


R/W MANUAL CHANGE

RWMC- 211

PROCEDURAL HANDBOOK
 (1984 Edition)

RWPH-____-____-____
 TRANSMITTAL#____

TITLE: RIGHT OF WAY ENGINEERING	APPROVED BY:  MARK S. TURNER	DATE ISSUED: JUN 30 2011
	Page 1 of 1	
SUBJECT AREA: CHAPTER 6 - RIGHT OF WAY ENGINEERING	ISSUING UNIT: OFFICE OF LAND SURVEYS	
SUMMARY OF CHANGES: Revises Exhibit 6-EX-9, "Certificate of Sufficiency," and updates Sections 6.11.00.00 and 6.12.00.00, including Tables of Contents.		

PURPOSE

This manual change revises the Right of Way Exhibit 6-EX-9, "Certificate of Sufficiency," to update and revise the title of Hazardous Materials Disclosure Document (HMDD), formerly Hazardous Substances Disclosure Document, used in the exhibit.

Sections 6.11.00.00 and 6.12.00.00 were rewritten to provide the latest process and procedures for Vacations and Relinquishments. Hyperlinks were provided for applicable California Codes and available Caltrans manuals.

Formatting update was applied.

PROCEDURES

Sections

- 6.11.00.00 Revises the process and procedures for Vacations.
- 6.12.00.00 Revises the process and procedures for Relinquishments.

Exhibits

- 6-EX-9 Revises the Certificate of Sufficiency to reflect the HMDD.

EFFECTIVE DATE

Immediately.

MANUAL IMPACT

- Remove the superseded pages and insert the attached pages in the Manual.
- Record the action on the Revision Record.

REVISION SUMMARY

<u>Chapter</u>	<u>Remove Old Pages</u>	<u>Insert New/Revised Pages</u>
	Remove the following in its entirety:	Replace with the following in its entirety:
6 - Sections	Table of Contents (REV 7/2010) 6.11.00.00 6.12.00.00	Table of Contents (REV 7/2011) 6.11.00.00 (REV 7/2011) 6.12.00.00 (REV 7/2011)
6 - Exhibits	Table of Contents REV 12/2004 6-EX-9 (NEW 12/2004)	Table of Contents REV 7/2011 6-EX-9 (REV 7/2011)

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6.11.00.00 - VACATION

6.11.01.00 **General**

A vacation is an action by the California Transportation Commission (CTC) by which the public right of use is removed from State highway right of way, which is held as an easement ([Section 8309](#) of the [Streets and Highways \(S&H\) Code](#)). The easement is removed from the title of the underlying fee owner by vacation procedures described in the following sub-Sections. If State right of way is held in fee, the land should be disposed of as described in Section 6.13, "Director's Deeds," of this manual.

In addition to a vacation, an alternative method of the disposal of easement areas would be by Director's Deed in accordance with [Section 118](#) of the S&H Code. Cost effectiveness is the basis for determining which method is used.

6.11.02.00 **Local Agency Consent**

[Section 8330.5](#) of the S&H Code - requires that a superseded highway, or portion thereof, to be vacated, must first be offered for relinquishment to the local agency.

[Section 8313](#) of the S&H Code - requires that a vacation should not conflict with the local master plan in effect for the area.

[Section 892](#) of the S&H Code - requires that highway right of way shall not be vacated until the local agency has indicated it does not need the right of way for nonmotorized transportation, as defined in [Section 887](#) of the S&H Code.

All vacations shall be offered to local agencies using the sample letter shown in Exhibit 6-EX-6 of this manual, which explains provisions of each Section of the S&H Code in detail. If a Right of Way (R/W) contract predates former [Section 2381 \(now Section 892\)](#), which was the first of the above three sections to be added to the S&H Code (September 30, 1975), a statement may be added to the letter that refers to the R/W contract. A second letter should be sent to the local agency, certified mail return receipt requested, if no reply is received within 90 days of the first letter.

NOTE: If particular local agencies have a history of "non replies" in your District, use Certified Mail and request a "Return Receipt" for the first letter.

It is the policy of the Office of Land Surveys at Headquarters (HQ) that a R/W contract signed prior to September 30, 1975 providing for vacation of superseded State highway to the grantor does not preclude compliance with the above noted sections of the S&H Code. Any local agency with plans to use the area proposed for vacation will be referred back to Caltrans Legal Division for final disposition. That portion of a R/W contract providing for vacation that is signed after this date is invalid unless consent of the local agency has already been obtained.

Local agency clearance is not required for vacation of highway right of way across Federal lands.

6.11.03.00 **Status of Vacations**

The District shall prepare and maintain an up-to-date listing of vacations that need to be completed. The list should include current status and reasons for any delay in completing the vacation process on schedule. The status shall contain sufficient information to describe without undue investigation the latest completed step in the vacation process. The listing will be submitted to HQ on a quarterly basis.

Vacations shall be entered on the status not later than 30 days after award of a construction contract for a project that contains highway right of way requiring vacation.

Vacations that are a result of policy change but are not connected with new construction projects shall be entered on the vacation status within 90 days of the issuance of the policy change.

Vacations that are a result of right of way requirement changes not connected with new construction projects shall be entered on the vacation status at the time right of way changes are completed on R/W Record Maps.

6.11.04.00 **Legal Description**

Descriptions of State highway right of way to be vacated may be described in general terms sufficient to identify the area to be vacated, provided definite terminal limits are described. Where the highway right of way to be vacated is adjacent to the new State highway, the common boundary between right of way to be vacated and right of way to be retained must be described or defined by some recorded reference or by an actual description of said line.

