

# **Right of Way Manual**

## **Chapter 11**

### **State and Federal Lands Acquisition**

#### **Policies, Procedures and Information**

**Colorado Department of Transportation**

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## SECTION 11.1 – GENERAL INFORMATION

### 11.1.1 – Acronyms Common to the Right of Way (ROW) Manual and CDOT

BLM	Bureau of Land Management (Department of Interior)
BPR	Bureau of Public Roads (Predecessor to Federal Highway Administration)
BuRec	United States Bureau of Reclamation (Department of Interior)
CAD	Computer Aided Drafting
CE	Categorical Exclusion
CDPHE	Colorado Department of Public Health and Environment
CDOT	Colorado Department of Transportation
CFR	Code of Federal Regulations
CHARN	Colorado High Accuracy Reference Network
CJI-Civ. 4th	Colorado Jury Instructions, Civil 4th
CPA	Certified Public Accountant
CPW	Colorado Division of Parks and Wildlife (Colorado Department of Natural Resources)
CRS	Colorado Revised Statutes
EA	Environmental Assessment
EEO	Equal Employment Opportunity
EIS	Environmental Impact Statement
EPA	Environmental Protection Agency
EPS	Extended Purchasing System
ESA	Environmental Site Assessment
FEIN	Federal Employer Identification Number
FEMA	Federal Emergency Management Agency (U.S. Department of Homeland Security)
FHA	Federal Housing Administration (United States Department of Housing and Urban Development)
FHWA	Federal Highway Administration
FIR	Field Inspection Review
FIRREA	Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (a federal law enacted in the wake of the savings and loan crisis of the 1980's)
FLPMA	Federal Land Policy and Management Act of 1976 (Public Law 94-579 94th Congress)
FLTC	Federal Land Transfer Coordinator
FMV	Fair Market Value
FONSI	Finding of No Significant Impact
FOR	Final Office Review
FS	Feasibility Study
GLO	General Land Office (US Dept of Interior, Bureau of Land Mgmt)
GPS	Global Positioning System
HB	House Bill
HBU	Highest and Best Use
HED	Highway Easement Deed
HLR	Housing of Last Resort
HUD	United States Office of Housing and Urban Development
IGA	Intergovernmental Agreement

ISA	Initial Site Assessment
LOC	Letter of Consent
LPA	Local Public Agency
LSCD	Land Survey Control Diagram
MAP-21	Moving Ahead for Progress in the 21st Century, P.L. 112-141
MESA	Modified Environmental Site Assessment
MIDP	Mortgage Interest Differential Payment
MOA	Memorandum of Agreement
MOO	Memorandum of Ownership
MOU	Memorandum of Understanding
NEPA	National Environmental Policy Act
NGS	National Geodetic Survey (National Oceanic and Atmospheric Administration - NOAA)
NHS	National Highway System
NRHP	National Register of Historic Places (National Parks Service, US Dept of the Interior)
NSRS	National Spatial Reference System (National Oceanic and Atmospheric Administration - NOAA)
PBS	Primary Base Series (USGS Mapping Program)
PCD	Project Control Diagram
PL	Public Law
PLS	Public Land Surveyor (Licensed in the State of Colorado by Colo Dept of Regulatory Agencies)
PS&E	Project Specifications and Estimates
PSI	Preliminary Site Investigation
QA	Quality Assurance
QAL	Qualified Appraisers List
QC	Quality Control
QRAL	Qualified Review Appraisers List
REPM	Regional Environmental Project Manager
RFP	Request for Proposal
RHP	Replacement Housing Payment
RI	Remedial Investigation
ROD	Record of Decision (US Environmental Protection Agency)
ROW	Right of Way
ROWPR	Right of Way Plan Review
RS	Revised Statute (Federal - first official codification of the Acts of Congress)
RTD	Regional Transportation Director
SPCC	Spill Prevention and Countermeasure Plans
SSN	Social Security Number
State Land Board	State Board of Land Commissioners (Department of Natural Resources)
STIP	Statewide Transportation Improvement Program (4 year transportation planning document required by FHWA)
STURRA	Surface Transportation and Uniform Relocation Assistance Act of 1987
SUP	Special Use Permit
TE	Transportation Enhancement (Moving Ahead for Progress in the 21st Century Act (MAP-21) replaced the TE Activities with the Transportation Alternatives Program (TAP))

