



NORTH CAROLINA Department of Transportation



Right of Way Overview

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What is Right of Way?

- Right of Way is the real property (land and improvements) and rights therein acquired for public use to construct highways for the betterment and safety of the public. Right of Way may be acquired through negotiated settlements or condemnation. It is one of the last major steps before a project is released to bidders for construction
- Subject to Government Laws, Statutes, Rules and Regulations
- Key element is the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (the Uniform Act) 49 CFR Part 24
- In the acquisition of right of way, NCDOT must treat all property owners with impartiality, fully explain all legal rights, pay just compensation in exchange for property rights and furnish relocation assistance, if needed

Eminent Domain

The power of government to take private property without the consent of the owner

United States Constitutional Limitations of Power of Eminent Domain

5th Amendment

“nor shall private property be taken without just compensation.”

14th Amendment

“nor shall any State deprive any person of life, liberty or property, without due process of law...”

Who is involved in Right of Way?

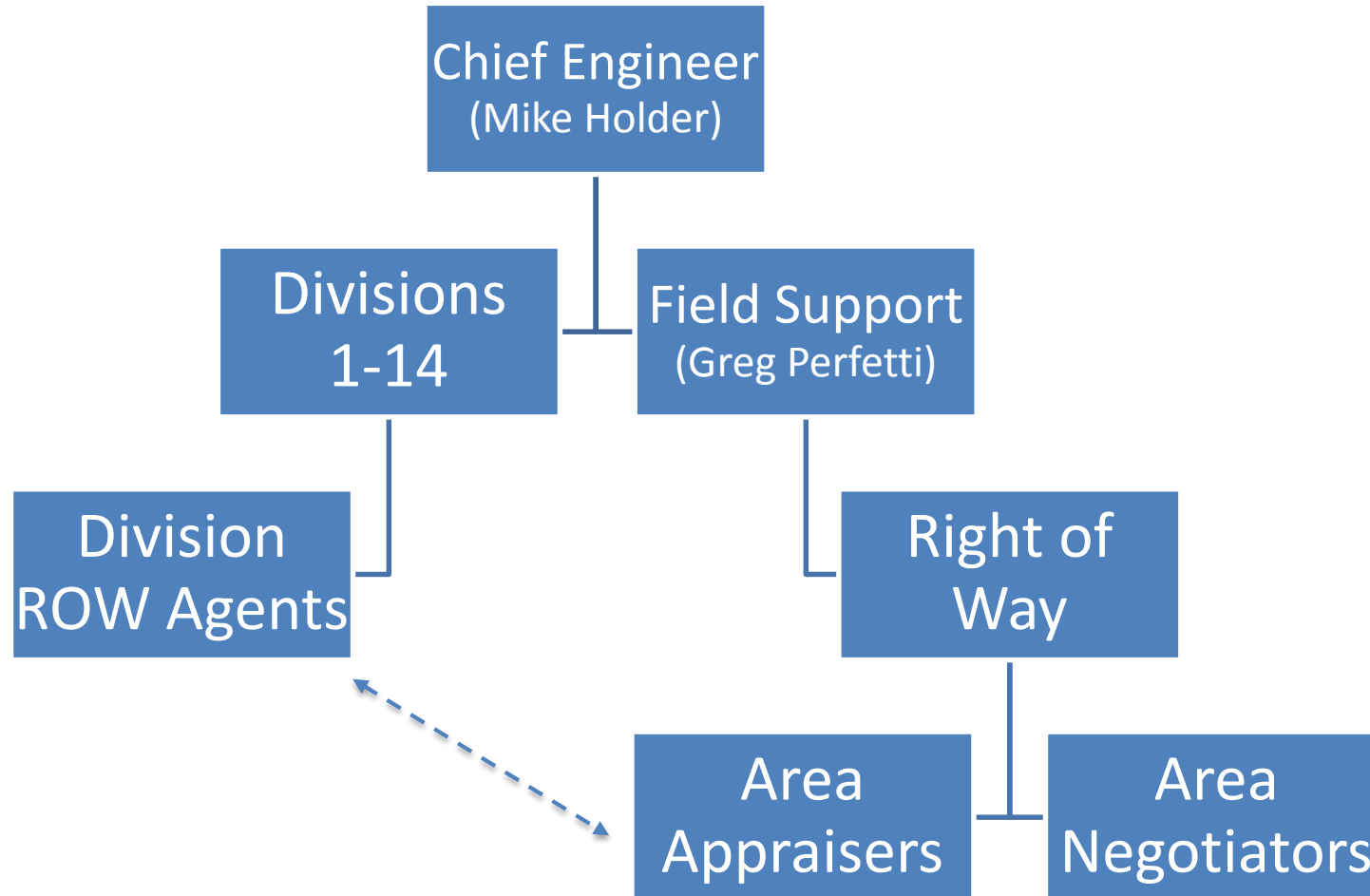
- Planners, Design Engineers, Utility Coordinators, Construction staff and Right of Way staff coordinate efforts to establish the location and design of transportation projects that will minimize impact and be of the greatest benefit to the public.
- The final design takes into consideration feasible engineering, safety, economics, public well-being, and convenience to the public.

