

Utility Relocation Study Report to the 2000 Minnesota Legislature

A Cooperative Effort to Improve the Utility Relocation Process During Highway Construction

February 2000

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Glossary of Terms

as-built - a sketch, drawing, or map of in-place facilities that show any deviations from the plan or original permit sketch that is greater than plus or minus two feet. An as-built shall be submitted after completion of the installation when a deviation occurs.

field-locate - the action of locating or marking the approximate horizontal location of underground facilities within the proposed construction area.

Global Positioning System (GPS)

Gopher State One Call (GSOC)

local road authority (LRA)

Minnesota Department of Transportation (Mn/DOT)

Notice and Orders - The official notification from the Commissioner of Transportation to the utility company indicating that the utility facilities require relocation due to a construction project.

Public Utility Commission (PUC)

participants - all individuals who attended workshops

parties - individuals and organizations affected by utility relocation

road authority (RA)

utility company (UC)

I. A Letter from the Commissioner

February 2000

Pursuant to 1999 chapter 238 Section 87, I am pleased to submit the final report of the Utility Relocation Study.

Study results indicate a strong interest by road authorities (RAs), utility companies (UCs), Gopher State One Call (GSOC), and contractors to develop a more timely, efficient, and coordinated utility relocation process during highway construction. The recommendations address the need for improved communications and education regarding the roles and responsibilities of each party before and during utility relocation. Specific Minnesota Department of Transportation (Mn/DOT) actions which we intend to implement are also included in the report.

The recommendations in this report do not require legislation at this time. A subgroup of the committee for this report is continuing work to develop a utility relocation procedure document which will include a general process flowchart. Study participants will also meet again in October 2000 to review progress on implementation of recommendations and to determine the next steps.

While Mn/DOT was viewed as the appropriate leader to set up and guide the study process, we also need the commitment of construction contractors, UCs, local road authorities (LRAs), and GSOC to realize desired improvements. Our expectation is that following these recommendations will result in a more timely and improved utility relocation process. It will also help improve the safety of workers, inspectors, and the public, and limit any interruption of services to utility customers.

I would like to thank all utility relocation study participants for the professional manner in which they worked together to improve the process of utility relocation.

Sincerely,

Elwyn Tinklenberg
Mn/DOT Commissioner

II. Executive Summary

Timely relocation of utility facilities along state and local highways and streets has an impact on the progress of roadway construction and maintenance projects. Although the majority of utility relocations go smoothly, relocation delays cost extra time and money, and can have safety implications.

The 1999 Legislature directed the Minnesota Department of Transportation (Mn/DOT) to study issues related to relocating or removing utility facilities from highway construction projects. The law required the study to include (1) notice given to utilities about construction projects that effect utility facilities, and (2) the rights and responsibilities of Mn/DOT, highway construction contractors, and utility companies (UCs). It also asked for specific Mn/DOT actions including the need for legislative action if necessary.

Background

Mn/DOT used a collaborative process with approximately 40 participants, including construction contractors, UCs, utility associations, local and state road authorities, and Gopher State One Call (GSOC) (see page seven for a complete participant list). Participants met four times to gain a mutual understanding of issues, potential solutions, and barriers. Recommendations and implementation strategies were then developed and discussed. A draft of the final report was sent to all participants for review and comment prior to completion. Comments were then incorporated into the report.

Issues

Participants saw the following issues as most critical:

1. Lack of sufficient communication, scheduling, and coordination in the planning, right-of-way acquisition, design, and construction phases of road construction projects inhibits timely relocation of utilities.
2. UCs need a place to relocate (on the roadway or private right-of-way) and sufficient time to move.
3. The roles, responsibilities, and priorities of Mn/DOT (or other road authority), UCs, and contractors during construction are not clear.
4. There is no set of agreed-upon policies, procedures, best practices, and responsibilities for utility relocation by state or local governmental units, UCs, GSOC, or contractors.
5. Accurate locations of existing facilities owned by UCs, communication companies, and local governments are often not provided. These are necessary for early planning and design, and later for safe construction work.

Findings

The study process resulted in nineteen findings. Some key findings include the following:

1. There is a need for better early coordination and timely communication between road authorities (RAs) and UCs.

2. Accurate and early utility location information for design is desired by RAs, but is often difficult to provide by UCs. The design locate and field locate request processes may not be well understood or utilized properly.
3. Right-of-way needs for utilities should be coordinated with the overall transportation corridor right-of-way needs and accommodate utilities to the extent practicable.
4. As highway project construction staging and special provisions are developed, utility relocation needs should be considered.
5. Contractors and UCs would like RAs more involved with utility relocation during construction - especially to resolve coordination problems or scheduling difficulties.
6. UCs, if given proper early information, need to be held accountable for mutually agreed-upon schedules during construction. Contractors likewise need to be accountable for schedules and coordinate changes with all parties.
7. All participants arrived at a better understanding of the complex issues involved from each other's perspective and this should lead to better cooperation. The participants agreed to meet again in October 2000 to review progress.

