



Highway Maintenance Manual

Bureau of Highway Maintenance

Chapter 9 Right-of-Way Use & Permits

December 2010

Section 15 Utility Accommodation

Subject 50 Environmental Conditions

1.0 General

This policy specifies responsibilities and the procedures that a utility shall follow when environmental conditions are encountered in the right-of-way (R/W). These conditions include, but are not limited to:

- 1) Cultural resources: archeological sites, historic structures, burial sites, etc.
- 2) Contaminated soils
- 3) Underground storage tanks (USTs)
- 4) Leaking underground storage tanks (LUSTs)

2.0 WisDOT Responsibility

Under Wisconsin Administrative Rule [Trans 220](#), WisDOT shall notify a utility when its facilities may be affected by a proposed improvement project. If the utility confirms that its facilities are in the vicinity of the improvement, then WisDOT shall mail the utility at least that portion of the improvement plan that concerns those facilities. WisDOT shall also provide any additional and duplicate plan information needed by the utility to design and layout the removal, relocation, or adjustment of the existing utility facilities and the placement of relocated or additional facilities within the project limits. This includes furnishing a utility with information regarding any environmental conditions when site assessments are performed as a required part of WisDOT's project investigation. This information shall be considered for **informational purposes only** since data may change from the time an investigation is completed until the time a report is reviewed.

3.0 Utility Responsibility

When a utility wants to locate its facility on the R/W and WisDOT is not required to furnish the utility with information regarding environmental conditions, the utility has the responsibility of determining if these conditions exist at its proposed site. The utility should perform a site assessment to accomplish this.

4.0 Site Assessments

When a utility needs to do site assessments (investigations), the procedures listed in WisDOT's Facilities Development Manual may be used as a guide. Specifically, [Chapter 26](#) has information on cultural resource preservation (archeological, historical, etc.), and [Chapter 21, Section 35](#), has information regarding contaminated sites and remediation.

WisDOT recommends that site assessments be performed by a qualified historian, archeologist, or environmental consultant if the utility does not employ personnel specifically qualified for this work.

5.0 Discovery of Environmental Conditions

Whether the discovery of environmental conditions occurs during a site assessment, facility installation, or maintenance operation, **ALL WORK SHALL BE SUSPENDED IMMEDIATELY**. If the site poses a possible health risk, the local police and fire departments shall be notified immediately, and the utility shall take the necessary steps to provide for the safety of people and property in the area. After suspending operations, the utility shall contact the offices listed [Table 1](#) depending upon the type of conditions discovered:

Failure to stop work immediately upon discovery of environmental conditions **may** result in financial responsibility ([Table 2](#)) for the utility due to subsequent site assessments, mitigation, remediation, or possible fines. A checklist has been developed ([Attachment 1](#)) to help utilities obtain the necessary information which may be asked of them by site investigators.

WisDOT will notify the utility when it can resume its operation.

Table 1: Environmental Conditions Discovery Notification list

Utility Discovers Environmental Conditions while Working on WisDOT Right-of-Way (R/W)	
Category	Contact Information (Note: Contact All That Apply)
Cultural Resources	
Historic structure	State Historic Preservation Office: (608)264-6506
Archeological site	State Historic Preservation Office: (608)264-6507
Burial site	Burial Sites Preservation Office: (608)264-6503 or (800)342-7834
Contaminated Soils, USTs, LUSTs	
Department of Natural Resources ²	http://dnr.wi.gov/topic/spills/report.html (800)/943-0003 or (888)936-7463
For Any Discovery	
Utility project but no WisDOT project	WisDOT region utility permit coordinator ¹
WisDOT project	WisDOT construction project manager or district construction supervisor ¹
<p>1. These people shall also notify the WisDOT's Bureau of Equity and Environmental Services: Jim Becker(608) 261-0137 Cultural Resources Shar TeBeest(608) 266-1476 Contaminated Soils, USTs, LUSTS, etc.</p> <p>2. Required under Wisconsin law</p>	