Working with Right of Way

- Division Construction Engineers, Division Project Delivery Engineer & staff, Division Bridge Program Manager, or Roadway Design Project Managers inform Right of Way of plan design and field inspections.
- Representative(s) from Right of Way (Negotiation, Appraisal, Relocation) attend FDFI or CFI meetings and provide feedback on Right of Way issues.
- Locations and Surveys Engineers provide status updates on the Right of Way staking process to Right of Way.
- Attorney General's Office initiates legal action (condemnation) when a settlement cannot be reached.

Division of Highways Organizational Chart

(as it relates to Right of Way)



Right of Way Responsibilities

- Contact property owners to explain plans and impacts, present offers and answer questions about the project & the ROW process
- Appraise proposed rights of way and easements to be acquired including any damages and costs to cure to remainder property
- Settle or condemn proposed property rights to allow NCDOT access to the property
- Provide relocation assistance, including financial assistance, to persons and businesses displaced by right of way acquisitions.
- Inspect for asbestos and demolish structures on acquired rights of way not included in the Roadway Contract

Right of Way Responsibilities

- Dispose of any surplus & residue properties acquired by NCDOT
- Manage assets acquired by NCDOT prior to construction
- Acquire secondary road rights of way
- Monitor & certify Local Municipal Projects requiring Federal or State funding
- Provide Environmental Impact Studies for Environmental documents as needed

Basic Acquisition

- Expeditious Acquisition of Real Property by Negotiations
- Written notice of intent to acquire Real Property
- Owner's right to have property appraised and accompany appraiser on inspection
- Waiver Valuation (also known as claim report) is used when appraised value is estimated to be less than \$25,000 and not consider to be a complicated acquisition
- The Department shall establish just compensation. Offer shall not be less than fair market value. Written notice of just compensation (amount of offer) to include damages, structures, land, etc.
- Payment must be rendered before surrender of real property by owner