General Work Group Recommendations

Many of the following recommendations had general support from all participants. Recommendations that did not have full support include participant comments in the body of this report. Since utility relocation is complex, with many parties involved, full consensus was sometimes not possible. (In order to keep the Executive Summary brief, those other opinions were not included here.)

General Actions

1. UCs should provide current, accurate information about their appropriate contact people for relocations.
2. Mn/DOT should create and maintain an up-to-date Web site with UC contact information.
3. GSOC should consider the establishment of statewide utility coordination committees.
4. Mn/DOT should reconvene the study participants again in October 2000 to review progress.

Utility Installation Phase

1. UCs should create and retain accurate utility installation information.
2. Mn/DOT and local road authorities (LRAs) should develop appropriate enforceable conditions for instances where utility installation information is not received as required by permit.

System Planning Phase

1. RAs should meet with UCs to review upcoming projects and discuss short-and long-term project schedules and other issues.
2. RAs should take the lead to develop a utility relocation procedures document. RAs will develop a process to educate and inform all parties in the use of the materials generated by this study.
3. UCs should communicate the time needed to respond to RA relocation requests, based on the level and magnitude of relocation.

Project Development Phase

1. RAs should take the lead for early project notification to UCs to integrate and coordinate utility relocation with the total project view and UC needs in mind.
2. GSOC procedures should be studied and revised if necessary so that RAs may obtain early utility relocation information for design in a timely fashion from UCs without automatically triggering a field locate.
3. RAs should take the lead (with UC involvement) to coordinate right-of-way acquisition activities, and should provide adequate space for UCs to accomplish their relocation work to the extent practicable.
4. RAs and UCs should consider other utility relocation options including, but not limited to, purchase of additional right-of-way.
5. RAs should work with UCs before project letting to develop contract special provisions and establish the construction schedule information to be included in contract documents.
6. UCs should provide accurate and timely location information maps, as-builts, and field location information when requested by RAs in accordance with applicable Statutes.
7. RAs should hold pre-letting conferences when they anticipate major utility relocation conflicts may arise during construction. UCs and contractors should attend these meetings or make prior arrangements.
8. Whenever possible, relocate utilities ahead of project construction.

Construction Phase

1. RAs should take the lead to coordinate and communicate mutually agreeable schedules (within the overall contract completion and staging parameters). All parties should agree on the schedule and assume performance responsibility.
2. RAs should create a process for recovering costs incurred as a direct result of the UC's failure to comply with permit and "Notice and Order" provisions. This would be pursued when appropriate early UC coordination and involvement has occurred.
3. Contractors should take the lead to coordinate their day-to-day construction activities with utility relocations.
4. RAs should develop a plan of action if unforeseen circumstances occur.
5. RAs should hold pre-construction conferences with all parties involved in a project.
6. As owners, RAs should assume responsibility to ensure utility relocation occurs and those utility owners are held accountable for agreed-upon schedules.
7. UCs should commit to a firm schedule when necessary early coordination has occurred, and should immediately communicate with all parties when "acts of God" and/or emergencies require a change.
8. During construction, the contractor should take the lead and be responsible for prosecuting the work according to the agreed-upon schedule.

Specific Mn/DOT Actions

Mn/DOT agrees to take the following actions with respect to its construction contracts (additional details pp 30-36).

General

1. Establish UC contact list and Web site (by 7/1/00 and ongoing).
2. Provide education and training to department project development staff regarding utility relocation procedures established as a result of this study (ongoing).
3. Arrange a follow-up meeting of the participants to review progress of study recommendations and identify future needs (October 2000).

Utility Installation Phase

1. Revise permit special provisions language regarding installation requirements for as-built information by UCs (by July 2000).
2. Create and maintain a data base of as-built utility locations (by 1/1/01 and ongoing).

System Planning Phase

1. Share upcoming schedule of projects at least annually (by 7/1/00 and ongoing).
2. Develop and distribute utility relocation procedure document for use by all parties (by 7/1/00).

Project Development Phase

1. Standardize forms and procedures to improve design information requests (by 7/1/00).
2. Assure early UC involvement in Mn/DOT project development (by 5/1/00 and ongoing).
3. Create a new activity in the project management system to monitor utility coordination milestones during project development (by 4/1/00).
4. Develop Mn/DOT procedures for coordination of right-of-way acquisition procedures (by 5/1/00).
5. Develop Mn/DOT procedures to involve UCs in the development of construction schedules and contract special provisions (ongoing).
6. Mn/DOT project engineers will schedule pre-letting meetings with contractors and UCs on projects involving complex utility relocation issues (by 4/1/00).