TEA 21	Transportation Equity Act for the 21st Century (enacted June 9, 1998 as Public Law 105-178)
TMOSS	Terrain Modeling Survey System (InRoads Computer Software)
Uniform Act	Uniform Relocation Assistance and Real Property Acquisition Policies of 1970, as amended (42 USC 4601 et seq.)
USC	United States Code
USCIS	United States Citizenship and Immigration Services (Homeland Security)
USDOT	United States Department of Transportation
USFS	United States Forest Service
USGS	United States Geological Survey
USPAP	Uniform Standards of Professional Appraisal Practice

### 11.1.2 – Definitions

Terms defined were copied from 49 CFR Subpart A §24.2 and 23 CFR Subpart A §710.105.

**Acquiring Agency** §710.105(b): A State Agency, other entity, or person acquiring real property for title 23, United States Code purposes. When an acquiring agency acquires real property interest that will be incorporated into a project eligible for title 23 grant funds, the acquiring agency must comply with Federal real estate and ROW requirements applicable to the grant.

**Agency** §24.2(a)(1): The Federal Agency, State, State Agency, or person that acquires real property or displaces a person.

**Federal Agency** (§24.2(a)(1)(iii)): Any department, Agency, or instrumentality in the executive branch of the Government, any wholly owned Government corporation, the Architect of the Capitol, the Federal Reserve Banks and branches thereof, and any person who has the authority to acquire property by eminent domain under Federal law.

**State Agency** (§24.2(a)(1)(iv)): Any department, Agency or instrumentality of a State or of a political subdivision of a State, any department, Agency, or instrumentality of two or more States or of two or more political subdivisions of a State or States, and any person who has the authority to acquire property by eminent domain under State law.

**Appraisal** §24.2(a)(3): A written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

**Initiation of negotiations** §24.2(a)(15): Unless a different action is specified in applicable Federal program regulations, the term *initiation of negotiations* means the following:

1. Whenever the displacement results from the acquisition of the real property by a Federal Agency or State Agency, the initiation of negotiations means the delivery of the initial written offer of just compensation by the Agency to the owner or the owner's representative to purchase the real property for the project. However, if the Federal Agency or State Agency issues a notice of its intent to acquire the real property, and a

person moves after that notice, but before delivery of the initial written purchase offer, the initiation of negotiations means the actual move of the person from the property.

2. Whenever the displacement is caused by rehabilitation, demolition or privately undertaken acquisition of the real property (and there is no related acquisition by a Federal Agency or a State Agency), the initiation of negotiations means the notice to the person that he or she will be displaced by the project or, if there is no notice, the actual move of the person from the property.
3. In the case of a permanent relocation to protect the public health and welfare, under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) of 1980 (Pub. L. 96-510), or Superfund Amendments and Reauthorization Act (SARA) the initiation of negotiations means the formal announcement of such relocation or the Federal or federally-coordinated health advisory where the Federal Government later decides to conduct a permanent relocation.
4. In the case of permanent relocation of a tenant as a result of an acquisition of real property described in § 24.101(b)(1) through (5), the initiation of negotiations means the actions described in § 24.2(a)(15)(i) and (ii), except that such initiation of negotiations does not become effective, for purposes of establishing eligibility for relocation assistance for such tenants under this part, until there is a written agreement between the Agency and the owner to purchase the real property. (See appendix A, § 24.2(a)(15)(iv)).

Additional definitions for CDOT purposes include the following:

**Program or project:** Any activity or series of activities undertaken by a Federal Agency or with Federal financial assistance received or anticipated in any phase of an undertaking in accordance with the Federal funding Agency guidelines.

**State:** Any of the several States of the United States or the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or a political subdivision of any of these jurisdictions.

References to authorities, Statutes at Large (Stat), Public Laws, Code of Federal Regulations (CFR), United States Code (USC), and Colorado Revised Statute (CRS.) are:

23 CFR 710 .....	Highways – Right of Way and Real Estate
23 USC 107(d) .....	Federal Highways – Interstate Highway HED
23 USC 305 .....	Federal highway Act of 1958 23
USC 317 .....	Federal Highway Act of 1958 (as amended)
25 CFR 169 .....	Bureau of Indian Affairs
25 USC 311 .....	Bureau of Indian Affairs
34 Stat. 225 .....	Act of June 8, 1906
36 CFR Part 14 .....	National Parks Service
36 CFR Part 1 .....	National Parks Service
38-1-121(1)CRS.....	Property Valuation/Appraisal
43 CFR 429 .....	Bureau of Reclamation

### **11.1.3 – Purpose**

This chapter defines the procedures necessary for acquisition of property rights for highway construction over property that is owned by the Federal Government and agencies of the State of Colorado.

