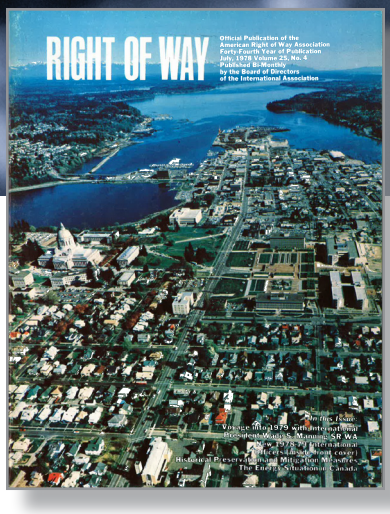
Role of the Right of Way Agent in Highway Project Planning



The following piece is an edited republication of an article from the July 1978 issue of Right of Way Magazine. We hope you enjoy reading about where we've been, appreciate how far we've come and be inspired by where we'll go next.

BY JOHN BELL

When asked to discuss "What R/W people can do to help in public hearing and overall highway project planning process," it seemed at first a bit presumptuous to think that a civil engineer, involved in this planning process, could suggest ways for you to do your job.

In view of the large and constantly changing number of controls and opinions which must be considered before we can document an "approved" highway location project, it may be well to remember that all possible coordination of the multiple disciplines, which must be involved, is absolutely necessary. It is to our mutual advantage, therefore, that we explore some of the ways in which we might improve our cooperation.

The problem which we face in the typical highway planning project is simply devise means to provide new or improved traffic services between point "A" and point "B." We are usually assigned our planning tasks on a specific project basis after some advance "system" planning has determined a need in a particular area.

Our task seems pretty straightforward at first; we simply have to build a highway or a street of sufficient capacity to handle the anticipated traffic load. We, as engineers, know very well how to design facilities which will provide the required traffic services; and you, as right of way agents, certainly know how to purchase or condemn the rights of way necessary to construct these highway improvements.

So — what is our problem? I think we might say that an important part of it is simply to define the problem to everyone involved; and it is, usually, no easy task to convince the public — especially those whose property may have to be taken, that a problem exists. Let's assume, however, that we can convince the majority of those involved that we do have a problem — we then begin to consider methods of solution.

The average highway project planning study now requires a minimum of 2, and commonly 2 and a half to 3 years to complete: that is from the project initiation meeting through the draft Environmental Impact Statement (EIS) and Location

Public Hearing, and then completion of the Final EIS, which finally leads to an approved project location. After this "location" approval process, our project can then proceed to design, which must again presented at a "Design" public hearing before construction can begin (For projects which involve reconstruction of an existing facility in or immediately adjacent to existing rights of way, a combined location/public hearing often will suffice.).

Since this is a long process, requiring several stages, it is important that we, on the study team, understand at all times just what stage a particular study may be in, and what types of information are needed at that stage.

In order to explore this in more detail, let's think about the various stages of a highway planning project as now required by Maryland "Action Plan." Since all other state's action plans were approve dbyt he same office in Washington, I am sure that each of you will recognize similar procedures as requirements in your states in this northeast region.

Shortly after we begin to size up a new highway project, a number of conferences are held with various local, state and federal agencies, all who have interests and/or expertise in our project area. This begins the data collection process to determine what constraints to highway construction exist in the area and, in addition to these existing conditions, which good mapping can show, provide insights into other current area planning which our highway must also service. It's a pretty safe bet to assume that someone is planning something for what appears to be "open space" in many areas of this region. We have to decide with those involved if join use, or both highway and other planned uses, can be accommodated. If not, it is of prime importance to decide in which areas it is not possible to compete for highway right of way space. We can expend an awful lot of time and energy in attempting the impossible. Of course, these "impossible" areas must be identified to explain why alternative routes have not been studied in certain areas.

Input from experienced right of way people at this stage can be invaluable. A few hours with an agent who knows an area to review maps and possible participate in a windshield survey can quickly and authoritatively identify concerns, such as possible ethnic community boundaries and minority group locations and give the highway planner insights into relative property values, both in a monetary and in community value sense. Depending on their detailed experience in an area, the R/W agent may be able to tentatively identify sites of possible historic or local significance. They may also be aware of local development planning and other activities. Early knowledge of such details can substantially reduce false starts.

