

Environmental and Transportation Services

Right of Way Division

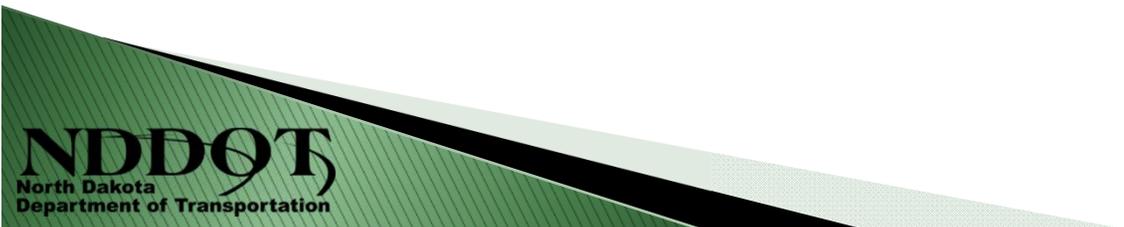
Mark Gaydos, PE, Division Director

Mike Knox, ROW Program Manager

Matt Linneman, PE, ETS Program Manager

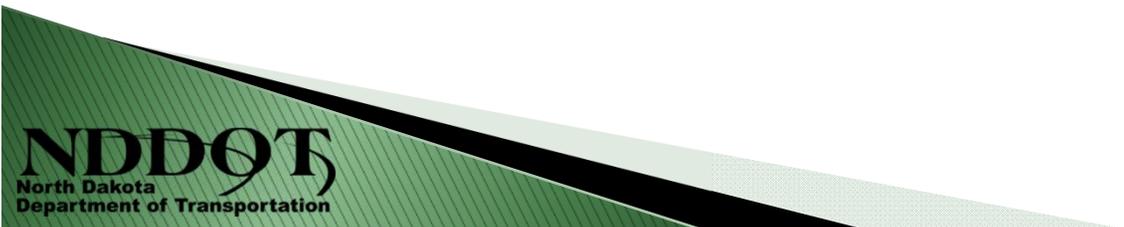
Introductions

- ▶ Mark Gaydos
- ▶ Matt Linneman
- ▶ Mike Knox
- ▶ Jim Keller
- ▶ Brad Faiman
- ▶ Ray Barchenger
- ▶ Stacy Wilz
- ▶ Roxinne McPhail
- ▶ Chris Chase
- ▶ Amy Splichal
- ▶ Greg Gardner
- ▶ Mary Fahlsing
- ▶ Lou Ann Gosbee



Overview of Today's Presentation

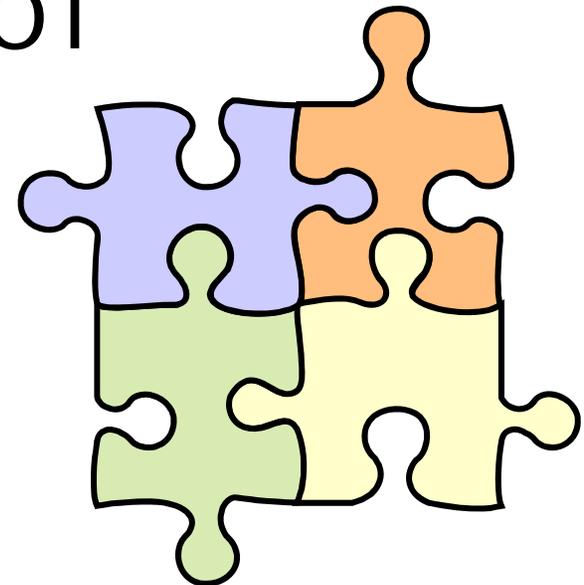
- ▶ Getting to Know your NDDOT ROW Team & team contact
- ▶ Designing ROW Limits
- ▶ Title work
- ▶ Plats
- ▶ Valuation/Appraisal
- ▶ Negotiation/Acquisition
 - Documentation
 - Title VI
 - ROW Training
 - Title Curative Actions
 - Counteroffers from Landowners
 - Administrative Settlements
 - Payment/Recordation/Insurance
- ▶ Condemnation
- ▶ Special Property Interests & Certification
- ▶ Round Table Discussion – postcards are available to write out your questions



Design R/W Limits

Matt Linneman – ETS Program Manager

- ▶ Limits of Construction
- ▶ Setting Right of Way Limits
- ▶ Appropriate Property Interests
- ▶ Delivery of Limits to NDDOT



Design R/W Limits

Limits of Construction

- ▶ Cross-sections
 - Fill Slopes
 - Cut Slopes
- ▶ Sight Triangles and Clear Zone Areas
- ▶ Permanent Features
 - Drainage Features
 - Driveways & Sidewalks
- ▶ Removals
- ▶ Constructability
- ▶ Wetland Easements
- ▶ Maintenance Activities



Design R/W Limits

Setting Right of Way Limits

- ▶ Standard Widths
 - Highway Types
 - Terrain
 - New construction vs reconstruction & re-grading
- ▶ Uniformity
- ▶ Limits of Construction
- ▶ Utility Relocations
- ▶ Exceptions
 - Avoidance of environmental & cultural areas
 - Buildings & utilities

Ref: Surveys & Photogrammetry Manual: Chpt 20-4.1.8



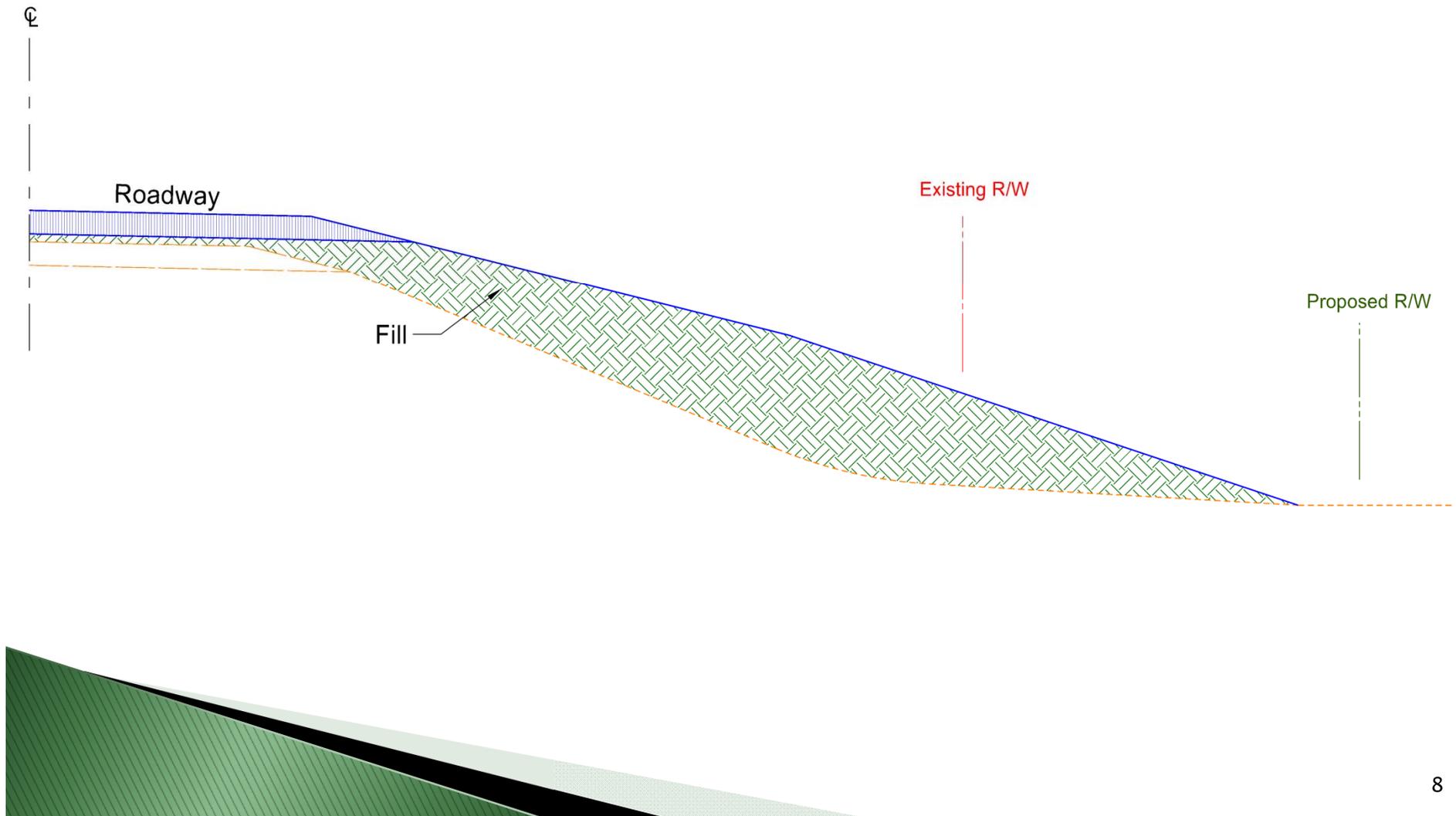
Design R/W Limits

Appropriate Property Interests

- ▶ Permanent Right of Way (Fee Simple)
- ▶ Permanent Easement
 - From Federal Agencies & Railroad
 - Maintenance
 - Drainage
 - Slope
 - Access
- ▶ Temporary Construction Easement
 - Not for borrow material
- ▶ Other Special Property Interests

