

# **ROW MAPPING PROCEDURE MANUAL**

## **Chapter 7 Transfer of Jurisdiction Maps**

March 5, 2008



## TRANSFER OF JURISDICTION MAPS

### CHAPTER 7

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## TRANSFER OF JURISDICTION MAPS

### **7.1 Chapter Overview**

This chapter will describe the process for transferring property from one State Agency to another State Agency and for concurrent use of property by different State Agencies.

The rights of way needed for a project may include property owned by The People of the State of New York acquired by other state agencies or departments.

Lands acquired for a specific purpose by one state agency cannot be used by another state agency for another purpose without Transfer of Jurisdiction. To transfer the jurisdiction of property, it is required that:

1. Written request and consent of the agencies involved be obtained.
2. An acceptable parcel description be available.
3. Reference to the state acquisition through deed or appropriation be known.

To meet these requirements, it is necessary to prepare a transfer of jurisdiction map or "T" map. By use of this "T" map, the necessary property rights are obtained for construction of the highway project.

In some instances it becomes necessary to use property under jurisdiction of the Department of Transportation acquired for purposes other than highway right of way. This situation requires the preparation of a transfer of use map, or "TU" map.

The transfer of jurisdiction of canal lands requires that an Abandonment Map and/or "T" map be prepared. If the property to be transferred is currently used for canal purposes or if it is not being used for canal purposes is the key in determining the type of map or maps required. NYSDOT will work in conjunction with the Canal Corporation to make this determination.

If the project only requires reconstruction of the existing structure over canal lands in place, with no additions to the structure and no need for additional Right of Way, there is no need for a transfer map.

**All Transfer of Jurisdiction Maps, Concurrent Use and Occupancy Maps and Transfer of Use Maps require a Full Written Description.**

## TRANSFER OF JURISDICTION MAPS

### 7.2 General Information

Unless otherwise specified, transfer maps are to be prepared in the same size and manner as appropriation maps; (see Chapter 5.)

Transfers of jurisdiction may be required from other departments or agencies such as:

- a. Department of Environmental Conservation
- b. Executive Department (Office of Parks, Recreation and Historic Preservation)
- c. State University of New York
- d. Department of Correctional Services
- e. Office of Mental Hygiene
- f. Department of Agriculture and Markets
- g. New York State Thruway Authority
- h. Canal Corporation
- i. Power Authority of the State of New York

**NOTE:** When the Power Authority acquires by appropriation it takes title in the name of The People of the State of New York and a Transfer of Jurisdiction Map can be used. However, when the Power Authority acquires by deed it takes title in its own name and if DOT needs the property, and the Power Authority is willing to part with it, a "D" Map will need to be prepared instead of a T-Map so that Real Estate can proceed with an acquisition by Deed.

#### A. Categories of Transfer Types.

The lands to be transferred fall into categories dependent upon the law under which the land was originally acquired and/or the provisions of law being utilized to accomplish the transfer. The Department's rights of jurisdiction to utilize and maintain the property transferred are basically the same regardless of how the transfer is accomplished. The jurisdiction may be considered in the same vein as though the property was appropriated for highway purposes with the exception of disposing of transferred lands when no longer needed for highway purposes.

Lands for which transfer maps are required may be grouped into three categories. The details of these map groupings are found in subsequent sections of this chapter.

#### 1. Abandoned, Unappropriated and Other Lands From or Through Office of General Services (O.G.S.)

This group consists of lands currently under the jurisdiction of the Office of General Services (O.G.S.), which include lands previously abandoned by state agencies, and unappropriated state lands. It also consists of lands which are to be abandoned by a state agency and transferred to DOT for a specific project. Here the abandonment and transfer is accomplished on a single "T" map. The abandoning agency retains no jurisdiction in the property except in those cases where limited rights are abandoned and transferred.

