

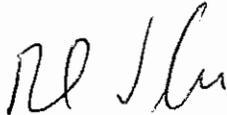
Memorandum

*Flex your power!
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To: DISTRICT/REGION DIRECTORS
DISTRICT/REGION DIVISION CHIEFS
RIGHT OF WAY

Date: October 24, 2011

File: ROW Certifications

From: BRENT GREEN 
Chief
Division of Right of Way and Land Surveys

Subject: **Federal Highway Administration "Authorization to Advertise" Federal-Aid Projects per 23 CFR 635.309 (c) (3).**

This memorandum describes the revised process Districts must follow when requesting the approval of Right of Way (ROW) Certification 3/3W and supersedes the previous process described in the memo by Bimla G. Rhinehart, dated November 20, 2008, entitled Federal Highway Administration "Authorization to Advertise" Federal Aid Projects per 23CFR635.309 (c) (3).

In 2007, the Federal Highway Administration (FHWA) and the California Department of Transportation (Department) entered into a Joint Stewardship and Oversight Agreement (Agreement). The Agreement delegates to the Department the authority to accept the Right of Way (ROW) Certifications per 23 CFR 635.309 (c) (1) and (c) (2) for advertising Federal-Aid projects. However, it reiterates that all ROW Certifications per 23 CFR 635.309 (c) (3) must have FHWA authorization.

District ROW delegation for approving the use of a ROW Certification Number 3 was rescinded with the April 25, 2008, memorandum entitled "Federal Highway Administration Concurrence to Advertise Projects per 23 CFR 635.309 (c) (3)". All Certifications Number 3 (advertise only, or work-around) must have approval from the Division Chief of Right of Way and Land Surveys (ROW/LS), with prior authorization from FHWA. This policy applies to all Departmental Federal-Aid projects and extends to all Local Public Agency (LPA) Federal-Aid projects, whether on or off the State Highway System.

Revised Process District must follow for ROW Certification Number 3/3W

Thirty days prior to the target ROW certification date, the District shall send the RW Certification along with the newly developed Cover Memo (attached) to the Division Chief of ROW/LS. This cover memo is a new requirement of FHWA and is intended to streamline the process by eliminating the requirement for both "conceptual" approval and then subsequently "final" approval.

The Cover Letter should provide pertinent supplemental information describing the very unusual circumstances under which the project qualifies to be considered for a Certification Number 3. An example of unusual circumstances is the need to comply with specific requirements set forth in permits with the Department of Fish and Game weather work windows, environmental work windows, or documented construction cost escalation that would occur as a result of the delay. The unusual circumstances should be beyond meeting the project needs, purpose, or schedule. Project needs, purpose, and schedule alone may not be relevant for FHWA's consideration or approval. Additional guidance can be found in the Right of Way Manual 14.02.00.00.

ROW/LS Office of Right of Way Project Delivery, or Office of Local Programs will review the Districts submittal and provide a recommendation for approval to the Division Chief, ROW/LS if deemed appropriate. After the certification form has been signed, the package will be forwarded to FHWA for approval.

Upon receipt of FHWA authorization of a Certification Number 3, the signed and dated District ROW Certification shall be forwarded back to the requesting District.

If you have any questions, please contact Don Grebe, Chief, Office of ROW Project Delivery, at (916) 654-4456 or Wayne Harrold, Chief, Office of Appraisals and Local Programs at (916) 654-3536.

Attachment

c: John McMillan, Deputy Division Chief, Office Engineer
Denix Anbiah, Chief, Division of Local Assistance
Fardad Falakfarsa, Chief, Office of Federal Resources, Division of Budgets
Joann Georgallis, Assistant Chief Counsel, Legal Division
Shawn Oliver, South Team Leader, , FHWA
Melani Millard, Realty Specialist, FHWA
Wayne Harrold, Chief, Office of Appraisals and Local Programs, Division of ROW & LS
Don Grebe, Chief, Office of Right of Way Project Delivery, Division of ROW & LS
Suzette Musetti, Chief, Office of Real Property Services, Division of ROW & LS
Suzette Shellooe, Chief, Office of Utilities and Organizational Development, Division of ROW & LS
Rene Fletcher, Chief, Office of Planning and Management, Division of ROW & LS
Mark Turner, Chief, Office of Land Surveys. Division of ROW&LS

Memorandum

*Flex your power!
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To: DISTRICT DIRECTORS
DEPUTY DISTRICT DIRECTORS
RIGHT OF WAY

From: 
BIMLA G. RHINEHART
Chief
Division of Right of Way and Land Surveys

Date: November 20, 2008

File: Right of Way
Certifications

Subject: Federal Highway Administration "Authorization to Advertise" Federal-Aid Projects
per 23 CFR 635.309 (c) (3)

In 2007, the Federal Highway Administration (FHWA) and the California Department of Transportation (Department) entered into a Joint Stewardship and Oversight Agreement (Agreement). The Agreement delegates to the Department the authority to accept the Right of Way (R/W) Certifications per 23 CFR 635.309 (c) (1) and (c) (2) for advertising Federal Aid projects. However, it reiterates that all R/W Certifications per 23 CFR 635.309 (c) (3) must have FHWA authorization.

District R/W Delegation for approving the use of a R/W Certification No. 3 was rescinded with the April 23, 2008 memorandum entitled "Federal Highway Administration Concurrence to Advertise Projects per 23 CFR 635.309 (c) (3)". All Certifications No. 3 (advertise only, or work-around) must have approval from the Division Chief of Right of Way and Land Surveys (R/W and LS), with prior authorization from FHWA. This policy applies to all Departmental Federal-Aid projects and extends to all Local Public Agency (LPA) Federal-Aid projects, whether on or off the State Highway System.

Sixty days prior to the R/W Certification date, an unsigned Certification marked "DRAFT" post dated with the target issue date, and an accompanying transmittal letter from the District and/or LPA, as appropriate, shall be sent to the Division Chief of R/W and LS to be forwarded to FHWA for authorization.

The transmittal letter is not meant to repeat information contained in the Certification, but should provide pertinent supplemental information describing the very unusual circumstance(s) under which the project qualifies to be considered for a Certification No. 3. An example of unusual circumstances is the need to comply with specific requirements set forth in permits with the Department of Fish and Game, weather work windows, environmental work windows, or documented construction cost escalation that would occur as a result of the delay.

Upon confirmation of FHWA authorization to use a Certification No. 3, the signed and dated District R/W Certification or facsimile thereof, shall be submitted with a signature block for the approval of the Chief, Division of R/W and LS.

If you have any questions please contact Don Grebe, Chief, Office of R/W Project Delivery, at (916) 654-4456 or Suzette M. Musetti, Chief, Office of Appraisals and Local Programs, at (916) 654-5728.

c. HQ R/W Office Chiefs

John McMillan, Office Engineer

Earl Seaberg, Local Assistance

Fardad Falakfarsa, Federal Resources

Lynn Whitford, FHWA

Tammy Keely, FHWA

Abraham P. Geevarghese, FHWA

SUPERSEDED