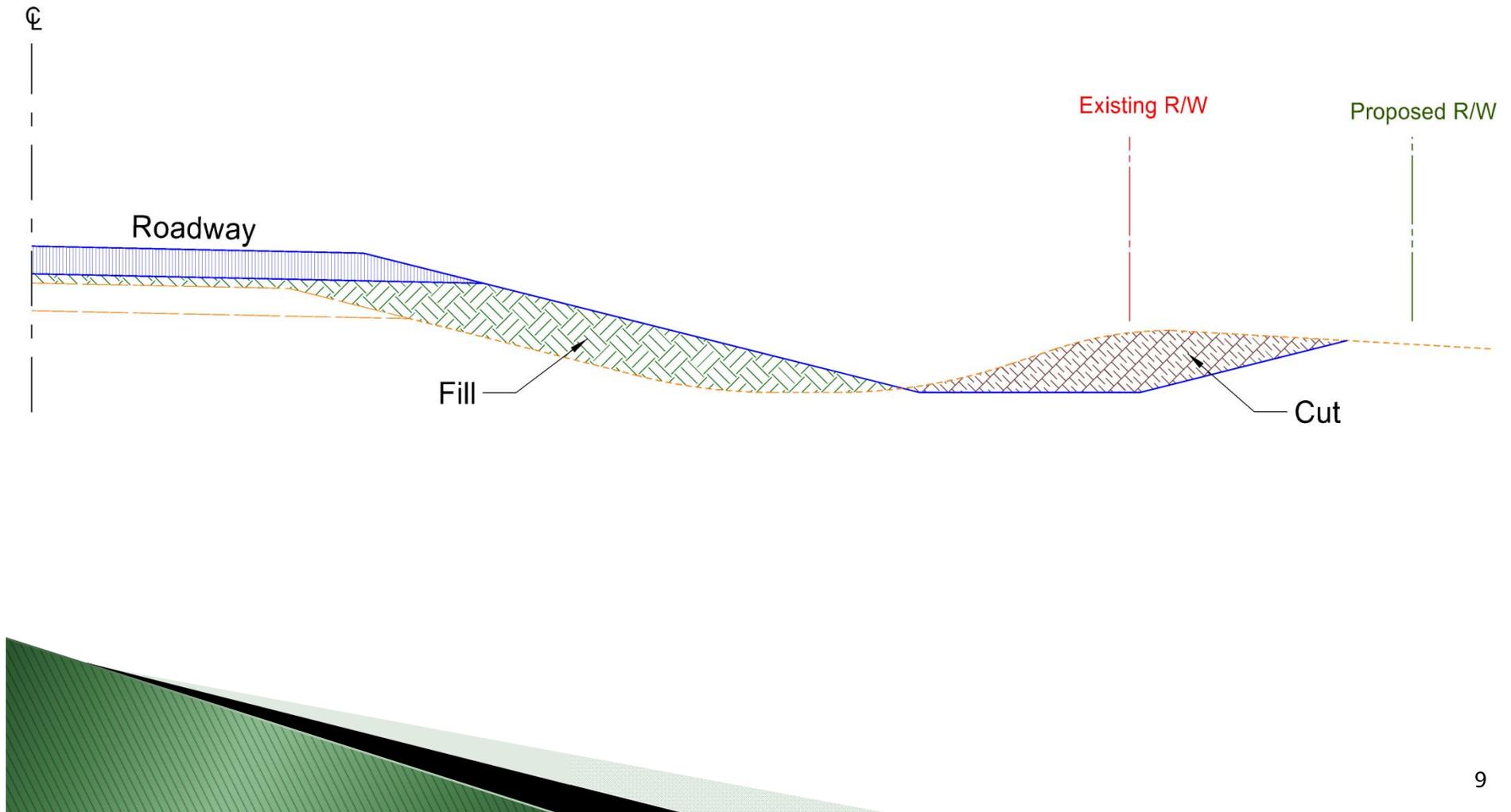


Design R/W Limits Typical Section – Fill Slope



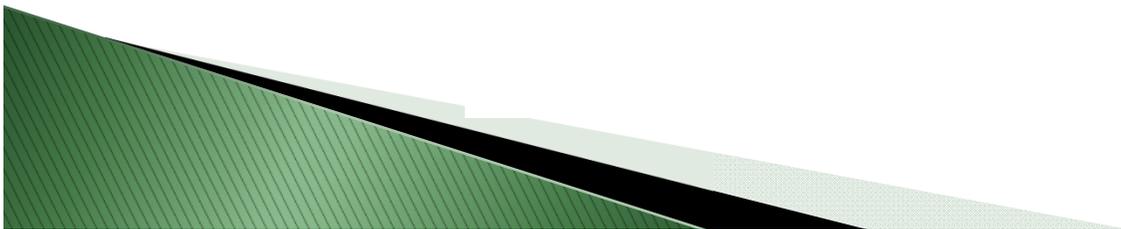
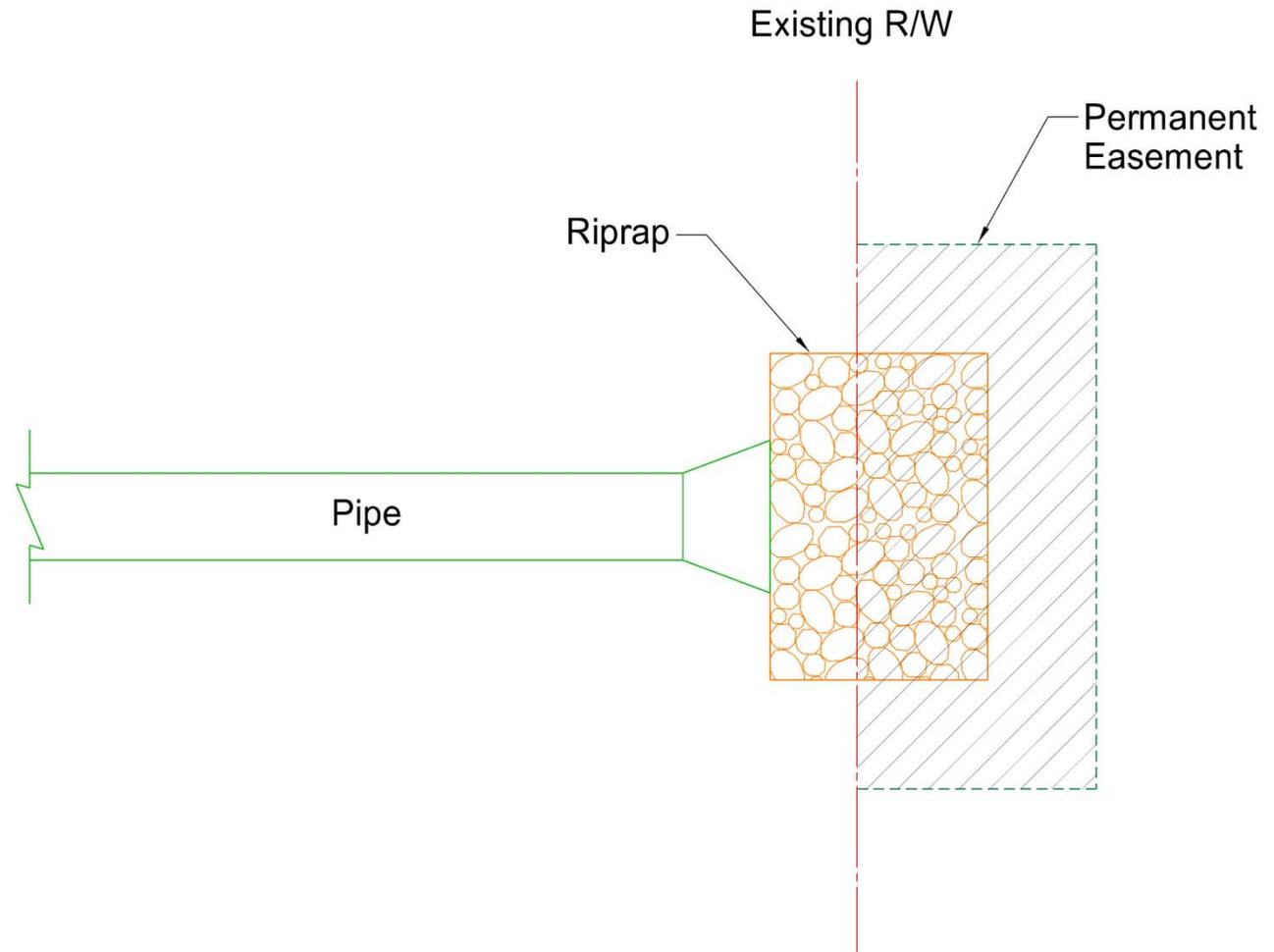
Design R/W Limits

Typical Section - Cut Slopes



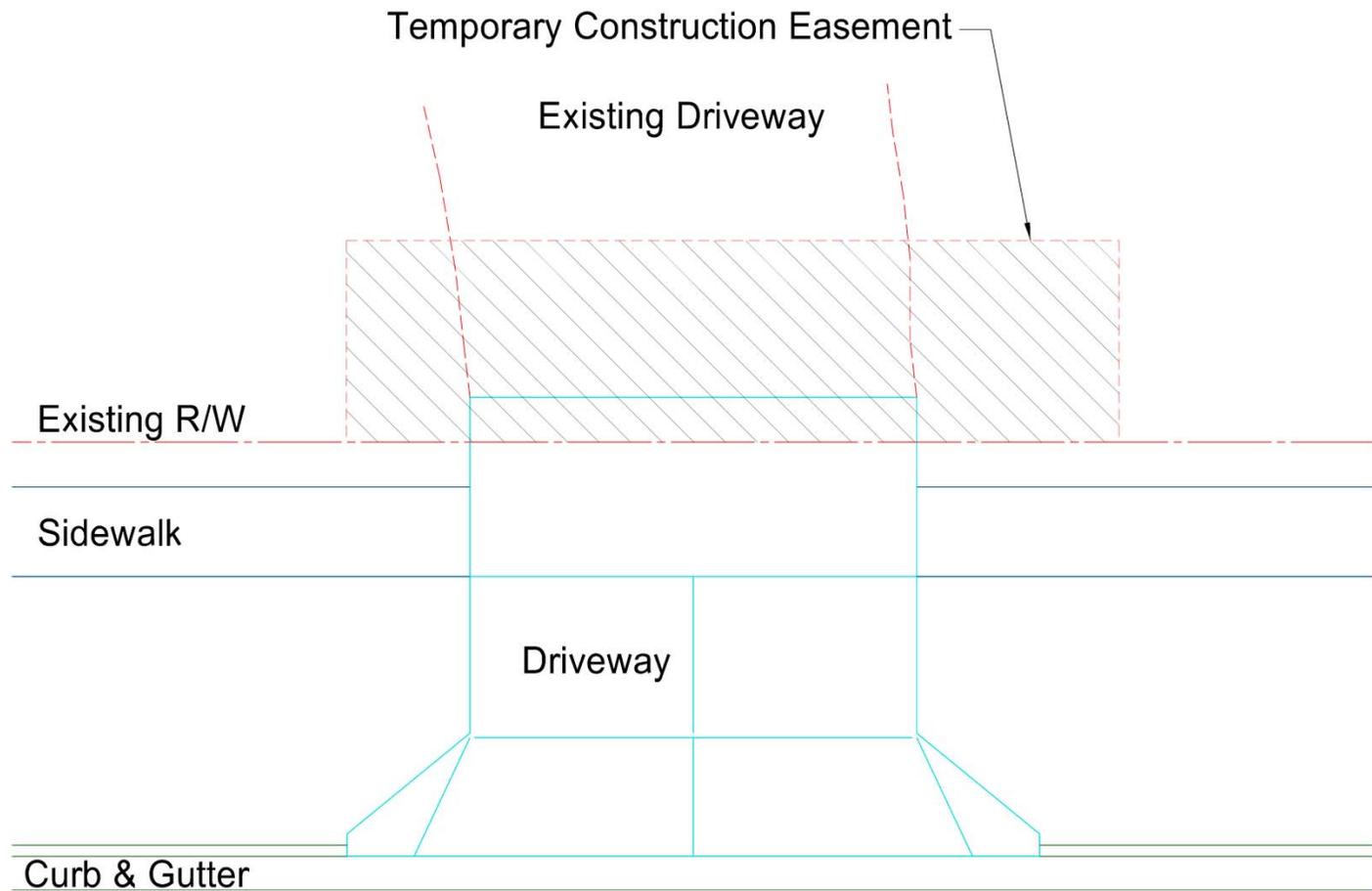
Design R/W Limits

Typical Section – Pipe End & Riprap



Design R/W Limits

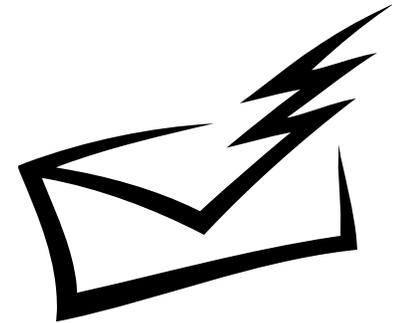
Temporary Construction Easement



Design R/W Limits Delivery of Limits to NDDOT

- ▶ R/W Limits Map (in pdf format)
 - Dimensions
 - Hatching or coloring
 - Labels
- ▶ Legal Descriptions
 - Quarter-quarter
 - And/or subdivision with lot and block
- ▶ Submit to Project Manager or Technical Support
 - R/W Program Manager
 - Title Officer
 - Right of Way Agent
 - Design Division–R/W Plats Section
- ▶ Expedited Project Delivery

Ref: NDDOT Design Manual: Chapt 1–Sec 2–#74



Preliminary Certificates of Title

Brad Faiman, Realty Officer

- North Dakota Guaranty & Title Co (NDGT)
 - State contract to generate Permanent Certificates of Title for all Permanent or Fee Simple acquisitions according to the Century Code
 - **N.D.C.C 26-1-20-05- Title Evidence - Examination**

- May use NDGT or another Title Institution
 - If another institution is used, they must follow NDDOT requirements found in:
 - Right of Way Manual
 - Section 5.01 - Title Abstracts
 - Section 5.02 - Title Insurance



Title Company Requirements

- ▶ When do you order title?
 - After the right of way limits are created

- ▶ Title Company Requires:
 1. A map with the area highlighted for reference
 2. Accurate legal descriptions narrowed down to as small an area as possible
 3. Owner's names (if available)



NDDOT Requirements for Permanent Acquisition – Preliminary Certificate of Title (PCT)

1. Title certificates must include:
 - a) Record title owner's name(s) and addresses
 - b) Complete legal description(s)
 - c) Source of title for the last 5 years
 - d) All easements and encumbrances such as mortgages, judgments, etc.
2. Originals must be mailed or delivered
 - o No Copies or emails
3. Top page should be the title certification
 - o Cover sheet to the back
4. Place parcel number(s) in the upper right hand corner in red for easier cross referencing.