## **TRANSFER OF JURISDICTION MAPS**

### **2. Lands Directly From Other Agencies.**

Jurisdiction obtained by DOT directly from other state agencies is the right of occupation for highway purposes. The underlying control of lands in this group may be retained by the transferring agency if so specified on the Transfer of Jurisdiction Map. The Department's rights of jurisdiction to occupy, utilize and maintain the property transferred are basically the same as those acquired pursuant to other sections of law. If specified on the Transfer of Jurisdiction Map the lands may revert back to the transferring agency, should they cease to be used for highway purposes.

The jurisdiction obtained may also be made limiting the right of occupation permitted or subject to the transferring agency, if so stated on the map

Abandonment of existing facilities currently occupied by DOT may be shown on the single "T" map together with the transfer of land required for the project in question. These abandoned lands are being returned to the agency having the base jurisdiction.

See Sample Maps in Appendix "Q – 12" and Appendix "Q – 13"

### **3. Intra D.O.T. Transfer of Use.**

This group consists of lands currently under the jurisdiction of DOT but acquired for a purpose other than that for which they are now needed.

See Sample Map in Appendix "Q – 17"

## **B. SPECIAL NOTES**

### **1. Priority**

Transfer maps must be prepared and processed as early as possible because of the time involved in obtaining various approvals.

### **2. Map and Parcel Numbers**

The map and parcel numbers for transfer maps shall be in the same series as the acquisition maps and parcels. However, all map numbers shall have the suffix "-T", except for transfer of use maps which shall have the suffix "-TU".

### **3. Source of Title**

It is necessary to show the state's source of title to property for which a transfer map is being prepared. Source of title information is helpful to the parties involved in reviewing the transfer. If the property was acquired by appropriation, the map and parcel number should be indicated with the date of filing in the County Clerk's Office. If the property was acquired by purchase, the Liber and Page and the date of the recording of the deed in the County Clerk's Office should be indicated.

When lands of the Department of Environmental Conservation are involved, it is necessary to make reference to their survey map numbers.

## **TRANSFER OF JURISDICTION MAPS**

### **4. Access Control**

Property can be transferred without the right of access to adjacent lands, or specific reservations of access can be designated as outlined in Chapter 5.

### **5. Existing Easements**

Easement rights of others (Power Co., Telephone Co., private water lines, etc.) cannot be extinguished by "T" maps. If it is desirable to remove such rights, it is accomplished by an appropriation map.

Utilities often occupy state lands under revocable permits. These utility lines should be delineated as permits to distinguish them from easements and brought to the attention of the issuing agency for disposition.

Existing easements are to be shown on the map delineation and a "Subject To" clause must be included after the description. The "Subject To" clause should not merely recite that the transfer is subject to the easement, but subject to the easement as restricted and limited by the appropriation map. It is not necessary to provide a description of the easement areas.

### **6. Temporary Rights**

Temporary rights required from another state department or agency is secured by use of a permit or a letter of approval and work authorization from the particular department or agency. This is accomplished at the regional level by the Design Engineer with assistance from the ROW Mapping Unit. This procedure usually requires that prints of the Contract Plan Sheets showing proposed work in the area be sent to the department or agency involved, together with a request for the right to occupy the area during construction.

## **7.3 Abandoned, Unappropriated And Other Lands From Or Through Office Of General Services (O.G.S.)**

The transfer of jurisdiction is accomplished by preparing a "T" Map which is first filed in the Department of Transportation. The map tracing is then submitted to the appropriate department or agency for approval and then to the Office of General Services for approval.

### **7.3.1 Abandonment and Transfer from Most Agencies**

Abandonment and transfer is accomplished through the use of a single "T" Map usually pursuant to subdivision 4 of Section 3 of the Public Lands Law. Exceptions and variations are shown below.



## **TRANSFER OF JURISDICTION MAPS**

### **7.3.2 Unappropriated (Unassigned) State Lands**

These lands are already under the jurisdiction of the Office of General Services through tax foreclosures, abandonment's by state departments or agencies (lands under the waters of certain rivers and lakes are covered under Section 7.3.5 below). The property is transferred pursuant to Subdivision 4, Section 3 of the Public Lands Law. *(See Appendix "O-2" for copy of the Law)*

### **7.3.3 Environmental Conservation Lands**

#### **7.3.3.1 Detached Forest Preserve Parcels**

These parcels are located outside of the Adirondack and Catskill State Parks. They are transferred pursuant to Sub-paragraph 2 of Section 9-0307 of the Conservation Law.