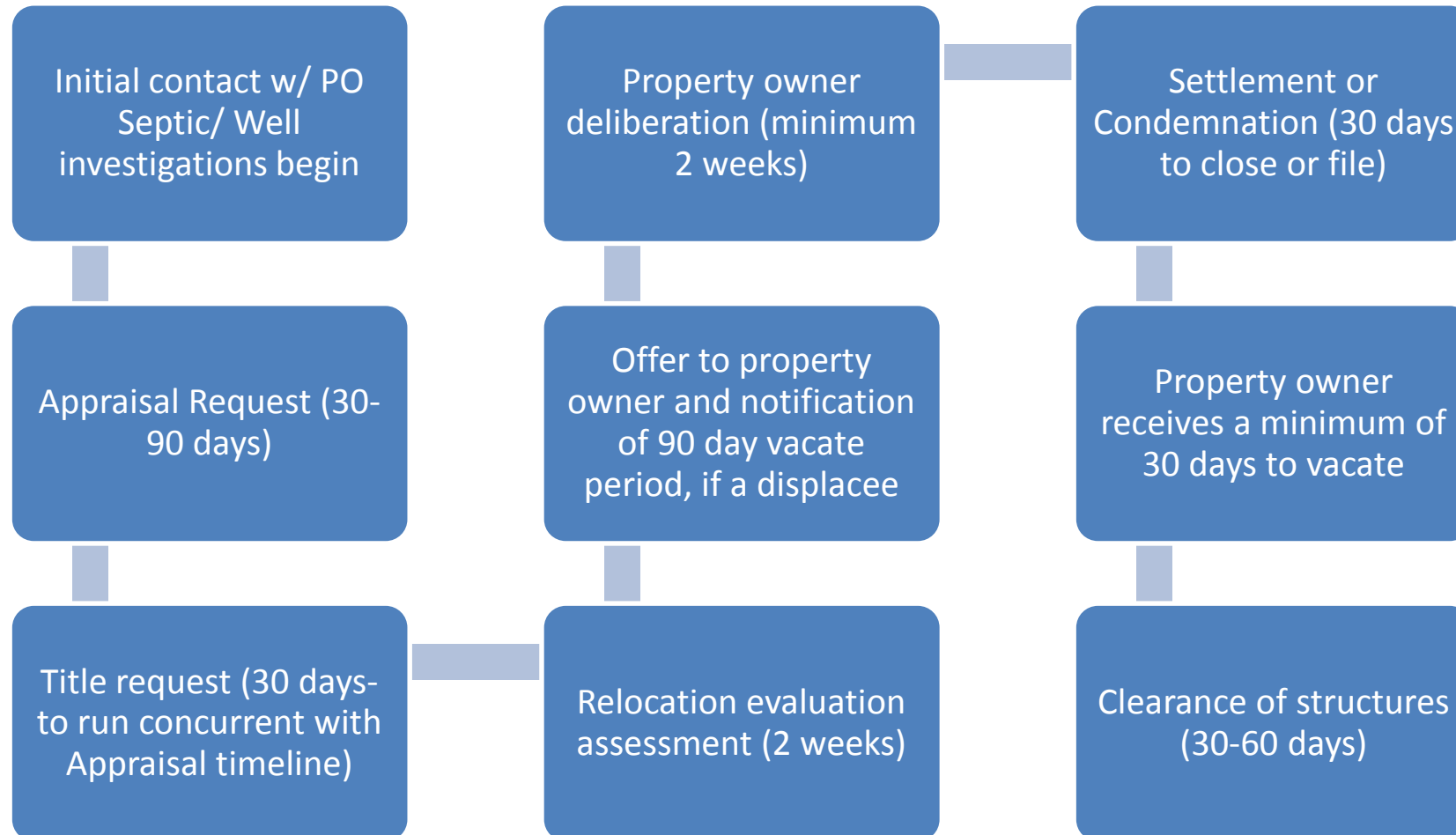
Basic Appraisal

- Appraisals are opinions of value by a NC General certified Appraiser
- The Department sets just compensation (see 5th Amendment of the US Constitution)
- Area Appraisal office reviews and approves all appraisals for NCDOT projects and Local Municipal projects
- Types of appraisals: Narrative, Right of Way Transmittal Summary and Waiver Valuations (or claim reports)
- Waiver Valuations (or claim reports) can be used in lieu of a Narrative or Transmittal Summary appraisal if the claim is uncomplicated and minor, and just compensation is less than \$25,000. Damages to the remainder cannot be assessed on a Waiver Valuation. Waiver Valuations cannot be used for condemnation claims.
- Cost approach, Sales Comparison approach and Income approach are used to determine the market value of a property or just compensation of a property
- Two appraisals are needed for just compensation amounts over \$1M and/or an appraisal with over \$250,000 allocated in damages