In the absence of established procedures, these different agencies should be treated as if they are private landowners. As stated in Section 38-1-121 (1) Colorado Revised Statutes (CRS), when the value of the property is estimated by Colorado Department of Transportation (CDOT) to exceed \$5,000, the owner has the right to hire an appraiser at CDOT expense. However, CDOT has no eminent domain authority over land owned by the Federal Government or other agencies of the State of Colorado, and each of these agencies has its own method of determining the value of the property right to be acquired, be it an easement, fee value, or a right of way.

This chapter also defines those tasks to be performed by the Region Right of Way (ROW) Offices and those done by the Project Development Branch, Headquarters ROW.

## **SECTION 11.2 – STATE AGENCY LAND ACQUISITIONS**

### **11.2.1 – General**

CDOT only acquires property from those State agencies which are allowed to hold title to property, those being the State Board of Land Commissioners, the Division of Wildlife and the Division of Parks and Outdoor Recreation.

### **11.2.2 – State Board of Land Commissioners**

The State Board of Land Commissioners (State Land Board) is a Division of the Colorado Department of Natural Resources. Most State Land Board (SLB) property is contained in Sections 16 and 36 of the various townships of the state, but other blocks of property may be encountered outside those sections.

The document CDOT receives from the SLB is a Grant of Right of Way, which is essentially a permanent easement. This is produced by the SLB, but uses a legal description provided by the CDOT.

The SLB uses their own format for the legal description, and in exchange CDOT provides the SLB with the information for the SLB manipulate it into their format.

Additionally, CDOT, through the agent in the region who is acquiring property, will have to separately negotiate with any lessee of the SLB for the property which is being acquired. This should be treated as any lessor/lessee relationship.

To initiate the process, the Region should contact the SLB at the District Office for the county in which the area to be acquired lies. A list of the SLB District Offices is attached as Exhibit A. Following the initial contact to explain the need for use of SLB property, the CDOT Region ROW office should continue to keep the SLB informed of the progress to the final Grant of Right of Way. This leads to the final application for the grant, which is completed by the Region ROW office. A copy of the application form is attached as Exhibit B. In conjunction with the application, the Region ROW office includes a copy of the waiver valuation/appraisal, and the application fee and transmits these documents to the State SLB's main point of contact at:

Colorado State Board of Land Commissioners  
1127 Sherman Street, Room 300  
Denver, CO 80203  
Ph: 303.866.3454

The application fee should be paid through the Region Business Office under Functional Area 3114 – Incidental Expenses.

The ROW specialist should allow for time for this process to take place, though the document will be approved by the Director of the SLB, as designated by Board Policy.

The procedure is as follows:



1. Determine the area of the easement and its value by an appraisal or waiver valuation. Contact the District Office and provide them with right of way plans.
2. Send the information for the application, including an electronic copy of the legal description with the application and follow up on the issuing of the Grant.
3. The SLB agent will make contact with CDOT, or the appropriate representative, once the grant is processed.
4. The Region will submit a package to Project Development Branch, Headquarters ROW including the application, CDOT's valuation documentation, and approval by the Region ROW Manager of the valuation amount. Project Development Branch, Headquarters ROW will order a warrant and return to the Region. There is a \$5,000.00 minimum consideration charge.
5. The ROW Specialist will record the grant in the appropriate County, as the SLB only keeps the grants in books at its office. Grants are not public records until they are recorded in the respective county. The original document will be provided to Project Development, Headquarters ROW.

### **11.2.3 – Division of Parks and Wildlife**

The Division of Parks and Wildlife (DOP&W) is an agency of the Department of Natural Resources. The agency holds property for its own purposes, such as fishing and wildlife habitat or fish rearing stations for DOW and recreational facilities such as State Parks or Reservoir Facilities. CDOT has acquired property from this Department.

