



NATURAL RESOURCES COMMISSION POLICY

4605 – Easement for the Use of State Lands

(Issued/Revised: 12/08/1994)

Supersedes:

Commission Policy No. 4605 Dated: October 14, 1977

Preparing Division:

Forest Management

Subject:

Easement for the Use of State Lands

Preamble:

Easements are granted to authorize a specific long-term use of State-owned land. Such uses include rights-of-way for State highways, county roads, electric utility lines, telephone lines, railroads, oil and gas pipelines, telecommunication sites and similar uses. The public may receive direct and indirect benefits from such facilities and installations. Easements for the use of State lands are often necessary to facilitate construction where State land is the only or best location for the proposed use. However, protection of the natural environment must remain the primary consideration.

General Policy:

Easements for the use of State land that provide for necessary and beneficial public services will be granted when conditions and requirements can be established which will effectively mitigate the impact on the natural environment, and when such uses are not in conflict with the primary use or purpose for which the State lands were acquired or are being used. The easement shall provide and make clear that the Department retains the authority to specifically approve any removal of trees adjacent to the State-owned right-of-way. Lands purchased with restricted funds must be considered for easements in light of applicable Federal and State statutes. No easement shall be granted for land in excess of the amount necessary for the approved use. Easements shall only be granted for a value at or above the current fair market value for such easement rights as determined by the Department. Easement rights shall be relinquished to the Department when the use need ceases.

Specific Policies:

Utility companies will be required to make joint use of utility corridors whenever possible (pipelines, underground cables, etc.).

All utility lines in high use recreation areas and on other State land having high aesthetic, scenic, natural or historic values shall be buried. All telecommunications lines and all electric power lines up to 34.5 K.V., should be buried whenever feasible.

Proposed rights-of-way across State lands to extend utility service to private landowners shall be located wholly or partially on private property whenever possible. State land shall only be considered when the use of private property is shown to be unavailable by the applicant.

The potential use as well as the present use of State lands shall be considered in making decisions concerning easements.

Roadside trees make a significant contribution to the natural beauty of the surroundings area. Utility rights-of-way may be located well back from the road or trail so as not to disturb these values. This same policy applies to lakes and streams. Exceptions would be for narrow pipeline and underground utility rights-of-way proposed to be located along roads or trails. In reconstructing existing roads on existing rights-of-way, tree removal shall be permitted only upon Department approval. To enhance aesthetics and to address environmental considerations, long straight routes shall be avoided, especially at road and river crossings.

Similarly, to reduce visual impact and to address environmental considerations, telecommunication towers in excess of 500 feet above ground level (A.B.L.) shall not be permitted on State lands unless the applicant demonstrates the need for greater height and the Department finds that a variance will not adversely impact the environment. Rights-of-way 66-feet in width will normally be considered adequate for county road construction unless the applicant can document the need for greater widths.

State and Federal highways will be considered for the minimum necessary width as supported by documentation from the applicant.

Restoration and maintenance of easement areas and rights-of-way must be performed so the natural environment is not unnecessarily damaged and unauthorized right-of-way use such as by motorized vehicles is not permitted. Any easement granted by the Department will specify the construction and restoration and maintenance measures to be permitted. No alternative means of construction restoration or maintenance shall be used without specific written approval of the Department.

Proposals for herbicide application shall be thoroughly evaluated by the Department and only performed under a Department permit specifying conditions of use. Brushing by mechanical means is a preferred alternative.

Supported by Commission Action December, 1994.

Procedure 4605.5