

14 Railroad Acquisitions & Property Coordination

14.1 General

The following guidelines are to be used in establishing and acquiring right of way and construction easements for construction of highway projects along, across, and under railroads. Refer to [23 CFR 710.203\(9\)](#) for information regarding the acquisition of railroad property.

14.2 Purpose

All operating and non-operating railroad property acquisitions that are required to be obtained by the Office of Right of Way will be negotiated and acquired by the assigned Acquisition Manager. Please note that if any questions arise concerning the railroad company acquisitions, the Assistant State Right of Way Acquisition Manager, the State Right of Way Acquisition Manager or State Utilities Railroad Liaison should be contacted for assistance and guidance.

14.3 Policy

The Office of Right of Way necessitates that the railroad company be negotiated with and treated like any other property owner. As most negotiations with the railroad companies are lengthy and time consuming, it is advisable that these properties be among the first ones appraised and negotiated.

14.4 Acquiring Right of Way from Railroad Companies

The following guidelines and procedures are to be used in establishing and acquiring right of way and construction easements for construction of highway projects along and across railroads. (Refer to <http://mygdot.dot.ga.gov/info/gdotpubs/Publications/6865-9.pdf> for most current updates.)

A. Case 1 - Highway Crossing a Railroad

Where highways cross railroads at grade or by grade separation structure either over or under the tracks, the Department has the right to use railroad right of way at no cost; therefore, no right of way acquisition is necessary. The State Utilities Office will obtain agreements with the railroad company establishing the terms and conditions under which this work will be accomplished and providing for reimbursement to the railroad company for any work required of them. This agreement will also provide an easement for the construction of the grade crossing or grade separation for the duration of the project and for maintenance. The easement will generally be temporary and encompass the entire area formed by the intersection of the highway and railroad right of way. The plans must show the temporary easement area and be labeled "Easement by Railroad Agreement";

however, the temporary easement should not be set up as a right of way parcel on the right of way plans (i.e. do not assign parcel numbers). (See Figure 14.1 attached.) The railroad company may prepare drawings to support the AGREEMENT or excerpts from project plans may be used.

B. Case 2 - Highway Parallel to Railroad

Where highways are constructed or reconstructed along railroads in such manner as to encroach on the operating right of way of the railroad, easements or right of way must be acquired. The property interest to be acquired will vary but the following guidelines should be applied in preparing right of way plans. (See Figure 14.2) Easements and right of way, with area calculations, should be shown on plans in accordance with the Office of Right of Way's Right of Way Plan Checklist as outlined in Plan Presentation Guide, Chapter 3, Section 60.

1. Easement Only Acquisition

When the encroachment consists of grading and cross drainpipes, only easements will usually be required. These will consist of easements for construction of slopes or easements for construction and maintenance of drainage structures. In most cases, these easements can be obtained from the railroad company at no cost under the Railroad Agreement prepared by the Office of Utilities. The construction limits or easement should not be closer than 15ft. from the centerline of the track. The plans must show the easement area and be labeled "Easement by Railroad Agreement"; however the temporary easement should not be set up as a right of way parcel on the right of way plans (i.e., do not assign parcel numbers). If the railroad company specifically requests payment for the easements during their plan review process, the Office of Utilities will notify the appropriate design office to request a plan change and the Office of Right of Way for easement acquisition. A distance left or right of a point on the line (construction, survey, or a base) used to reference right of way should be shown to the nearest whole railroad milepost. If the nearest whole milepost is outside the project termini, then the milepost should be located by a bearing and distance from a point on the reference line. In either case, coordinates should be given at both the point on the reference line and at the railroad milepost. Roadway stationing should be given for the point on the reference line. Locating the railroad milepost applies to all areas of right of way and easement, which are not contiguous.

2. Right of Way or Permanent Easement Acquisition

Where permanent pavement, walls or curb and gutter fall within the railroad right of way, it will be necessary to acquire right of way, or at the request of the railroad company obtain permanent easement for the construction in