➤ [ROW Manual – Section 5.01 – Title Abstracts](#)

NDDOT Requirements for Temporary Acquisition

- Surface Ownership Report (SOR) - Pencil Abstract (AKA Deeds)

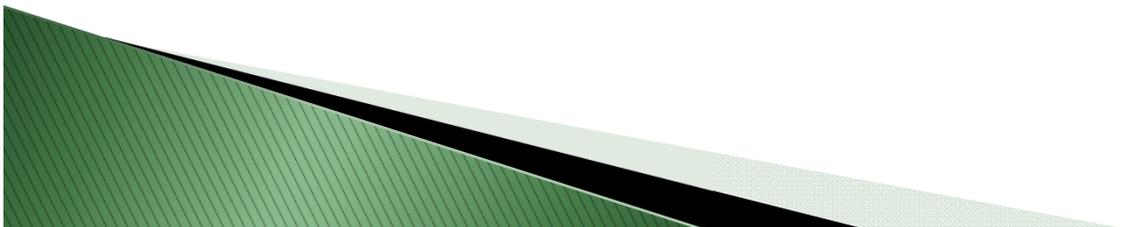
- If property owned longer than 5 years - Must Include:
 - ❖ Last 2 deeds to show chain of title
 - ❖ Current tax statement indicating accurate mailing address & contact information

 - If property owned less than 5 years - Must Include:
 - ❖ A minimum of 2 deeds to show chain of title, but we also need any transfers indicating a type of change within this time frame
 - ❖ Current tax statement indicating accurate mailing address & contact information
- [See Example Surface Ownership Report in Appendix](#)

NDDOT Requirements for Temporary Acquisition

- Surface Ownership Report (SOR) - Pencil Abstract (AKA Deeds)

- Include ALL easements and encumbrances
- Originals must be mailed or delivered
 - ❖ No Copies or emails
- Top page should be the Surface Ownership Report
 - ❖ Cover sheet to the back
- Place parcel number(s) in the upper right hand corner in red for easier cross referencing.
 - [See Example Surface Ownership Report in Appendix](#)



Preliminary Certificates of Title & Plats

Comparison of Plats to Title

These MUST MATCH

➤ Before Submitting, check the following:

1. Is the parcel Temporary or Permanent?
2. Does the title work submitted match PCT/SOR?
3. Is the ownership complete?
 - a) Include if Joint Tenants, Tenants in Common, Life Estate, etc.
 - b) This will be carried over to the negotiator documents, deeds & the plat.
4. Are Addresses and Spelling accurate?
5. Are the legal descriptions complete?



Generating Documents

- ▶ When do you get Negotiator Documents?
 - All title work submitted must be approved
 - May request revisions
 - Minimum of 2 weeks for review
 - After title work is approved, the Negotiator Documents will be generated



Final Review of Title

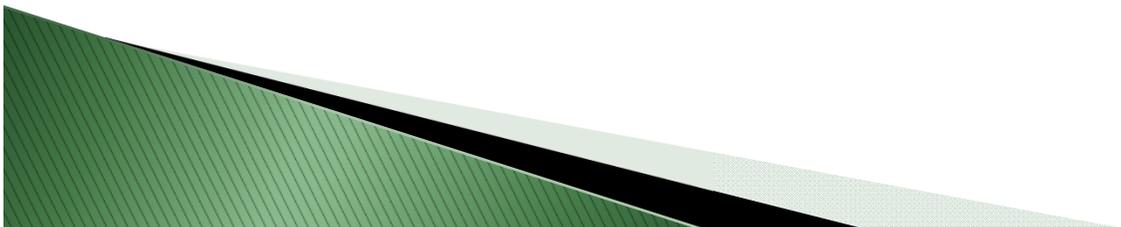
- ▶ Before Negotiator packets are submitted:
 - Final review of title must be completed
 - [Right of Way Manual – Section 3.05 – Title Check](#)

- ▶ Verify (if any) types of changes have occurred since title was acquired:
 1. Marriage (ND Law requires both signatures on deed)
 2. Death
 3. Leases
 4. Sale of Property
 5. Knowledge of unrecorded deeds
 6. Outstanding (C4D) Contract for Deed(s)
 7. Etc.

Final Review of Title Continued

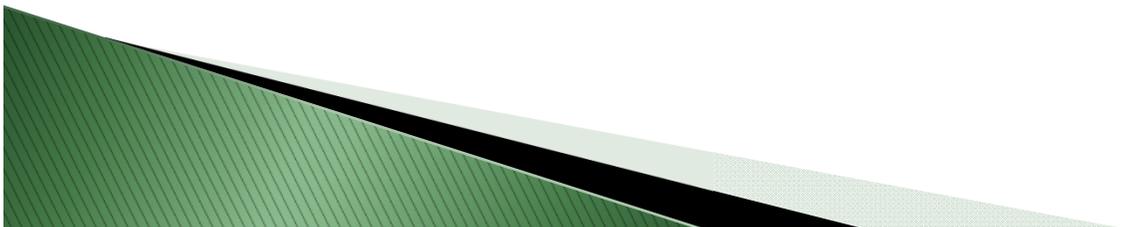
- ▶ If ANY changes have occurred, the following must be revised:
 1. The Preliminary Certificate of Title (PCT) or the Surface Ownership Report (SOR)
 2. The Plats
 3. The Final Documents (Deeds/Easements)

- ▶ Once all 3 match
 - Negotiator packets may be submitted for recording & payment



Title Acronyms

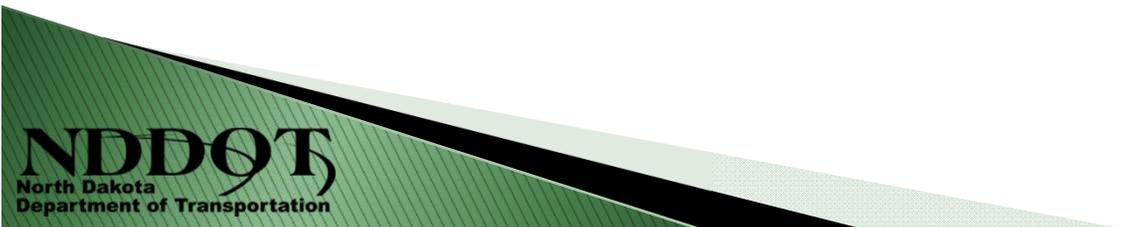
- ▶ See Appendix for most commonly used acronyms
 - Please Note: these may be used in emails but are NOT allowed in any deeds or any type of legal documents.



Right of Way Plats

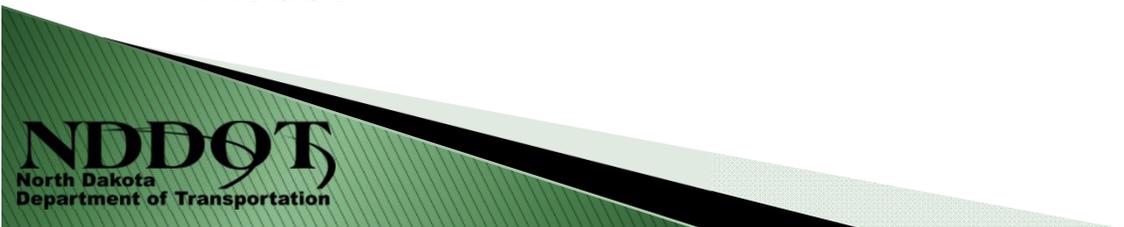
Lou Ann Gosbee, PLS,
Design – ROW Plats Section Leader

- ▶ Survey and Photogrammetry
- ▶ RW_Bndry.dgn File
- ▶ Right of Way Plats
- ▶ NDDOT Standards for clarity, consistency and compliance with North Dakota statutes



Right of Way Plats

- ▶ Created under the direction of a Professional Land Surveyor.
- ▶ Surveys and Photogrammetry
 - Land Surveyors collect existing field data for the design of projects and information for land acquisition that is shown on the design plans and the Right of Way plats.
 - Photogrammetry collects topographical data from Aerial Photos.
- ▶ CADD Editors integrate the Survey Data and Data from Photogrammetry to create the MicroStation Files.



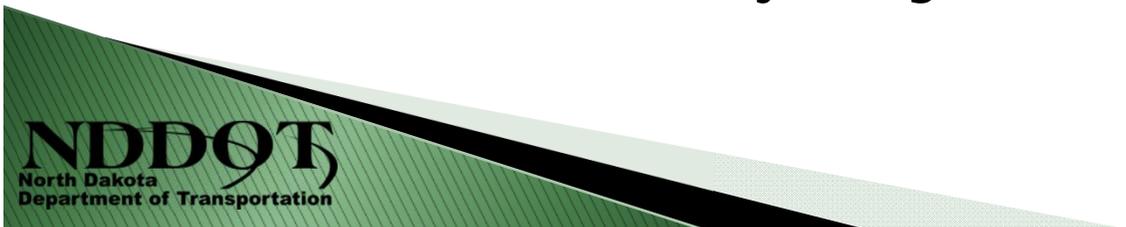
Right of Way Plats

Control.dgn

- ▶ Existing Alignment Centerline
- ▶ Public Land Survey Corners
- ▶ Property Corners
- ▶ Land Boundaries, Corporate Limits, Reservation Boundaries ...

Topog.dgn

- ▶ Fences Driveways
- ▶ Buildings Edge of Water
- ▶ Sidewalks Retaining Walls
- ▶ Curb & Gutter Adjoining Streets and Roads



Right of Way Plats

RW_Bndry.dgn File

Reference files:

- Control.dgn
- Topog.dgn

Features in the RW_Bndry:

- Existing and Proposed Right of Way
- Railroad Right of Way
- Not State Owned Right of Way
- Existing and Proposed Easements
- Subdivision Boundaries and Names, Dotted text and lines
- Blocks and Names/Numbers, Dotted text and lines
- Lots and Names/Numbers, Dotted text and lines
- Government Lots



Right of Way Plats

RP1.dgn

Reference files:

- Control.dgn
- Topog.dgn
- RW_Bndry.dgn

Features that are to be in the Plat:

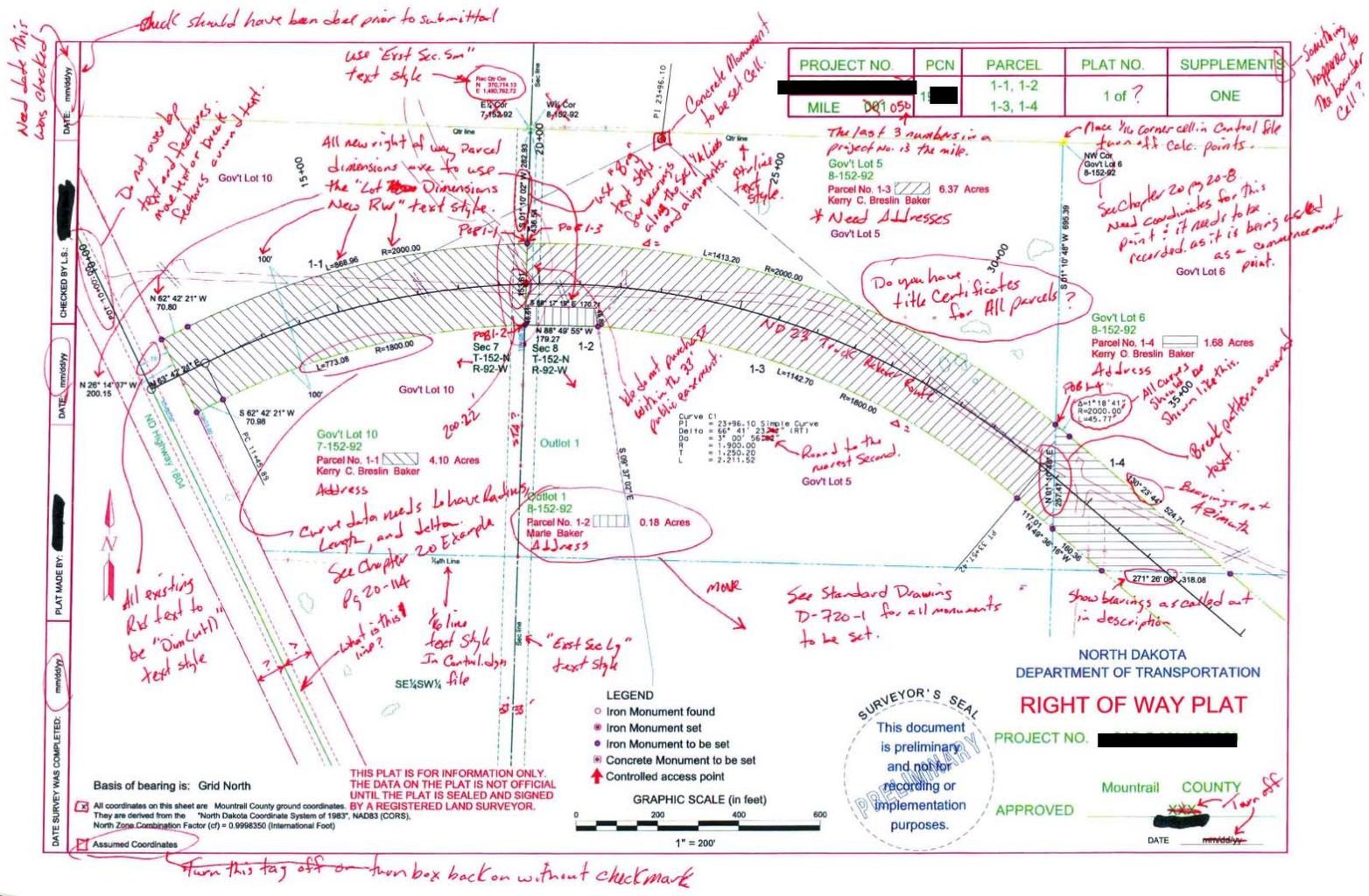
- Parcel Heading that has the general legal description for the adjacent land owner, shown on the PTC.
- Parcel Numbers
- Area of new parcels
- Adjacent land owner's name and address
- Hatching of new parcels
- Dimensions of new parcels
- Notes of any changes to the plats