The process is as follows:

1. Contact the manager of the individual facility from which CDOT is obtaining a property right, be it a fee acquisition or an easement. This will allow CDOT to determine if there are any issues which need to be addressed in the acquisition process. It should be noted that CDOT's Region Environmental Units may be best equipped to address these matters.
2. Draft an agreement between CDOT and the respective agency for approval by the Wildlife Commission or Parks Board. Approval occurs at a Commission/Board meeting. Past agreements have included in-kind work as part of the project in lieu of payment. It is possible that road repair or other construction may be substituted for actual money payments.
3. Following a resolution allowing the agreement to be executed, a package including the agreement and deed(s) shall be sent to DOW/DPOR for signatures. The package should then be sent to Project Development Branch, Headquarters ROW with the valuation and Region ROW Manager approval of the agreement amount. Project Development Branch, Headquarters ROW will forward to the Chief Engineer for signature. Project Development, Headquarters ROW will order a warrant and return with the original signed document to the Region ROW office.

4. The Statewide Headquarters and Real Estate Office for each agency is as follows:

Colorado Division of Parks Wildlife  
6060 Broadway  
Denver, CO 80216  
303.297.1192

Colorado Division of Parks and Outdoor Recreation  
1313 Sherman Street, Room 618  
Denver, CO 80216  
303.866.3437

#### **11.2.4 – Other State Agencies**

State Agencies such as the Department of Corrections may have property which is directly adjacent to state highways. As it is a rare case where CDOT is acquiring property from these agencies, there is not a current procedure for dealing with them. Such acquisitions should be handled on a case by case basis in conjunction with the Region Right of Way Manager and Project Development Branch, Headquarters ROW.

## **SECTION 11.3 – FEDERAL AGENCY LAND ACQUISITION – GENERAL**

A majority of the property rights CDOT has acquired for construction on federal property has been acquired from the USFS in the Department of the Agriculture and the BLM in the Department of the Interior. In rare cases, CDOT has acquired property from other federal agencies such as the Bureau of Reclamation, National Parks Service, branches of the military, Bureau of Indian Affairs, and the Denver Federal Center.

Applications for appropriation of right of way on State highways within the Federal Aid System and which traverse lands under jurisdiction of the USFS and BLM will be made under provisions of the Federal Highway Act of August 27, 1958 (23 US Section 317) Exhibit F. If the project is on the Interstate System, 23 USC 107(d) will also be cited, see Exhibit G.

When the need for the lands or interest therein no longer exist, the State Highway Agency (SHA) must notify FHWA and the concerned Federal Agency. Control of the lands or interests will revert to the Federal Agency or its assignee which they were appropriated (23 USC 315).

### **11.3.1 – US Forest Service/Bureau of Land Management**

As a majority of acquisitions from the Federal Government come from the USFS and BLM, the process for these agencies is better defined than with other federal agencies.

The Department of Transportation has entered into a Memorandum of Understanding (MOU) with the USFS and the BLM (see Exhibit E). Significant changes were made to the format of this MOU in 2016.

The initial part of the process involves the CDOT Region ROW Office and the District Ranger of the USFS for the forest area involved, or the BLM District Manager. The CDOT Project Development Branch, Headquarters ROW, and the USFS Rocky Mountain Region Office or BLM Colorado State Office finalize the Highway Easement Deed (HED) process (see Exhibit I).

Initial data is assembled and maps are prepared by CDOT Region Right of Way staff who contact the District Ranger/BLM Manager at the earliest possible stage in development of these projects. The USFS/BLM require advance notice so plans can be evaluated. USFS/BLM should be invited to Project meetings at the earliest possible point. Maps will be prepared to show CDOT needs and should depict all lands that CDOT needs for the construction of the new project.

In those cases where CDOT is submitting an application for an existing highway where CDOT does not have an easement in place but does have a Special Use Permit (SUP), the necessary maps are prepared using the plan sheets originally prepared by the Bureau of Public Roads (BPR). Since these plans were prepared in the 1930s or earlier, it is also a good idea to request from the Forest Service a set of the Primary Base Series (PBS) maps that cover the extent of the application. The PBS series are U.S.G.S. quadrangles, modified to show the ownership of private lands within the boundaries of the National Forest or BLM. The BPR plan sheets are hatched by Headquarters Right of Way to show the USFS/BLM lands needed for the easement. When CDOT is submitting an application for a project and the adjacent segments of the existing highway do not have an easement in place, the request for ROW should extend beyond that

needed for the project to include the existing highway. In addition to project related submittals, the creation of easement deeds on existing highways in absence of reconstruction is addressed in section V(B) of the 2016 MOU (Exhibit E). Many of the same steps apply, except that monumentation is not required when impractical. For such conversions, the target width of the HED will be 150 feet, but may be modified to be larger if determined to be appropriate by a CDOT and USFS/BLM representative after travelling the highway(s) involved in the conversion request.