much the same manner as from any other property owner. Typically, the railroad company will notify the Office of Utilities; in turn, the Office of Utilities will send the request to the appropriate Project Manager. In the event the railroad company does not grant right of way or permanent easement, a design variance for temporary easement shall be approved by the Chief Engineer. The required right of way, or at the request of the railroad company, permanent easement should be established at the shoulder point or at the back of any curb and gutter and in no case should be closer than 50 ft. from the centerline of a mainline railroad track. Thus, no pavement, or paved or unpaved shoulder, or curb and gutter, or extensive side drainpipes, or wall or other major structures should be constructed within the 50 ft. distance. Minor walls or other structures may be constructed within the 50 ft. distance in some cases. In cases where the foregoing cannot be adhered to, the Department will have to provide ample justification in an attempt to get the railroad company to approve a project not in compliance with the railroad's policies. A distance left or right of a point on the line (construction, survey, or base) used to reference right of way should be shown to the nearest whole railroad milepost. If the nearest whole milepost is outside the project termini then the milepost should be located by a bearing and distance from a point on the reference line. In either case, coordinates should be given for the point on the reference line. Locating the railroad milepost applies to all areas of right of way and easements, which are not contiguous. In this case, the required right of way and easements should be shown on the right of way plans and parcel numbers assigned so that appraisal and acquisition may proceed. The Office of Right of Way will handle this required right of way and permanent easements the same as other parcels on the project. Procedures for coordination of construction work and any adjustments required for railroad facilities will be covered by Agreement through the Office of Utilities. The Office of Utilities will also assist the Office of Right of Way as necessary in making contacts with the Railroad Company and coordinating any plan changes, which may be requested.

C. Case 3 - Non-Operating Right of Way

In some cases highway projects will cross property owned by Railroad companies which is outside their normal right of way used for train operations. Such property may also have buildings or other improvements attached. Such non-operating right of way may be property over which trains were previously operated but where service has been abandoned (Reference [OCGA 50-16-34.1](#)). In all cases, non-operating right of way or property of railroad companies will be acquired by the Office of Right of Way under the same procedures as for other private property. The Office of Right of Way will notify the State Utilities Office of requirements for contractor insurance coverage or other items that may need to be covered in project

special provisions, when Railroad Company owned parcels would not be closed prior to contract award.

14.5 Acquisition Procedures

It is important to send a copy of the right of way plans to both the Railroad Company's Engineering Department and Real Estate Department during the pre-acquisition phase to insure any changes they may require are captured prior to the appraisal process. The railroad will not move forward with Right of Way Acquisition Procedures until their Engineering Department has approved the final plans.

A. Appraisal

When required right of way or permanent easement is needed from a railroad company, the required area should be labeled on the plans with a parcel number. The parcel will then be appraised, reviewed and released for negotiation similar to other property acquisitions. When temporary easement is needed along with required right of way or permanent easement, the temporary easement area should be excluded from the overall valuation process. The plans should be clearly labeled showing temporary easement area to be acquired by Railroad Agreement.

B. Preparation for Negotiation

Prior to preparing offer package for negotiation, the Acquisition Manager should review the preliminary title report in order to identify railroad ownership.

- (1) If a parcel is owned or operated by Norfolk Southern Corporation or one of its subsidiary companies, then the released appraisal should be sent to the Assistant State Right of Way Acquisition Manager for negotiations. Appropriate plan sheets associated with the railroad parcel should also be forwarded to the Assistant State Right of Way Acquisition Manager for use in preparing the offer package.
- (2) Parcels owned or operated by all other railroad companies will be negotiated by the Acquisition Team assigned to the project.

C. Negotiation Package Preparation and Owner Contact

Contact the railroad company and schedule an appointment. At the request of the railroad company, the offer package may be mailed. Verify the contact person and mailing address and proceed with preparing offer package to be presented by mail.

- (1) Prepare appropriate Negotiation Package. The standard railroad negotiation package includes the following documents:
 - a. Offer Letter
 - b. Statement of Estimated Values
 - c. Letter of Availability of Incidental Payments

- d. Right of Way Option with attached plats highlighting proposed acquisition area
 - e. Brochure entitled “What Happens When Your Property Is Needed For A Transportation Facility”
 - f. Receipt for Brochure
 - g. Acknowledgement of Plan Receipt
 - h. Right of Way Agreement (*Right of Entry*) with attached legal description and plats
- (2) At the time of the offer and first contact, a copy of the original Letter of Offer should be sent to the Assistant State Right of Way Acquisition Manager or State Right of Way Acquisition Manager and the State Utilities Office Railroad Liaison. Should a revised offer become necessary, a copy of the revised Letter of Offer should also be sent to the Assistant State Right of Way Acquisition Manager or State Right of Way Acquisition Manager and the State Utilities Office Railroad Liaison. The Acquisition Manager should keep the Assistant State Right of Way Acquisition Manager or State Right of Way Acquisition Manager up-to-date on all railroad parcels and notify same if there are any questions, concerns, or associated problems.

C. Negotiating Change in the Area to be Acquired

- (1) At the request of the railroad company, the required right of way around drainage structures may be negotiated down and changed to permanent easement, if approved by the lead designer or project manager. The Acquisition Manager should have the plans adjusted accordingly to reflect the change in the disposition of the acquisition and proceed to have the offer re-evaluated accordingly. The railroad company should be sent a second letter reflecting the revised fair market value and the negotiator or acquisition manager should work with the railroad company until title is obtained.
- (2) At the request of the railroad company, the permanent easement for construction of ditches and slopes may be negotiated down and changed to temporary easement, if approved by the lead designer or project manager. The Acquisition Manager should have the plans adjusted accordingly to reflect the change in the disposition of the acquisition and notification should be sent to the State Utilities Office Railroad Liaison to determine if the temporary easement can now be acquired by Railroad Agreement.