Basic Relocation

- Provide relocation advisory services to persons required to move from property needed for NCDOT
- Provide payments including moving payments, replacement housing payments, reimbursements for eligible closing costs, re-establishment expenses, and mortgage interest differential payments to displacees
- Provide assistance in finding decent, safe, and sanitary replacement housing for residential displacees
- Provide moving payments for billboards and other signs located within the proposed right of way
- Provide payments to assist businesses in relocating from the acquired right of way to a suitable replacement site
- All displacees must have a minimum of 90 days after the offer is made to relocate

Right of Way Process Timeline



Types of Right of Way Acquisition

- Fee Simple – NCDOT acquires all real estate rights from the property owner including the right to convey the real estate at a later date
- Easement - NCDOT acquires a permanent or temporary right to access and utilize the land owned by another. An easement is a non-possessing interest

Typical Right of Way Easements

- Construction or Slope (usually temporary)
- Drainage (permanent and/or temporary)
- Utility (usually permanent)

Advance Acquisition Parcels

- Parcels acquired prior to ROW project authorization on a parcel by parcel basis
- Approval from the AARC (Advance Acquisition Review Committee) must be obtained in order to proceed with Advance Acquisition purchase
- Types of Advance Acquisitions: Protective Purchase, Undue Hardship, and Complex Relocation

Advance Acquisition Parcels

Protective Purchase

- Typically initiated by the Department
- Must be an imminent threat of development of the subject property or a portion thereof
 - ex: submission of a building permit, subdivision approval request
- Subject property must be located in the project's preferred location or selected alternative, or within a potential alternative that is a probable candidate for final alternative
- Plans must be sufficiently complete to allow the proposed right of way to be described for conveyance
- Proposed project requires all or most of the subject property, or imposes control of access that will landlock the subject tract

Advance Acquisition Parcels

Undue Hardship Acquisitions

- Initiated by the property owner
- Must submit application with supporting information that justifies early purchase based on health, safety, or financial reasons
- Must submit documentation that the property owner has attempted to sell the property on the open market at fair market value within a time period typical for properties that would not be impacted by the project
- Property owner must own and reside at the subject property unless the property is a business tract or is in estate
- The Department cannot coerce or threaten the applicant as a means of obtaining a favorable acquisition price

Advance Acquisition Parcels

Complex Relocations

- Typically initiated by the Department
- Subject property involves complicated relocation that may require additional time to complete the move (ex. grave relocations, utility move (pump station, transmission lines etc.), farms, multi-family housing, storage facilities)
- Complex Relocations acquisition process to begin approx. 6-12 months prior to ROW authorization
- Potential future plan changes are unlikely to affect the subject property
- Complex Relocations can be expensive because of the complex nature of the claim
- The Department can condemn Complex Relocation claims
- Optimal identification of complex relocations is at 25% plans

Methods of Right of Way Procurement

- Staff – The Division ROW Agent and Area Appraiser can elect to use Division staff to complete acquisition/relocation and appraisal assignments
- State On Call Contract – Acquisition/Relocation firms pre-qualified and approved on the State On Call Contract for ROW work. These costs are charged against the State On Call Contract. A NTP is needed for each project assignment
- Fee Appraisal Contract – Area Appraisal Office or State Appraiser contracts with Appraisal firms based on approved fee proposals

Methods of Right of Way Procurement

- Division On Call Contract – Acquisition/Relocation firms pre-qualified and approved on the Division Right of Way LSC for ROW work. This LSC also includes appraisal services. A NTP is provided at the beginning of the term contract. No further NTP is required. Any Right of Way subcontractor must be on the approved pre-qualified list for the State On Call Contract. Any Appraisal subcontractor must be approved by the Area Appraiser for the district
- Design Services – Right of Way services are included in the design services contract. Any Right of Way subcontractor must be on the approved pre-qualified list for the State On Call Contract. Any Appraisal subcontractor must be approved by the Area Appraiser for the district