Construction details, access control and other pertinent data shall be developed and to whatever extent possible, resolved at the Region Right of Way and District Ranger/BLM Manager level. During this period, a survey shall be made of possible archaeological and paleontological salvage as required under the Act of June 8, 1906 (34 Stat. 225) and provided for under Section 305 of the 1958 Act.

Legal descriptions for USFS/BLM land are not required. Any non USFS/BLM lands require ROW plans and legal descriptions in accordance with Chapter 2 of the ROW Manual. Maps must be prepared that contain sufficient information and be hatched to facilitate an accurate survey of the parcel(s) on the ground. Since the maps are used in lieu of legal descriptions, they shall provide for the transfer of title and shall include the following:

- Title sheet showing the right of way parameters for the related highway project.
- Centerline and right of way limits.
- Found monuments to be designated and reflect pertinent data. The right of way must be tied to the existing section corner. Pursuant to the 2016 MOU, the highway centerline, as identified via GPS survey or tied to an existing monument when practical, may be the monument when highway easement deeds are created over existing highways.
- Complete station reference for the right of way angle points.
- Parcel numbering shall be in accordance with the procedures documented in Chapter 2 of the Right of Way Manual. When there is a single parcel, the tabulation of properties sheet may be replaced by a tabulation block on the plan sheet. The block must show the parcel number, National Forest name, location by Section, Township, Range and Meridian and area to be acquired.
- Areas of exclusion (private lands, etc.) must show recording information when precise location of boundaries cannot be defined on the map.
- Federal Law under which the application is made (23 USC 317). If Interstate, add 107(d).

The parcel requirements may be shown with shading, dots or hatching which will easily distinguish the parcel on a set of black and white plans. As plans are copied numerous times, all information must be of such quality that legible copies may be made from the submitted plans.

The memo from the Region to the Project Development Branch, Headquarters ROW, shall describe the proposed project and contain a record of the steps that have been taken to date. The Region must request permission to enter for any construction purpose, to be included with the Letter of Consent (LOC). Permission to enter is not required for establishing boundaries.

A copy of all environmental documents shall be submitted to the District Ranger/BLM along with the maps proposed to make a part of CDOT's easement.

Upon completion of the aforementioned procedures, the data for the application and plans in a PDF format will be submitted by the Region to the Project Development Branch, Headquarters ROW, with a request for processing through FHWA. The right of way plans do not need to be authorized by the Chief Engineer if they contain only Federal lands. The Chief Engineer will sign the Highway Easement Deed at the conclusion of the federal land transfer process which will incorporate the right of way plans as Exhibit A to the instrument.

### **11.3.2 – Processing Federal Land Transfers**

The Federal Land Transfer Coordinator (FLTC) in the Headquarters ROW has been designated the single point of Federal Highway Administration (FHWA) contact for CDOT. FHWA contacts for the purpose of facilitating permanent land transfers should only be made by the FLTC. The FLTC is responsible for the full review, obtaining final approval and transmittal of all Federal Land Transfers to FHWA.

The Region must obtain a permit or other permission to enter and work when needed to expedite project certification and construction. Any temporary easement should be secured by permit and will require a Federal Form 299, a copy of which is attached as Exhibit D. The Region Right of Way Manager or delegate will sign the Form 299.

The Region ROW offices initiate negotiations with the local Federal Agency having jurisdiction over the required parcel(s). An application package will need to be prepared for the Federal Land Transfer Coordinator at Project Development Branch, Headquarters ROW. The package shall include:

- Purpose or reason for the transfer, description of the project, and location.
- Parcel(s) required
- Requirements for permission to enter to the Federal property.
- Maps (1 set) 11"x17" format with subject parcel(s) hatched or delivered electronically in PDF format
- Environmental documents (ROD, FONSI, CatEx, EIS)
- Name and address of the Federal Agency having jurisdiction and the name of the local contact.
- Necessary explanatory information.

