



Summary of Right-of-Way Activities

Presented by

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Right of Way Office & Legal Counsel

What we will discuss today

- Laws & Regulations Concerning Right-Of-Way (ROW) procedures
- The Role of the ROW Office
 - Project Planning – Identification of Property Owners
 - Appraisal
 - Review Appraisal
 - Acquisition
 - Relocation
 - Filing of deeds & easements
 - Property management – including vacating property no longer needed
 - History of DOT and Right-of-Way Ownership Types



Laws and Regulations for Property Acquisition

Federal Laws and Regulations

Federal Law - passed by U.S. Congress:

- 23 US Code – Highways.
- 42 US Code – Transportation.

Code of Federal Regulations:

- 49 CFR Part 24 – Transportation.
- 23 CFR Part 710 – Highways.

The Uniform Act

State Laws and Regulations

The South Dakota Constitution (Article VI, Section 13) and state statutes require that when property is taken for a highway construction project, the state must provide the landowner with just compensation for the taking. The term just compensation as provided for in the constitution and statute is the full market value of the property at the time of taking. The measure of just compensation in cases involving a partial taking is the difference between the market value of the unit before the taking and the market value of what remains after the taking.

The policies and procedures are set forth in the SD DOT Right of Way Program Manual.

The Uniform Act

The Federal law governing relocation assistance and real property acquisition.



How is the Act Applied?

1. Appraise properties unless
 - The landowner donates his/her property & releases state from this obligation
 - Agency determines that an appraisal is unnecessary and a Estimate of Value is prepared
2. Allows owner to accompany the appraiser.
3. Establishes just compensation.
4. Negotiate and purchase property.
5. Assist land owners and tenants with relocation.





Valuing the land needed for a project

- Donation
- Established payment for low value acquisitions
- Waiver Valuation (if simple straight forward acquisition AND under \$25,000)
- Appraisal



Appraisal for Eminent Domain Situation

Appraisals for eminent domain proceedings are different than those done for lending or insurance purposes:

- Appraisers value the fee simple interest of the property - the cleanest title to property available under civil law; although it cannot be absolute, it presumes that there is no other claim to ownership to the property.
- The valuation is made without regard to the value of easements or leaseholds that may be attached to the property.
- The owner of the property being appraised must be offered an opportunity to accompany the appraiser during the inspection of the property.
- The definition of Market Value is unique to ROW needs
- Non-compensable items are not included



Appraisal Review

All appraisals used under the Uniform Act are subject to the review and approval by a review appraiser prior to the commencement of negotiations. The total appraisal process is not complete until the review of the appraisal has been completed and a determination made as to whether the work performed by the appraiser adequately supports the market value opinion for the property. The review appraisal will provide the basis for the written offer to the property.



Real Property Acquisition

- Sensitive topic to the public – involving direct contact between SDDOT and people affected by transportation projects. In most cases the land is “not for sale” at the time property acquisition is needed for a highway improvement project.
- SDDOT primary goal regarding real estate acquisition is to acquire right-of-way through negotiation – avoiding condemnation process whenever possible.



When Negotiations Fail

Three Alternative Settlement Techniques:

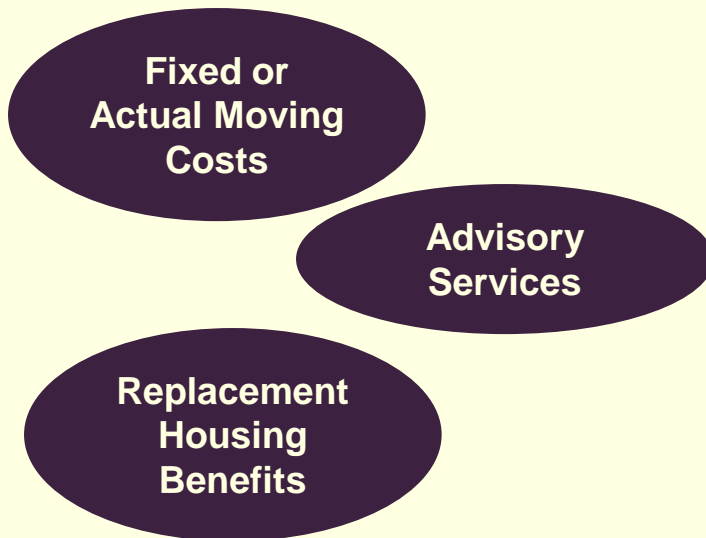
- Administrative Settlements.
- Alternative Dispute Resolution - Mediation.
- Eminent Domain and the Condemnation Process.