Methods of Right of Way Procurement

Regardless of method used for Right of Way acquisition

- All ROW and relocation claims must be submitted to the Division Agent for review and approval
- All Appraisals must be submitted to the Area Appraiser for review and approval

Right of Way Process

1. Optimal involvement for Division ROW Agent and Area Appraiser is 25% plans. The DPDE and Project Engineer can receive input at this time as to how the alignment will affect proposed properties to be acquired. The Division ROW Agent and Area Appraiser can advise as to the complexity of certain acquisitions and identify possible advance acquisition candidates.
2. Division ROW Agent and Area Appraiser receive [Roadway Design Letters](#) with preliminary plans [at least 3 months (approximately 65% plans) prior to [Final Design Field Inspection](#) (FDFI) or [Combined Field Inspection](#) (CFI)]. See Form Letters.
3. Division ROW Agent and Area Appraiser ride together, and note issues on preliminary plans (*for larger projects, Division Construction Engineer or representative may participate*). If ride along is not possible, read plans, drive project separately and schedule teleconference meeting to discuss issues with plans.
4. Division ROW Agent provides feedback to Roadway Designer/Division Project Delivery Engineer (minimum 2 weeks prior to FDFI or CFI).
5. Roadway designer, through DPDE, develops options to address ROW issues incorporated.

Right of Way Process

6. Determine Method to acquire ROW services (Division Design Services Contract, Division On Call, State On Call Contract, Staff Assignment, Bid Contracts)
7. All interested parties (Area Appraiser or designee, Division ROW Agent or designee, etc.) attend FDFI or CFI meeting.
8. Division ROW Agent (consulting with the ROW Consultant Coordinator) or Area Appraiser negotiates fees (if necessary) with firm(s) based on preliminary plans and FDFI or CFI meeting results.
9. ROW Authorization received from the Board of Transportation. Documents supplied to Project Management notify Project Management to place this item on the Board agenda.

Right of Way Process

10. Division ROW Agent or State Negotiator will issue Notice to Proceed (NTP) for State On Call Fee Negotiators and Relocation. Fee Appraiser or Fee Review Appraiser is sent signed fee proposal/contract. If the Division ROW Agent chooses to use ROW On Call consultants from the Division LSC, the NTP will already be provided per the LSC.
11. Final ROW Plans received. See Form Letters – [with Authorization](#), [without Authorization](#), [Appraisal and Relocation Study Only](#).
12. Division ROW Agent and Area Appraiser to hold ROW Start-Up Meeting to discuss schedule and process.
13. Division ROW Agent, or designee, makes initial contact and prepares appraisal request to send to Appraiser assigned to project, and notifies Area Appraisal Office.

For a visual of Right of Way process, click [here](#)

Right of Way Project Trouble Spots

- Bankruptcy
- Contamination of proposed acquisition sites (Gas Stations, dry cleaners, tire stores, etc.)
- Complicated relocation moves (i.e. businesses, farms, condos, apartment buildings, billboards, etc.)
- Complicated appraisal items (i.e. golf courses, retention ponds, access issues, parking lots etc.)
- Title issues
- Septic tanks and wells
- Underground Storage Tanks
- NCDOT structures or lanes that are in close proximity to private structures

Right of Way Project Delivery Keys

- Optimal ROW involvement is prior to 25% plans. The DPDE and Project Engineer can receive input at this time as to how the alignment will affect proposed properties to be acquired. The Division ROW Agent and Area Appraiser can advise as to the complexity of certain acquisitions and identify possible advance acquisition candidates.
- Prior to FDFI, Division ROW Agent and Area Appraiser can survey the project and identify potential issues (driveway grades, changes in access, sites that require 2 appraisals).
- Communicate with your Division Agent and Area Appraiser to involve them as early as possible to begin coordination activities. Early coordination is essential to project management and can eliminate possible conflicts that could arise later in the process.
- Use preliminary plans to build the acquisition and appraisal team prior to authorization.
- For claims appearing to have a just compensation amount over \$1M, request two appraisals at the beginning of the right of way claim to save time in claim process.
- Obtain any traffic studies required for appraisals after the ROW start up meeting.