The Federal Lands Transfer Coordinator submits the application package to FHWA's Colorado Division with a cover memo and 3 11" x 17" plan sets (reproduced by Headquarters ROW) requesting a LOC for appropriation of land including permission to enter thereon, under Section 317 of 23 USC. Temporary Easements are not requested in the LOC but are negotiated by the Region and the Forest Services or BLM field office and applied for with a Federal Form 299. Deeds should not be submitted at this time.

The FHWA sends the request to the Federal Agency having jurisdiction. The Federal Agency has four months to respond with a LOC. When the Federal Agency issues the LOC, it is sent back to FHWA. From FHWA, the LOC is sent to the FLTC. The FLTC submits the LOC to the Region Right of Way Manager for concurrence to the special clauses and/or stipulations.

Once signed by the Regional Forester/BLM Colorado Division Office, the LOC authorizes immediate entry if entry was requested under the terms contained in the letter. The parcel(s) at that time are available to the State for certification and awarding for construction purposes. The Region need not await preparation and recording of a Highway Easement Deed (HED) in order to certify the parcel is available, as this is may be a lengthy process.

The Federal Lands Transfer Coordinator prepares the HED using the LOC as a guide for any special clauses and/or stipulations. Any stipulations that are not already incorporated in the HED shall be attached as an exhibit identified as Exhibit B. The Federal Lands Transfer Coordinator resubmits the entire package to FHWA's Colorado Division to review the package and determine its legal sufficiency. Any discrepancies between the LOC and HED must be addressed at this point.

The FLTC submits the deed and exhibits to the Attorney General's Office for review and certification as being legally sufficient. The statement must have the reviewing attorney's signature and the date signed. The FLTC does a final review of the HED and submits to CDOT's Chief Engineer for signature and notary. The HED is then attested by CDOT's Chief Clerk for Right of Way who returns the HED to FHWA's Colorado Division for execution. Upon execution the HED is then returned to the FLTC.

The FLTC coordinates with the Region ROW office to determine the best method for recording. Four copies of the recorded deed are sent to FHWA to disperse. The original recorded copy is filed electronically and in the project files in the Project Development Branch, Headquarters ROW.

Present contact for the Forest Service and BLM Offices:

U.S. Forest Service  
Rocky Mountain Region  
P.O. Box 25127 Lakewood,  
CO 80225

Bureau of Land Management  
Colorado Division  
2850 Youngfield Street  
Lakewood, CO 08215-7076

The Federal Lands Transfer Coordinator is staffed within Headquarters ROW:  
Acquisition/Relocation Unit  
CDOT Right of Way, 3rd Floor  
2829 W. Howard Palace, Denver, CO 80204

The FLTC should be contacted directly with any questions related to the Federal Lands Acquisition process.

If a Corrective Deed for a previous HED acquisition be needed, the FLTC should be contacted to determine the best procedure for the specific situation.

## **SECTION 11.4 – OTHER FEDERAL AGENCIES**

### **11.4.1 – Bureau of Reclamation**

During the previous years, CDOT has acquired large segments of right of way from the Bureau of Reclamation (Bureau), i.e., S.H. 50 through Curecanti National Recreation Area (Blue Mesa Reservoir); S.H. 133 by Paonia Reservoir and SH 34 through the Big Thompson Canyon to name but a few. The Bureau is structured on the basis of watershed, i.e., Upper Colorado River. The western slope of Colorado, including the Gunnison and Colorado Rivers, is within the Upper Colorado Basin. Those offices are headquartered in Salt Lake City, UT, with a field office in Grand Junction. For the Front Range, the Big Thompson Project office is located in Loveland, and the Arkansas River Project Office is located in Canon City.

The steps necessary to acquire property rights from the Bureau are governed by Title 43, Part 429 of the Code of Federal Regulations. The basic steps in the process are as follows:

1. The CDOT Region ROW office contacts the Bureau Regional office or Field Office to present the information related to the project. CDOT will be required to fill out a Federal Form 299, a copy of which is attached as Exhibit D, and which can be signed by the Region ROW Manager for the acquisition process. Section 43 CFR 429.6(c)(3) waives the otherwise necessary application charge for any Bureau property right. The CDOT Region right of way office negotiates the property required for the project.
2. The Bureau prepares a Temporary Permit to Use Public Land for temporary easement areas, or a Contract and Grant of Easement for permanent easement areas. These documents contain the legal description of the property right involved within the body of the document, so a legal description in a reproducible format should be given to the Bureau Office which is preparing the document(s).
3. Following the review of the completed documents, the Temporary Permit and/or Contract and Grant will be forwarded to the Chief Engineer for signature, and be attested by the Chief Clerk.

