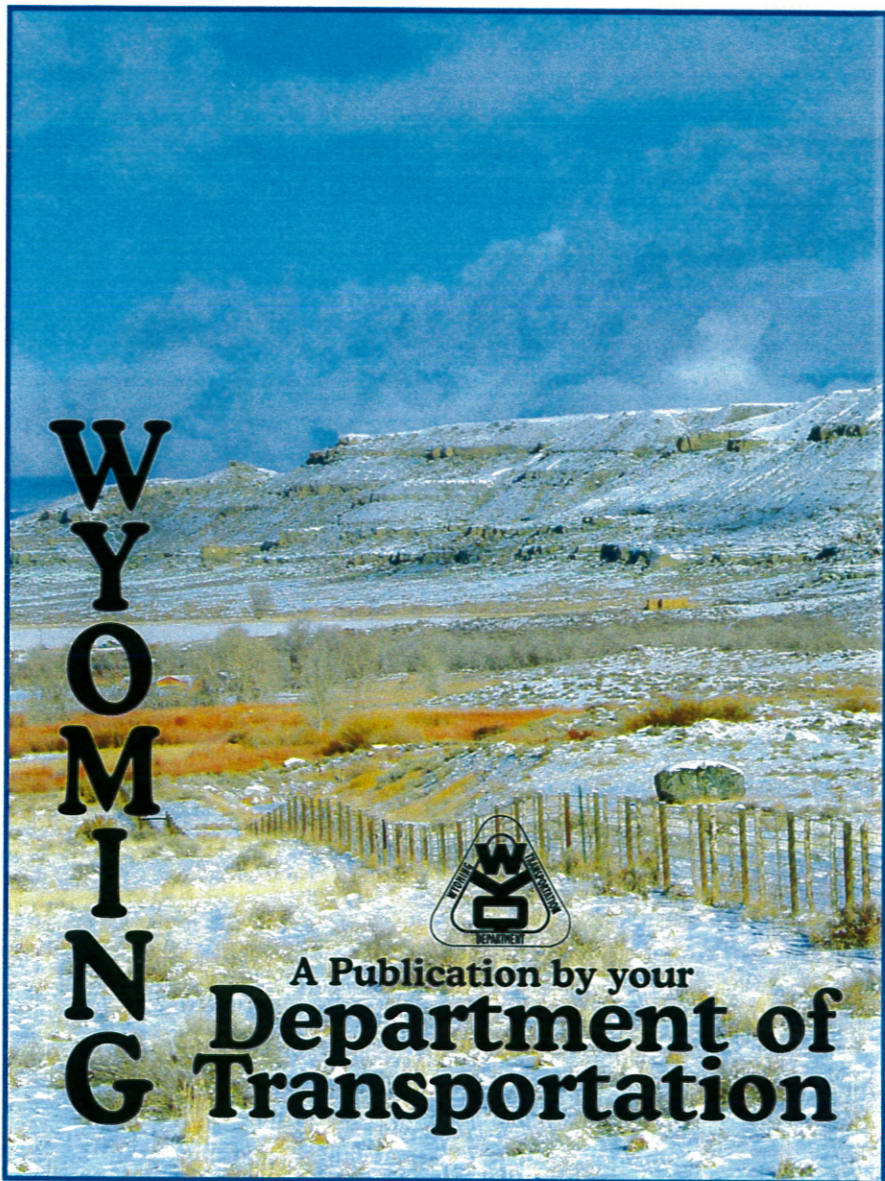


HIGHWAYS And Your Land

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A Publication by your
**Department of
Transportation**



Highways & Land

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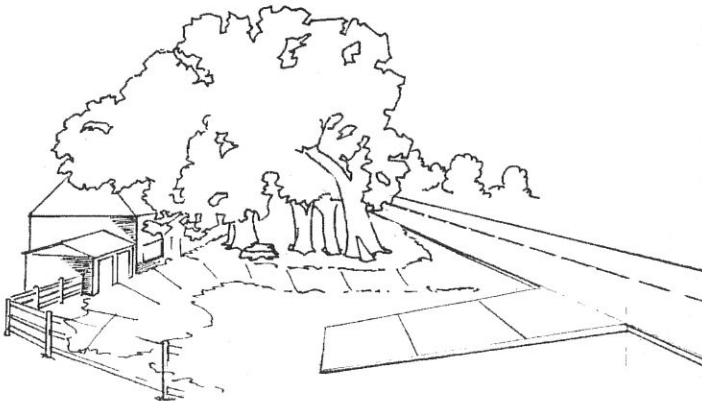
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Introduction

The magnitude of the expanded highway construction program, underway in Wyoming since 1956, reflects the largest public works program ever undertaken in the state.