Caltrans may, in accordance with [Section 128](#) and [Section 129](#) of the S&H Code, file vacation maps in State Highway Map Books and then vacate by reference to the filed maps. Filed maps must contain the same basic information required when a vacation is entirely by description.

Requirements for Vacation Maps are described in [Section 4-14](#) of the [Plans Preparation Manual](#).

6.11.04.01 **Utility Reservations**

No vacation recommendation should go to the CTC without first determining the presence of any utility encroachments. This will require close working relations between R/W Engineering and District Utilities, Permits and Maintenance Sections.

Whenever facilities belonging to utility owners are within the area to be vacated, Districts will advise the owners and determine whether they wish utility reservations as provided in [Sections 8340 and 8341](#) of the S&H Code. If owners desire reservations, a clause should be included in the legal description used for vacation.

Reservations shall include the identities of affected utility owners in all cases. A separate reservation clause for each affected utility company shall be included in the legal description as follows:

EXCEPTING AND RESERVING to the (name of owner, e.g., Pacific Telephone and Telegraph Co.) an easement and right at any time, or from time to time, to construct, maintain, operate, replace, remove, renew, and enlarge the existing public utility facilities, namely, (insert description of the facilities with as much specificity as possible, e.g., underground telephone lines) and facilities incidental thereto, including access to protect the property from all hazards, in, upon, under and over the highway herewith vacated.

Care should be exercised in using this clause when the vacation is over Federal lands. If the Department acquired a highway easement from a Federal agency, it is possible that the vacation may terminate all prior rights upon cessation of highway use. In this case, the utility company should apply for rights from the Federal agency.

6.11.04.02 **Access Restrictions**

If access is to be restricted between the vacated road and an adjacent State freeway, the following clause is to be added at the end of the legal description:

EXCEPTING AND RESERVING to the State of California any and all rights of ingress to and egress from the highway hereby vacated in and to the adjacent and adjoining freeway, except at such points as now are or may be established by resolution of this Commission.

It should be noted that [Section 30609.5](#) of the [Public Resources Code](#) (PRC) restricts the sale or transfer of State lands located between the first public road and the sea. Said restrictions preserve existing or potential access rights to and along a sea.

6.11.05.00 **Scheduling Vacation Resolutions**

The District Director shall appoint staff with the duty of preparing requests for all vacation resolutions. Each request shall be assigned a request number. This number shall be the basic reference when communicating with HQ regarding a specific resolution.

In order to prevent premature CTC action on vacations, HQ will obtain written clearance from the District prior to scheduling specific requests on the CTC's agenda. District clearance may be in the form of a letter or e-mail which clearly states the vacation is clear to proceed to the CTC for action.

6.11.06.00 **Preparation of Requests**

The request for vacation resolution by the CTC shall be prepared and submitted to the Chief, Office of Land Surveys, Division of Right of Way and Land Surveys, Attention: Relinquishment and Vacation Coordinator, with the personal recommendation of the District Director. The request shall be in the form of a District Vacation Request Memorandum.

The memo may be submitted electronically and shall contain the following information:

1. District, County, Route, Postmile Range.
 - Include number of segments.
 - Include name of the local agency where the relinquishment is located.
 - Include Contract Number and Project Limits.
 - Include date of acceptance or anticipated date of construction completion.
2. Describe location of proposed vacation by descriptive limits. An example would be to reference the beginning and end points to the nearest existing definable point on the ground, such as a road, street, river or county line. A specific tie to a city limit should never be used because city limits are subject to frequent change.
3. State the manner in which the State acquired title to the segments to be vacated.
4. State whether the property owner will be cut off from access by reason of the vacation ([Section 8330.5\(c\)](#) of the S&H Code).
5. If this vacation is a R/W contractual obligation, attach a copy of the R/W contract.

6. If a utility reservation is necessary, include the reservation needed in the legal description and list the name of the utility owner.
7. State whether or not access rights are to be reserved and give details.
8. Describe any special conditions that may exist:
 - a. Is the proposed vacation within U.S. Forest Service land?
 - b. Does the proposed vacation involve a railroad grade crossing? Include the Public Utility Commission decision number by which consent was given.
 - c. Can the proposed road be used for stock trail purposes? Give District recommendation ([Section 105](#) of the S&H Code).
 - d. Can the superseded road be used for maintenance stockpile areas?
 - e. Does the vacation involve Tribal Lands? Give District recommendation.
 - f. Include any additional comments.
9. State whether the vacation complies with [Sections 892](#), [8313](#), and [8330.5](#) of the S&H Code. This statement is used by HQ when preparing agenda letters recommending approval of vacation resolutions by the CTC.
10. State whether the vacation involves public access to the sea ([Section 30609.5](#) of the PRC).

NOTE: Mileage of highway proposed to be vacated does not need to be submitted.

In addition to the District Vacation Request Memorandum, the following items shall be included in the vacation request package. This package may be submitted in digital format and e-mailed as attachments, such as *pdf*, except for the legal description which must be on bond paper, signed and sealed by a licensed land surveyor, and mailed.