Relocation Payments and Services

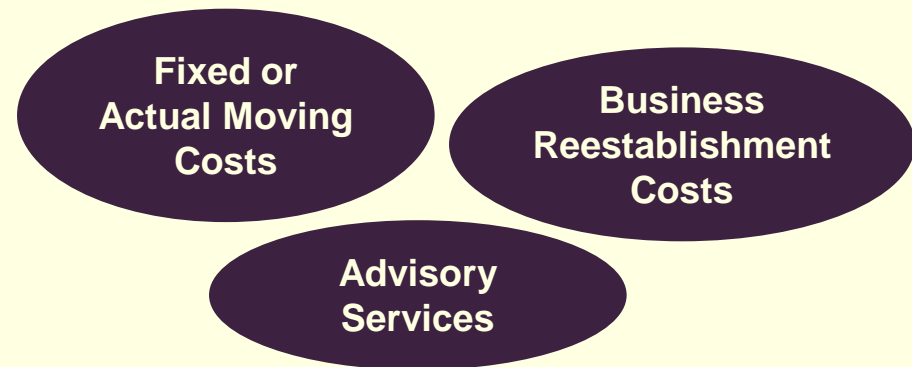
Residential:

- Moving costs (based on fixed amount or actual cost).
- Advisory services.
- Replacement Housing Benefits.



Nonresidential:

- Moving costs (fixed or actual) including searching expenses.
- Business reestablishment costs.
- Advisory services.