We need an up-to-date system of highways because building a standardized nationwide network of highways is essential to the country's welfare and security. Wyoming highways are the only means of transportation for the exchange of goods and services in many counties and communities.

Statistical methods and economic studies are used to answer questions of where and how we should build our new highways to meet today's and tomorrow's traffic needs.

New routes and reconstruction of present roads to improve travel and safety standards are carefully planned, designed and constructed to satisfy anticipated transportation requirements.

It is the objective of the Transportation Commission of Wyoming and staff of the Wyoming Department of Transportation to keep the people and highway users informed about the program by asking their observations and seeking their input concerning the state highway system.

This booklet is presented so you will know some of the steps involved in highway development and most importantly, how the Department procures right-of-way for highway locations. This booklet also explains how the Department administers the relocation assistance program to help in relocation and re-establishment of persons, businesses, farms and nonprofit organizations displaced as a result of highway construction.

Before any proposed highway project has advanced beyond the planning stage, local authorities are consulted and necessary public hearings are held to inform the public and obtain final approval. Public hearings are for your benefit. Explanations are made about the proposal,

and you have opportunity to express your views regarding the proposed project. A separate brochure entitled “Public Hearings.....Your Voice in Tomorrow’s Highways” is available to acquaint you with the public hearing process. Whenever federal highway user trust funds are spent on a project, the Federal Highway Administration must approve the plans.

The majority of funds, federal or state, come from highway users (motor fuel tax, motor vehicle registration fees, compensatory fees paid by commercial carriers.) No property taxes are used on the state highway system. The program is on a pay-as-you-go basis and has no indebtedness. Construction is financed with federal highway funds and with state funds. There are four basic highway categories: Interstate, Minor Arterial Roads, Minor Collector Roads, Major Collector Roads and Local Roads. A ratio of federal to state dollars is generally available, and the ratio depends on the system. Several other categories of funds are also used when available. Wyoming builds many of its roads with all state money after using all available federal funds. The type of funding used does not affect how the road is designed and built or how right-of-way acquisition or relocation assistance is accomplished.

How well the proposed route will eventually serve its traffic and how economically it can be built is the result of teamwork within the Department of Transportation. The team consists of surveyors, design personnel, field engineering crews and Right-of-Way personnel, who acquire the amount of land necessary for construction.

Lastly, private industry assembles the necessary manpower and equipment through a highway construction contractor to perform the actual construction. This construction is supervised by Department of Transportation engineering personnel.



Questions & Answers

Part 1: Right-of-Way Acquisition Program

Why does the Department want my property?

Because planning, studies, research and cost analysis indicate that locating the highway in your area and across your land will accomplish the maximum public benefit with a minimum of private injury or inconvenience.

Why does the Department have the right to buy my property for highway purposes?

Federal, state, county and municipal governments have the right to acquire lands they need in order to provide necessary public services. With this right of acquiring land, the governmental unit also assumes responsibility under law, which assures you that no private property can be acquired for public use without just compensation to the owner.

Who acquires the land for highway rights-of-way?

Various counties secure rights-of-way for State-County Roads and County Farm-to-Market roads. The Wyoming Department of Transportation, hereafter referred to as the Department, obtains all remaining rights-of-way.

How does the Department acquire land for rights-of-way?

Acquisition of land for right-of-way is the responsibility of the State Right-of-Way Administrator. Experienced engineers, appraisers and acquisition agents are used to acquire the property. The fair market value of the property required is determined through the appraisal process and then arrangements are made to acquire property. Unless an alternate appraisal is considered to be in the best interest of all concerned, negotiations are conducted on a one-offer basis.