- A. An original legal description of the right of way to be vacated and one copy. Vacation descriptions shall be submitted, double-spaced, on 8-1/2" x 11" bond with 1-1/2" margin at the top and 1" margin at the bottom and sides, except the last page shall have a 3" minimum margin at the bottom. Legal descriptions should include a utility reservation clause and access clause, if applicable.
- B. A copy of the letter from Caltrans to the local agency regarding Sections 892, 8313, and 8330.5 of the S&H Code and a copy of the letter from the local agency affected, stating it has no objection to the vacation. In the absence of a letter from the local agency, a copy of both sides of the certified mail and signed return receipt showing proof of a second attempt to notify the local agency is sufficient.
- C. One set of unrecorded vacation maps. After HQ review and approval of the unrecorded maps, the District will be requested to record the maps and submit a copy of the recorded map for inclusion in the vacation package to be forwarded for review to Design and Legal at Headquarters.

NOTE:

- a. When bearings and distances used on maps or in descriptions are based on the California Coordinate System, identify the datum as either 1927 or 1983 and state the zone (California Public Resources Code Sections 8801, 8802, and 8815).
- b. The final maps or legal descriptions shall include: the signature, seal, date of signing, and expiration date of the license on the title sheet of the relinquishment map or legal description by the person in responsible charge ([Section 8761](#) of the [Business and Professions Code](#)).

6.11.07.00 **Recordation of Vacations**

The District, upon receipt of certified copies of the CTC's resolution authorizing the vacation of highway right of way, shall file a certified copy with the county (Board of Supervisors) and record a certified copy in the Recorder's Office of the county in which the vacated right of way is located. Upon such recordation, the vacation is complete.

The District shall submit to HQ for filing, a copy of the recorded CTC vacation resolution. The District shall also update the Right of Way Record Maps to reflect changes made by the approved vacation and inform the District's Maintenance Office and other interested offices in the District of the approved vacation.

NOTES:

6.12.00.00 - RELINQUISHMENTS

6.12.00.01 **General**

A relinquishment is a conveyance of all rights, title and interest to a State highway, or portion thereof, to a county or city. It must be approved through a resolution by the California Transportation Commission (CTC).

For additional information on the Relinquishment process, see [Chapter 25](#) of the [Project Development Procedures Manual](#).

6.12.00.02 **Definitions**

The following list includes definitions to common terms used throughout this section. Links and references to applicable laws, codes and references have been made to assist with further definition and context usage.

Collateral Facilities: a commonly used term for roads and appurtenances constructed in connection with a freeway or conventional highway project not needed for continuity of the State freeway or State highway. Examples are frontage roads, road connections, relocated or reconstructed roads and cul-de-sacs, and areas used by pedestrians, bicyclists, and equestrians. Facilities that are appurtenant may include landscaping, slope, and drainage or basin areas.

Freeway: highway in respect to which the owners of abutting lands have no right or easement of access to or from their abutting lands or in respect to which such owners have only limited or restricted right or easement of access. ([Section 23.5](#) of the [Streets and Highways \(S&H\) Code](#))

Highway: includes bridges, culverts, curbs, drains, and all works incidental to highway construction, improvement, and maintenance. ([Section 23](#) of the S&H Code)

Legislative Deletion: using legislative action to delete a portion of a state highway from the State Highway System that no longer serves interregional or statewide transportation needs.

Nonmotorized Transportation Facility: pedestrian ways, bikeways, and equestrian ways. ([Section 887](#) of the S&H Code)

State of good repair: term used to mean a safe, drivable, well-maintained road, as used in [Section 73](#) of the S&H Code. It does not include betterment or capacity increasing improvements.

Superseded Alignment: a state highway that has been built (relocated) or realigned from the existing alignment.

6.12.01.00 **Policy**

It is the policy of the California Department of Transportation (Caltrans) to relinquish all interests in State highways deleted by legislative enactment, State highways superseded by relocation, and adjacent public ways (collateral facilities) which have been constructed as part of a highway project but are not essential to the proper functioning of the State highway facility ([Section 73](#) of the S&H Code).

Relinquishments are unnecessary for adjacent public ways improved as part of a State highway project if there was no additional acquisition of title. These adjacent public ways lie outside of Caltrans' normal operating right of way.

Relinquishment policy for projects financed solely from State funds is similar to Federal Aid projects (see [Code of Federal Regulations](#), Title 23: Highways, Part 620, Subpart B-Relinquishment of Highway Facilities). Federal and State authorities have agreed to acceptable relinquishment procedures on all Federal Aid projects. The procedures are as follows:

- A. Sections of the *State highway superseded by construction on a new location* are usually relinquished to local authority for control, maintenance and operation. According to [Section 73](#) of the S&H Code, the commission shall not relinquish to any county or city any portion of any state highway that has been superseded by relocation until the department has placed the highway, as defined in [Section 23](#) of the S&H Code, in a state of good repair.

Under these circumstances, a section of highway superseded by construction of a new project, approved by the Federal Highway Administration (FHWA) as the new location of the particular Federal Aid route, is not a part of the Federal Aid highway system and the superseded section may be disposed of without referral to the FHWA. Federal Aid funds may not participate in rehabilitation work performed for the purpose of placing the road to be relinquished in a condition acceptable to the local authority.

- B. In connection with freeway projects, *reconstructed local facilities*, that are located outside access control lines, such as turnarounds of severed local roads or roads adjacent to the freeway right of way, and local roads and streets crossing over or under the project that have been adjusted in grade and/or alignment, including any new right of way required for adjustments, are relinquished to local authorities for control, maintenance and operation. Structures over or under the freeway within the State highway right of way lines are retained under State jurisdiction.