#### **7.3.3.2 Reforestation Areas (Outside the 16 counties)**

Reforestation areas are separate and distinct from Forest Preserve Lands. These parcels are located outside the sixteen Forest Preserve Counties and are transferred pursuant to Subdivision 4, Section 3 of the Public Lands Law. *(See Appendix "O-2" for copy of the Law)*

The sixteen Forest Preserve Counties:

- Region 1 - Greene, Saratoga, Warren, Washington and Essex
- Region 2 - Oneida, Hamilton, Herkimer and Fulton
- Region 7 - Clinton, Franklin, St. Lawrence and Lewis
- Region 8 - Ulster
- Region 9 - Delaware and Sullivan

## TRANSFER OF JURISDICTION MAPS

### 7.3.4 Canal Lands

Canal lands are currently under the jurisdiction of the New York State Canal Corporation (NYSCC) a subsidiary of the State Thruway Authority. When these lands are no longer necessary or useful for barge canal or barge canal terminal purposes, the NYSCC can abandon these lands pursuant to Sections 50 and 51 of the Canal Law, to the Office of Governmental Services (O.G.S.).

When it is determined by the Commissioner of Transportation that certain canal lands are necessary and required for highway purposes and the NYSCC has determined that said lands are not necessary for canal purposes and are not part of the existing canal, the Commissioner of Transportation or his designee can request in writing to the Director of Canals that the property be abandoned so that such property can be transferred to the Department of Transportation. Among other necessary steps, such as a review of the transfer by the Canal Recreationway Commission, Canal Corporation Board approval and preparation of the Official Order of Abandonment, in order to effectuate the transfer in accordance with Canal Law and NYSCC procedures, a Canal Abandonment Map (22" x 34") and separate description of the property to be transferred must be prepared by the D.O.T. for approval by the NYSCC.

Once the NYSCC Board has approved the transfer of the property and the Executive Director of the NYSCC has signed the Official Order of Abandonment, the NYSCC will, pursuant to Subdivision 4 of Section 3 of the Public Lands Law, request O.G.S. to transfer the property to D.O.T.

A "T" map is prepared to transfer the property from O.G.S. to D.O.T. The parcel dimensions on the "T" map must agree with those on the Canal Abandonment Map. The transfer is accomplished pursuant to Section 30-a of the Public Lands Law. (*See Appendix "P-4" for copy of the Law*)

The procedure for transferring property from the NYSCC to DOT, when the property is not part of the existing canal, is as follows:

- a.) DOT will submit a Canal Real Property Application (TA-94415) to the Director of the NYSCC requesting the transfer of the Canal lands that DOT has determined as needed for highway purposes.
- b.) If the NYSCC consents to the Transfer, the NYSCC will provide DOT a copy of the NYSCC Survey Map and Description Procedure (TAP 919) and request DOT to provide an Abandonment Map of the lands to be transferred in accordance with TAP 919
- c.) DOT will prepare the Abandonment Map and submit to NYSCC for review and approval.
- d.) Once the Canal Abandonment Map has been approved by the NYSCC a copy of the approved map and description will be provided to the DOT.
- e.) The NYSCC will copy the DOT on its formal request to OGS to transfer the property to DOT and provide the DOT with a copy of the Official Order of Abandonment.
- f.) The Abandonment Map and transfer will be completed at this point and the NYSCC will not need to sign the Transfer of Jurisdiction Map.
- g.) Main Office Real Estate will send copies of the Abandonment Map and Official Order to the Regional Land Surveyor for their use in preparing the Transfer of Jurisdiction Map.
- h.) The original signed mylar of the Transfer map will be sent back to Main Office Real Estate for microfilming and returned to the Regional Land Surveyor

See Sample Map in Appendix "Q – 14"

## **TRANSFER OF JURISDICTION MAPS**

### **7.3.5 Lands Underwater**

Certain beds of rivers and lakes are owned by the State of New York, such as the Hudson River and Lake George. These "lands underwater" are under the jurisdiction of the Office of General Services. Check with the Office of General Services if you are unsure if the bed of the river or lake you are concerned with is owned by the State of New York.