An acquisition agent serves a twofold function and is your primary contact person. The agent will explain the need for your land, present the authorized acquisition offer and detail any options which may be available. At the same time, the acquisition agent will be discharging the Department's obligation to see that your property rights are protected and to assist you in understanding and completing the transaction.

Will I get a fair price for my property?

It is the Department's responsibility to ensure that you receive the same amount of money that a sale of your property would bring under current market conditions. In practice, any damages due you are measured by the fair market value of your original holdings before the acquisition, less the fair market value of your holdings after the acquisition. The difference is just compensation.

Why does the Department have a standard right-of-way acquisition policy?

Comprehensive appraisal procedures protect your rights as a property owner and also the rights of the public. This policy provides uniformity in a large highway program, assures equality among those directly involved and makes it unnecessary for owners to bargain in order to receive just compensation.

You will be given a Summary Statement of Fair Market Value as determined by the Department at the initiation of negotiations.

Who may confer with me about the sale of my property?

You may be contacted by surveyors and other Department of Transportation personnel gathering preliminary information. One individual may be the appraiser, who obtains valuation and land-use data. The appraiser is interested in going over your property and its use with respect to your needs and welcomes the factual information **only you can give**, so we have the full story to arrive at the fair market value. **Your cooperation and information are vital in this phase of the work.**

Soon after this appraisal work has been finished, an acquisition agent will contact all the landowners along the proposed route to purchase necessary lands.

How will the value of my property be determined?

The fair market value will be determined by qualified appraisers who inspect and study the property and its features. Real estate listings will be checked, and sales of property in the area will be confirmed from the public record and through buyers and sellers. The value of your property is then determined by comparing your property with similar properties which have sold.

How soon will I be paid for my property?

If you have clear title, you will probably receive payment within 45 days from the date of the signed agreement. If there are liens or encumbrances against your property, payment may require more time. You can help in this area with evidence of your title to the land and the current state of taxes, along with any other liens against the property. Your promptness in executing and returning all documents required in the sale of your land will assist in a timely settlement. Unless title problems exist, you will be paid 100 percent of the agreed purchase price prior to actual construction.

Will I receive reimbursement for expenses that I incur in transferring my property to the Department?

You may be reimbursed for reasonable and necessary expenses incurred incidental to conveying property to the Department.

If my property is worth more now than when I bought it, will I have to pay income tax on this increase when I sell to the Department?

Sale of property to a governmental agency is considered by the Internal Revenue Service as “involuntary conversion.” In such instances, it is not necessary to pay income or capital gain tax, providing the money you receive is used to acquire similar property. The director of the Internal Revenue Service at Cheyenne can provide more complete information on this subject.

What about loans on the property?

A review of the abstract of title is made on property the Department acquires. This will reveal any outstanding loan or liens that will have to be satisfied out of your settlement. At the time of closing, the Department will draw a check payable to you and to the parties holding an interest in your property, unless otherwise directed by the mortgagee. The Department will assist you in obtaining a release, but it's your responsibility to secure a Partial or Full Release of Mortgage.

Does the Department require fee simple title to rights-of-way?

The Department prefers to acquire rights-of-way by deed free of any restrictive covenants which limit the use of the property for highway purposes. Lesser title is acceptable under the Department rules with approval.

What can I do if I am not satisfied with the state's offer?

You should make independent inquiry concerning the issues involved. It would be prudent for you to seek advice of reputable people familiar with land values in the area. Any documented additional information will be carefully reviewed by the Department to achieve an equitable settlement. The Department, when advised of final rejection of an offer, will be required to take the matter to court under its statutory authority of eminent domain. The Department will file a complaint in District Court asking for a right-of-possession hearing to establish the necessity of acquiring your land for right-of-way purposes. If you do not question the necessity or if necessity is upheld by the court, the court awards the Department of Transportation a right-of-possession to begin construction immediately. The Department deposits the amount of its offer with the court when the filing is made, and upon granting the right-of-possession, the court will make this money available to you. The court will then appoint three disinterested persons who are residents of the county to appraise your property and report their finding to the court for further action. If the Department and you are satisfied with the court's finding, the matter is concluded, and the Department will pay any additional determined amount, and the court will sign on Order of Conveyance conveying the property to the Department.