Under these circumstances, the State obtains custody of the local facilities. Any new right of way required for adjustments, and only for the time necessary for performing the construction involved in the adjustments, never become a part of the State highway system or Federal Aid highway system. These local facilities may be allowed to revert to local custody without referral to the FHWA. Eligibility of such adjustments for Federal Aid participation is as determined at time of Plans, Specifications & Estimates (PS&E) approval under policies of the FHWA.

- C. Frontage roads, or portions of frontage roads not necessary as extensions of freeway ramps to connect the freeway with the nearest crossroads or streets, are constructed generally parallel to and outside of the access control lines of the freeway. This permits access to private properties, and thus reduces or eliminates claims for severance damages by those whose access rights are affected by freeway construction. This also restores local travel circulation that has been disrupted by the severing or adjustment of local streets and roads. Such frontage roads, or portions thereof, are relinquished to the local authority for control, maintenance and operation.

Frontage roads constructed under these conditions are not a necessary part of the State highway system or the Federal Aid system and may be relinquished to local public authority without referral to the FHWA. Eligibility of such frontage roads for Federal Aid participation will be as determined at the time of PS&E approval under policies of the FHWA.

- D. Frontage roads, or portions of frontage roads outside access control lines of the freeway, are constructed to serve (in lieu of or in addition to the purposes outlined under C. above) as connections between ramps to or from the freeway and existing public roads or streets. In effect, these become part of the ramps, and are retained in the custody of the State for control, maintenance and operation. A frontage road, or portion of a frontage road, which serves as an extension of a ramp from a freeway to a local public road or street, is necessary to the intended functioning of the Federal Aid freeway and may not be released from State jurisdiction without approval of the FHWA.

- E. Ramps are constructed to serve as connections for interchange of traffic between the freeway and local roads or streets. Ramps are generally within project access control lines for the full length except at the point of connection with the local road or street. Ramps are retained in the custody of the State for control, maintenance and operation.

All ramps constructed to serve for interchange of traffic between the freeway and local roads or streets are necessary for the intended functioning of the Federal Aid freeway and may not be released from State jurisdiction without approval of the FHWA.

The State may relinquish to local government jurisdictions, without referral to the FHWA, on a project-by-project basis items A., B., and C. above, subject to the following conditions and understandings:

- Immediately following action by the CTC in approving relinquishment to local governmental jurisdiction of facilities in which there has been participation of Federal Aid funds, Caltrans will furnish the FHWA Division Engineer, for record purposes, a copy of a suitable map, or maps, identified by the Federal Aid project number and the date of the CTC action, clearly delineating the facilities to be relinquished.
- If at any time after relinquishment the relinquished facility is required for proper operation of the Federal Aid freeway, Caltrans will take immediate action to restore such facility to State jurisdiction.
- If at any time a relinquished frontage road, or portion thereof, or any part of the right of way therefore, has been vacated by local governmental authority and a showing cannot be made that the vacated facility is no longer required as a public road, the FHWA may withhold Federal Aid highway funds due the State an amount equal to the Federal Aid participation in the vacated facility.
- In no case shall any relinquishment include any portion of the right of way within the access control lines as shown on the plans for a Federal Aid project approved by the FHWA without prior approval from the FHWA.
- There cannot be additional Federal Aid participation in future construction or reconstruction on any relinquished "off the Federal Aid system" facility unless the underlying reason for such future work is caused by future improvement of the associated Federal Aid highway.

6.12.02.00 Numbering

A number is given to each continuous segment of legislative deletion, superseded State highway, or collateral facility proposed to be relinquished to a single local agency. A continuous segment includes all contiguous right of way, including slope and drainage easements, and is given a single number. Legislative deletions, superseded highway, and collateral facilities are identified by separate numbers (e.g., Segment 1, Segment 2, etc.).

A collateral facility that is one continuous segment on the freeway agreement map will generally carry one segment number on the relinquishment map.

Exceptions may be made in the above-numbering procedure when necessary to expedite the relinquishment process or to clarify unusual situations. Exceptions should be explained in the Relinquishment Request submitted to the Office of Land Surveys at Headquarters (HQ).

6.12.03.00 **Status of Relinquishments**

The District shall prepare and maintain an up-to-date listing of relinquishments that need to be completed. The list should include current status and reasons for any delay in completing the relinquishment process on schedule. The status shall contain sufficient information to describe without undue investigation the latest completed step in the relinquishment process. The listing will be submitted to HQ on a quarterly basis for inclusion in the Division report on Deferred Relinquishments and Vacations, as required by [Deputy Directive DD-52](#).

Relinquishments shall be entered on the status not later than 30 days after award of a construction contract for a project that contains highway right of way requiring relinquishment.

Relinquishments that are a result of policy change but that are not connected with new construction projects shall be entered on the relinquishment status within 90 days of issuance of the policy change.

Relinquishments that are a result of right of way requirement changes not connected with new construction projects shall be entered on the relinquishment status at the time right of way changes are completed on Right of Way Record Maps.

6.12.04.00 **FHWA Approval**

FHWA approval of a proposed relinquishment is required when any portion of the proposed relinquished right of way lies within access control lines as shown on the plans for a Federal Aid project previously approved by the FHWA.

Design determines when access rights are no longer needed. They obtain necessary approvals for disposal from the FHWA. Access rights proposed to be relinquished should be brought to the attention of Design by Right of Way Engineering at the earliest practicable time. This will give Design adequate time to obtain FHWA approval and prevent delay in relinquishment processing. Right of Way Engineering relinquishment files should document the coordinating effort with Design.