6.0 Utility Facility Placement Options

When environmental conditions are discovered in the R/W, the Department of Natural Resources, State Historic Preservation Office, or Burial Sites Preservation Office (collectively: Agency) shall determine whether a utility can locate its facility within the affected area. Based upon the Agency's decision, the following may occur:

6.1 Utility Entirely Avoids the Affected Area

- 1) An Agency mandates that the area be left in its natural state, and utility facilities shall not be allowed in the area.
- 2) The utility decides that it wants to locate in another area and avoid possible delays to its project due to site assessments, remediation, mitigation, or the possible decision noted in 1.

6.2 Utility Locates Around or through the Affected Area

- 1) An Agency orders the site to be completely remediated or mitigated before any utility installation can take place. The utility would then have a clear corridor in which to locate its facility.
- 2) An Agency decides that the area can be left in its natural state, but any area that is disturbed or affected by the utility operation (based upon the Agency's assessment) has to be remediated or mitigated. The utility may also elect to go around the area, if possible, and avoid remediation or mitigation.
- 3) An Agency decides that the area can be left in its natural state, and the conditions do not have to be remediated or mitigated as long as the utility exercises extreme care to avoid any significant disruption to the area. In the case of an archeological or historical site, a utility may be allowed to place a facility in an area that was already disturbed. In the case of a hazardous materials site, a utility would have to utilize construction methods that would prevent any contamination from spreading.

Unless WisDOT has taken charge of the remediation or mitigation process due to a WisDOT project, a utility that decides to locate its facility through an affected area, as described in items 1-3 above, shall document in its permit application that it has contacted the Agency and has received the proper authorization to locate in the area along with its proposed construction methods. These permits may also be routed through the Region's environmental coordinator or the Bureau of Equity and Environmental Services as a final check.

7.0 Financial Responsibility

When a utility performs an initial site assessment on WisDOT R/W – either with a project of its own or because a WisDOT project is not required to obtain environmental information – the utility shall bear the cost of the assessment. No matter who performed the initial assessment or even if they were not done, a utility that discovers any environmental conditions shall not be responsible for assessment, mitigation, or remediation costs proved it had complied with section 5.0 of this policy and avoids the site by placing its facility in another location. Table 2 specifies who may have to pay for assessment, mitigation, or remediation costs depending upon the situation.

Table 2: Financial Responsibility Table

Utility Discovers Environmental Conditions while Working on WisDOT Right-of-Way and Decides to Locate in the Affected Area	
Category/Activity	Who Pays for the Activity?
Cultural Resources	
Site Assessments (Identification or evaluation surveys) ¹	
• Utility project but no WisDOT project	Utility
• WisDOT project	Utility or WisDOT ²
Mitigation ¹	
• SHPO or BSPO order	Utility
• No SHPO or BSPO order	Utility
Contaminated Soils, USTs, LUSTs, etc.	
Site Assessments	
• Utility project but no WisDOT project	RP or WisDOT or Utility ³
• WisDOT project	RP or WisDOT or Utility ³
Remediation	
• DNR order	RP or WisDOT or Utility ³
• No DNR order	Utility
<p>1. WisDOT policy is to not spend available resources for assessments or mitigation, but rather preserve archeological sites and historic structures in place. This is in accordance with Section 106 of the National Historic Preservation Act.</p> <p>2. Applicable only when WisDOT is required to obtain environmental information for its project.</p> <p>3. If a utility fails to comply with section 5.0 of this policy, it may be responsible for a percentage of the costs depending upon how much worse the situation becomes due to the utility's actions.</p> <p>If the WisDOT is not the RP, then a utility which incurs costs due to encountering contaminated soils, USTs, or LUSTs will have to recover them from the RP.</p> <p>SHPO = State Historic Preservation Office BSPO = Burial Sites Preservation Office DNR = Department of Natural Resources RP = Responsible Party (owner of the source of the hazard as determined by DNR)</p>	

Attachment 1: Environmental Conditions Discovery Checklist (Page 1 of 2)