With this early information in hand, we then establish he project study area on a map. At this time, we try to include the maximum area which could possibly be physically affected. We take this map, and our preliminary information

and go to the public in what we call a "Project Initiation meeting." The purpose of this meeting is to tell the public what we are up to, what the problem is and the fact that we will be investigating all feasible alternatives to provide the traffic service which is needed. Major reasons for the meeting are to solicit public input, to find out generally if the public is for or against a highway project in the area and to identify community problems which must be included as we consider highway construction or improvement in the community.

My opinion is that right of way people should be represent at this meeting to respond to specific questions, but this is the wrong time to read long and detailed R/W acquisition, and the individual's rights procedures into the record. This can get people excited about the possibility of having their property taken at a time when not enough is known to even discuss it with them, and when any acquisition — if required — is probably at least 5 years in the future.

The right of way agent, the engineer and others of the planning team should realize that the purpose of this project initiation meeting is to gather first-hand information from the public and not to excite them into rushing out to organize and hire lawyers to fight us. The public should be told, however, that they will have ample time for those activities when they know enough to decide whether or not they are for or against our plans.

After the Initiation Meeting, we then plot everything we know on maps of our project area, and with "everything" in mind: traffic needs, details of the existing and planned developments, soils and geology, parks, historic sites, endangered species, groundwater, streams, floodplains, etc., and a general knowledge of property values. We lay out, in a broadbrush fashion, a comprehensive array of, hopefully, all possible feasible corridor locations which could serve our purposes in the study area.

At this time, in order to compare these preliminary locations, right of way people are asked to provide comparative estimates of R/W costs and comparative numbers of residences, businesses, etc., impacted for each of these preliminary alternatives. It is important to know that these estimates are indeed preliminary comparisons only, and effort should not be expended in identifying each property involved. The necessary level of detail will

vary in different locations, but you should know that you will be asked to refine selected components of these preliminary estimates as the study proceeds. We should realize that the purpose of this study phase is to eliminate a majority of these preliminary locations, and that in many instances, R/W costs or construction costs are not the major factors in these decisions.

We then circulate an "Interim Alternatives Location Report" to the public and others and, shortly thereafter, hold our second public informational meeting. This is our opportunity to explain the preliminary alternatives which have been investigated, and to recommend — hopefully — only two to be investigated in further detail and compared with the "No-Build: alternative in the Draft EIS document.

This is the first time the public will have seen lines on a map. This gets many people excited, and if one of the lines passes through or close to their property, many will decide all other lines shown are merely subterfuge, and that you really have already decided to take their property. This public meeting, of course, gives the public an opportunity to comment on our plans long before they are final, and to provide further input, based on what is known at that time.

Again, R/W people should attend this public meeting, make a short presentation and provide input on general property and R/W considerations which have influenced the studies to date. They should answer specific questions and provide copies of acquisition and relocation assistance policies and procedures, if they are requested, on an individual basis. Too much detail on procedures at this stage tends to bore most people, I think, and to divert their attention from an objective comparison of the alternatives (This is, of course, rhetoric — many people who attend these meetings are completely subjective — more reason, however, not to confuse them with too many details at this stage.).

Taking into account all comments received from the public and other involved agencies, the two "Best Build" alternatives are selected (sometimes three or more may be required) and detailed studies are conducted to compare these to the "No Build" alternative.

At this time, more accurate R/W limits are determined for the final alternatives, to the accuracy possible by scaling the study mapping. In some cases, existing property lines are reproduced as possible from available tax maps in the areas of the selected corridor locations. With this basic information, we then request right of way people to provide R/W estimates and information on the residences, businesses, industry, institutions and any other properties which must be acquired, and the relocation problems and costs which can expected for each of the selected alternatives. Since this information will be published the draft Environmental Impact Statemen and serve

as important basis for selection of the final project location, this work should be as accurate as possible without field property survey sand prepared property plats.

The draft EIS documents these final feasible locations and compares their impacts to the "No-Build." The draft EIS does not recommend a specific course of action, however, since the final choice must consider official public comment, which will be brought out later in the official corridor public hearing.

Shortly after circulation of the draft EIS, and before the public hearing, the State of Maryland usually schedules another public informational meeting. This is an informal presentation of and provides a forum for informal discussion of the information presented in the draft EIS. In practice, it is usually a preview of the same displays and materials which will be presented at the official Corridor Location Public Hearing.

