Right-of-Way Procedures for Local Public Agency Projects
Part II

BILL WOOD
Engineer of Land Acquisition
Supervisor, Engineering Section
Division of Land Acquisition, IDOH

[Editor’s Note — This paper, like Parts I and III, is addressed to Local Public Agency officials and other county road officials.]

INTRODUCTION

It is my duty and responsibility to review and approve the R/W engineering of the local projects, where federal aid is used in the R/W acquisition or when asked to by the local authorities on non-federal aid R/W acquisition projects.

This paper is divided into two parts:

Part I — R/W engineering plans as prepared in the design phase, these are the plans prepared by the design consultant to be used in the right of way engineering phase.

Part II — The R/W engineering as completed in the land acquisition phase.

R/W ENGINEERING PLANS

The R/W engineering plans as prepared in the design phase are to be prepared as directed in Part 9 titled “Right of Way” of the design manual. If this portion of the manual is adhered to, there should be no problems. I would like to mention the items, that we find in reviewing the plans, which seem to be giving us the most trouble.

The biggest problem appears to be the showing of the apparent location of the property lines on the plans. Item 9.005.06(2) of the design manual gives instructions on how the property lines are to be located. Any of the following three methods are satisfactory:

(1) Describe one point on the line by giving a station, and offset distance, and the angle between the property line and the survey line.

(2) Describe two points on the line by giving stations and offset distance.

(3) Describe one point on the line by giving a station and offset distance and the range plus of the line or the line extended. A bearing
being shown on the line can be substituted for one of the points in methods two and three or for the angle in method one.

Without the location of the property lines being shown, it is impossible for us to check the plans and it would appear to be impossible for the right of way engineering work to be done.

If the property lines are not shown; the plans will be returned to the consultant or local agency and our time as well as the preparer's time will, if not have been wasted—at least not used to the best advantage, as the plans will have to be revised and returned to the state highway for re-checking.

Another item that must be shown on the plans is the location of monumental lines and monumental corners. These need not be shown only if all of the right of way taking is from platted subdivision and then the lot lines and lot corners must be tied into the center lines.

A third item that appears to be causing a large amount of trouble is the plans showing temporary right of way for areas which are to be used for permanent construction, such as cuts, fills, rip rap, ditches, etc. As item 9-020.07 of the design manual states "permanent construction for highway purposes may not be placed on temporary right of way," but we still find many plans coming to us showing "temporary R/W for slope construction," etc. Also temporary R/W may not be acquired from one owner to build a drive or remove a building on the land of another. If a building is partially within the R/W, temporary R/W must be shown to remove the entire building.

As noted in the design manual, an exception to this rule is if temporary R/W is to be for yard grading. This means just what it says and can only be used only for shallow cuts or fills.

Temporary R/W may be used for permanent construction only if the construction is for the benefit of and is to be maintained by the owner.

Any construction made on temporary R/W may be removed by the owner upon the completion of the project.

If permanent construction is to be done so near the R/W line that the contractor must work outside the right of way, temporary R/W may be used, but it must be noted as for working room only, such as "temporary R/W for retaining wall construction (working room only)." The plans must carry the note, "working room only."

These appear to be the main problem areas in preparing of the design R/W plans. To save time and effort for both of us and to shorten the time needed to prepare the project for letting, I suggest reviewing the design manual and if there are any questions, feel free to call me or one of my subordinates. Perhaps a two-minute phone call could save the plans being returned for revision.

I have been discussing the preparation of the R/W plans as part of the design phase.
It is my understanding that in the future the design R/W plans will be submitted to the state highway for approval before R/W engineering work is started. It is also my understanding that the plans will be reviewed by the area engineer of the Local Agency Division before they are submitted to the Land Acquisition Section.

R/W ENGINEERING PHASE

When we discuss R/W engineering, we assume that the plans have been adequately prepared and that title information has been obtained. This title information must not only show who owns the property but, also the following:

1. How and when the owner acquired title, including the recording information.
2. All interests which are adverse or detrimental to the interests of the acquiring agency and to the purposes for which land is being acquired including mortgages, easements, leases, judgments, liens, attachments, contracts of sale, etc.
3. Title information must not only show ownership of the parcel from which the taking is being acquired but also any contiguous land. Requirements for preparing land plats are found in Section “D” R/W Engineering Manual.

Some of the problems which have been found in the preparation of land plats are:

1. The land plat must show all the land owned by the owner unless a portion of the land lies at such a distance that it does not have unity of use or is not affected by the taking. We usually said that unity of use does not extend beyond a break of ½ mile, but this is not always true, especially in a farming operation. If there is a question, it is usually better to show the area in question on the land plat. The land plat must agree with the furnished title information.
2. All leases and easements must be shown on the land plat.
3. The land plat must show any exceptions or sell offs that show in the title information.
4. The heavy black line, 1/20 in. in width, which shows the owners’ property line does not include any public ways of which the owner owns the underlying fee.
5. The center line of the project for which land acquisition is required must be shown with station marks and numbers.
6. The land plat shall show the total area, R/W existing, net total area and the residues. An area must be shown for each residue. Rural areas will usually be shown in acres and urban areas in square feet. Although we can only second guess, the type of area shown should be what will be used in the appraisal.
7. If a different total area is used in the calculations than shown
in the owners' deed then both areas must be shown on the land plat and
a note must show by whom the calculated area was made. The parcel
listing sheet will show the calculated areas.