As soon as environmental conditions are discovered in WisDOT's right-of-way,

STOP WORK IMMEDIATELY

and be prepared to report the following information to the contacts listed in [HMM 09-15-50 Table 1](#)

1. SITE LOCATION

- a. Highway(s): _____ b. Direction¹: NB SB EB WB
- c. County: _____ d. City Village Town of: _____
- e. Distance and direction from nearest public road intersection or mile marker? _____
- f. Nearest public road intersection name or mile marker number? _____
- g. Other landmarks? _____

2. ENVIRONMENTAL CONDITION – Cultural Resources

- a. What was found (burial site, building foundation, artifact)? _____
- b. Is the location of the find marked? Yes No If yes, how is it marked? _____
- c. Approximate area (dimensions) of the find? _____

3. ENVIRONMENTAL CONDITION – Contaminated Sites, USTs², LUSTs³

- a. What was found? _____
- b. Appearance of soils or liquid? _____
- c. Odor of soils or liquid? _____
- d. Approximate size of tank or area of contamination uncovered? _____
- e. Obvious liquid or product in the tank? Yes No
- f. Obvious smell in the tank? Yes No If yes, can you describe it (varnish, kerosene, gasoline, diesel, other, unknown)? _____
- g. Soil type(s) encountered (sand, gravel, clay, till)? _____
- h. Depth to groundwater (if known)? _____
- i. Any previous land use knowledge (local history, memory of site as a business)? Yes No
If yes, please describe. _____
- j. Is the location of the find marked? Yes No If yes, how is it marked? _____

4. STATUS OF UTILITY WORK

- a. Has the work stopped in the area? Yes No **If NO, STOP WORK IMMEDIATELY!**
- b. Has the area been secured (fenced, staked or marked, roped off, or delineated by traffic control devices)? Yes No
- c. Can the work continue in another area? Yes No If yes, for how long? _____
- d. Can the affected area be avoided (utility facility placed in another location)? Yes No
- e. Has any completed utility work been clearly marked (staked, painted, or flagged)? Yes No
- f. Is any of the completed utility facility active, energized, etc.? Yes No
- g. Is this utility being relocated to facilitate a highway project? Yes No

1 Direction is the cardinal or route direction, not the actual compass direction:
NB = Northbound, SB = Southbound, EB = Eastbound, WB = Westbound
2 Underground storage tanks
3 Leaking underground storage tanks

Attachment 1: Environmental Conditions Discovery Checklist (Page 2 of 2)

5. CONTACTS

- a. Was the State Historic Preservation Office (SHPO) contacted if building foundations or artifacts were discovered? Yes No
If yes, date: _____ By (name/phone): _____
SHPO contact (name/phone): _____

- b. Was the Burial Sites Preservation Office (BSPO) contacted if a burial site was discovered? Yes No
If yes, date: _____ By (name/phone): _____
BSPO contact (name/phone): _____

- c. Was the Department of Natural Resources (DNR) contacted if a contaminated site, UST or LUST was discovered? Yes No
If yes, date: _____ By (name/phone): _____
DNR contact (name/phone): _____

- d. Was the WisDOT utility permit coordinator, construction project manager, or other WisDOT project representative (e.g., consultant) contacted? Yes No
If yes, date: _____ By (name/phone): _____
WisDOT contact (name/phone): _____
WisDOT contact (name/phone): _____
Consultant contact (name/phone): _____

- e. Was WisDOT's Bureau of Equity & Environmental Services contacted (Note: this is not a utility responsibility)? Yes No
If yes, date: _____ By (name/phone): _____
WisDOT contact (name/phone): _____
WisDOT contact (name/phone): _____

- f. Other contacts or e-mail addresses: _____

6. RESUMING WORK

- a. Did WisDOT indicate a timeframe in which someone would respond? Yes No
- b. What is that timeframe? _____
- c. Who will authorize resuming work? _____
- d. When can the work be resumed? _____
- e. Date authorization received? _____