Farmstead Relocation Example

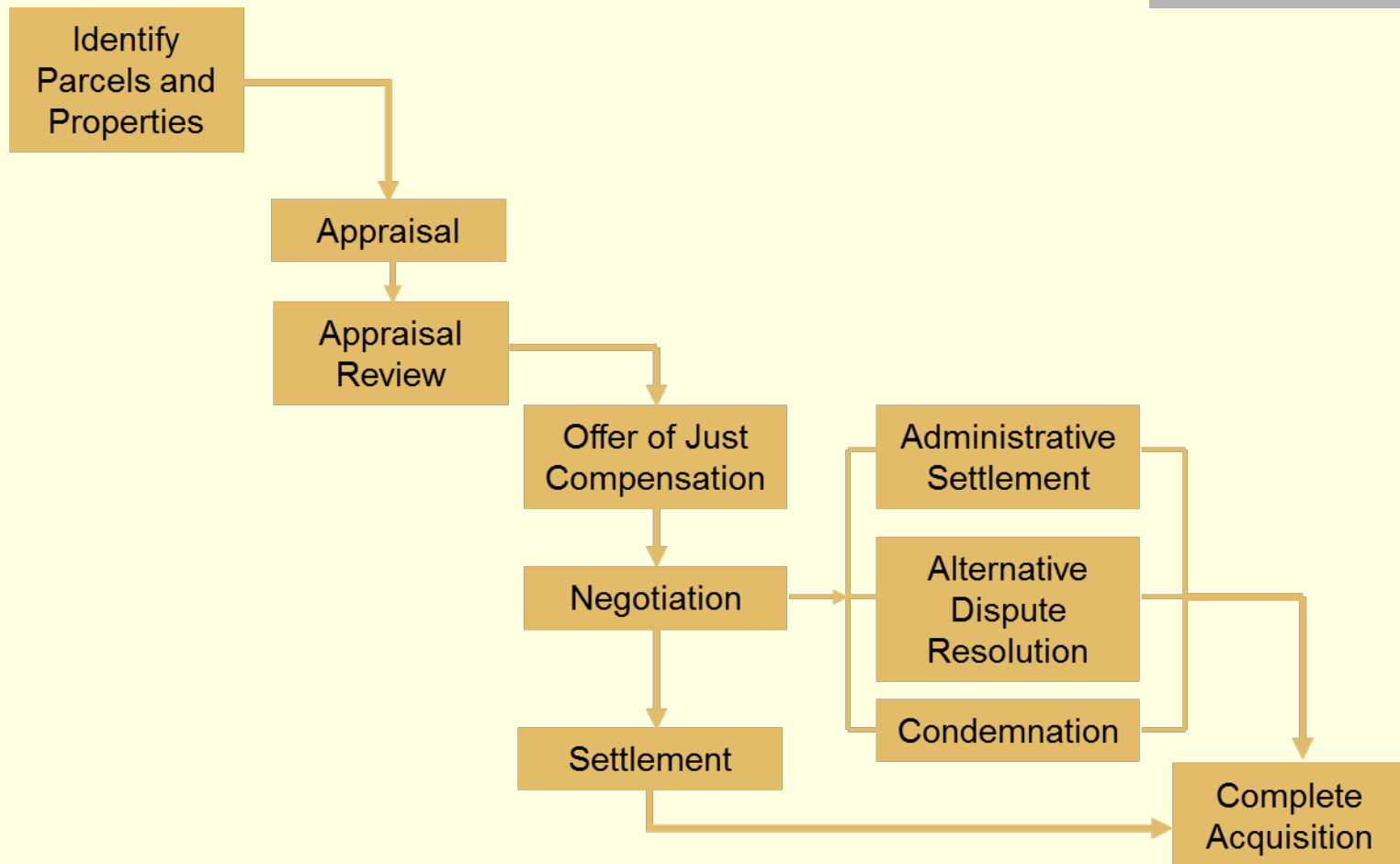
■ Before



■ After



Steps in the Acquisition Process



After property is acquired

- Lien Releases
- Record Deeds & Releases
- Manage property and ROW



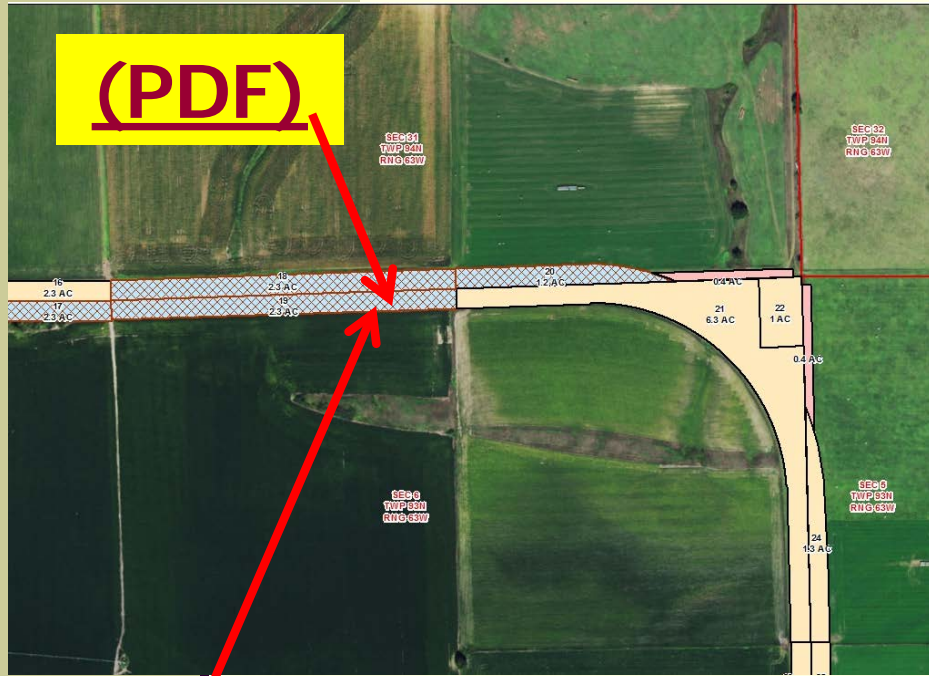
After property is acquired: Transportation Commission Action items

Any time there is a change in property interests DOT holds, the Transportation Commission must approve the proposed action. These typically are:

- Abandonment
- Transfer
- Trade/Exchange



Improve Retrieval of Property Records



Parcel Maintenance for -- Project ID: 23998 -- Project No.: 10907(07)295 -- PCN:

File Parcel Landowner Report

Parcel #: 3 County: Aurora Participating?

Section: 7 Township: 103N Range: 66W Meridian: 5th P.M.

Property Description: Microfilm Roll #: Relocation?

