Right of Way Consulting Process

Tom Childrey – Right of Way Unit Manager

September 9, 2014
Presenter

Tom Childrey
NCDOT Right of Way Manager
919-707-4366
tchildrey@ncdot.gov

• Certified Public Manager
• 27 years experience with NCDOT in Right of Way, acquisition management early in career, majority of career in the ROW condemnation appraisal section, Project Management for Raleigh Area appraisal office
• Graduate North Carolina State University – 1980
• Married 18 years; 3 daughters
• Native of Richmond, Va.; Currently live in Raleigh, NC
Use of Consultants in the RIGHT OF WAY Process

• Today’s Topics

  • 1. Brief NC DOT Overview
  • 2. NC DOT Organization Chart
  • 3. Right of Way (ROW) Unit Organization Chart
  • 4. ROW in Pre-Acquisition Activities
  • 5. ROW Disciplines in Pre-Construction Activities
  • 6. ROW Annual Statistics
• 7. Types of Projects
• 8. Administering Projects
• 9. Types of Consultant Utilization
• 10. A Consultant’s Perspective
• 11. Consultant Management
• 12. Training
• 13. Privatization & Legal Services
• 14. Right of Way Initiatives and Challenges
• 15. Questions and remarks
• Led by Secretary Tony Tata
• Board of Transportation
  — 19 members represent a specific Transportation Division or at-large area of interest
  — Works with NCDOT staff members to make decisions about transportation priorities
  — Approves fund allocation
  — Appointed by the Governor
  — Ports Authority, Turnpike Authority and Global Trans Park are governed by separate boards
NC Highways

• ~80,000 miles highway network
  – Second largest in the nation
• 13,500+ bridges, secondary roads
• Preconstruction survey, design, analysis
• Construction, pavement, right-of-way
• Traffic Management & Traveler Information Management System
• State Maintenance Operations
• Rest areas, welcome centers, wildflower & adopt-a-highway programs
Division of Highways
Division of Highways

Chief Engineer
Engineering Director (A)
60015788
Michael Holder

Deputy Chief Engineer
Engineering Director (J)
60015904
Richard Greene

Preconstruction
Engineering Director (J)
60027023
Deborah Barbour

Safety & Mobility
Engineering Director (J)
60026522
Kevin Lacy

Right of Way Unit

Division of Highways
14 Divisions

Asset Management
Engineering Manager (J)
60025069
Jennifer Brandenburg
R/W Unit Management Team

• **Tom Childrey**, Manager

• **Project Delivery & Program Mgmt. Mgr.** - Vacant

• **Phil Ward**, State Appraiser

• **Steve Grimes**, State Negotiator

• **Robert Woodard**, State Relocation Director
Appraisal Section Team

- 5 Area Appraisal offices

- John Savage, Greenville
- Brad Lopp, Raleigh
- Tim Klinger, Winston-Salem
- Jim McGowan, Charlotte (Acting)
- Norman Medford, Asheville

- Fred Barkley, STIP Project Estimator
- Andrew Questell, Attorney General Reviewer/Liaison
Negotiating Section Team

• Assistant State Negotiators
  • Hugh Thompson – East
  • John Shoemaker – West

• Area Negotiators
  • Tracy Clark, Div. 1, 2, 4 & 5
  • Reggie Abbott, Div. 3, 6 & 8
  • Lois Little, Div. 7, 9, & 10
  • Wayne Patterson, Div. 11, 12, 13 & 14
Consulting Coordination Team

• Neal Strickland, Lead Consultant Coordinator

• Vacant – Consultant Coordinator - Central

• Jeff Riddle, Consultant Coordinator – West
Pre-Acquisition Activities
Planning Level

• Local & Regional
• Public Hearing Workshop (ROW)
• Relocation & EIS Studies for multiple alternates (ROW)
• Acquisition Estimates for multiple alternates (ROW)
• Preferred Alternate Chosen
• Early Acquisition (Hardship & Protective Purchase)

• Note ROW is involved in more than just acquisitions
Pre-Construction Activities

- Appraisal
- Relocation
- Negotiations
- Legal
- Property Management
  - Asbestos & Demolition
# Right of Way’s Fiscal Year 2012 – 2014 Historical Data and Fiscal Year 2015 Estimates