Right of Way Plats

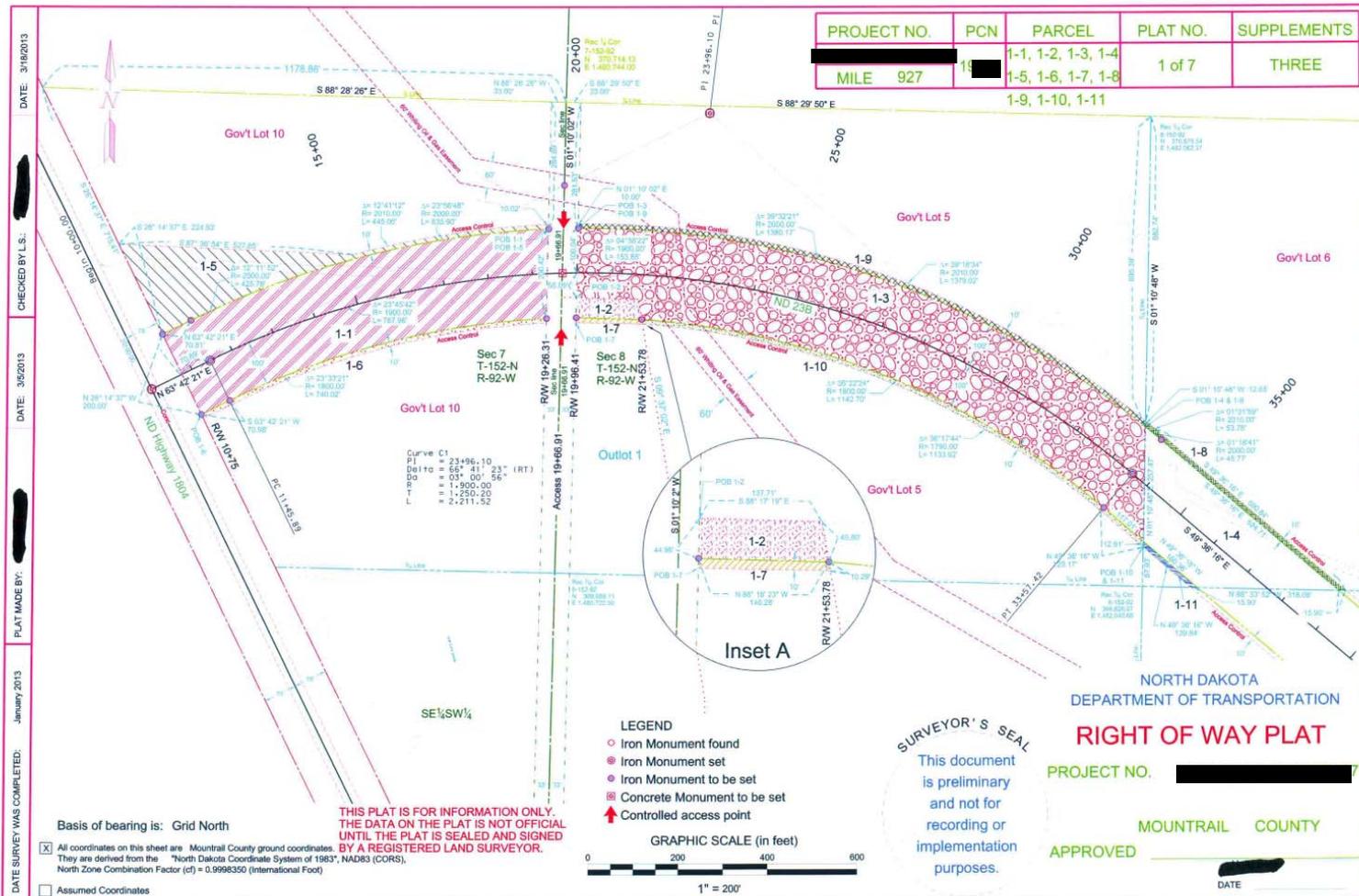
It is always a sound practice to create the Right of Way Plats with an approved survey.

- ▶ Preparation by Consultants, plats must be checked by a Professional Land Surveyor before submitting, then they will be checked by the Right of Way Plats Section in the Design Division, at the North Dakota Department of Transportation for accuracy, completeness, consistency and legibility.
- ▶ Right of way plats with permanent acquisition are legal documents that are recorded at the County Recorder's office.
- ▶ Right of way plats with temporary acquisition are also to be professional quality for negotiation.

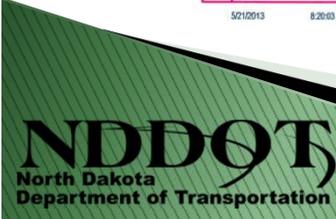
Right of Way Plats



Right of Way Plats



5/21/2013 8:20:03 AM Owner S:\SHARED PROJECTS 16State Projects\New Town Bypass\ROWRP_001_Rev.dgn



Right of Way Plats

PROJECT NO. [REDACTED]
 PCN. [REDACTED]
 SUPPLEMENT TO PLAT NO. 6 OF 13

Legal calls would give you the correct wording.

Precedential is to be placed around this direction call. See Chapter 20 examples: CDAS standards

Why a break in the call along the west line of the SW 1/4? No need to break the call to the Design & men to breaking E. This is not needed or desired.

This is missing the calls for the beginning of strip and end of strip. Should have a call of 33' to beginning of strip then continue along existing E until end of strip skewed. There will need to be a call for this.

Example: X' to the beginning of the 300 foot strip, in which the westerly line of said strip being a line 33 feet easterly at and parallel with the west line of Section 16.

to the point of beginning? why is there a 33.16 feet?

no parenthesis here

Need direction of curve

Curve data calls for a 200' spiral

End curve and parallel line then begin new parallel line and spiral curve. Parallel line should be call out as southeasterly of such as the curves; ... parallel line to the left (southwesterly)

Don't get to review those?

Don't continue

East

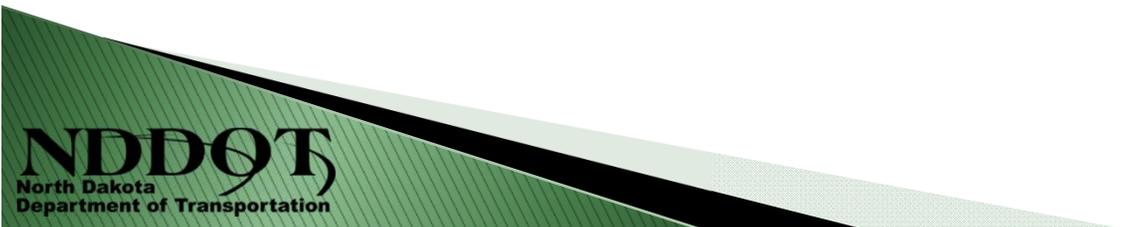
Westerly

Parcel Number 6-1
 A portion of the SW 1/4 of Section 16, Township 147 N, Range 95 W, of the 5th Principal Meridian, County of Dunn, State of North Dakota, described as follows as shown on Plat 6 of 13.
 A strip of land 300 feet wide, the northerly and southerly lines of which are parallel. The southerly line of said strip being 100 feet northerly of and parallel to the following described survey centerline as surveyed:
 Commencing at the SW corner of section 16, thence northerly along the west line of the Southwest Quarter of section 16, on a bearing of N 01 deg. 38 min. 28 sec. E a distance of 1135.73 feet to a point on the survey centerline of ND 22. Thence continuing northerly along the west line on a bearing of N 02 deg. 38 min. 28 sec. E a distance of 70.34 feet to a point on the existing centerline of ND 22. Thence southeasterly along the existing centerline of ND 22 on a bearing of S 83 deg. 21 min. 22 sec. E a distance of 588.93 feet to the beginning of a tangent curve, concave to the north (northwesterly) having a radius of 830.37 feet. Thence along curve a distance of 1047.94 feet through a central angle of 72 deg. 18 min. 30 sec. to the end of the curve. Thence on a bearing of N 24 deg. 20 min. 07 sec. E to the end of the parallel line.
 It is a condition of this assessment that it shall not be filed for record and that all rights conveyed to the state of North Dakota and North Dakota Department of Transportation by this instrument shall terminate upon completion of construction of said project, or in five years from the date of conveyance, whichever comes first.
 Said parcel is shown on the plat as 6-1 and contains 10.70 acres more or less, and is subject to any easements or rights of way previously acquired.
 The legal description was prepared by James Jung, Kadmas, Lee & Jackson, Inc. 1010 4th Ave SW, PO Box 937 Valley City, ND 58072

Parcel Number 6-2
 A portion of the SW 1/4 of Section 16, Township 147 N, Range 95 W, of the 5th Principal Meridian, County of Dunn, State of North Dakota, described as follows as shown on Plat 6 of 13.
 Commencing at the SW corner of section 16, thence northerly along the west line of the Southwest Quarter of section 16, on a bearing of N 01 deg. 38 min. 28 sec. E a distance of 1102.80. Thence on a bearing of S 82 deg. 42 min. 49 sec. E a distance of 33.16 feet, thence on a bearing of S 88 deg. 21 min. 32 sec. E a distance of 33.00 feet to a point along the existing right of way line and the point of beginning. Thence along the existing right of way line on a bearing of S 83 deg. 21 min. 22 sec. E a distance of 544.95 feet to the beginning of a tangent curve, concave to the north (northwesterly) having a radius of 805.37 feet. Thence continuing along the existing right of way and along said curve a distance of 1078.03 feet, through a central angle of 68 deg. 13 min. 21 sec. to the end of the curve. Thence continuing along the existing right of way on a bearing of N 24 deg. 20 min. 07 sec. E a distance of 1105.52 feet to a point on the southwest quarter of the southwest quarter. Thence along the south line of the southwest quarter on a bearing of S 72 deg. 48 min. 10 sec. E a distance of 35.10 feet to a point which is 125.30 feet easterly of and parallel with the following described center-proposed centerline of ND 22, which is also the beginning of a non-tangent curve, concave to the right) southeasterly, the radius point of which bears S 71 deg. 18 min. 01 sec. E, and having a radius of 1660.00 feet. Thence along said curve a distance of 31.74 feet through a central angle of 01 deg. 05 min. 47 sec. to the end of the curve and the beginning of a 200.00 foot spiral curve back. Thence southwesterly along said proposed centerline and spiral curve a distance of 200.00 feet through a central angle of 03 deg. 27 min. 06 sec. to the end of the spiral curve. Thence along said proposed centerline on a bearing of S 14 deg. 11 min. 46 sec. W a distance of 463.08 feet to the beginning of a 200.00 foot spiral curve ahead. Thence southwesterly along said proposed centerline and spiral curve a distance of 1344.48 feet through a central angle of 05 deg. 22 min. 48 sec. to the beginning of a simple curve having a radius of 1085.00 feet. Thence along said proposed centerline and curve a distance of 1344.48 feet through a central angle of 72 deg. 16 min. 53 sec. to the end of the curve and the beginning of a 200.00 spiral curve back and to the end of the parallel line and to the beginning of a line parallel and to the left 200.00 feet of the following proposed described centerline of ND 22. Thence along said proposed centerline and spiral curve a distance of 200.00 feet through a central angle of 05 deg. 22 min. 48 sec. to the end of the spiral curve and the end of the parallel line. Thence on a bearing of N 82 deg. 42 min. 49 sec. W a distance of 432.78 feet to the beginning of a bearing of N 01 deg. 38 min. 28 sec. E a distance of 171.31 feet to the point of beginning.
 Said parcel is shown on the plat as 6-2 and contains 11.44 acres more or less, and is subject to any easements or rights of way previously acquired.
 The legal description was prepared by James Jung, Kadmas, Lee & Jackson, Inc. 1010 4th Ave SW, PO Box 937 Valley City, ND 58072

Right of Way Plats

- ▶ After all of the acquisitions are complete, payments for the parcels on a project are finalized.
- ▶ The NDDOT will send a final ownership list to make sure all of the names and addresses are correct on the plats.
- ▶ The Right of Way Plats are to be printed in black and white on heavy weight paper.
- ▶ The plats are to be stamped and signed by a Professional Land Surveyor and sent to Technical Support at the NDDOT, who will give them to the ROW Plats Section for final approval before ETS sends them in for recording.
- ▶ A color PDF also needs to be sent to the NDDOT.