W1/2 SW1/4 of Section 7 - Township 103 North - Range 66 West of the 5th P.M.

Taking note ----- Lot(s)/Acre/Square Feet:
LOT H2 CONTAINS 7.47 ACRES

Total Parcel Area: 7.47 Measurement Unit: Acres

Documents:

Type of Document	Date	Recording Data
Plat	05/07/1964	BK 4 PG 9
Warranty	05/07/1964	BK 44 PG 365

Type of Acquisition:
 Control of Access
 Condemnation
Ownership Type: Permanent Easement

Type of Disposal:
Resolution Type: Resolution:

ROW Remarks:

Save Parcel

Validated Parcel

Name: Herbert Glissendorf & Anna Glissendorf Type: P

Search Name: Full Name: Last Name: Address: City/State/Zip: Email: Home Phone #: Cell Phone #: Business Phone #: Landowner Relationship: Add New Owner to Parcel

Parcel	Sec	Twp	Ra..	Property Desc
10	16	103N	66W	NE1/4 SW1/4 of Section 16 - Township 103
24	14	103N	66W	E1/2 SE1/4 of Section 14 - Township 103
19	14	103N	66W	Lots 3 and 4 in Block 1 in the SW1/4 of S
20	20	103N	66W	Lots 5, 6, 7, and 8 in Block 1 in the SW1/4 of