Relinquishment requests submitted to HQ involving access rights no longer needed for freeway purposes will contain either a copy of the FHWA approval letter or a statement that Design has obtained FHWA approval.

6.12.05.00 **Local Agency Consent**

[Section 73](#) of the S&H Code authorizes relinquishment only in four situations:

- A. Where a State highway has been deleted from the State highway system by legislative enactment.
- B. When a State highway or portion thereof has been superseded by relocation.
- C. Where frontage or service roads, or outer highways, having a right-of-way of at least 40 feet in width, have been constructed as part of a State highway project but do not constitute a part of the main traveled roadway.
- D. Any nonmotorized transportation facility, as defined in [Section 887](#) of the S&H Code, that has been constructed as part of a State highway project and does not lie within the main traveled way.

In the first two situations, the relinquishment may be made without the consent of the local agency. In the third and fourth situations, the local agency's consent is required. Normally, this consent is given in an agreement or by resolution adopted by the local agency, in a clause which provides for the local agency to accept control and maintenance over each of the “. . . *relocated or reconstructed city streets (or county roads), frontage roads and other State-constructed local roads . . .*” and “. . . *will also accept title to the portions of such roads lying outside the State highway limits upon relinquishment by the State.*”

6.12.05.01 Changes Subsequent to Agreement

When changes occur in the project after an agreement has been executed, an amendment to the original agreement is recommended. In the absence of an amended agreement, or in situations which are appropriate for relinquishment and are not covered by an agreement, a Resolution of Acceptance or Letter of Consent from the legislative body of the county (Board of Supervisors) or city (City Council) shall be forwarded to HQ with the letter of transmittal requesting the relinquishment resolution. It may save time to have included in the resolution or letter a waiver of the *90-Day Notice of Intention to Relinquish*, as required by [Section 73](#) of the S&H Code.

6.12.06.00 Ramp Junction Limits

It is the policy of Caltrans to acquire access rights and to protect such rights with appropriate fencing along interchange ramps to their junctions with the local road system. Details regarding this policy are stated in the [Highway Design Manual](#).

It is the policy of Caltrans that roads that have been constructed as parts of State highway projects, but which will become part of the local road system upon relinquishment, to establish cutoff lines between ramps and roads to be relinquished along normal right of way lines of the local road system of which the roads will become a part. In most cases, cutoff lines will be between the ends of access control fences constructed to protect ramp access rights. Sound engineering judgment must be used in the application of this policy. In no case may facilities, which are essential to proper flow of traffic on freeways, be relinquished. In cases of doubt, Design must be consulted.

6.12.07.00 Legal Description

Descriptions of State highway right of way, deleted by legislative enactment or superseded by relocation, may be described in general terms sufficient to identify the area to be relinquished, provided definite terminal limits are described. Where the superseded highway is adjacent to the new State highway, the common boundary between right of way to be relinquished and right of way to be retained must be described or defined by some recorded reference or by an actual description of said line.

Caltrans may, in accordance with [Section 128](#) and [Section 129](#) of the S&H Code, file relinquishment maps in State Highway Map Books and then relinquish by reference to the filed maps. Filed maps must contain the same basic information required when a relinquishment is entirely by description.

Requirements for Relinquishment Maps are described in [Chapter 4-13](#) of the [Plans Preparation Manual](#).

6.12.07.01 Frontage Roads or Relocated Public Roads

Frontage roads or relocated public roads that will constitute new public roads (as distinguished from a superseded existing road) must have their boundary fully described. This requirement may be fulfilled by giving either the correct centerline description with right of way widths stated, a metes and bounds description, or a description referring to maps filed in the State Highway Map Books. The reason for the distinction between frontage roads or relocated public roads, and superseded public roads, is that the width and location of the superseded road can be determined by record. The construction of a frontage road or relocation of a public road to accommodate the new State highway creates a new road or roads that did not exist prior to construction.

6.12.07.02 **Relinquishment over Federal Lands**

Care should be exercised when contemplating a relinquishment of State highway over Federal lands. If the Department acquired a highway easement from a Federal agency, it is possible that the easement is not transferable and must be vacated, with a new easement conveyed from the Federal agency to the local agency in a separate arrangement.

If that is the case, it is advisable for Caltrans, the local agency, and the Federal agency to agree beforehand as to what procedures will be acceptable to all parties.

6.12.07.03 **Excess Land**

It is the policy of Caltrans to dispose of excess land by Director's Deed. The relinquishment statutes apply only to the conveyance of highway right of way. Therefore, care should be taken that relinquishment descriptions do not include any land outside the highway right of way lines. Only small portions of land that are unsalable or of nominal value that have been included within the right of way lines may be relinquished as part of the highway right of way.

If there is excess land along the route of a proposed relinquishment, the relinquishment maps and descriptions must clearly show by exception or exclusion the excess land that is not a part of the relinquishment.

6.12.07.04 **Access Restrictions**

Access will not be reserved to the State on lines between private property and the road to be relinquished.

If access is to be restricted between the relinquished road and an adjacent State freeway, the following clause will be added at the end of the description:

EXCEPTING AND RESERVING to the State of California any and all rights of ingress to and egress from the highway hereby relinquished in and to the adjacent and adjoining freeway, except at such points as now are or may be established by resolution of this Commission.