If either you or the Department are not satisfied with the findings, the matter may be taken to District Court for a jury trial. This is done by application of either party within 30 days after filing the Certificate of Award.

If the matter goes to court for jury trial, you will generally be required to have an attorney present your case and what you believe your property is worth. The Department, through its attorney, will present its case and what it believes the property is worth. The entire matter will be resolved by the jury. If the jury's award is not acceptable to either you or the Department, either party has the right to appeal the case to the Wyoming Supreme Court, which can either affirm or reverse the District Court decision if they believe a judicial error was made in the presentation or determination of payment which prejudiced the award. If the appeal is heard, the Supreme Court can affirm the decision or remand the matter back to District Court for a new trial.

What are my rights as to receiving money before the case is resolved by the courts?

Federal and state law require that the landowner shall have available 100 percent of the amount determined by the Department as representing the value of the proposed acquisition. Exercising this right does not in any way jeopardize your rights to a jury trial or influence the outcome of the case.

The fact that you have or have not accepted 100 percent of the offered money is not a matter of evidence before a jury.

If you do not accept the offer, the amount offered will be deposited with the court with the stipulation that at any time you can ask for and receive 100 percent of this amount. If the jury's verdict is higher than the amount offered, the Department will be required to pay that amount. If you have accepted the 100 percent and the verdict is lower than the Department's offer, you will be required to reimburse the Department the difference.

How soon must I vacate my property after selling it?

It is the intention of the Department to complete arrangements for purchase of your property as soon as possible after it is definitely known that your land is required for right-of-way. You will not be required to move from your home, farm or business location without at least 90 days written notice. And you will not be required to move from your dwelling unless replacement housing is available.

Can I retain my home or other buildings?

You will be given the opportunity to retain them at their appraised salvage value. If you do not wish to retain your buildings, they will be acquired at full market value and offered for public sale or disposed of by the Department.

If you choose to retain your buildings for removal to a new site, the Department will negotiate with you on this basis and will allow a reasonable length of time for the removal.

What happens if my land is divided into two parts, or my access to the nearest town is severed as the result of a highway location?

The Department will make a determination of your basic requirements for stockpasses, machinery passes, replacement roads and access to and from your residence to the nearest town.

Stockpass and machinery pass structures must be justified economically. If the Department determines it is more economical to isolate and pay damages for a portion of your farm than to construct a structure access to it, you will be paid severance damages to the remaining portions. Severance damages are measured by the loss in market value of the severed parts.

What is “controlled access” and why is it necessary?

There are two types of access. The first, dealing with the Interstate system, is fully controlled access where traffic is permitted to exit or enter an Interstate route only at traffic interchange points. The second is limited control of access, which applies to other highways and means that direct access at grade to or from these highways is given only at certain designated points. These accesses are controlled by the police power of the state by allowing access as needed, providing it meets safety requirements determined by the Department for the type of road and amount of traffic.

As you see, all access is controlled to some extent; it is the degree of control which governs. You can see that unrestricted access would soon allow a new highway to become clogged with vehicles entering or turning off the route. Controlled access will preserve the value and safety of the new highway.



Questions & Answers

Part 2: Relocation Assistance Program

Does the state of Wyoming provide relocation assistance?

Yes. The Transportation Commission of Wyoming, under authority of the Wyoming Relocation Assistance Act of 1973 and 1989 Act Amendments thereto, will help you as an eligible owner or tenant in finding a new place to live or to obtain a suitable location for your business, farm operation or nonprofit organization. A relocation assistance agent will determine to what extent you may be eligible for relocation assistance and payments and will work directly with you for the duration of the project.

It is the policy of the Transportation Commission of Wyoming that comparable decent, safe and sanitary replacement housing will be made available prior to the time of the required move. All replacement housing must be fair housing; that is, consistent with the requirements of the Civil Rights Act of 1968.

Can I receive payment for moving expenses?

Yes. As an individual or family, you may elect to receive moving expenses either as a fixed payment or as reimbursement of actual and reasonable moving expenses. Under the fixed payment, you may receive a payment based on the number of rooms, which includes a dislocation allowance. Actual, reasonable moving expenses may include moving yourself or your family, temporary storage of household goods, lodging, meals and transportation.

