundaries.

**Damages** means the loss in value attributable to remainder property due to severance or consequential damages, as limited by State law, that arise when only part of an owner's property is acquired.

**Donation** means the voluntary transfer of privately owned real property for the benefit of a public transportation project without compensation or with compensation at less than fair market value.

**Early acquisition** means acquisition of real property by State or local governments in advance of Federal authorization or agreement.

**Easement** means an interest in real property that conveys a right to use a portion of an owner's property or a portion of an owner's rights in the property.

**Program or project** means any activity or series of activities undertaken by a Federal Agency or with Federal financial assistance received or anticipated in any phase of an undertaking in accordance with the Federal funding Agency guidelines.

**Real property** means land and any improvements thereto, including but not limited to, fee interests, easements, air or access rights, and the rights to control use, leasehold, and leased fee interests.

**Right-of-way** means real property and rights therein used for the construction, operation, or maintenance of a transportation or related facility funded under title 23 of the United States Code.

**Uniform Act** means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Public Law 91-646, 84 Stat. 1894), and the implementing regulations at 49 CFR Part 24.

# Approved ROW Procedures (LPA-001)



## Local Agency Guidelines

M 36-63.28

June 2015

Local Programs  
Engineering Services

The (insert name of Local Agency), hereinafter referred to as "AGENCY", desiring to acquire real property (obtain an interest in, and possession of, real property) in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act and applicable federal regulations (49 CFR Part 24) and state law (Ch. 8.26 RCW), and state regulations (Ch. 468-100 WAC) hereby adopts the following procedures to implement the above statutes and Washington Administrative Code. The AGENCY is responsible for the real property acquisition and relocation activities on projects administered by the AGENCY. To fulfill the above requirements the AGENCY will acquire right-of-way (ROW) in accordance with the policies set forth in the Right of Way Manual M 26-01 and Local Agency Guidelines. The AGENCY has the following expertise and personnel capabilities to accomplish these functions:

1. The following relate to the AGENCY's request.
  - a. Below is a list of responsible AGENCY individual names and positions, for which the AGENCY has qualified staff to perform the specific right-of-way function(s). Attached are resumes for each individual AGENCY staff listed to perform those functions below, and a brief summary of their qualifications pertaining to the specific ROW function(s) for which they are listed. The procedures shall be updated whenever staffing changes occur. The AGENCY will be approved to acquire based upon staff qualifications.
    - i. PROGRAM ADMINISTRATION :
 

Oversee delivery of the R/W Program on federal aid projects for the agency. Ensures R/W functions are carried out in compliance with federal and state laws, regulations, policies and procedures.

Responsibilities/Expectations:

      - Ensures agency's approved R/W Procedures are current, including staff qualifications, and provides copies to consultants and agency staff;
      - Oversight of ROW consultants;
        - use of consultant contract approved by WSDOT (under construction)
        - management of ROW contracts
        - management of ROW files
        - reviews and approves actions and decisions recommended by consultants
        - Overall responsibility for decisions that are outside the purview of consultant functions
      - Sets Just Compensation prior to offers being made;
      - Approves administrative offer summaries per policy;
      - Ensure agency has a relocation appeal process in place prior to starting relocation activities;
      - Oversight of Administrative Settlements;
      - Obligation authority for their agency;
      - Obtain permits (Non-Uniform Relocation Act (URA));
      - Ensures there is a separation of functions to avoid conflicts of interest.
      - Verifies whether or not ROW is needed, and that the property rights and/or interests needed are sufficient to construct, operate and maintain the proposed projects (see Appendix 25.176).

# Where We're Headed:

## “We're gonna need a bigger boat!”

- Implementation – **Effective April 30, 2016**
- Ongoing outreach/training



# Where We're Headed:

## Effective April 30, 2016

Prior to obligation of funding:

- ✓ Complete Design Approval Documentation Form (Appendix 43.62)
- ✓ Complete No ROW Verification Checklist (Appendix 25.176)

Prior to advertising for construction:

- ✓ Compare PS&E to ROW determination
- ✓ Coordinate with Agency's ROW staff – Program Administration

### Approved ROW Procedures

- ✓ No need to update – person responsible for fulfilling the Program Administration function just needs to complete webinar training

# Document Retention

**Retain PS&E, Design Approval  
Documentation Form, No ROW  
Checklist in case your project is  
selected for a review**

# Annual QA/QC Reviews

## No ROW Compliance Reviews (NRCCR)

- 1<sup>st</sup> year
  - Random sample of projects that were authorized for construction between April 1<sup>st</sup> of 2016 and the date the project data is selected
  - Focus on projects involving construction activities such as street widening, trails, sidewalks, and bridges
- 2<sup>nd</sup> year
  - Dependent on outcome of 1<sup>st</sup> year review.

# Annual QA/QC Reviews

## NRCR Team:

- Local Programs ROW Manager
- Local Programs Engineers or Assistant
- Local Agency Coordinator
- FHWA ROW & Environmental Program Manager

# Annual QA/QC Reviews

## NRCR Results:

- Provided upon completion of review
  - Acquired sufficient property rights – close out letter with no further action
  - Did not acquire sufficient property rights – to be determined

## NRCR with deficiencies WSDOT's administrative response might be one or more of the following:

- Joint conference with Local Agency, Region Local Programs Engineer, Director of Local Programs or the director's designee
- Limit or withhold agency's Approved ROW Procedures to extent deemed necessary
- Loss of federal aid on future ROW projects
- Loss of federal aid on the project reviewed – FHWA will participate on conference call

# Attendance Rosters

**If you joined the webinar as a group and did not register individually then don't forget to download the attendance roster, sign, scan and return to:**

**Dianna Nausley, Local Programs ROW Manager –  
[nausled@wsdot.wa.gov](mailto:nausled@wsdot.wa.gov)**