Right of Way Plats

- ▶ **Tools for creating Right of Way Plats for the NDDOT:**
 1. Chapter 20 is found in:
 - Manuals and Publications\Survey and Photogrammetry Manual\Chapter 20
 2. The Resource files for the Geopak Legal Editor which have the NDDOT Standard Statements stored in it. The Resource files for the Legal Editor are found in:
 - Manuals and Publications\CADD Standards Manual\Resources\V8 Resource Files
 3. The directions for using the Legal Editor are found in:
 - CADD Standards Manual\Legal Description Editor, Section 4.11

Just a Reminder:

- ▶ The complete list of people presenting today are listed in the appendix including their email addresses and phone numbers.

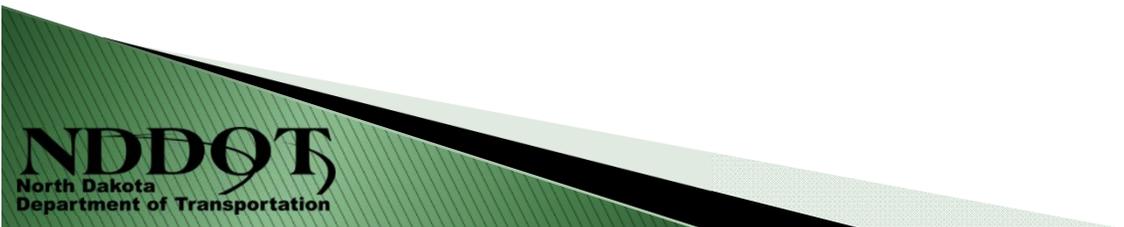
Valuation & Appraisal

Chris Chase, Chief/Review Appraiser

Process

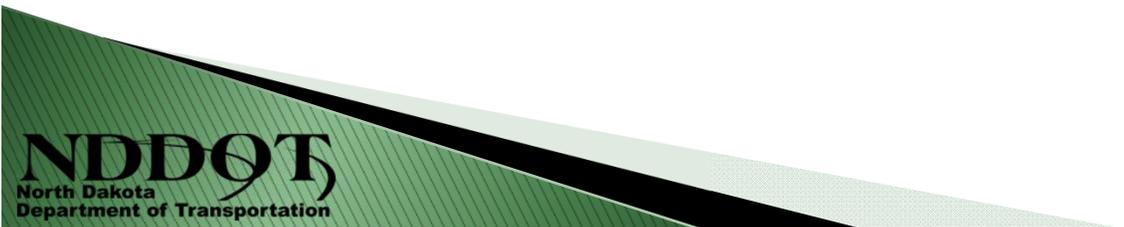
–Once Right of Way Limits are complete:

- Scope of work
- Preliminary Project Review
- Basic Data Book
- Submit for FHWA Authorization
- Statement of Project Review
- Appraisals and Waivers
- Review



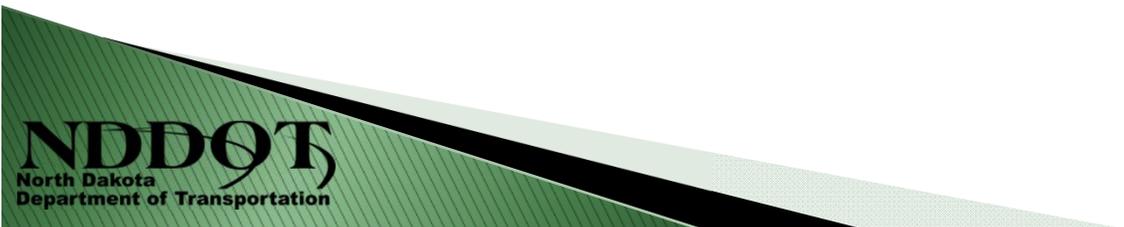
Preliminary Project Review

- Define Scope of Assignment
- Identify potential problems (Good communication)
- Identify parcels as appraisals or waiver valuations. Waivers will have compensation defined.
- This may come in the form of a meeting, phone call, or written correspondence. NDDOT may require a meeting on larger projects. Consultants may request meeting on any project.



Basic Data Book

- What is it? Collection of market data to support appraisals and waivers. Reduces amount of data included in an appraisal or waiver.
- Conclusion of value for all property types found in a project. Can be subject to location, size, use, or any other value altering characteristic.
- ROW cost estimate, by ownership with size, property type, and total for the project. Submit electronically in non .pdf excel. (NEW)
- Only used when there are enough parcels to benefit from Data Book.



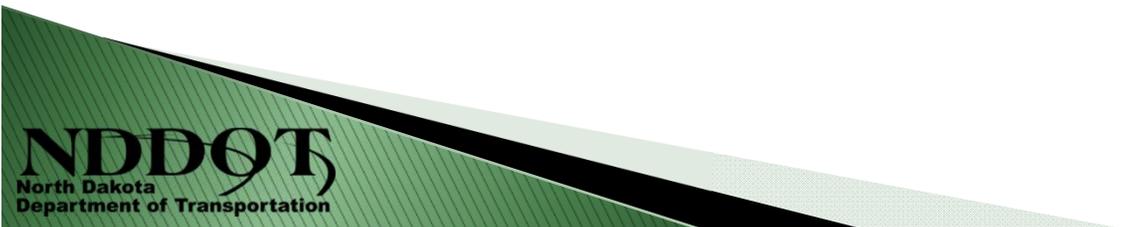
Statement of Project Review

- ▶ Once the Data Book is approved, a statement is provided indicating that values are accepted and can be used for the negotiations of right of way acquisitions that do not require an appraisal.
- ▶ Should an appraisal be completed, it is understood the unit value estimated in the data book may be slightly different.

Waiver Valuation:

- A waiver is a short form appraisal which typically uses data from another source including a basic data book, market survey, information from knowledgeable party.
- If value under \$10,000 and uncomplicated, waiver only.
- If \$10K to \$25K and uncomplicated, unless owner requests appraisal.

Note: If waiver offer given and property owner requests appraisal, appraisal value used for compensation, whether higher or lower.



Waiver Valuation:

- If under \$25K, a waiver should be submitted first, then, if rejected, and appraisal is done.
- If over \$25k or complex, must have appraisal.
- Can not use waiver when the property is complex.

What makes it complex?

The project is complex when:

- The acquisition includes any building or major structure.
- There are damages to the remainder after the acquisition.
- The highest and best use changes after the acquisition.

Minimum Payment

- ▶ In order to expedite and to avoid offering a few dollars on small projects, the NDDOT has a minimum payment policy. For any compensation for a permanent taking, the minimum compensation is \$600. For any temporary taking, the minimum compensation is \$300. This is based on ownership.



Review

- Review completed with recommended, accepted or not accepted.
- If not accepted, appraiser given opportunity to correct, clarify or add additional support.
- If still not accepted, a third party appraisal is ordered.
- If there is not time, the NDDOT Review Appraiser has the option to perform a valuation based on data provided.

Waiver vs. Appraisal

- ▶ Who can perform a waiver?
 - Any knowledgeable party can do waiver valuation
 - Must show support for value

Who can perform an appraisal?

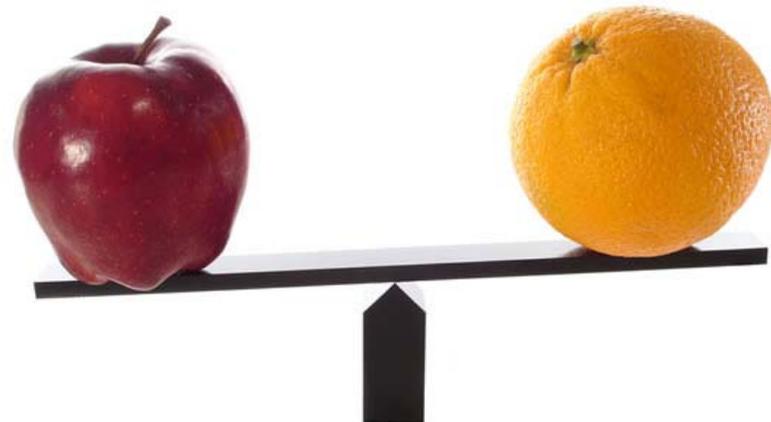
- Appraisal must be completed by state certified appraiser that is free of any partiality to the subject
- **ALL VALUATIONS MUST BE APPROVED BY NDDOT APPRAISAL STAFF**



Valuation and Appraisal

► Policy

- Appraisal must comply with the Uniform Act and the North Dakota Century Code.
- Appraiser should receive scope of assignment from consultant. When in doubt, ask what is required. If consultant is unsure about the scope, the Chief Appraiser should be contacted.



Valuation and Appraisal

▶ Procedure

- Procedurally, the appraisal should follow the Uniform Appraisal Standards For Federal Land Acquisition UASFLA (Yellow Book).
- Special benefits offset damages only, not take.

▶ Non-compensable damages

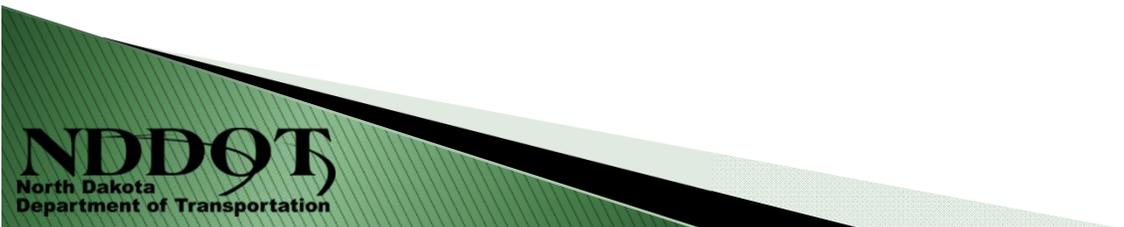
- Damages to business and loss of business.
- Circuitry of travel or rerouting of traffic.
- Damages of annoyance suffered by public generally.