6.12.08.00 **Scheduling Relinquishment Resolutions**

The District Director shall appoint staff with the duty of preparing requests for all relinquishment resolutions. Each request shall be assigned a request number. This number shall be the basic reference when communicating with HQ regarding a specific resolution.

In order to prevent premature CTC action on relinquishments, HQ will obtain written clearance from the District, prior to scheduling specific requests on the CTC's agenda. District clearance may be in the form of a letter or e-mail, which clearly states that the relinquishment is clear to proceed to the CTC for action.

Relinquishment requests are to be forwarded to HQ at least four months prior to completion of construction. This allows time for the 90-day notification period to the local agency to elapse and permit presentation of the resolution to the CTC immediately after the project is completed.

Where counties and cities object to receiving the 90-day notice prior to completion of construction, the District should notify HQ to delay issuance of the Notice of Intention to Relinquish.

Submittals of relinquishment requests to HQ for freeway collateral facilities are not to be delayed in the District pending proposed freeway planting contracts. Where planting contracts will affect relinquishment, the District shall enter into a cooperative agreement at an early enough date so the agreement will be executed prior to completion of the construction contract. Any difficulty in securing a cooperative agreement that will delay relinquishment of the collateral facilities is to be referred to HQ with full details.

6.12.09.00 Preparation of Requests

The request for relinquishment resolution by the CTC shall be prepared and submitted to the Chief, Office of Land Surveys, Division of Right of Way and Land Surveys, Attention: Relinquishment & Vacation Coordinator, with the personal recommendation of the District Director. The request shall be in the form of a District Relinquishment Request Memorandum.

The memo may be submitted electronically and shall contain the following information:

1. District, County, Route, Postmile Range.
 - Include number of segments.
 - Include name of the local agency where the relinquishment is located.
 - Include Contract Number and Project Limits.
 - Include date of acceptance or anticipated date of construction completion.
2. Describe location of proposed relinquishment by descriptive limits. An example would be to reference the beginning and end points to the nearest existing definable point on the ground, such as a road, street, river or county line. A specific tie to a city limit should never be used because city limits are subject to frequent change.
3. Type of relinquishment:
 - Deleted by legislative enactment. Provide Senate/Assembly Bill No. and date.
 - Superseded State highway.
 - Frontage road, Service Road, Outer Highway.
 - Nonmotorized Transportation Facilities, i.e., pedestrian, bicycle, or equestrian ways.
4. Federal Aid number, if applicable, and a statement that the relinquishment complies with the Code of Federal Regulations [23 CFR 620.203\(i\)](#), as follows:
 - (1) The lands to be relinquished will not be needed for Federal Aid highway purposes in the foreseeable future;
 - (2) The right of way being retained is adequate under present day standards for the facility involved;
 - (3) The relinquishment will not adversely affect the Federal Aid highway facility or the traffic thereon;
 - (4) The lands to be relinquished are not suitable for retention in order to restore, preserve, or improve the scenic beauty adjacent to the highway consonant.
5. State that all right of way has been acquired and that fee and/or easement title vests in the State.
6. State whether or not access rights are to be reserved and give details.
7. State whether the proposed relinquishment conforms to the approved plans and if discrepancies exist. Include reasons for the discrepancies.
8. State if frontage roads, service roads and outer highways are under the minimum width of 40 feet and are shown in the freeway agreement. Attach a copy of the Resolution of Acceptance or Letter of Consent by the local authority if the facility does not meet the minimum width.

9. State whether highway facilities are in good repair in accordance with [Section 73](#) of the S&H Code and whether State funding is involved.
10. State whether the proposed relinquishment has been reviewed with the local agency within the past year. If a protest is probable, this should be stated in the request reporting the kind of protest and action to be taken.
11. Describe any special conditions that may exist:
 - a. Is the proposed relinquishment within U.S. Forest Service land?
 - b. Does the proposed relinquishment involve a railroad grade crossing? Include the Public Utility Commission decision number by which consent was given.
 - c. Can the proposed road be used for stock trail purposes? Give District recommendation. ([Section 105](#) of the S&H Code)
 - d. Does the relinquishment involve Tribal Lands? Give District recommendation.
 - e. Include any additional comments.
12. State whether there are any pending minor contracts and explain.
13. State whether any highway planting is covered by a cooperative agreement.
14. Include Segment details in a tabular form:

Segment	Begin PM	End PM	Type**	Typ. Hwy Lanes (#)	C/L Miles	Lane Miles*

- * Lane Miles = (Typical Hwy Lanes) x (C/L Miles)
- ** Type of Relinquishment:
- A. Legislative Enactment –
Senate / Assembly Bill No. _____, dated _____
 - B. Superseded State Highway
 - C. Frontage Road, Service Road, Outer Highway
 - D. Nonmotorized Transportation Facility

Mileage will be noted for superseded highway, frontage roads, and connecting road type parcels. Mileage should not be shown in the description, on maps, or for parcels that contain only cul-de-sacs, alleys or reconstructed county roads. In cases where frontage roads and reconstructed local roads are combined as one parcel, show mileage for the frontage road portion only and note it as “mileage added.”

In addition to the District Relinquishment Request Memorandum, the following items shall be included in the relinquishment request package. This package may be submitted in digital format and e-mailed as attachments, such as *pdf*, except for the legal description which must be on bond paper, signed and sealed by a licensed land surveyor, and mailed.