<table>
<thead>
<tr>
<th>FISCAL YEAR</th>
<th>FY 2015 (ESTIMATE)</th>
<th>FY2014</th>
<th>FY2013</th>
<th>FY2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>ROW Settlements/Land Acquisition - TOTAL</td>
<td>2635</td>
<td>3096</td>
<td>3112</td>
<td>3000</td>
</tr>
<tr>
<td>ROW Settlements/Land Acquisition - CONSULTANT</td>
<td>1670</td>
<td>1963</td>
<td>NA</td>
<td>NA</td>
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<tr>
<td>ROW Settlements/Land Acquisition - STAFF</td>
<td>965</td>
<td>1133</td>
<td>NA</td>
<td>NA</td>
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<tr>
<td>Relocation Payments</td>
<td>1230</td>
<td>1444</td>
<td>1007</td>
<td>1200</td>
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<tr>
<td>Relocation Displaces</td>
<td>600</td>
<td>748</td>
<td>589</td>
<td>500</td>
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<tr>
<td>Appraisals - TOTAL</td>
<td>1940</td>
<td>2283</td>
<td>1860</td>
<td>1887</td>
</tr>
<tr>
<td>Appraisal - CONSULTANT</td>
<td>1725</td>
<td>2030</td>
<td>1574</td>
<td>1347</td>
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<tr>
<td>Appraisal - STAFF</td>
<td>215</td>
<td>253</td>
<td>286</td>
<td>520</td>
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<tr>
<td>Litigation - TOTAL</td>
<td>?</td>
<td>933</td>
<td>875</td>
<td>977</td>
</tr>
<tr>
<td>Litigation - CONdemnation (Deposits)</td>
<td>?</td>
<td>491</td>
<td>510</td>
<td>648</td>
</tr>
<tr>
<td>Litigation - Consent Judgement</td>
<td>?</td>
<td>427</td>
<td>347</td>
<td>311</td>
</tr>
<tr>
<td>Litigation - Jury Verdict</td>
<td>?</td>
<td>15</td>
<td>18</td>
<td>18</td>
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<tr>
<td>Consultant Utilization</td>
<td>82.3%</td>
<td>73.9%</td>
<td>67.1%</td>
<td>58.9%</td>
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<tr>
<td>Total Row Expenditures</td>
<td>?</td>
<td>$311,215,855</td>
<td>$262,025,632</td>
<td>$299,420,832</td>
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FROM FISCAL YEAR 2012 UNTIL THE PRESENT THE CONSULTANT UTILIZATION RATE INCREASED 23.4%
Types of Projects

• Federal Funding
  • Transportation Improvement Program (TIP)
  • Aviation
  • Rail
  • Local Public Agency/Enhancement

• State Funding
  • Division: DDC, DDL, DDB, Spot Safety
  • Secondary Roads
Projects are administered as:

• Traditional/Conventional
  • DOT Staff
  • Consultants
• Design Build - Consultant
• NCTA – Turnpike – Consultant
• Public Private Partnership (P3) - Consultant

• All required oversight/approval by DOT
Types of Consultant Use

- Negotiations: acquisition services
- Appraisal: Condemnation appraisals, Project estimates
- Relocation Assistance: Advisory Services, EIS studies
- Property Management: Leasing, Asbestos abatement, demolition, mowing, grave relocation
- Legal Services: title/closing, litigation
  - Senate Bills & House Bills become new law
- Design Build: all of the above
- Pre- approved firms - 27
A Consultant’s Perspective

Chip Hawke
Principal/Partner - Carolina Land Acquisitions, Inc.
919-427-4589
chawke@carolina-land.com

• 25 years experience with Right of Way acquisitions & management, Certified General RE Appraiser, NC RE Broker, review & condemnation appraising, managed ROW process for NCTA, design build projects for private and public entities
• Graduate University of North Carolina – 1989
• Married 19 years; 3 sons
• Native of Raleigh, NC.; Currently lives in Oak Island, NC
Consultant Management

- Project Management
- Quality Control/Quality Assurance
- Timely Project Delivery
- Federal and State
  - Traditional/Conventional
  - Design Build
- Municipal
- Private
2012 to Present Training

- IRWA - Main Source Training
- National Highway Institute
- FHWA
- In-House
- Appraisal Institute – 28 ROW Staff & 15 Attorneys in Class last month
- Recertification Classes each Year for Appraisal Staff
2012 – 2014 plan

• 13 Different IR/WA Courses
• 545 Bodies in Courses
• Approximately 4,000 – 4,500 hours
• 5 National Highway Institute Courses
• Appraisal Recertification – Approximately 230 Appraisers – 3 Locations = 6 Classes
• FHWA Appraisal – CFR & Requirements
• 3 In-House Classes
Privatization & Legal Services

• 2013 Legislative Session
  • Senate Bill 402
    Increase DOT Privatization – Preconstruction & Technical Services Unit to 65% by 2013 – 14 and to 70% by 2014-15

• 2014 Legislative Session
  • Senate Bill 744
  • GS 136-103.1
    Utilization of external counsel for defense litigation & for title abstracts and title certificates
DURING THIS MEASUREMENT PERIOD ROW EXPERIENCED A 24.2% DECREASE IN LITIGATION - CONDEMNATIONS
Right of Way Initiatives & Challenges

- Re-establish State Leadership team, Relocation, Property Management and Audit Leadership
- **Web Based ROW Data Management System**
- NCTA, Rail & Design Build Challenges
- Increased Outsourcing, Transition of Field Offices
- Advanced Professional Development Program
- Expand Knowledge of Right of Way to other groups and units
Questions and Remarks

Your thoughts

Feedback

Takeaways
• Addenda Material
U. S. Constitutional Limitations on Power of Eminent Domain

5th Amendment
“…nor shall private property be taken for public use without just compensation.”