14.6 Quality Assurance Quality Control

All activities concerning the acquisition of Right of Way from railroad companies must adhere to the policies and regulations of the Uniform Relocation Assistance, and Real Property Acquisition Policies Act of 1970, as amended. Reference [49 CFR 24](#). The checks

and balances for these procedures can be found in Chapter 5 of the Right of Way Manual, under Quality Assurance, Quality Control.

Figure 14.1

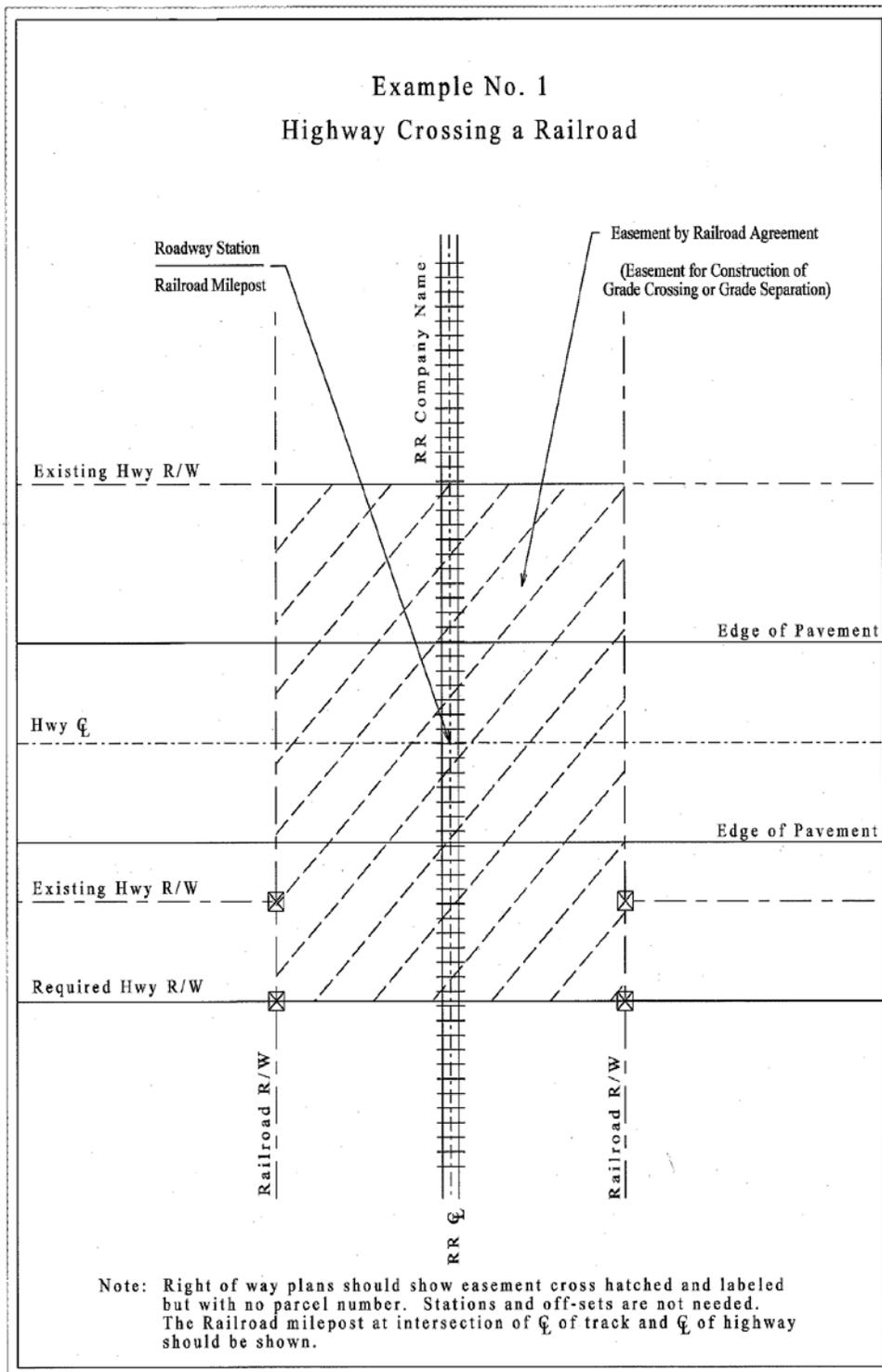


Figure 14.2

Example No. 2 Highway Parallel to Railroad