When it is determined by the Commissioner of Transportation that certain state lands, now or formerly under water, are necessary and required for highway purposes a "T" map is prepared to transfer the property from O.G.S. to D.O.T.

The "T" map is forwarded to the Regional Real Estate Group for processing. These maps are transmitted to Real Estate Division, Main Office, for submission to O.G.S. for review and approval.

(See Sample Map Appendix "Q – 15")

### **7.4 Lands Directly From Other Agencies**

The use of some state-owned lands is restricted by special statutory provisions which prevent a complete transfer of jurisdiction. There are also instances where the transferring agency is unwilling to transfer complete jurisdiction. When these situations are encountered, a "T" Map is prepared which is approved by the agency having jurisdiction over the lands. The transfer does not go through O.G.S.

Jurisdiction obtained by D.O.T. in this manner is basically the right of occupation for highway purposes. As the transferring agency retains the underlying jurisdiction, a complete transfer of jurisdiction should be made through O.G.S. (See Section 7.3 above) whenever possible.

#### **Occupation under Section 212 of the Highway Law**

The following is taken from the Highway Law: Section 212 - Changing location of highways over certain lands owned and occupied by the state.

"If a highway passes over or through lands wholly owned and occupied by the state, the location of such portion of such highway as passes through such lands may be altered and changed, or the same may be abandoned or the use thereof as a highway discontinued with the consent and approval of the state authority having jurisdiction or control over such lands by an order directing such change in location, abandonment or discontinuance. Such order shall contain a description of the portion of the highway, the location of which has been changed, abandoned or discontinued, and a description of the new location thereof, if any, and shall be filed in the office of the state authority having control of such lands."

## **TRANSFER OF JURISDICTION MAPS**

### **7.4.1 Highway Reconstruction with No Abandonment of Existing Facility**

Projects through the lands of other state departments or agencies requiring new right of way, in addition to the existing right-of-way, may require transfer maps and may, for reasons mentioned above, be prepared pursuant to Section 212 of the Highway Law.

### **7.4.2 Highway Reconstruction on New Location with Existing Facility Abandoned**

Projects through lands of other state departments or agencies requiring new right of way and where the existing right of way is to be abandoned back to department or agency involved require a combination transfer and abandonment map prepared pursuant to Section 212 of the Highway Law.

### **7.4.3 Forest Preserve Lands - Adirondack & Catskill State Parks**

Article XIV, Section 1 of the Constitution of the State of New York provides that the lands of the State constituting the Forest Preserve shall be forever kept as wild forest lands, but authorizes the state to relocate, reconstruct and maintain a total of not more than fifty miles of existing state highways for the purpose of eliminating the hazards of dangerous curves and grades, provided a total of not more than four hundred acres of forest preserve land shall be used for such purpose and that no single relocated portion of any highway shall exceed one mile in length. This exchange is accomplished pursuant to the provisions of Section 212 of the Highway Law.

To carry out the provisions of Article XIV, it is also necessary for the Right-of-Way Mapping Unit to prepare FORM 92a (10/70). This form ( 7 copies ) together with the "T" Map are submitted through the Real Estate Division to the Department of Environmental Conservation for their review and approval (See Appendix "O -1". - FORM 92a).

A record of all deductions from the allotment for highway purposes is kept updated in the Main Office, Real Estate Division. This record pertains to both the Adirondack State Park and the Catskill State Park.

