

Utility and Railroad Troubleshooting

Nicole Frankl
Statewide Utility and Rail Liaison
Nicole.frankl@odot.Oregon.gov

Railroad & Utility Training

Nicole Frankl

ODOT Statewide Utility and Rail Liaison

Engineering & Technical Services Branch

- 5 years with ODOT
- Previous experience as a Civil Engineer with WSP, a Director with Nebraska LTAP, and in various engineering roles within the South Dakota Department of Transportation





Table Team Discussion: Utilities

What are the challenges and questions you have about Utilities?

- Brainstorm with your table
- Identify 2 – 3 topics you would like to review
- Hand your cards to the facilitator



Table Team Discussion: Railroad

What are the challenges and questions you have about Railroad?

- Brainstorm with your table
- Identify 2 – 3 topics you would like to review
- Hand your cards to the facilitator

DELAY CLAIM PROCESS

DELAY CLAIM PROCESS

In the Beginning

- Project layout – API is determined
- Utility Coordinator identifies utilities in conflict
- Utility Coordinator works with utilities to develop an approved relocation plan
- Timing Requirement Letter are issued – states date utility is required to move
 - An approved relocation plan Does Not have to be in place to issue a Time Requirement Letter
- Utility Certificate signed
- Project moves to award and then construction



DELAY CLAIM PROCESS

Time Requirements Letter

Oregon Department of Transportation : Utility Forms : Right of Way : State of Oregon



Subject: Relocation Time Requirements
(PROJECT NAME)
(HIGHWAY)
(COUNTY)
Key Number: (PROJECT KEY NUMBER)

Attention: (UTILITY CONTACT NAME)

(INSERT THE FOLLOWING SENTENCE IF A CONSULTANT, OTHERWISE DELETE)

(CONSULTANT FIRM NAME) has been retained by the Oregon Department of Transportation (ODOT) to provide design engineering services during the design phase of the subject project located (COUNTY / CITY NAME).

Pursuant to the provisions of paragraph 734-055-0045 (4) of the Oregon Administrative Rules, Chapter 734, Division 55, you have advised ODOT (INDICATE WHETHER IN WRITING OR VERBALLY) that the relocation or adjustment work will be completed as listed below:

Relocation Work: (UTILITY COMPANY NAME) will relocate, adjust and/or install the following prior to construction: (FOR EACH WORK ELEMENT, IDENTIFY THE FACILITY, APPROXIMATE LOCATIONS, AND IF WORK IS A RELOCATION, ADJUSTMENT OR NEW INSTALLATION. INCLUDE DETAILS AS APPROPRIATE).

The following work will be done during construction: (FOR EACH WORK ELEMENT, IDENTIFY THE FACILITY, APPROXIMATE LOCATIONS, AND IF WORK IS A RELOCATION, ADJUSTMENT OR NEW INSTALLATION. INCLUDE DETAILS AS APPROPRIATE)

Relocation Completion: All work performed by (UTILITY COMPANY NAME) crews shall be completed no later than (REQUIRED COMPLETION DATE).

(UTILITY COMPANY NAME) may begin the above work once all agreements, permits (City, County, State) and other required documentation are in place. An ODOT permit may be necessary depending on the relocation plan.

DELAY CLAIM PROCESS

Construction Manual- Chp 24



CHAPTER 24

WORK DONE BY UTILITIES AND RAILROADS

Utilities and Railroads may be required to adjust or relocate their facilities to allow the Agency to construct a project. In certain circumstances, costs incurred to the Utility or Railroad by the project may be reimbursable by the Agency. The Agency will work with both the utility and/or Railroad to determine what compensable rights they have.



24-4 Delays Caused by Utilities

The agreement with the Utility or Railroad generally specifies the time frame within which they will relocate or adjust their facilities. If this work is not completed within the specified time frame and a delay impacts the Contractor's work, the Agency generally will be responsible for adjustments to Contract Time and additional costs that the Contractor incurred due to the delay. For that reason, it is imperative that the RE assure that each Utility completes its work such that it does not delay the Contractor's work. If the RE cannot assure the performance of the Utility, they can communicate the need to complete their work by an agreed-upon date to avoid consequences. It is also imperative that the RE ensure that all agreements with a Railroad are fully executed and make available a copy of the agreement at the Project Site.

The RE must:

- Assure that the Contractor continually coordinates with each Utility and Railroad so the Utility or Railroad knows what work is expected of them to accomplish the required work within the specified time frames.
- If needed, remind the Utility that it could be responsible for delay costs caused by their work.
- If the Utility or Railroad work results in a delay to the Contractor's work, the RE shall record all information needed to analyze the delay. The RE will work with the SUL and UC to minimize any delays caused by the Utility. The RE will work with the SRRL to minimize any delay caused by the Railroad.

If the Agency is required to compensate the Contractor for delay costs caused by Utility work, the Agency may recover those delay costs from the Utility. If a Utility delay occurs, the RE should initiate the process for the Agency to take action to recover delay costs. This would include consulting with the Region/Bridge Engineering (BE) and the Contract Administration Engineer (CAE).

[Also refer to Chapter 13 - Contract Time and Chapter 27 - Disagreements, Disputes, and Claims.]

