

ENGINEERING DIRECTIVES AND STANDARDS

Volume	Chapter	Section	Directive Number	Effective Date
I	1	1	10	11/19/1985

SUBJECT: ABANDONMENT AND DISPOSAL OF UNNEEDED HIGHWAY RIGHT-OF-WAY

- PURPOSE:** The purpose of this directive is to establish uniform policy for abandoning or disposing of unneeded state highway right-of-way or other real estate.
- SCOPE:** This directive applies to those cases where the Department has a servitude for right-of-way or owns fee title to the land.
- POLICY:** It shall be the policy of the Department of Transportation and Development with the approval of the Secretary to dispose of, in accordance with LRS 48:224, certain sections of state highways or other properties that have ceased to be used to the extent that no public purpose is served.

- GENERAL:** The Maintenance and Operations Section will maintain an inventory of all Department owned real estate other than rights-of-way.

The Project Control Section will maintain a current listing of all rights-of-way by control section.

The Legal Section will be responsible for final review and approval of all instruments and documents associated with abandonment.

The Real Estate Section will be responsible for disposing of all residual and excess rights-of-way or property in the most expeditious manner in accordance with all applicable statutes.

- DISPOSAL OF HIGHWAY RIGHT-OF-WAY:** Requests from individuals, companies or others to purchase highway right-of-way from the Department will be forwarded through the Real Estate Section or the District Administrator to the District Real Estate Supervisor to review the map and deed file to determine the validity of existing right-of-way, secure copies of map, deed/sale and recordation data to the extent available.

The District Administrator and his staff will be responsible for determining when right-of-way no longer has a useful purpose to the Department. A request shall then be made of the District Real Estate Supervisor that he perform his review, title search, etc.

The District Real Estate Supervisor will verify the location of the area in question by contacting the requestor for a sale or through the District Administrator. A folder will be prepared with all pertinent information and submitted to the District Administrator for his review. Included in this folder will be a list of utilities which may be affected and their mailing address along with a list of the appropriate governing authorities and their mailing address. The District Utility Representative will assist in compiling the list of utilities.

The District Administrator will make a recommendation to retain or dispose of the right-of-way in question and will have a sketch prepared suitable for preparation of description of area if one is not already available. The file will be transmitted to the Chief Maintenance and Operations Engineer for his review and recommendation.

The Chief Maintenance and Operations Engineer will forward his recommendation, along with the file, to the Real Estate Section for review and forwarding to the Director of Planning and Design, with any pertinent comments and recommended procedure for disposal when a reduction in right-of-way is approved.

The Director of Planning and Design, will secure final approval for retention or reduction of right-of-way after review by appropriate personnel and afterward the file will be returned to the Real Estate Section for further processing.

The Real Estate Section will secure concurrence for reduction of right-of-way from FHWA when appropriate and will

prepare final processing in accordance with LRS48:224.

The Legal Section will review and approve all documents associated with abandonment procedures in order to eliminate potential legal impediments.

6. DISPOSAL OF UNECONOMICAL REMAINDERS: Uneconomical remainders from right-of-way purchases will be disposed of by the Real Estate Section routinely through a recommendation to the Director of Planning and Design, who will secure final approvals for disposition and afterward return file to Real Estate Section for final processing in accordance with LRS48:221:

7. FINAL DISPOSITION: The following procedure shall be followed by the Real Estate Section in disposing of excess right-of-way. The governing authority or authorities, as well as all public utilities with recorded right-of-way agreements or permits and/or recorded holders of right-of-way permits affected by abandonment through which the highway or highway section passes, will be notified of the Department's intention to dispose of excess right-of-way.

Disposition may be made to the governing authority or authorities provided they shall indicate a willingness and desire to accept the highway or highway section proposed to be abandoned and to operate and maintain the highway as part of the governing authority's system and shall issue a resolution stating the conditions of the acceptance.

If the governing authority or authorities are unwilling to accept and maintain the highway or highway section or any property acquired in fee title and used for right-of-way purposes but is no longer needed for the original purpose, the Secretary may, at his discretion, dispose of the property at either public or private sale. Private sale shall be limited to the original vendor of the property or his successors in title. The consideration for the private sale shall be the original cost to the Department or its present appraised market value, whichever is greater. Right-of-way to be sold shall be posted with a notice of abandonment. Property that cannot be sold at either public or private sale, may be abandoned or transferred to the Department of Natural Resources, State Lands Section.

Highways or highway sections for which the Department only has a servitude and which the governing authority or authorities are unwilling to accept and maintain, may be abandoned by the Department by providing proper legal notice, recordation of the declaration of abandonment and posting of adequate signs. The Department shall have no further obligation or liability in connection with the servitude. Advertisement for a period of at least four (4) successive weeks in the "Public Notice" section of the local official journal of the parish governing authority of the Department's intention to abandon the area in question will constitute proper legal notice.

8. POSTING: The District Administrator, upon proper notice from the Real Estate Section will have a prominent sign posted for a period of 45 days at the beginning and ends of the highway or highway sections to be abandoned or sold. This sign should be four (4) feet by four (4) feet in size and read: NOTICE, THIS PUBLIC RIGHT-OF-WAY WILL BE ABANDONED ON __-__-__ FOR FURTHER INFORMATION, TELEPHONE (____)____-____. The abandonment date shall be 45 days from the date the signs are posted and the information number should be the number for the District office.

9. ABANDONMENT: After the posting period, the District Administrator will have barricades installed to prevent access into the area. Roadway surface, culverts and bridges will be removed and the right-of-way returned to a similar condition as the surrounding area without interfering with natural drainage. This will be accomplished with District forces or through some contractual arrangement, whichever is deemed appropriate and feasible. A Notice of Release of said servitude, as it may affect the property in question, shall be recorded in the Clerk of Court's Office in the Conveyance and Mortgage Records.

10. DISPOSAL OF REAL ESTATE: The District Administrator and his staff will be responsible for determining when real estate such as maintenance units, storage sites or similar properties no longer has a useful purpose to the Department. Upon making such a determination or upon receipt of a request to purchase such property, the District Administrator will request from the District Real Estate Supervisor, copies of map, deed/sale and recordation data to the extent available.

This file will be presented to the District Administrator for his review and recommendations. The District Administrator

will have a sketch prepared suitable for preparation of description of area if one is not already available and will forward the file with his recommendations to the RealEstate Section.

The Real Estate Section will be responsible for obtaining final approval for retention or disposal of the property in question and will prepare the necessary instruments and documents to effect disposal. The Legal Section will be responsible for final review and approval of documents prior to advertisement and sale by the Real Estate Section.

- 11. REMOVAL FROM SYSTEM:** The Project Control Section will be provided a copy of the recorded Certificate of Abandonment or Record of Sale and upon receipt of either of these documents will initiate the procedure necessary to remove that highway, highway section or property from the system and delete the control section identification when applicable.
- 12. OTHER ISSUANCES AFFECTED:** This directive supersedes EDSM No. 1.1.1.10 issued on November 10, 1982, and all other directives, memoranda, or instructions issued, heretofore, in conflict with this directive are hereby rescinded.
- 13. EFFECTIVE DATE:** This policy will become effective upon receipt.

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