Valuation and Appraisal

▶ Common Errors

- TCE based on H&BU, not current use
paying on commercial value when still in agricultural use.
- Appraiser leading (advocating)
suggesting a property owners action
- Rounding in final conclusion of value
if $.28 \text{ ac} \times \$1400 = \392 , don't round to \$390 or \$400
- Finding extra damages, or speculation
Property is less valuable without support





What the architect
designed



What the buyer is
wiling to pay



What the builder
built



What the appraiser
appraised



What the tax assessor
assessed



What is really
there

Time for a Break

- ▶ Let's reconvene in 15 minutes



Acquisition Documents & Training

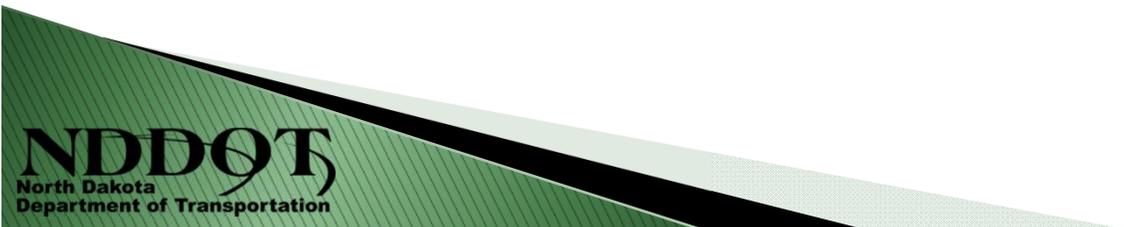
Roxinne McPhail, Realty Officer, R/W-NAC

- ▶ NDDOT goal is to standardize negotiations and improve accuracy of paperwork and reports for all NDDOT Right of Way negotiations and acquisitions on every project.



Acquisition Documents

- ▶ Get to know your project. Understand the plats.
 - ▶ Check Title/Plats and Docs to verify they match.
 - ▶ Research the Landowner(s).
 - ▶ Present *Memorandum of Offer* at first meeting.
 - ▶ Give copy of appraisal/waiver only if asked.
 - ▶ Explain Eminent Domain only if asked.
- ❖ NDDOT strongly recommends meeting with all landowners face-to-face.



Acquisition Documents

Right of Way Checklist

RIGHT OF WAY CHECKLIST

PROJECT NO. _____ PARCEL(S) _____ PCN _____

NEGOTIATOR _____ LANDOWNER(S) _____

Yes	No	N/A	<u>ACQUISITION DOCUMENTS:</u> <small>(Submit in Order Listed)</small>
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	1. Negotiator's Worksheet
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	2. Negotiator's Report
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	3. Administrative Settlement (Detailed Narrative of Outlining Circumstances)
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	4. Offer Letter/Memorandum of Offer
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	5. Executed Notification and Appraisal Waiver
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	6. Executed Memorandum Agreement
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	7. Executed Temporary Construction Easement
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	8. Executed Permanent Maintenance Easement
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	9. Executed Warranty Deed
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	10. Subordination of Rights (Leased Properties Only)
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	11. Agreement for Entry and Construction Without Compensation
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	13. Additional Written Communications (Emails/Correspondence)
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	14. Title Certificate/Pencil Abstract/Title Insurance/Plats
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	15. Executed W-9 (Not Required on Donations)
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	16. NDDOT Title VI Public Participation Survey
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	17. Corporations/Partnerships – Corporate Resolutions or Other Documentation
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	18. Meeting Minutes (Schools, Churches, Counties, Cities, Hospitals, etc.)
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	19. Condemnation (Detailed Narrative of Why We Need to Condemn and What Alternatives Were Sought)
Yes	No	N/A	<u>TITLE CURATIVE REMINDERS:</u>
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Joint Tenancy – Copy of the Death Certificate for Any Deceased Joint Tenant, Passes to Surviving Joint Tenant(s).
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Tenants in Common – Ask for a Copy of the Will for Deceased, and Obtain Heirs Signature. If Will Has Not Been Probated, Obtain Copy of Letters Testamentary Appointing Personal Representative, and Obtain Personal Representative's Signature.
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Life Estate Interest/Life Tenant – Obtain Copy of Death Certificate & Agreement for Remainderman.
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Power of Attorney/Trust Agreement Identifying Trustee(s)
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Validate Outstanding Mortgage on Title Certificates & Provide Mortgage Contact Info
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Validate Judgments/Liens Against the Property for Permanent Acquisitions
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Ownership Information Matches on the Plats, Title Work, and Acquisition Documents

\$ _____ Total Payment Due <hr/> Approved By <hr/> Date

Prior to Submission, Verify Current Ownership via NDRIN – Verification Date: _____ Initials: _____

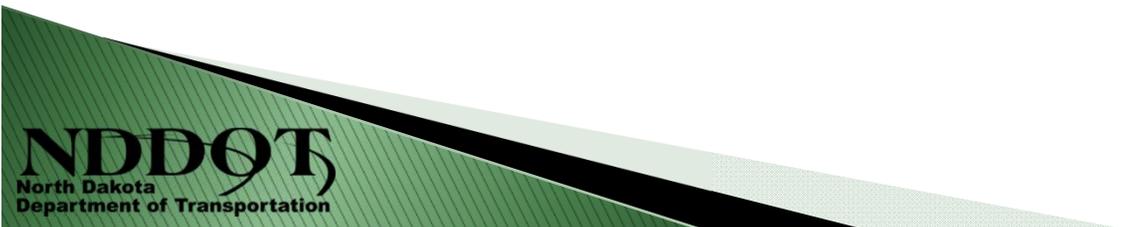
Rev. 12/2014

Acquisition Documents

▶ ROW Checklist

- Order is to help Admin process payment
- Check a box for all line items
- Prepopulate repetitive info and then copy
- Use the Checklist as the coversheet

If you are unsure, always check with your NDDOT contact before submitting documents.



Acquisition & Negotiation Education

International Right of Way Association (IRWA)

- ▶ IRWA Online and Live Classes (none are free)
 - 100 Principles of Land Acquisition
 - 103 Ethics and the ROW Professional
 - 200 Principles of Real Estate Negotiation
 - 803 Eminent Domain Law

IRWA offers many other courses and designations in Negotiation, Appraisal, Engineering, Relocation

www.irwaonline.org

Acquisition & Negotiation Education FHWA-NHI

- ▶ FHWA-NHI Online classes are free
 - 141045 Real Estate Acquisition under the Uniform Act
(HIGHLY RECOMMENDED – online class duration 6 hours)
 - 142052 Introduction to NEPA
 - 141041 LPA Real Estate Acquisition
 - 134108E TCCC Plan Reading for ROW

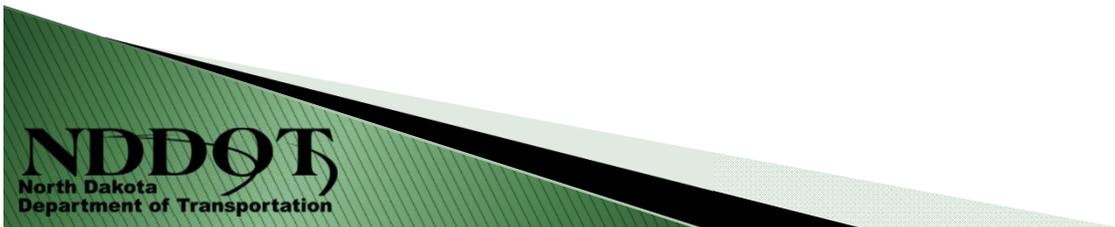
If you don't know what 23 CFR 710 is then FHWA-NHI 141045 is for you!

www.nhi.fhwa.dot.gov

Negotiations – Title Curative

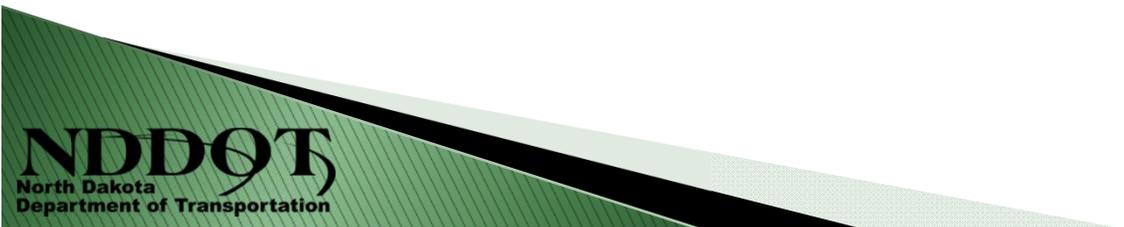
Brad Faiman, Realty Officer

- ▶ Title/Plats/Docs all names match
- ▶ Marital Status – ND = spouse signature
- ▶ Joint Tenants – need Death Certificate – Can obtain from State Vital Statistics
- ▶ Tenants in Common – need copy of Will



Negotiations – Title Curative

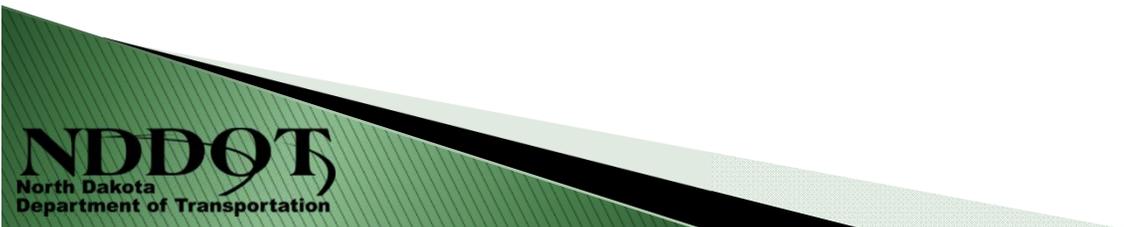
- ▶ Life Estate – LE and Remaindermen have to sign – Death Certificate required
- ▶ Corporate or municipal Ownership – proof of authority to sign & meeting minutes.



Negotiations

Additional information needed

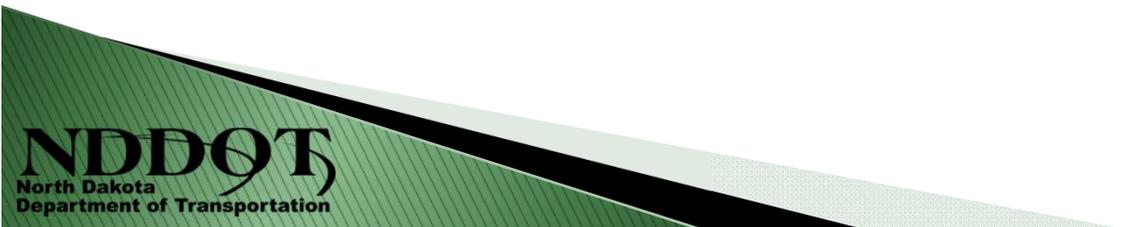
- ▶ Power of Attorney – need a copy
- ▶ Personal Representative – need copy of Letters Testamentary
- ▶ Judgments – check Title Cert on Perm Acquisitions



Negotiations

Additional information needed

- ▶ Mortgages – Bank and Loan Officer information for partial release request.
- ▶ Contract for Deed – signature Buyer & Seller
- ▶ Leased or Rented – obtain Subordination of Rights, particularly ag land, higher risk & higher value acquisitions.



Negotiations – Counteroffer

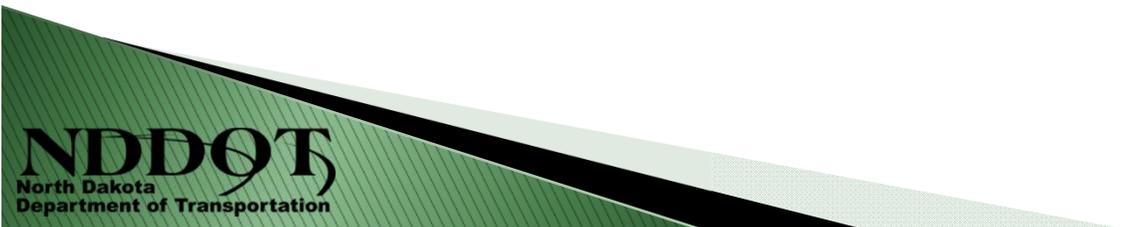
When a first offer is not accepted and there are items to negotiate then let the Landowner know you will take the information back to the NDDOT for a response.

It's important to remember that negotiator shall not be an advocate for either the landowner or NDDOT, but a liaison between the two parties.