- A. An original legal description of the right of way to be relinquished and one copy. Relinquishment descriptions shall be submitted, double-spaced, on 8-1/2" x 11" bond with 1-1/2" margin at the top and 1" margin at the bottom and sides, except the last page shall have a 3" minimum margin at the bottom. Legal descriptions should include an access clause, if applicable.

- B. One set of unrecorded relinquishment maps. After HQ review and approval of the unrecorded maps, the District will be requested to record the maps and submit a copy of the recorded map for inclusion in the relinquishment package to be forwarded for review to Design and Legal at Headquarters.

NOTE:

- a. When bearings and distances used on maps or in descriptions are based on the California Coordinate System, identify the datum as either 1927 or 1983 and state the zone (California Public Resources Code Sections 8801, 8802, and 8815).
- b. The final maps or legal descriptions shall include: the signature, seal, date of signing, and expiration date of the license on the title sheet of the relinquishment map or legal description by the person in responsible charge ([Section 8761](#) of the [Business and Professions Code](#)).
- c. If relinquishment maps do not show construction features, they shall be accompanied by one additional set of maps, such as marked up layout sheets, which show the proposed relinquishment and also features of construction shown on the approved plans.

6.12.10.00 **Processing**

There is no legal requirement for the consent from the legislative body of the county (Board of Supervisors) or city (City Council) to relinquish superseded portions of State highways. However, in the interest of courtesy and cooperative effort, District Directors will contact local authorities and advise them of the impending action and their responsibility for future maintenance before recommending relinquishment to HQ.

As required by [Section 73](#) of the S&H Code, HQ will forward to the county or city a “90-Day Notice of Intention to Relinquish” letter on all superseded highways, frontage roads, service roads, outer highways or nonmotorized transportation facilities. (Note: the local agency may choose to waive this requirement by inclusion of wording in an agreement or resolution.) This letter will be sent by certified mail with a return receipt requested. The Notice of Intention to Relinquish will contain a copy of the proposed CTC resolution together with a set of relinquishment maps. Copies of the proposed CTC resolution will also be forwarded to the District. After the 90-day notice period, and clearance from the District, the proposed CTC resolution will be submitted to the CTC. If adopted, a certified copy of the approved CTC resolution will be recorded by the District. After CTC action, HQ will send a certified copy of the relinquishment to the county (Board of Supervisors) or city (City Council) and will advise them that the relinquishment will become effective upon recordation by District staff.

When processing has been completed, the District shall forward a copy of any relinquishment involving National Forest Lands to the local National Forest Representative.

6.12.11.00 **Recordation of Relinquishments**

The District, upon receipt of a certified copy of the CTC’s resolution authorizing the relinquishment of highway right of way, shall record such certified copy in the Recorder’s Office of the county in which the relinquished right of way is located. Immediately upon recordation, the District shall inform, by letter, the county (Board of Supervisors) or city (City Council), that the relinquishment has been recorded, giving full recordation data.

The District shall submit to HQ for filing, a copy of the letter sent to the local agency and a copy of the recorded CTC relinquishment resolution. The District shall also update the Right of Way Record Maps to reflect changes made by the approved relinquishment and inform the District’s Maintenance Office and other interested offices in the District of the approved relinquishment.

NOTES:

CHAPTER 6

Right of Way Engineering Table of Contents

EXHIBITS

<u>Exhibit No.</u>	<u>Title</u>
6-EX-1(A)	Federal Participation Maps
6-EX-1(B)	Freeway Lease Area Maps
6-EX-1(C)	Hardship Parcel Maps
6-EX-1(D)	Protection Parcel Maps
6-EX-1(E)	Appraisal Maps
6-EX-1(F)	Resolution of Necessity Maps
6-EX-1(G)	Federal Public Land Maps
6-EX-1(H)	State Land Maps
6-EX-1(I)	Vacation Maps
6-EX-1(J)	Relinquishment Maps
6-EX-1(K)	Director's Deed Maps
6-EX-1(L)	Right of Way Record Maps
6-EX-2	Numbering System for Parcels, Subparcels, & Encumbrances
6-EX-3	Freeway & Waiver Clauses, Miscellaneous Clauses
6-EX-4	Condemnation Parcel Access Clauses
6-EX-5	Delineation of Freeway Symbols and Access Openings
6-EX-6	Sample of Vacation Memo to Local Agencies
6-EX-7	Parcel Summary Card
6-EX-8	Non-Inventory Excess Land Definition & Numbering
6-EX-9	Certificate of Sufficiency

CERTIFICATE OF SUFFICIENCY

(Form #)

District	County	Route	Postmile	Project ID

Date:

Project Description:

Appraisal Map No.(Nos.):

Map Date:

Parcel Number(s):

I certify that the right of way and degree of access control are correctly shown on the above-referenced appraisal map(s) and are sufficient for the construction of this project. The approved Hazardous Materials Disclosure Document(s) for the parcel(s) listed above is attached.

By _____

_____ Date

Project Engineer

By _____

_____ Date

Senior Design Engineer

Required attachment: Hazardous Materials Disclosure Document (Form ENV-001)

**INSTRUCTIONS FOR
CERTIFICATE OF SUFFICIENCY (6-EX-9)
AND HAZARDOUS MATERIALS DISCLOSURE DOCUMENT (ENV-001)**

The unsigned Certificate of Sufficiency is generated by Right of Way Engineering upon completion of the appraisal map, and shall be sent with the initial transmittal of the map to the appropriate design office (e.g., Design, Traffic, Maintenance, or Hydraulics) to be approved by both the Project Engineer and the Senior Design Engineer. **This approval authority cannot be subdelegated.** The certification shall apply to all right of way parcels listed, by Right of Way Engineering, under the heading, "Parcel Number(s)." Right of Way Appraisals may perform preliminary work based on the initial transmittal of appraisal maps; however, the appraisal report cannot be approved for the first written offer until Right of Way Appraisals receives the completed Certificate of Sufficiency.