HW07 ROW Parcel Inventory

File Project Strip Parcel Table Maintenance Reports Help

Search For: PCN Project ID 023998 Section Township Range

Project Nbr 295 County Parcel Claim

Owner Property Description

Search Reset Exit

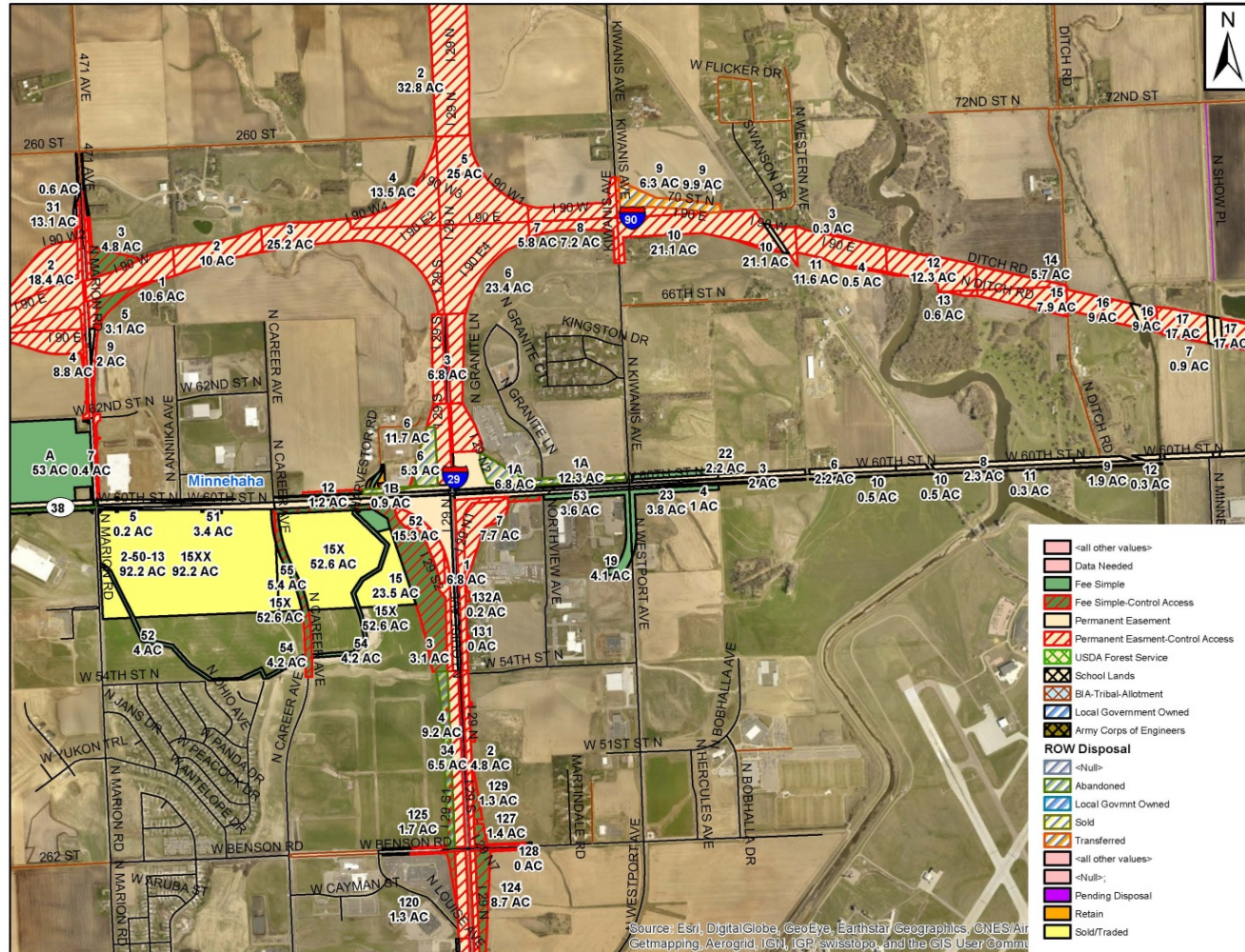
Parcel	ProjectNbr	PCN	County	Section	Twp	Range	Description	MailingOwner
1	10907(07)295	Aurora	Aurora	7	103N	66W	S1/2 NW1/4 of Section 7 - Township 103 North - Range 66 West of the 5th P.M.	Glissendorf P.M.
2	10907(07)295	Aurora	Aurora	7	103N	66W	S1/2 NE1/4 of Section 7 - Township 103 North - Range 66 West of the 5th P.M.	Glissendorf
3	10907(07)295	Aurora	Aurora	7	103N	66W	W1/2 SW1/4 of Section 7 - Township 103 North - Range 66 West of the 5th P.M.	Glissendorf
3A	10907(07)295	Aurora	Aurora	7	103N	66W	E1/2 SW1/4 of Section 7 - Township 103 North - Range 66 West of the 5th P.M.	Glissendorf
4	10907(07)295	Aurora	Aurora	7	103N	66W	N1/2 SE1/4 of Section 7 - Township 103 North - Range 66 West of the 5th P.M.	Glissendorf
5	10907(07)295	Aurora	Aurora	8	103N	66W	SW1/4 of Section 8 - Township 103 North - Range 66 West of the 5th P.M.	Glissendorf
6	10907(07)295	Aurora	Aurora	8	103N	66W	SE1/4 of Section 8 - Township 103 North - Range 66 West of the 5th P.M.	Glissendorf
7	10907(07)295	Aurora	Aurora	17	103N	66W	N1/2 NE1/4 of Section 17 - Township 103 North - Range 66 West of the 5th P.M.	Delaney