### **11.4.2 – National Park Service**

Regulations for the National Park Service are contained in the Code of Federal Regulations (36 CFR Parts 1 and 14). Park Service regulations are for the most part modeled on the BLM requirements. The CDOT Region ROW office should contact the National Park Service office to determine the appropriate process.

### **11.4.3 – Bureau of Indian Affairs**

The Southern Ute and the Ute Mountain Reservations, both in Region 5, are the only two such reservations in the state which have highways running through them. These tribes cannot transfer title to real property, as the land is held in trust by the Federal Government, but the tribes can grant a right of way easement subject to approval of the Tribal Council. The approval is generally in the form of a resolution adopted by the Tribal Council. Detailed procedures for

rights of way over Indian Lands and contained in the Code of Federal Regulations, Title 25; (25 CFR Part 169), as well as United States Code, Title 25, Chapter 8, (25 U.S.C. 311). The best way to initiate the process is to contact the affected tribal office directly and see what they require.

#### **11.4.4 – Military**

Acquiring property from the military can be a time consuming experience. Requirements may vary from one branch of service to another, i.e., Army or Air Force.

For either the United States Air Force Academy, Buckley Air Force Base, or Fort Carson, a phone call to the base Real Property Office (Real Estate Office), should be sufficient to determine what the agency needs, and the process and procedures to follow in submitting an application. It would also be a wise decision during the preliminary phase of a project to contact the appropriate personnel at the installation in the preliminary phases of the project.

For the Army Corps of Engineers and Denver Federal Center, if property controlled by these agencies is affected, a call to the local Real Estate Office would similarly determine what is needed for the acquisition from those agencies.



## **SECTION 11.5 – RECORDS MANAGEMENT**

Right of Way Project Records will be retained according to retention periods described in the Right of Way and Survey Record File Plans. The Record File Plan may also indicate the archive location for any documents with a permanent retention period. Record File Plans are maintained by CDOT's Records Management Program.

Most Right of Way relocation records have either a permanent retention period or a retention period of 3.5 years from the Form 950 project closure date, including local agency projects. Exceptions to the 3.5 year period apply in the case of major CMGC, Design-Build, P3 or other innovative contract projects, projects that are subject to internal or external audit, projects with litigation holds, and projects funded with emergency funding.

Project Development, Headquarters ROW will maintain original copies of all Right of Way acquisition documents as received in warrant request packages, closing packages or other transmittals. Region ROW Units may maintain copies of these documents in electronic or paper format as long as needed, but for no shorter than the duration of the project.

Adobe Sign is the electronic signature and professional seal software selected by CDOT and required for use on project Records. Adobe Sign is not the electronic signature program for use on documents requiring a CDOT Controller or State Controller signature (contracts). Adobe Sign may be used for State and Federal land transfer documents, except for contracts or other agreements. If a document required for a warrant request package or closing package is signed electronically, the electronic document should be sent to Project Development Branch, Headquarters ROW or saved in the established EDMS.

Project Development, Headquarters ROW will archive permanent Right of Way relocation records in an established Electronic Document Management System (EDMS) on an ongoing basis in the necessary formats to ensure accessibility for 100 years. Recorded deeds, easements and other conveyances will be saved electronically upon receipt by Project Development, Headquarters ROW. Other records may be saved or created electronically in an EDMS by Headquarters or Region ROW Units as determined to be necessary. Records with a less than a permanent retention period may be retained solely in paper format if preferred by Region and Headquarters ROW Units.

After the project is closed, final ROW Plans must be scanned in the current archival format at the time Form 950 is issued. Tabulation sheets should include recording information of all parcel acquisitions during the project. Destruction of paper copies cannot occur until the archival process has been completed.

The Project Development, Headquarters ROW parcel file and main project files will be evaluated for additional archiving after issuance of a final Right of Way Clearance for the project. Non-permanent records will be identified and prepared for destruction 3.5 years after the Form 950 project closure date.

Original Right of Way acquisition documents, whether permanent or non-permanent, should only be destroyed after a destruction form has been approved by the ROW Program Manager.