The Hazardous Materials Disclosure Document (HMDD) is a required attachment to the Certificate of Sufficiency. The HMDD shall be approved by the District Hazardous Waste Coordinator. The disclosure(s) shall apply to all right of way parcels listed under the heading, "R/W PARCEL NUMBER(S)." The parcel number(s) should be typed inside of the parentheses located to the left of the applicable disclosure statement. Right of Way Engineering will send a copy of the appraisal map to the District Hazardous Waste Coordinator at the same time as the initial transmittal to Right of Way Appraisals, to trigger the production of the HMDD. Design is responsible for obtaining the approved HMDD for attachment to the Certificate of Sufficiency.

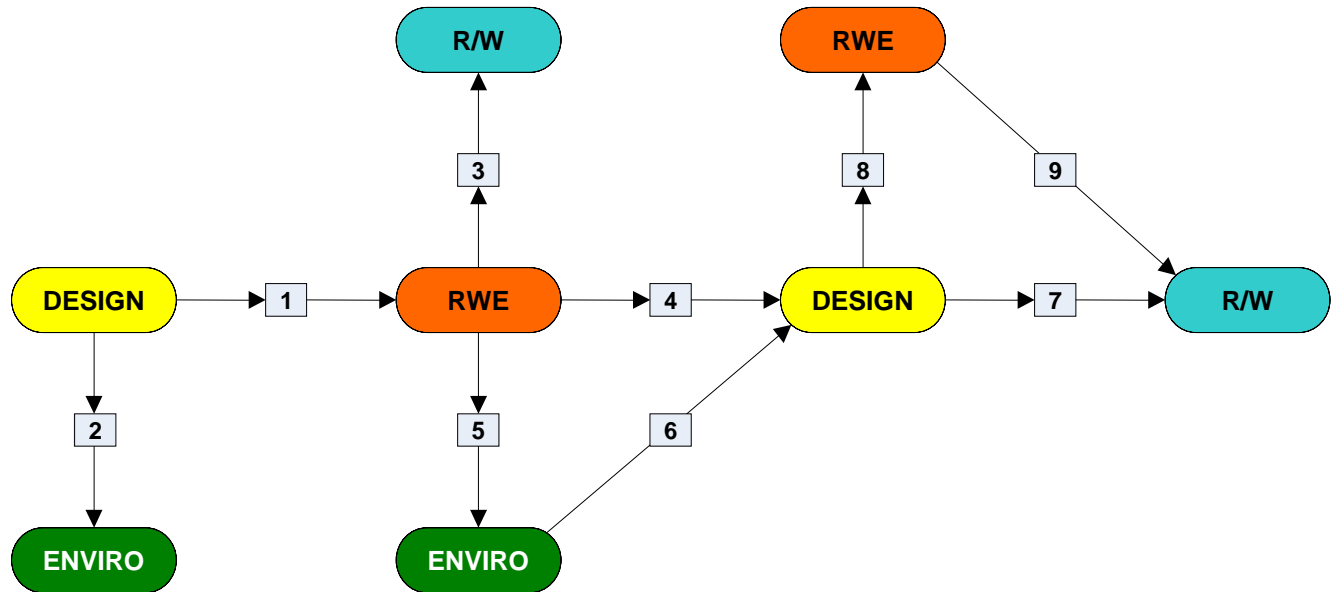
The attached flowchart is the recommended process and outlines the following:

Once the appropriate signatures have been obtained, the original Certificate of Sufficiency and HMDD(s) with attachment(s), if any, are sent to Right of Way Appraisals, and a copy of only the Certificate of Sufficiency is sent to Right of Way Engineering. Right of Way Engineering transmits the final appraisal maps to Right of Way Appraisals, if necessary.

The original Certificate of Sufficiency is not valid unless the approved HMDD is attached.

Any revision to the maps will require a new Certificate of Sufficiency. A new HMDD will be required only if the right of way requirements have increased.

CERTIFICATE OF SUFFICIENCY (CoS) FLOWCHART



- 1 DESIGN transmits right of way requirements to RIGHT OF WAY ENGINEERING (RWE)
- 2 DESIGN cc's right of way requirements to ENVIRONMENTAL (ENVIRO)
- 3 RWE transmits initial¹ Appraisal Maps to RIGHT OF WAY (R/W) for preliminary activities
- 4 RWE transmits initial Appraisal Maps to DESIGN with unsigned CoS²
- 5 RWE cc's initial Appraisal Maps to ENVIRO with unsigned CoS
- 6 ENVIRO transmits unsigned CoS with approved Hazardous Materials Disclosure Document (HMDD) to DESIGN
- 7 DESIGN transmits approved CoS with approved HMDD to R/W
- 8 DESIGN cc's approved CoS (without HMDD) to RWE
- 9 RWE transmits final Appraisal Maps to R/W

¹ The initial transmittal becomes the Final Map once the CoS is attached. Any changes to right of way requirements after transmittal of initial Appraisal Maps constitute a revision and require a return to 1.

² CoS will include parcel numbers coinciding with initial Appraisal Maps.