If you operate a business, farm or nonprofit organization and are displaced, you may be eligible to receive reimbursement for actual moving expenses, certain losses of personal property and expenses actually incurred in searching for a replacement location.

In addition to actual moving expense reimbursement, you may be eligible to receive a payment for actual reasonable expenses necessary to re-establish your displaced small business, farm or nonprofit organization at your new site. Your actual payment eligibility will be determined by the Department according to state and federal criteria.

In lieu of actual moving expenses and re-establishment expenses, you may be eligible to receive a fixed payment of not less than \$1,000 nor more than \$20,000, based upon the annual net income of your enterprise. To be eligible for this payment, the relocation agent must determine: (1) that your business owns or rents personal property which must be moved in connection with your business displacement and for which an expense would be incurred in such a move, and you vacate or relocate your business from its displacement site; (2) that you cannot relocate your business or nonprofit organization without substantial loss of existing patronage; (3) that your business is not part of a chain or commercial enterprise having more than three similar establishments not being acquired; (4) that a business conducted part time in your home does not contribute materially to your income; (5) that your business is not operated at your displacement dwelling solely for the purpose of renting such dwelling to others; and (6) that your business is not operated at the displacement site solely for the purpose of renting the site to others.

In the case of a partial acquisition of your land on which you had a farm operation before the acquisition, a fixed payment will be made to you only if the relocation agent determines that the acquisition of part of the land caused you as the operator to be displaced from the farm operation on the remaining land, and the partial acquisition caused a substantial change in the nature of your farm operation.

As a displaced homeowner, am I entitled to a payment to help me buy another home?

Yes. If you have owned and occupied the dwelling to be acquired for over 180 days prior to the date of initiation of negotiations for the purchase of your property, you may be eligible to receive a payment of up to \$22,500 to make up the difference between the price you receive from the state for your dwelling and the costs of purchasing a comparable decent, safe and sanitary replacement dwelling. A comparable decent, safe and sanitary (DSS) dwelling is one that is adequately sized with respect to the number of rooms and area of living space for the individual or family being relocated and meets minimum requirements as to heating temperature and maintenance condition along with other standards set forth in state and federal statutes. Costs may include such incidental items as title, recording fees, closing costs on the replacement home and added costs of higher interest on the new mortgage. However, your

replacement housing entitlement amount could vary anywhere from no compensation to a maximum of \$22,500 depending upon the total cost of the DSS replacement dwelling actually purchased by you.

In lieu of payment for purchase of replacement housing, you may be eligible to receive a rental assistance payment for 42 months. This payment cannot exceed \$5,250 and includes compensation for additional monthly utility costs at the comparable DSS replacement dwelling. The payment will be based upon the market or economic rent you could obtain for your displacement dwelling if you rented it to someone else as compared to the rent you would have to pay for a DSS replacement dwelling. The amount of rental assistance payment you may be eligible to receive can vary anywhere from no compensation to a maximum of \$5,250. The payment depends on how much higher rent and utilities will be at the DSS replacement dwelling than they are at the dwelling from which you are displaced.

If you are an owner less than 180 days but more than 90 days, you may be eligible to receive a down payment which will aid you in purchasing a replacement dwelling. This payment cannot exceed \$5,250 and will be the down payment necessary to purchase a comparable DSS replacement dwelling if the purchase is financed with a conventional loan. This amount may include certain incidental costs. The amount of down payment you may be eligible to receive will be determined by what you would receive if you were to rent a comparable DSS replacement dwelling. Your relocation assistance agent will determine the rental assistance payment amount you must apply as a down payment toward purchase of a DSS replacement dwelling. A homeowner of 180 days or more is not eligible to receive down payment assistance. In lieu of the down payment assistance, you may be eligible to receive a rental assistance payment not to exceed \$5,250 to help you rent a DSS replacement dwelling.

If you owned your home less than 90 days prior to the date negotiations were initiated to purchase your home, you are eligible to receive only moving costs of your personal property.