Construction Phase

1. Revise Notice and Orders to include more specific construction and utility relocation schedules (by 7/1/00).
2. Develop procedures to recover costs due to utility relocation delays (by 7/1/00).
3. Take a more active role in utility coordination during construction (by 4/1/00).
4. Mn/DOT will develop a plan of action if unforeseen circumstances occur which cause project delays.

Continuing Issues

Although the study participants agree on most items, complete agreement has not yet been reached on several issues. Additional work on these issues should continue (see pp 37 and 38 for more detail).

Conclusion

The recommendations in this report do not require legislation at this time.

While Mn/DOT cannot speak for all RAs, work has already begun to alert and educate Mn/DOT project managers and designers about the need for better early coordination during the preconstruction phase. The key construction staff has also been informed of what will be expected of them in terms of greater utility issue emphasis and schedule coordination and communication.

The need to spread the information learned in this study process beyond Mn/DOT to other local RAs will be coordinated through the State Aid Division of Mn/DOT and task force representatives. A broad distribution of the final report both to Mn/DOT, LRAs, UCs, contractors, and GSOC will help ensure the knowledge gained is shared.

Although we recognize some strategies may take several years to implement, improvements are expected beginning this spring and summer, and will then be evaluated by study participants in October 2000.

Mn/DOT wants to thank all participants for their dedication and commitment to continuously improve the utility relocation process.

III. Participants

Mike Ahern, Dorsey and Whitney, LLP (representing Minnesota Independent Coalition)

Ken Anderson, Bonestroo, Rosene, Anderlik and Associates, Inc.

(representing Consulting Engineers Council)

Liz Babcock, Williams Energy Services

Paul Bergman, Mn/DOT Contract Administration

Bruce Bolander - Carl Bolander and Sons (representing contracting industry)

Darrel Bunge, Minnesota Petroleum Council

Gerry Chezik, Northern States Power Company

Jon Eisele, GSOC

Greg Felt, Mn/DOT Metro Division State Aid

John Flora, City of Fridley (representing City engineers)

Allyson Foster, Northern Natural Gas

Dick Gacke, US West

Del Gerdes - Mn/DOT Technical Support - Co-chair

Wes Gjovik, Mn/DOT District 7 (Mankato Area)

Tom Grundhoefer, League of Minnesota Cities

Dan Hilliard, Sprint Communications Co. L.P.

Ron Jabs, Minnesota Valley Electric Cooperative (representing Minnesota Rural Electric)

Scott Johnson, C. S. McCrossan Inc.

Maryanne Kelly-Sonnek, Mn/DOT Municipal and Utility Agreements

Kevin Kliethermes, Federal Highway Administration

Gerry Knickerbocker, Minnesota Telephone Association

Mark Krebsbach, Mn/DOT Technical Support

Gerry Kreutzer, Mn/DOT District 3 (Brainerd Area)

Leonard Krumm, City of Minneapolis (representing city engineers)

Dick Larson, Mille Lacs County (representing county engineers)

Harold Lasley, Mn/DOT

Merritt Linzie, Mn/DOT Land Management

Ted McCrossan, C. S. McCrossan Inc. (representing contracting industry)

Tom McCrossan, C. S. McCrossan Inc. (representing contracting industry)

Mike McGrath, Minnesota Office of Pipeline Safety

Mike Marttila - Mn/DOT Construction and Contract Administration - Co-chair

Wayne Murphy, Associated General Contractors

Mark Palma, Secretary, GSOC Board of Directors, Hinshaw and Culbertson

Betsy Parker, Mn/DOT Government Relations

Rick Pilon, Reliant Energy/Minnegasco

Mark Sharpless, Mankato Citizens Telephone

Victor Skarohlid, MCI WorldCom, Inc.

Mark Tamke, Bresnan Communications

Dan Tonder, Minnesota Power

Val White, Media One

Tom Wilebski, Minnesota Utility Contractors Association

Terry Zoller, Mn/DOT Metro Division Construction

IV. Utility Relocation Study Charge

The 1999 Minnesota Legislature directed the Minnesota Department of Transportation (Mn/DOT) to study issues related to relocating or removing utility facilities from highway construction projects. Mn/DOT, representatives of the highway construction and utility industries, and Gopher State One Call worked together to resolve specific issues, including the advance notice given to utility companies (UCs) when their facilities are affected by construction, as well as the rights and responsibilities of each party. The goal of Utility Relocation Study participants was to improve mutual understanding, coordination, and cooperation among all parties and to develop this final legislative report. The legislative directive reads as follows:

CHAPTER 238-H.F. No. 2387

Section 87. (Utility Relocation Study.)