14th Amendment
“…nor shall any State deprive any person of life, liberty, or property, without due process of law…”
Right of Way Guiding Laws and Regulations

- US Constitution – Amendment V & XIV
- Uniform Act of 1970
- 23 CFR Federally Regulated
- 49 CFR Federally Regulated
- USPAP Regulated
- Title VI Compliance
- State General Statutes
Legal Authority to Acquire Property (Federally Assisted)

- U.S. Constitution 5th and 14th Amendments
- State Constitution
- State Laws
- State Administrative Regulation
- Uniform Act Implementing Regulations
- Federal Uniform Act
Right of Way Acquisition Process

Part I

Initial Contact Between Property Owner and Right of Way Agent

Appraisal Process

NCDOT Presents Offer to Property Owner

Negotiation

Settlement Reached?

Yes

Real Estate Closing (Minimum of 30 Days After All Documents Secured)

No

NCDOT Acquires Property Through Eminent Domain

Part II

End of Acquisition Process

Negotiation Through Mediation

Trial to Determine Just Compensation

Final Judgment by Court
population

fourth largest net growth in the nation
unemployment rate

State = 8.7 %
National = 7.3%
current funding

state resources are declining, future federal resources uncertain
How the STI Works

40% of Funds

Statewide Mobility

- Significant Congestion and Bottlenecks
  - 100% Data
  - Includes:
    - Interstates
    - Future Interstates
    - National Highway System
    - Department of Defense Highway Network
    - Appalachian Development Highway System
    - Uncompleted Intrastate projects
    - Designated Toll Facilities

30% of Funds

Regional Impact

- Improve Connectivity within Regions
  - 70% Data & 30% Local Input
  - Other US and NC Routes

30% of Funds

Division Needs

- Address Local Needs Equal Share
  - 50% Data & 50% Local Input
  - All SR Routes Not in Other Groups
<table>
<thead>
<tr>
<th>July - Aug</th>
<th>September</th>
<th>October</th>
<th>November</th>
<th>December</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>MPO/RPO/Divisions assign Local Input Points</strong></td>
<td><strong>Finalize other prioritization programming methods</strong></td>
<td><strong>Update BOT as desired</strong></td>
<td><strong>Update BOT as desired</strong></td>
<td><strong>Release of Draft STIP for Public Review</strong></td>
</tr>
<tr>
<td><strong>Verify Project Cost / Schedule Info</strong></td>
<td><strong>BOT STIP overview (includes Funding Table explanation)</strong></td>
<td><strong>Early development of Draft STIP; apply STI requirements</strong></td>
<td><strong>Verify Project Cost / Schedule Info</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Develop Modal Programming Methodology</strong></td>
<td><strong>SPOT review of all final Total Project Scores</strong></td>
<td><strong>Complete Draft STIP Document</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Example: Before and After Acquisition Map
Example: Before & After Overlay
1931 - 1970

- R/W Unit started in the 30’s with small staff and continued into the 50’s performing various functions, engineering, acquisition, appraisal, etc.
- Gov. Kerr Scott’s Farm to Market program passed
- Mid 50’s the Interstate system started and personnel added to the staff
- 300 Million Dollar Secondary Road Bond. 1964
Back in the Day - 1968

- 117 Negotiators
- 4 Area Negotiators
- 5 Area Relocation Advisors
- 60 Appraisal Staff including Appalachian office
- Total of Approx. 215 personnel- 168 field operations
- Temporary personnel to handle Secondary Roads
- All acquisitions handled by staff
Late 80’s into the 90’s

• 17.2 Billion Dollar Highway fund passed
• Appraisal Certification required – added more appraisers
• Added Negotiating personnel to the staff
• Computers became a way of life – Good or Bad!!!!!!!!!!!!
• Streamlined acquisition process on State Funded project to deliver projects faster
• Need for Training both OJT & Classroom
• Implemented fast tract R/W Agents 36 to 24 months
• Staff at all time high – 321 Personnel
Where Are We Now?

- Negotiating Section transferred to the Division Engineers
- Smaller Staffs
- More Consultants
- Appraisal Staff headed to all Review Appraisers
- New Training Initiatives
- Funds for Training