At this stage, most studies will identify individual properties which may be affected, and buildings, etc., which would be taken for each of the final alternatives and if we have been successful in narrowing our choices down to two (or possibly three) alternatives. Those who may be affected can now begin to seriously consider their actions; even though a final choice won't be made until publication of the Final EIS.

The informational public meeting is to inform the public of the final alternatives which are being considered and allow them time to prepare and present an official response at the

subsequent public hearing, either for or against any of the feasible alternatives. This then, I think, is the time to present full information on the property acquisition and relocation procedures. This presentation should be prepared for the situation; however, don't read your procedures on residences and apartment relocations if you are discussing a small project wholly in industrial farming or open-space areas. Don't omit minority group considerations, if they are involved, and we should know if they are at this stage. This merely says that some time on homework, to fit our presentation specifically to the problems at hand, pays off in increased credibility and possibly acceptance of our later recommendations.

The official "Corridor Location Public Hearing" usually follows the last informational meeting within about 2 to 4 weeks. While the planning team usually makes the same presentation which was made at the last informational meeting, this time it is part of the official record, and we must be sure that all legal requirements are met, and that complete descriptions of the alternatives still under consideration are made.

The major purpose of the official public hearing, however, is for the public to record their reactions to our final alternative plans. If our informational meetings have been completely successful, there are no surprises for anyone at the public hearing. We have determined and addressed the problems in everyone's mind, and with final and official comment from the hearing, the decision makers have full information on which to choose a definite project location and course of action.

As most of us are painfully aware, this ideal situation is sometimes not achieved in practice. Changing local plans and new information can send us back to the drawing boards for another tr. There are, of course, times when the problems involved dictate selection for the "No-Build" alternatives, or a greatly "reduced facility" course of action, to lessen community or other impacts.

If, however, we have succeeded in identifying and addressing the major problems in our project area, our project planning job is about done upon completion of the Public Hearing.

With due consideration of the final and official public, and responsible public agency responses from the hearing, an alternative is selected by the State Highway Administration and documented in the "Final Environmental Impact Statement." By approval of the Final EIS, the Federal Highway Administration gives official approval to our corridor location, and the State Highway Administration is then free to proceed with design plans for the facility.

Under the dual hearing requirements for new location projects, the public is again involved in a "Design Public hearing," when project design has been established. Right of way activities in this stage are involved with your more "normal" procedures; acquiring right of way for an approved and scheduled project and working with accurate plats made from property and right of way surveys.

The "project planning" phase of a highway location project is an exciting and challenging time. The lessons learned from previous projects never seem to exactly fit the problems encountered in a new one, and we must be constantly ready for new situations; so, it's not possible to make a neat list of what R/W people can do to help.

Since highway location studies involve "multi-disciplinary" actions, each member of a project planning team must at least understand and appreciate the concerns of the other disciplines involved. There is, I think, a real opportunity for all of us to broaden our understanding by working with these other disciplines.

In this respect, by becoming more aware of the social and economic impacts of our highway plans, right of way people can provide much more than right of way and relocation estimates to the highway project planning process. Form long experience, any of you can pinpoint community problems which may result from certain course of action more quickly and accurately than the planners, engineers, life scientists or even the socioeconomists who may not be familiar with a certain area. Our job is half done if we can identify these problems before presenting preliminary plans to the public which may overlook their concerns. The other half of our job, solving these problems, can only proceed on an orderly basis if we succeed in a reasonably complete definition of major problems early in the study process.

With some study of the particular situation, as you become involved in new projects, you can be sure that your special knowledge will fit into this picture. So, think of the big picture and speak up — you are in an excellent position to provide authoritative information on the public opinion and community values, and we all realized that these must be satisfied before we build highways these days. ✪

John Bell began his civil engineering career as an employer of the Baltimore Consulting Engineering firm of Rummel, Klepper & Kahl in 1946. As an associate, he was in charge of the firm's Raleigh, North Carolina office from 1964 through 1973. During this time, he was responsible for a variety of major highway location and design projects; and became formally involved in environmental impact studies shortly after inception of EPA in 1970. He is now the partner in charge of Rummel, Klepper & Kahl's highway project planning activities.