Special Features of the Exchange of Jurisdiction Map, whereby Forest Preserve Lands within the Adirondack and Catskill State Parks will be occupied by D.O.T. for highway purposes, are as follows:

- a. Note that Patent lines and Lot lines must be shown to facilitate record keeping of Area Recapitulation.
- b. Area recapitulation is used to complete Form ROW 92a (10/70) (see Appendix "O -1"). Said form must accompany this map.
- c. Separate maps should be made for lands in different patents.
- d. The area is expressed in acres only.

**NOTE:** Exchange of jurisdiction within the Adirondack and Catskill State Parks requires consent and approval of the Executive Deputy Commissioner of the Department of Environmental Conservation.

Transfer of jurisdiction outside the Adirondack and Catskill State Parks requires consent and approval of Director of Lands and Forests.

## **TRANSFER OF JURISDICTION MAPS**

### **7.4.4 Reforestation Areas (within sixteen counties)**

When reforestation areas are encountered within the sixteen Forest Preserve counties only a request for use and occupancy of these lands for highway purposes will be considered by the Department of Environmental Conservation.

The sixteen Forest Preserve Counties are as follows:

Region 1 - Greene, Saratoga, Warren, Washington and Essex

Region 2 - Oneida, Hamilton, Herkimer and Fulton

Region 7 - Clinton, Franklin, St. Lawrence and Lewis

Region 8 - Ulster

Region 9 - Delaware and Sullivan

### **7.4.5 Concurrent Use and Occupancy**

Generally speaking, when dealing strictly with "highways" as they relate to each other and which are under the jurisdiction of various echelons of government or authorities, it is not necessary to have a transfer of jurisdiction map or a concurrent use and occupancy map. Exception to the above is when reforestation areas are encountered within the sixteen Forest Preserve counties under the jurisdiction of the New York State Department of Environmental Conservation.

#### **New York State Department of Environmental Conservation**

When reforestation areas are encountered within the sixteen Forest Preserve counties only a request for use and occupancy of these lands for highway purposes will be considered by the Department of Environmental Conservation. (See Section 7.4.4 above)

See Sample Map in Appendix "Q – 16"

## **7.5 Intra-D.O.T. Transfer of Jurisdiction**

### **7.5.1 Transfer of Use**

Section 10, Subdivision 28 of the Highway Law authorizes the Commissioner of Transportation to use either exclusively for, or in conjunction with, for state purposes as set forth in the Highway Law, any state-owned property under his jurisdiction for other public purposes.

This transfer of use is accomplished by the preparation of a Transfer of Use Map (TU) Map and an Official Order of the Commissioner of Transportation. When dual use is to be made of said property for state purposes, the Official Order of transfer shall so certify and the property shall be used and maintained for such dual purposes.

The draft of the Official Order accompanies the submittal of the original map tracing to the Main Office Real Estate Division. The transfer of use is affected by the Official Order of the Commissioner of Transportation being filed in the Offices of the Department of Transportation, accompanied by a description and map. *(See Appendix "Q - 17" for "TU Map and Official Order")*

## TRANSFER OF JURISDICTION MAPS

### **7.6 Transfer From D.O.T. to Another Agency**

Other state departments or agencies may request a transfer of jurisdiction of property from DOT. Before any such transfer of jurisdiction can be considered, it must be determined whether or not the property is surplus to the needs of the Department of Transportation.

If the property is deemed surplus, a "T" map is prepared pursuant to Subdivision 4 of Section 3 of the Public Lands Law.

In the statement of Necessity and Authority indicate the section of the highway law or any other law under which the property was acquired by the New York State Department of Transportation.

The "T" Map is first submitted to the State Departments or Agencies that are requesting the transfer of jurisdiction for their signature, then back to the Department of Transportation for consent to the Transfer of Jurisdiction, then to the Office of General Services for approval and then filed in the Department of Transportation.

(See Appendix "O -2" for Subdivision 4 of Section 3 of the Public Lands Law)

(See Sample Map in Appendix "Q - 18")

**NOTE:** Consideration is given to identifying whether Federal-Aid Funding was used in the acquisition of the property to protect Federal rights. Therefore, careful review and documentation of the property's original transfer to, or acquisition by, the Department is required.