Additional Resources

Right of Way on Connect NCDOT

<https://connect.ncdot.gov/business/ROW/Pages/default.aspx>

The screenshot displays the 'Connect NCDOT BUSINESS PARTNER RESOURCES' website. The navigation menu includes 'Doing Business', 'Bidding & Letting', 'Projects', 'Resources', and 'Local Governments'. A search bar is located to the right of the menu. Below the menu, a secondary navigation bar lists various categories, with 'ROW' (Right of Way) highlighted in red. The main content area is titled 'Right of Way' and includes a brief description: 'Right of Way is responsible for acquisition of all necessary lands and improvements of all roads and highways.' Below this, a breadcrumb trail shows 'Connect NCDOT > Doing Business > ROW'. The page features four main content blocks on the left and two sidebars on the right. The first block is 'Right of Way Support', followed by 'Right of Way Appraisal Process', 'Right of Way Negotiation and Relocation Process', and 'Right of Way Manuals and Publications'. The right sidebar contains 'Employee Directory' and 'Right of Way Remnant Property'.

Connect NCDOT
BUSINESS PARTNER RESOURCES

Home Help Site Map

Doing Business Bidding & Letting Projects Resources Local Governments

Search...

Prequalify Small Business Consultants Directory of Firms Trucking Fleet & Material Mgmt DMV Public Trans Purchasing **ROW** Turnpike

Right of Way

Right of Way is responsible for acquisition of all necessary lands and improvements of all roads and highways.

Connect NCDOT > Doing Business > ROW

Right of Way Support

The purpose of this page is to provide support tools to property owners, developers and the general public during the right of way acquisition process.

[Read More](#) →

Right of Way Appraisal Process

The purpose of this page is to provide information on how to become an NCDOT contract appraiser as well as appraisal processes links.

[Read More](#) →

Right of Way Negotiation and Relocation Process

The purpose of this page is to provide information on how to become an NCDOT contract negotiation and/or relocation agent as well as links to these processes.

[Read More](#) →

Right of Way Manuals and Publications

Right of Way Manuals and Publications (Real Estate Acquisition Process Brochure)

[Read More](#) →

Employee Directory

Staff contacts for *Right of Way*.

