

Design Standards Letter

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Section/Plan No.: None

Subject: Determination of Utility Owner's Rights for Reimbursement for Facilities Located on Private Right-of-Way

Body

RIGHT OF WAY

LEGAL

Determination of Utility Owner's Rights for Reimbursement for
Facilities Located on Private Right-of-Way

ALL DISTRICT ENGINEERS:

The Commission's "Policy on Division of Costs for Adjustment of Privately and Municipally Owned Utility Facilities Due to Highway Improvements" provides for reimbursement to the owner of those facilities located on private easement which must be relocated to permit construction of a highway improvement.

This General Letter is written to establish uniform procedures in determining whether or not owners of utility facilities have reimbursable rights for those facilities which must be adjusted and are not presently located on public right-of-way. Generally, these facilities will be occupying private right-of-way under one of the following conditions:

1. By right of an easement, which is recorded in the recorder's office in the county in which the facility is located.

Right of Way personnel are to obtain details of all recorded utility easements through their usual title search and furnish this information to the District Utility Engineer for his further handling.

2. By right of written permission or easement which has not been recorded.

The Surveys and Plans Utility Engineer is to contact the utility owner to ensure there is documentary right and, if possible, obtain copies of all written easements or grants possessed by the utility owner, which have not been recorded.

3. By verbal permission.

When occupation rights for utility facilities are based on verbal agreement, confirmation is to be obtained in writing from the landowner by Right of Way personnel. Situations will obviously occur where the original landowner has passed away or has conveyed the property to someone else. Full details of the verbal permission in these situations should be submitted by the District to the Chief Counsel for a legal determination of Commission's obligation for reimbursement. Copies of this correspondence should be furnished the Division of Surveys and Plans. The legal decision will be sent to the District, with a copy to the Division of Surveys and Plans, for further negotiations with the utility owner toward the preparation of any necessary utility agreement.

If there are any questions concerning the above procedures, please advise.

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