Before making a replacement housing payment, your relocation assistance agent will inspect the replacement dwelling and determine whether it is a DSS dwelling. Please understand that this inspection is for the sole purpose of determining your eligibility for a replacement housing payment. You must not interpret your agent's approval of a

dwelling as meeting DSS requirements to provide an assurance or guarantee that there are no deficiencies in the dwelling or in its fixtures and equipment that may be discovered at a later date.

It is your responsibility to protect your best interest and investment in the purchase or rental of your replacement property. You must understand that the Department will assume no responsibility or blame if structural, mechanical, legal or other unforeseen problems are discovered after the inspection has been conducted.

As a displaced tenant, am I eligible to receive a payment to help me obtain replacement housing?

Yes. If you have occupied the dwelling for at least 90 days prior to the date negotiations were initiated to purchase the property. There are two types of financial assistance available to you in the purchase or rental of replacement housing: (1) a payment up to \$5,250 to enable you to lease or rent a DSS dwelling; or (2) a payment up to \$5,250 to enable you to make a down payment, including certain incidental expenses on the purchase of a DSS dwelling. The payment amount you may be eligible to receive with either of these options is determined in the same manner as previously described for displaced homeowners. The rental assistance payment as determined by your relocation assistance agent would be the total amount you would be eligible to receive regardless of which option you exercise.

As an owner or tenant living in a mobile home, am I eligible for relocation assistance?

Yes. You may be eligible for the costs of moving the mobile home to a new location, a supplemental payment to make up the difference for a higher rental or a higher purchase amount you must pay for a replacement site or a supplemental payment to enable you to make a down payment on a replacement site. Determination of payment and payment limits are the same as for homeowners or tenants, as the case may be, and your relocation agent will provide assistance in helping you relocate.

Can the Department build me another dwelling?

Yes. If a highway project cannot proceed to actual construction because comparable replacement sale or rental housing is not available, and the Department determines that such housing cannot otherwise be made available, it may take necessary and appropriate action to provide housing through the use of funds authorized for this purpose.

Are relocation payments tax free?

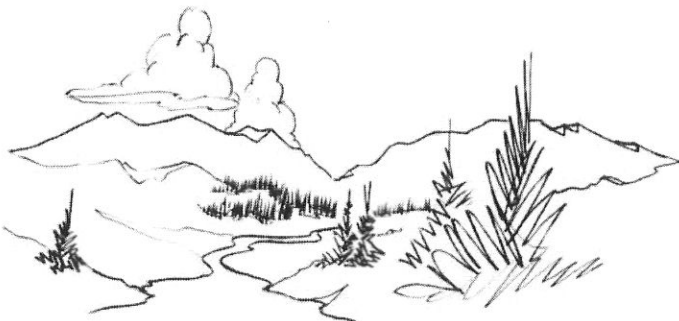
Any relocation payments received from the Department shall not be considered as income or as resources to any recipient of public assistance and will not be deducted from the amount of aid that otherwise would be due the recipient.

How and when do I make a claim for a relocation payment?

A relocation agent will furnish claim forms and assistance in filling them out for reimbursement of moving expenses and for replacement housing payments. All claims for a relocation payment must be filed with the state within 18 months as follows: (1) for tenants, the date of displacement; and (2) for owners, the date of displacement or the date of final payment for acquisition of the real property, whichever is last.

Can I appeal a relocation payment?

Yes. You may appeal to the State Right-of-Way Administrator, then to the Transportation Commission of Wyoming or the Wyoming Department of Transportation and finally to the District Court. The time limit for filing an appeal is within 120 days after you receive written notification from the state as to the determination on your claim.



This concludes our presentation of some of the typical matters faced in right-of-way acquisition and relocation assistance.

This booklet attempts to acquaint you with your rights and the responsibility of the state and its representatives to protect those rights.

If at any time you have questions or need additional information or desire copies of any federal or state regulations concerning Public Law 91-646 (Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and amendments thereto or would like a Spanish version of this booklet), please feel free to write, call or visit the Right-of-Way Administrator, Wyoming Department of Transportation, 5300 Bishop Blvd., Cheyenne, Wyoming 82009-3340, telephone (307) 777-4466 or toll free 1-888-570-9908.

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Please Note: "Title VI of the Civil Rights Act of 1964 provides: No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participating in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

NOTES