(8) Each land plat shall bear the seal and signature of an Indiana
registered land surveyor. Some of the consultants prefer to have the land
plats, as well as the descriptions checked, before sealing. This is satisfac-
tory but means that the material must be returned for approval.

(9) Railroads are to be shown as shown on current U.S.G.S. maps.
Areas of railroads will not be shown in the total area or residue even if
the owner owns the underlying fee.

(10) Land plats of platted lands shall show the subdivision name,
lot and/or block numbers, the lot dimensions and the widths of all public
ways as indicated on the subdivision plat.

Again all of these previously mentioned requirements are noted in
Section "D" of the R/W Engineering Procedures Manual.

FINISHING R/W PLANS

The finishing of the R/W plans requirements are covered in Section
B6 of the R/W manual.

Every parcel shall have a parcel number shown on the right of way
plan sheet and all parcels except total takes and parcels described by
parallel lines shall have the point of beginning of the description shown.

The property lines of all parcels from which there is a taking shall
be shown by a dashed opaque black line approximately 1/15 in. in width.
Existing R/W lines shall be shown in the same way as property lines and
are usually labeled property lines on the plans.

The plats must show information concerning easements, mineral
rights, leases, contracts of sale on all parcels from which there is a tak-
ing. Any interest shown on the plans must be shown on the land plats
and vice versa.

DELAY PROBLEMS

Following are problems that most often force the return of the R/W
material to the consultant or to the local agency to be reworked.

You will often find marked up material returned—by the way my
section uses green pencil for making our comments—but we state that
if our comments are addressed we will not need to see the material again
for review.

This means that the material was not prepared according to the R/W
Procedures Manual but that it will probably not cause a problem in the
acquisition.

We do very little calculating during our review, usually only if
something appears to be in error.
The things we watch for are things that a layman, usually the owner or his attorney, will find.

By far the biggest problem is the disagreement between the plans, the land plats and the descriptions. The disagreements can usually be found by simple addition or subtraction. If it is determined that the owner's deed description is in error and different information is used in the acquisition description, the deed information, which must be shown on the land plat, should be marked "sic" S.I.C. The information shown on the plans must agree exactly with the information in the acquisition description.

Also, there must be an agreement between adjoining parcels as to common lines. This is so important that I would like to read paragraph C709 from the manual:

"Excepting as otherwise provided in C9 regarding bearing equations, it is absolutely essential that the calls of descriptions be consistent with each other, whether in the same description or in descriptions of lands which adjoin. For example, it is not permissible to give a bearing of "Northerly" to a line in one place and a bearing of "North 0 deg 07 min 56 sec West" to the same line in another place, either in the same or adjoining descriptions. Likewise, the descriptions of contiguous lands will be rejected if the line common to both of them is described variously as "North 67 deg 33 min 18 sec West 242.59 ft" and "South 67 deg 33 min 19 sec East 242.58 ft." The minor conflicts in the angular and lineal dimensions of even 1 sec of 1/100 ft may throw suspicion on the integrity of the other elements in both descriptions. Furthermore, any description which gives slightly unequal bearings to parallel lines (such as two parallel R/W lines) will be discarded as worthless unless it is corrected."

If we can find these problems merely by quick review, it is very probable that an attorney representing an owner in a condemnation case, can find them and get the case thrown out of court and thus delay the project by several months. Perhaps the local agencies do not have as large a percentage of condemnation cases as the state highway does, but one case which forces the parcel to be redescribed and a new offer made to the owner before it can again come to court can delay a project for a considerable time.

My section will review the material sent to us as quickly as we can, but we have had projects that have come to us, been reviewed and sent back, been returned to us, re-reviewed and sent back, and been returned to us for the third time. All this took several months. The local agencies in these cases were very unhappy as they had been promised that the project would be ready for letting long before it was.
CONCLUSION

We are all interested in getting the projects let and as the acquisition phase is usually the last phase, the pressure is on us. We in the engineering section will try every way possible to work with the consultant and/or the local agency concerning the R/W engineering, but we ask for the good of the projects that the material sent to us be checked, as the majority of the errors that we find are simple mathematical errors or disagreements between the information shown on the plans, land plats and description. A checking or review of the material before it is sent to us can save all of us time and provide for an earlier letting date.

My office is always available to answer any questions to the best of our ability. Perhaps a phone call could save a great deal of time and keep a project from being returned to be reworked.

I hope at the end of this presentation that there will be time for your questions and/or comments.

Again, let me say that in my opinion a review and use of the design manual and the R/W Engineering Procedures Manual will save us all a great deal of time and will speed up the R/W engineering portion of the project.