




**RIGHT OF WAY MANUAL  
DIRECTIVE**

**RWMD NO:** 18-02

**Approved by:**

**Issuance Date:** 10/2/2018

**Effective Date:** Immediately

*for*   
JEFFREY A. PURDIE  
Chief, Office of Project Delivery  
Headquarters Division of Right of Way and Land Surveys

**SUBJECT:** Reducing the timeframe for mailing/service of Notices of Intent (NOI) to adopt a Resolution of Necessity (RON).

**PURPOSE:** This is an efficiency that provides District acquisition staff an additional 15 days of negotiating time with property owners prior to notifying them regarding the Department’s intent to initiate condemnation proceedings.

**REFERENCE:** California Code of Civil Procedure (CCP) Sections 1240.030 and 1245.235(a) and Right of Way Manual Chapter 9.

**BACKGROUND:**

The California Code of Civil Procedure (CCP) Section 1245.235(a) states "The governing body of the public entity may adopt a resolution of necessity only after the governing body has given each person whose property is to be acquired by eminent domain and whose name and address appears on the last equalized county assessment roll notice and a reasonable opportunity to appear and be heard on matters referred to in Section 1240.030" of the CCP. The Department’s “governing body” is the California Transportation Commission (CTC).

On July 28<sup>th</sup>, 1978, The California Transportation Commission (CTC) approved Resolution No. G-4, which authorized the Department of Transportation to establish all procedures it deems advisable to carry out the intent of CCP Sections 1240.030 and 1245.235(a).

The Department’s practice has been to provide impacted property owner(s) with a “Notice of Intent to Adopt a Resolution of Necessity” (NOI) no later than 45 days prior to the date of the CTC meeting that the NOI is linked to.

**RIGHT OF WAY MANUAL DIRECTIVE (Cont.)**

---

**RWMD 18-02**

**EXISTING POLICY OR PROCEDURE:** Currently, NOIs are mailed no later than 45 days prior to the date of the CTC meeting at which the request to adopt the RON has been included as a meeting book item.

**NEW POLICY OR PROCEDURE:** At a recent Right of Way Management Board meeting, a proposal was presented and unanimously approved by the voting members to reduce the NOI mailing/service timeframe from 45 days to 30 days.

Beginning immediately, NOI's can be served or mailed no later than 30 days prior to the date of the meeting at which the CTC will consider a request to adopt a RON. **Reminder:** In order to meet other CTC meeting timelines, all documents used in support of a RON request must still be submitted to your Headquarters Condemnation Liaisons a minimum of 45 days prior to the target CTC meeting. Also, the NOI must be included in the RON request but shall be postdated (not yet mailed/served) to the date of the anticipated mailing/service.

Chapter 9 of the Right of Way Manual will be revised and will be consistent with this new policy. If you have questions or concerns regarding this change in process, please contact your Headquarters Acquisition/Condemnation Liaison.

**RESPONSIBILITIES:** All Acquisition/Condemnation Staff: implement this policy change immediately. District Office Chiefs, Local Programs: disseminate this policy change to your local transportation partners.

**LINKS/RESOURCES:**

- California Code of Civil Procedure:  
<http://leginfo.legislature.ca.gov/faces/codesTOCSelected.xhtml?tocCode=ccp>
- RW Manual, Chapter 9:  
<http://www.dot.ca.gov/hq/row/rowman/manual/Chapter%209.pdf>

**DISTRIBUTION LIST:**

- Acquisition/Condemnation Functional Council
- Local Programs Functional Council
- Right of Way Management Board
- District Condemnation Coordinators
- HQs Division of Local Assistance
- Office of CTC Liaison