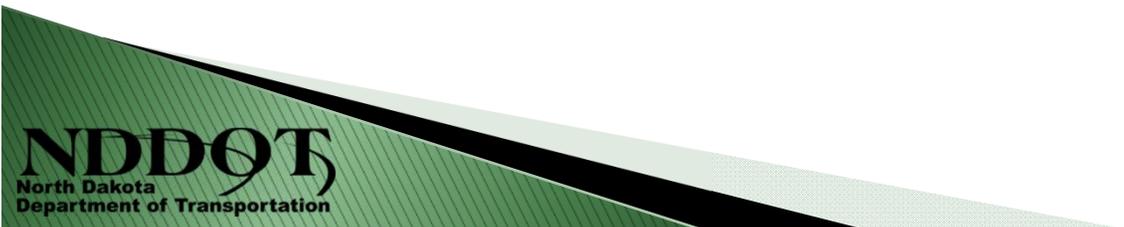
Negotiations – Counteroffer

- ▶ Commit to a timetable.
- ▶ Make return calls/visits according to timetable whether or not you have a NDDOT response.
- ▶ Prepare new paperwork based on NDDOT response – *MEMORANDUM OF OFFER – submit all presented.*
- ▶ In order to increase your likelihood of a successful negotiated settlement, have thorough knowledge of plats & plans.



Negotiations – Counteroffer

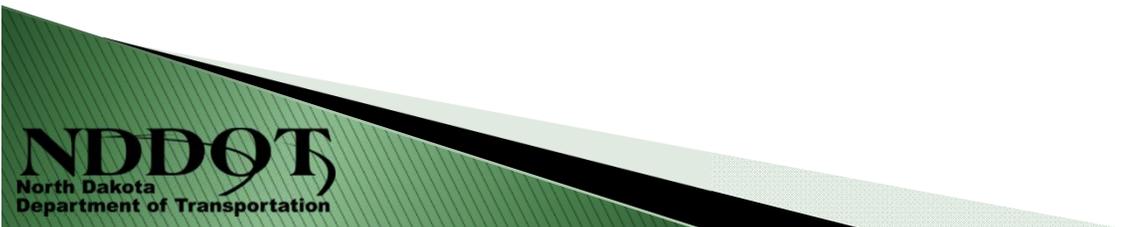
- ▶ Clarify the time constraints that the NDDOT is under (**Bid Opening vs. project complete date**)
- ▶ Administrative Settlement Narrative and submit for approval. Begin at the onset of Administrative Settlement request.
- ▶ NDDOT has final approval authority.
- ▶ Eminent Domain and timeline of next steps. Always a last resort.



Administrative Settlements

Mike Knox, ROW Program Manager

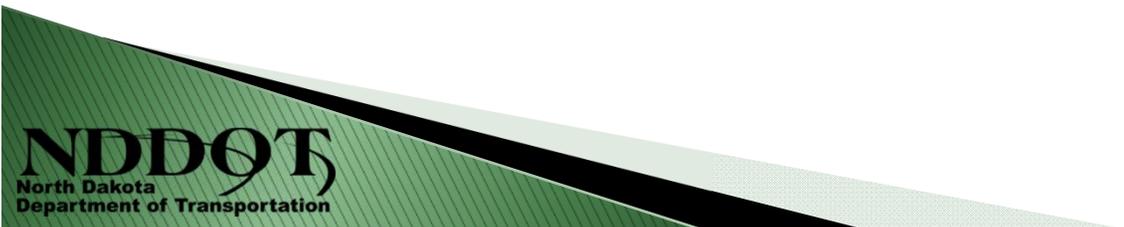
- ▶ Consultant Authorized Negotiation Limits.
- ▶ Stalled Negotiations with Landowners.
- ▶ Set up a conference call with your NDDOT ROW contact to discuss landowner concerns.
- ▶ Review Landowner Request/Analyze Options.
- ▶ Management Discussion and Decision.
- ▶ Counter Offer if determined to be appropriate.
- ▶ Administrative Settlement Narrative Summary.
[For any questions, reach out to your NDDOT ROW Tech Support contact.](#)



Recordation / Payment / Insurance

► Payments

- ROW packets submitted to and reviewed by the your ROW Technical Support Team member.
- Upon ROW package review the file is submitted for approval to Mike Knox.
- Final documents are forwarded on for the final step of recordation and payment submission.
- Title certificates are reviewed for outstanding mortgages, unsatisfied judgment and/or liens.
- Partial Release of Mortgages. (2–3 weeks)
- If additional documentation is needed from a mortgage company or financial institution, this may result in a delay of payment to landowner.



Recordation/Payment/Insurance

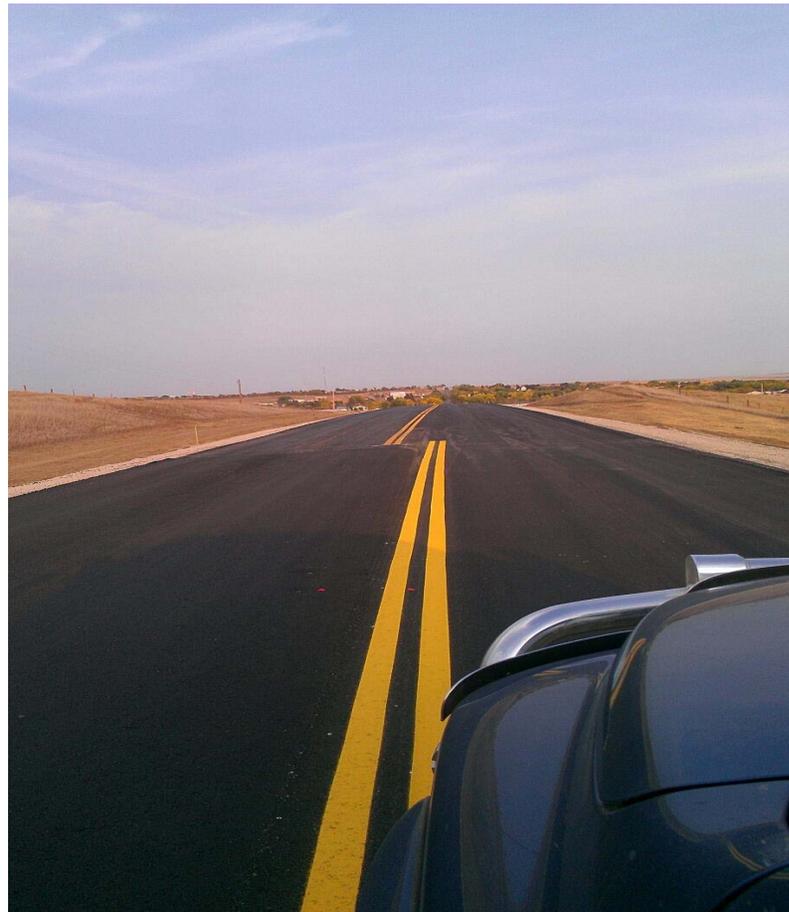
► Payments

- Final Title Certificates are required for Permanent Acquisitions exceeding \$2,500.
- Once the final Title Certificate of Insurance is received and the recorded documents are received back from the courthouse, a “Claim for Payment” is submitted to the Finance Division for check issuance.
- Check is mailed to the landowner from the Finance Division
- Check mailed to Landowner(s)
- ✓ From the time the document package is received until the payment is mailed, the process will take 60–90 days.



Time for a Break

- ▶ Let's reconvene in 15 minutes



Condemnation

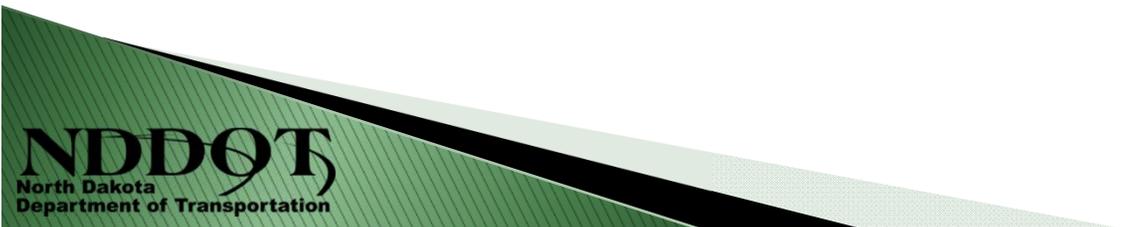
Mike Knox, ROW Program Manager

If condemnation is necessary, the laws provide that the state may take possession upon making an offer to purchase and by depositing the amount of offer with the Clerk of District Court of the county wherein the ROW is located. This is accomplished through Section 16 of the State Constitution and Section 21-01-22.1 of the NDCC.



Condemnation

- The laws provide that all owners, both in-state and out-of-state, be notified in writing by the Clerk of District Court that the NDDOT has made an offer and a deposit has been made with the Clerk.
- The NDDOT attempts to give every party that expresses or appears to have an interest in the property “Notice” of the condemnation proceedings.
- However, only the landowner(s) of record need to be served.



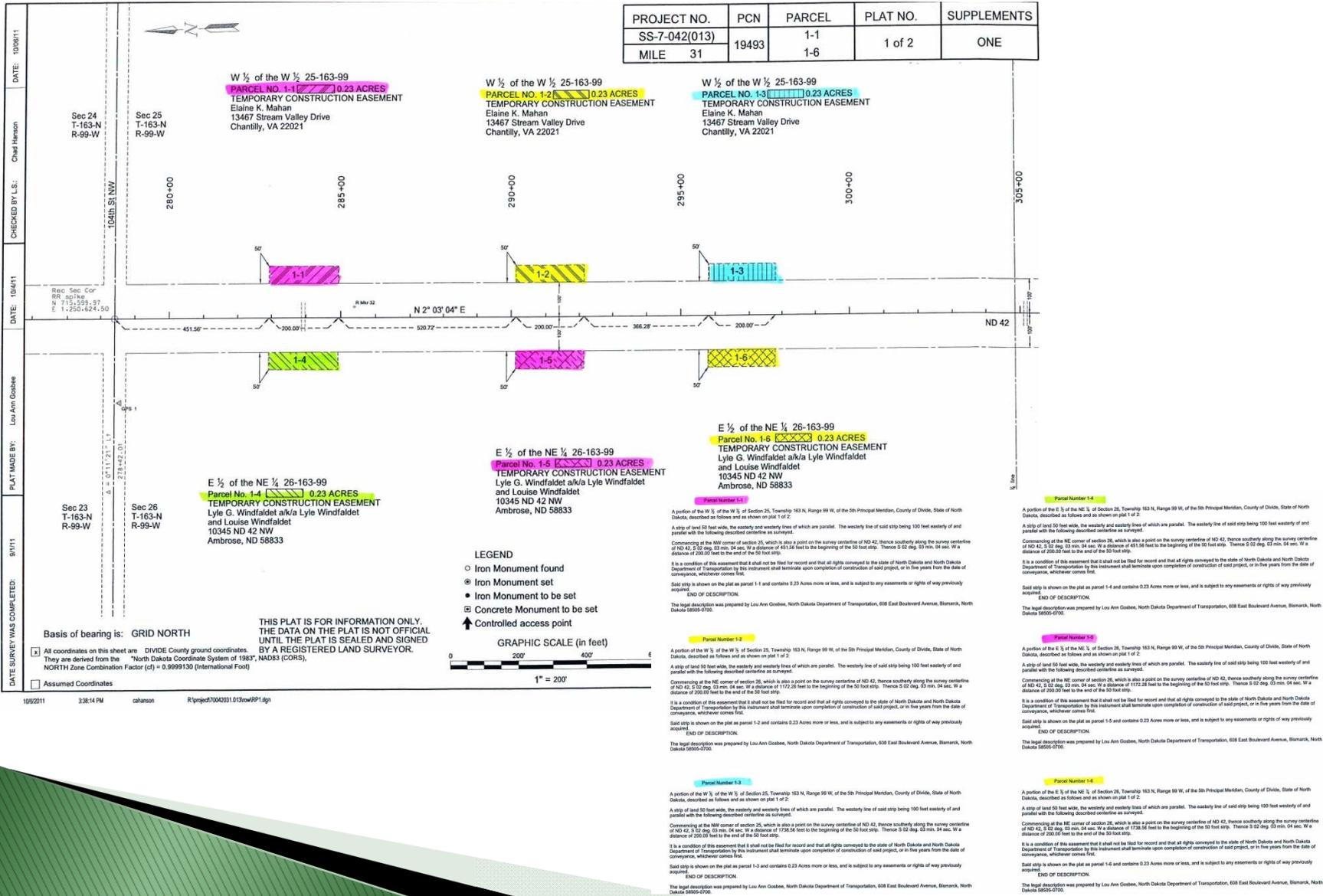
Consultant Condemnation Process

ROW packages submitted to the NDDOT for Condemnation should include:

1. The entire Negotiator file with detailed notes and contact summary information.
2. Four “color coded” plats pertaining to the parcels to be condemned.
3. Breakdown of dollar amount for each of the parcels to be condemned.
4. Warranty Deeds/Temporary Easements need to match legal descriptions on file with the NDDOT.
5. Highlight name, mailing address, phone numbers and dollar amount by parcel on the Negotiator Worksheet.