Right of Way Remnant Property

Current Available Property for Disposal - Interactive Map and List

Right of Way Unit

Steve Grimes – Acting Right of Way Manager and State Negotiator

919-707-4366 sgrimes@ncdot.gov

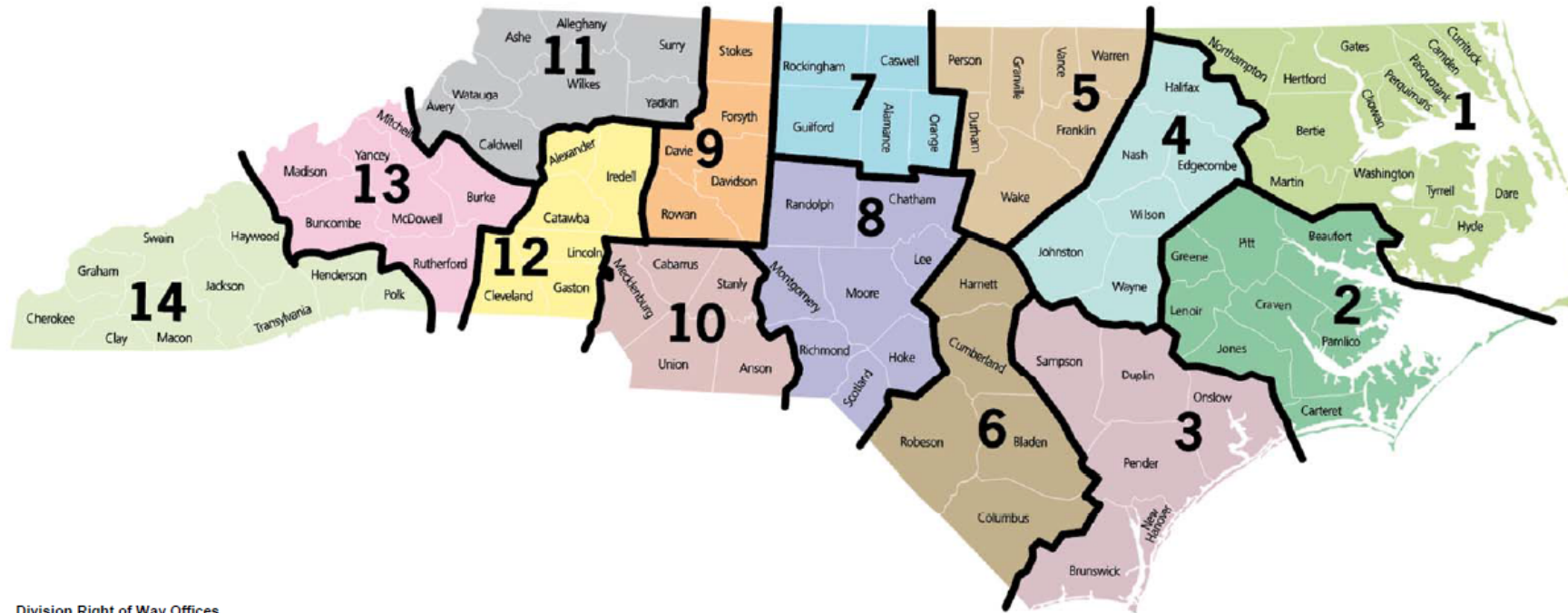
Robert Woodard – Acting Assistant Right of Way Manager and State Relocation Director