Computer: TRPR13747 | User role: ROW Tech | Database: Production |

ProjectParcelID	Reference	COMMENTS	SHAPE_Leng	SHAPE_Area	AUTHOR	PROJECT_NAME	ProjectParcelID	ProjectID	ProjectCtrNbr	ParcelID	ParcelNbr	StrtPa
0175657	U:\rfd\Misc\Microfilm\Plats\02112.pdf		2745.20004130000	44206.78360130000	HAUGEN	FI 61110	0175657	17565		38404	7	7
0175659	U:\rfd\Misc\Microfilm\Plats\02112.pdf		2725.95374752000	43949.02751780000	HAUGEN	FI 61110	0175659	17565		38402	9	9
0175658	U:\rfd\Misc\Microfilm\Plats\02112.pdf		2964.96277465200	42876.61974820000	HAUGEN	FI 61110	0175658	17565		38403	8	8
0175652	U:\rfd\Misc\Microfilm\Plats\02112.pdf		2705.90026660000	43037.96730000000	HAUGEN	FI 61110	0175652	17565		38396	5	5
0175655	U:\rfd\Misc\Microfilm\Plats\02112.pdf		2705.99964600000	43559.82480800000	HAUGEN	FI 61110	0175655	17565		38405	6	6
0175653	U:\rfd\Misc\Microfilm\Plats\02112.pdf		5513.55657470000	89883.56195270000	HAUGEN	FI 61110	0175653	17565		38397	3	3
01756512	U:\rfd\Misc\Microfilm\Plats\02112.pdf		2706.83766764000	41559.45470510000	HAUGEN	FI 61110	01756512	17565		38399	1	1
0175610	U:\rfd\Misc\Microfilm\Plats\02112.pdf		5302.59655843000	89159.99188020000	HAUGEN	FI 61110	0175610	17565		38401	10	10
0175656	U:\rfd\Misc\Microfilm\Plats\02112.pdf		2833.79955250000	45666.72089110000	HAUGEN	FI 61110	0175656	17565		38402	6	6
0175654	U:\rfd\Misc\Microfilm\Plats\02112.pdf		2653.11696136000	42686.38154370000	HAUGEN	FI 61110	0175654	17565		38407	4	4
0175651	U:\rfd\Misc\Microfilm\Plats\02112.pdf		2653.58997647000	42693.36593980000	HAUGEN	FI 61110	0175651	17565		38395	1	1
01756511	U:\rfd\Misc\Microfilm\Plats\02112.pdf		5129.79271416000	87750.39664710000	HAUGEN	FI 61110	01756511	17565		38398	11	11
0175613	U:\rfd\Misc\Microfilm\Plats\02112.pdf		2628.21289940000	39571.62880400000	HAUGEN	FI 61110	0175613	17565		38400	11	11
0239981	6097.48411312000		60476.80228740000	REDMAN	0907(07)295	0239981	23998			5261	1	1
0239983	5387.49813064000		334068.97160200000	REDMAN	0907(07)295	0239983	23998			27402	3	3
0239984	3965.71607012000		721975.16913800000	REDMAN	0907(07)295	0239984	23998			5264	4	4
0239985	4587.61483817000		852716.72071200000	REDMAN	0907(07)295	0239985	23998			5265	5	5
0239982	3195.38110562000		158076.99140700000	REDMAN	0907(07)295	0239982	23998			5262	2	2
0239983A	ASSUMED QUARTERLINE		2940.88171740000	287252.19698800000	REDMAN	0907(07)295	0239983A	23998		5263	3A	3A
0239986	USED HWY 16 ROW		13853.95703000000	606587.17964700000	REDMAN	0907(07)295	0239986	23998		5266	6	6
0239987	USED HWY 16 ROW		13465.19974390000	592636.73464600000	REDMAN	0907(07)295	0239987	23998		5576	7	7
0239987A			8311.75278460000	198483.56480360000	REDMAN	0907(07)295	0239987A	23998		79796	7A	7A

TABLES JOINED BY 'ProjectParcelID' FIELD

I 90 & I 29 in Northwest Sioux Falls South Dakota



SDDOT History – The Roots

- Dakota Territory created in 1861 – Legislation provided for six roads.
- 1868 the first road law went into effect providing revenue for road upkeep. Citizens could either pay an annual tax of \$2.50 or work two days to help maintain the roads.
- 1917 SDDOT is created.
- 1919 Transportation Commission is created through SB 220 to help direct construction and maintenance of the road infrastructure for South Dakota. The first meeting was held April 7, 1919.

SDDOT History of Right-of-Way “Buying the Land”

- Before July 1, 1939 – No Purchase Power – Counties acquired.
- July 1, 1939 to July 1, 1986 – ROW Purchase
 - State could purchase right-of-way (ROW), but not fee interest needed for highway construction. State could hold fee interest in property (land).
 - Supreme Court Ruling from cases determined: All ROW could only be acquired by a Highway Use Deed (permanent easement) Most ROW in this time period was acquired with a warranty deed – Supreme Court ruling makes title work a challenge for this time period. When this ROW is no longer needed, the state will abandon its interest & ROW will revert to former owner or assigns.
- After July 1, 1986
 - State given authority to purchase ROW in Fee Title. SDCL 31-19-42
 - Through condemnation proceedings, the State is granted permanent easement only. When this ROW is no longer needed for highway purposes, the state will abandon its interest & the ROW will revert to former owner or assigns.
- July 1, 2010 – Local governments given authority to purchase ROW in Fee Title.

An Interesting Appraisal, Relocation and Acquisition Challenge



Your House As Seen By Yourself...



Your House As Seen By Your Lender...



Your House As Seen By Your Buyer...



Your House As Seen By Your Appraiser...



Your House As Seen By Your County Tax Assessor...