DELAY CLAIM PROCESS

Note

- NOTICE OF DELAY FROM THE CONTRACTOR
 - Form submitted by the contractor
- DELAY CLAIM NOTICE TO UTILITY
 - Sent to the Utility – Language in OARs

Notifications to the Utility:

Delay Claim Notice

Send Utility the Notice of Delay received from the Contractor

Delay Claim Notice Prelim

CCO received from Contractor and sent to Utility before ODOT approval Purpose – start negotiations

Delay Claim Notice Final

CCO approved by ODOT as the final cost to the Utility



In the Utility Relocation Manual and current process, SUL completing this work and send copy to UC and RE

Thoughts?

24-5 Billing a Utility for Extra Agency Costs

If the Agency incurs additional costs because a Utility failed to timely re-locate, remove, protect, or otherwise modify its facilities to accommodate the needs of the Agency and its Contractor, the Agency may attempt to recover the additional costs from the Utility. The additional costs may include any delay damages paid by the Agency needed to mitigate the impact(s) resulting from the Utility facilities.

Use the following procedure to recover the additional costs from the responsible Utility:

Procedure for Billing a Utility for Extra Agency Costs for Delay Claims or Other Cost Recovery Issues Involving Utilities

Responsibility	Step	Action
Contractor	1	In accordance with the Contract, communicates with the Engineer about work that impacted the cost or completion of the Contract. Written notifications to be submitted as specified in the Contract.
Resident Engineer (RE)	2	Communicates the situation to the UC, including any documentation received from the Contractor. May request assistance and advice from the Region/BE and CAE. The RE and the Contractor should record and track the cost of the impacted work.
Resident Engineer (RE)	3	Issues a letter which puts the affected Utility on notice for delay costs and includes documentation received from the UC. Informs the Utility of its opportunity to monitor and track the cost of the impacted work. Sends copies to the UC and SUL.
Resident Engineer (RE)	4	Requests that Transportation Program Office Manager open a standard sub-job (040 non-participating) on the construction expenditure account to track extra engineering or other administrative costs that result from the Utility delay.
Highway Program Office	5	Issues a revised memo to the RE of assigned (open) sub-jobs for the Project. Sends copies to the UC and SUL.

Responsibility	Step	Action
Resident Engineer (RE)	6	Works with the Utility, UC, SUL, and the Contractor to resolve the issue . If necessary, the Contractor may escalate the issue to a claim under Section 001999. Communicates the dispute settlement outcome and the estimated utility assessment or liability to the SUL.
State Utility Liaison (SUL)	7	Sends a letter with assessment and outcome information to the Utility. Sends a copy to the UC.
State Utility Liaison (SUL)	8	Initiates utility billing process with Highway Program Office. Determines method and timing of billing. Delivers acknowledgment to the RE that the Utility has been billed and sends copies to the UC and CAE.
Transportation Program Office	9	Invoices Utility , receives payment(s), and disperses funds accordingly.

DELAY CLAIM PROCESS

Delay Cost Determination

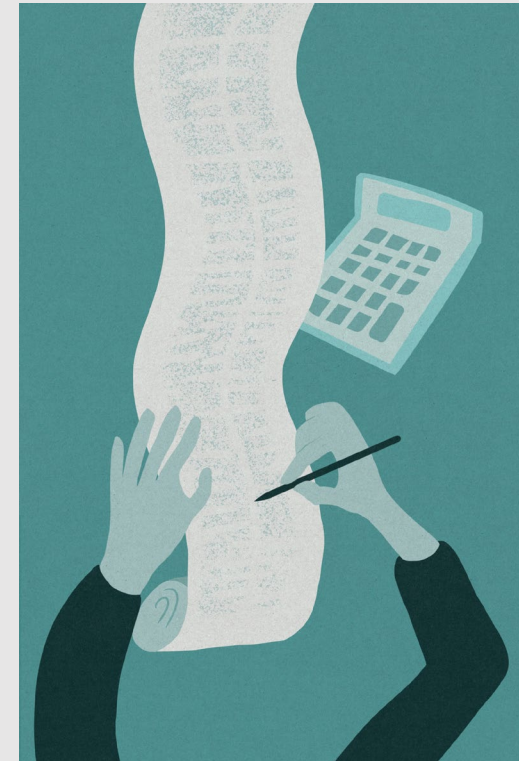
- No consistent basis to determine Delay Claim cost
 - Tracked Value the contractor submits as a delay claim
 - Could be Liquidated Damages (LDs)
- There is no one certain process
 - Document decisions made
- All information is sent to the Utility in an email
 - Utility has the right to discuss



DELAY CLAIM PROCESS

Delay Claim Cost Received from Utility

- Funds placed in Construction EA under separate sub job
- Overrun or increase in authorization required to show in contract payment system (CPS)





REFERENCES

- Website for materials (ODOT RR Internal Website)
[Oregon Department of Transportation : Railroad Coordination Program : Right of Way : State of Oregon](#)
- UPRR Public Project Manual: [UP: Industrial Development/Real Estate](#)



QUESTIONS

Nicole Frankl

State Utility and Railroad Liaison

503-385-6594