919-707-4392 rwoodard@ncdot.gov

Jim McGowan – State Appraiser

919-707-4388 jmcgowan@ncdot.gov

Division Right of Way Offices



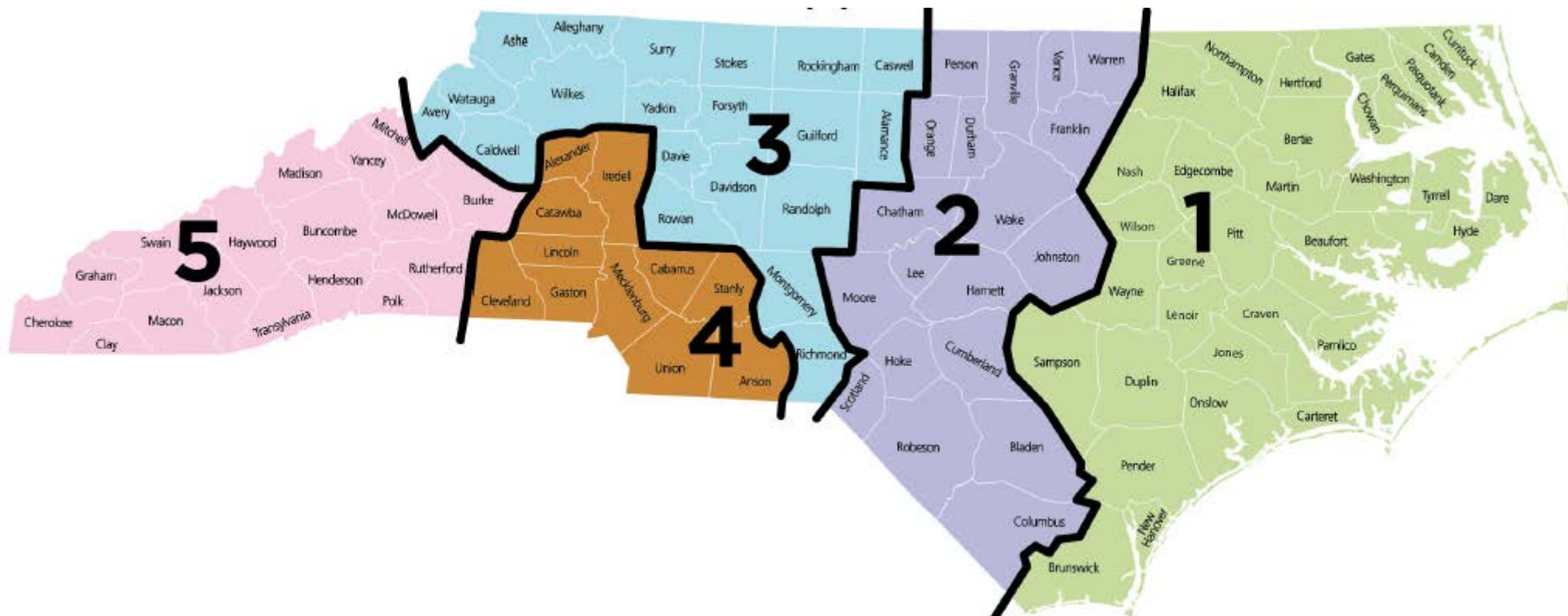
Division Right of Way Offices

Division 1	Ahoskie	230 NC 42 West, Ahoskie, NC 27910
Division 2	Greenville	1430 East Arlington Blvd., Greenville, NC 27858
Division 3	Castle-Hayne	5501 Barbados Blvd. Castle Hayne, NC 28429
Division 4	Wilson	490 Ward Blvd., Wilson, NC 27895
Division 5	Durham	815 Stadium Drive, Durham, NC 27704
Division 6	Fayetteville	225 Green St., Suite 501, Fayetteville, NC 28301
Division 7	Greensboro	1101 E. Wendover Ave., Suite 200, Greensboro, NC 27405
Division 8	Aberdeen	293 Olmstead Blvd., Suite 11A, Pinehurst, NC 28374
Division 9	Winston-Salem	1605 Westbrook Plaza Dr., Suite 201, Winston Salem, NC 27103
Division 10	Albemarle	206 Charter Street, Albemarle, NC 28001
Division 11	North Wilkesboro	709 Statesville Avenue, North Wilkesboro, NC 28659
Division 12	Shelby	840 Wallace Grove Drive, Shelby, NC 28150
Division 13	Asheville	6 Roberts Road, Suite 102, Asheville, NC 28803
Division 14	Sylva	1594 E. Main Street, Sylva, NC 28779

Area Negotiation Divisions

Area 1	Divisions 1, 2, 4 & 5
Area 2	Divisions 3, 6 & 8
Area 3	Divisions 7, 9 & 10
Area 4	Divisions 11, 12, 13 & 14

Area Appraisal Offices



Area 1 Appraisal Office
 1430 E. Arlington Blvd.
 Greenville, NC 27858
rhiessup@ncdot.gov
 (Divisions 1, 2, 3, 4)

Area 2 Appraisal Office
 3509 Haworth Drive
 Suite 400
 Raleigh, NC 27609
blopp@ncdot.gov
 (Divisions 5, 6, 8)

Area 3 Appraisal Office
 1605 Westbrook Plaza Dr. Suite
 202
 Winston-Salem, NC 27103
rpegg@ncdot.gov
 (Divisions 7, 9, 11)

Area 4 Appraisal Office
 8305 University Executive Park
 Dr., Suite 320
 Charlotte, NC 28262
hbabbb@ncdot.gov
 (Divisions 10, 12)

Area 5 Appraisal Office
 6 Roberts Rd., Suite 102
 Asheville, NC 28803
nmedford@ncdot.gov
 (Divisions 13, 14)

Questions?