Color Coded Plat Example

PROJECT NO.	PCN	PARCEL	PLAT NO.	SUPPLEMENTS
SS-7-042(013)	19493	1-1	1 of 2	ONE
MILE 31		1-6		



NDDOT Condemnation Process

- ▶ NDDOT sends pre-condemnation notice 35–40 days prior to Plan Complete Date.
- ▶ 7–10 days later send condemnation paperwork and check to Clerk of District Court.
- ▶ Clerk of District Court notifies Landowner by Certified Mail.
- ▶ Landowner has 30 days after receiving the notice from the clerk of court to appeal.

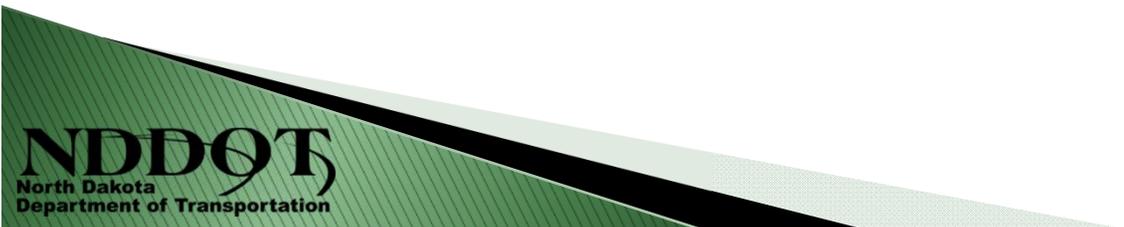


Condemnation Notes

The landowner is now able to make arrangements with the Clerk of District Court's office and upon providing sufficient proof of ownership, pick up their proceeds check.

During the condemnation process, if the landowner wants to contest the value of the offer, they must file an appeal with the Clerk of Court within 30 days of receiving the notice from the Clerk of Court.

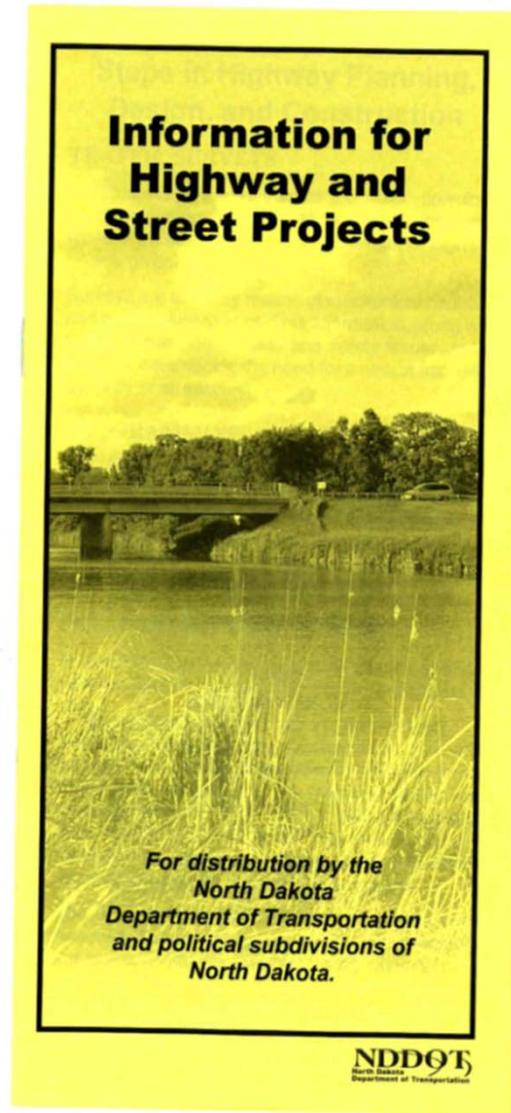
Note: Property owners who withdraw the deposited payment still may appeal, as may others with an interest in the property. By picking up the proceeds check does not in anyway compromise their right or ability to contest or continue on with an appeal.



Condemnation Appeal Process

- ▶ Appeal is for dollar amount, not taking of the land.
- ▶ Court hearing is held to decide amount if an appeal is filed.
- ▶ The non–appeal process takes approximately 35 days.
- ▶ Receipt from the Clerk of Court replaces the Warranty Deed.
- ▶ The Receipt from the Clerk of Court is recorded in lieu of the warranty deed to show the transfer of ownership.
 - ✓ The NDDOT technically now owns the property

Negotiation Resource Tool

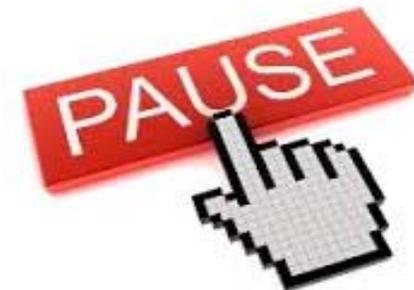


Special Property Interests

Ray Barchenger, Realty Officer, SR/WA and R/W-RAC

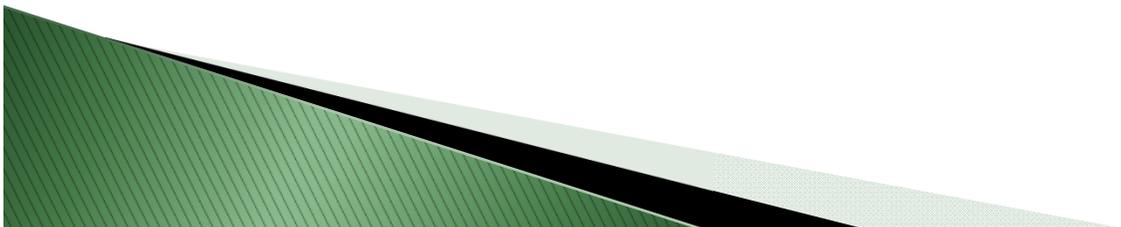
- ▶ Tribal Lands and Bureau of Indian Affairs (BIA) Lands
- ▶ Federal Lands, State Lands, City, County, Town, etc.
- ▶ Railroad
- ▶ Relocation of Business or Residential

These are all circumstances that will require extra time in the acquisition of right of way.



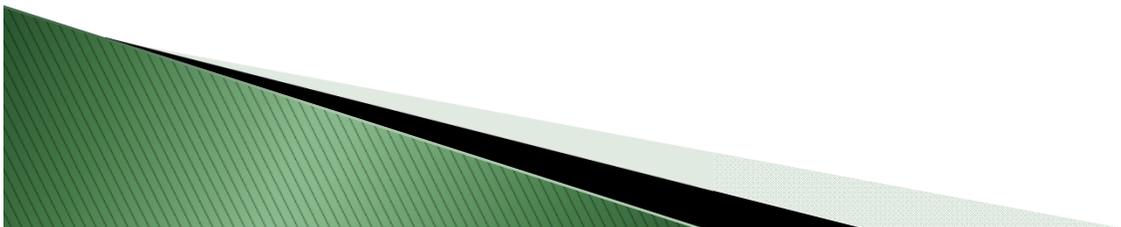
Tribal Lands & BIA Lands

- ▶ Tribal & BIA are separate entities
 - Closely related
 - You will work with both entities in projects within Reservation Boundaries
- Tribe
 - People of the Reservation
 - Governmental Agency
- BIA
 - Federal Agency in charge of Trusts



Tribal Lands & BIA Lands

- ▶ 1st Step when aware of ROW within a Reservation:
 - Contact BIA & the Tribal Real Estate Office
 - ROW process will vary on each Reservation
- ▶ May take an additional year to acquire
- ▶ Right of Eminent domain does not always apply



Property within a Reservation

▶ Trust Land or Allotments:

- ▶ Land or any interest held in trust by the United States for benefit of individual Native Americans
 - Passed down to heirs and cannot be sold
 - Multiple owners
 - If over 20 owners – Need 51% of signatures
 - Work with the BIA to acquire
 - Request a Title Status Report (TSR)
- ▶ All Trust Lands require an appraisal
- ▶ Have an eminent domain process that is done at a Federal level

Property within a Reservation

▶ Tribal Land

- ▶ Land owned by the Tribe within the Reservation
 - Acquired through the Tribal Council
 - Several meetings
- ▶ Land owned by the Tribe off the Reservation

▶ Fee Owned (Deeded) Land

- ▶ Same process as if it is off the Reservation

▶ Plan on Additional Time



Federal Lands, State Lands, City, County, Town, etc.

- ▶ Plan on additional time
 - Board Meetings (Monthly or Bi-Monthly)
- ▶ Conflicts with type of acquisition
 - Permanent Easement instead of FEE
- ▶ Conflicts with acquisition documents
 - Both parties require specific documents
 - Legal offices need to compromise
 - Some properties may have been acquired by an easement or other means

Railroad

- ▶ Plan on additional time
 - Lengthy process
 - Typically acquired by easement
 - Out of state negotiations
 - Several different Railroads in the state
 - Each has their own process



Relocation

- ▶ Plan on additional time
- ▶ Not a simple little red X
- ▶ Must find a comparable replacement location
 - Sentimental value is hard to replace
 - Hard to find
 - May need to build new property
 - Weather restrictions
 - Easily 1 year process
 - Cannot force them to move
 - Federal Highway's 90 day notice doesn't work in ND
- ▶ Need trained, experienced Relocation Officer



Certification (FWHA)

▶ You will certify:

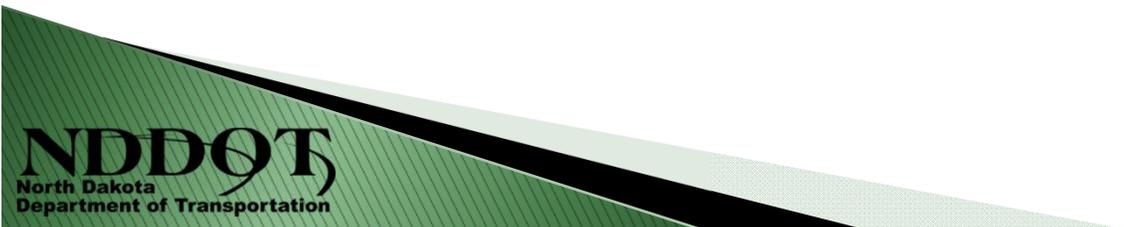
1. That all necessary rights of way are available for construction of the project in accordance with the approved plans

- Certify to the NDDOT ROW Program Manager – Not FHWA

2. That there are no encroachments except as permitted

- Encroachment permit is obtained through the District Engineer
 - Signed by District Engineer & the Land Owner

▶ See Example Certification in Appendix



Certification (FWHA)

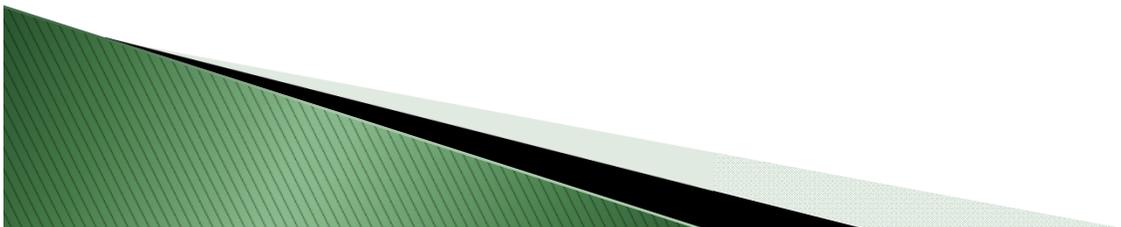
► Certification Deadlines:

- NDDOT must certify by the project completion date
 - Typically 8 weeks prior to bid opening

- Consultants must submit certification to NDDOT by the Monday prior to the project completion date

► If we do not certify on time:

- Project most likely will not be bid
- Management may certify with exception
 - Huge risk



Round Table Discussion

Mike Knox, ROW Program Manager



Thank You!