The commissioner of transportation, in consultation with representatives of the highway construction and utility industries, shall study issues related to relocating or removing utilities from highway construction projects. The study must include (1) notice given to utilities about construction projects that affect utility facilities, and (2) the rights and responsibilities of the Department of Transportation, highway construction contractors, and utilities. The commissioner shall report by January 15, 2000, to the House of Representatives and Senate committees with jurisdiction over transportation policy on recommendations for actions by the Department or the Legislature.

V. Utility Placement and Relocation Process

Legal Background

The Minnesota Department of Transportation (Mn/DOT) accommodates utility placement within trunk highway right-of-way in accordance with Minnesota Statutes sections 161.45 and 161.46 and Minnesota Rules 8810.3300. Placement of utility facilities on local road authority (LRA) rights-of-way and requirements for placement by UCs are contained in State Rules established by the Public Utility Commission (PUC). Requirements for utility information that must be provided with all highway construction plans that involve excavation, and actual field locations required prior to excavation, are contained in Minnesota Statutes 216D.04. The following general description explains the process Mn/DOT follows for utility relocation. LRA processes may be somewhat different.

Placement

In some cases, utility facilities are placed on easements or property owned or controlled by the UC. In other cases, utilities are placed within highway right-of-way. Utilities are placed on highway right-of-way through permitting procedures administered by Mn/DOT.

UCs requesting a permit to install their facility in highway right-of-way submit a permit application consisting of a sketch of the proposed facility placement and other required information to the RA. The placement of utilities is approved by Mn/DOT after consideration of the highway features, roadside elements, safety, and in accordance with Mn/DOT's Utility Accommodation policy. The Federal Highway Administration requires and approves each state's Utility Accommodation policy. Once the utility is installed, the permit requires the UC to provide Mn/DOT with as-built information describing the actual installation and location of the facility.

Relocation

When Mn/DOT begins design work for a construction project, Mn/DOT contacts Gopher State One Call (GSOC) to determine which utilities are present within the project area. Mn/DOT will then request information from the UCs regarding their facilities in the project area. The UC must provide drawings or other location information indicating the size, type, and general location of their facilities in the project area, or physically mark the location of their utility facilities in the actual project area, within 15 days of the request.

Typically, preliminary highway construction plans for Mn/DOT projects are distributed to all known UCs identified in the project area. Early coordination provides the UC with specific project information such as the type of project, general project construction period, and Mn/DOT project manager. Further information is requested, as needed for the project, to help coordinate utility relocation needs with the design of the project.

Utility information contained in the final highway construction plans is provided in accordance with Minnesota Statutes 216D.04. The utility information contained in the final plans must not be more than 90 days old. However, utility information is often obtained much earlier in the highway design process for design and early coordination purposes, with the last request for utility location information being made within the maximum of 90 days prior to completion of the final plans. The highway construction plan must indicate the size, type, approximate location, and the affect the highway project will have on utility facilities in the project area.

When the utility facilities are located on land owned or controlled by the UC, Mn/DOT initiates a utility agreement to reimburse design and relocation costs incurred by the UC in accordance with Minnesota Statutes 161.46. When a utility is located on highway right-of-way by permit, relocation typically takes place at the UC's expense.

UCs are notified of the need to relocate their facilities through a process known as Notice and Orders in accordance with Minnesota Rules 8810.3300 Sub. 3. The highway construction plans indicate the impact on utility facilities. The UC has 10 days to begin relocation procedures after receipt of Notice and Orders, provided such time is reasonable under the circumstances involved.

Contractors bid the project after considering the utility information contained in the plan and project specifications. The successful contractor is required to coordinate highway construction activities with each UC's utility relocation activities. Mn/DOT sets the overall working day or completion date schedule. However, the contractor is responsible for detailed scheduling within the overall general contract requirements.

VI. Study Overview

Timely relocation of utility facilities in the right-of-way or adjacent to state and local highways often has an impact on the progress of roadway construction and maintenance projects. Delays in utility relocation have increased over the last ten years, since the number of utility facilities in right-of-way areas has increased and more and more reconstruction projects are needed on aging roadways. Although the majority of utility relocations have gone smoothly, some have not. Those that do not go smoothly may become very costly in terms of time and money. Because utility relocation problems occur during the construction phase of a project, they become major concerns of contractors. It has been determined that many utility relocation problems are caused by a breakdown in communications and a lack of coordination of the right parties at the right time, especially early in the project development process, but also during construction.

A. Study Organization

As directed by the 1999 Minnesota Legislature, the Minnesota Department of Transportation (Mn/DOT) met with representatives of the highway construction and utility industries in order to study specific issues related to relocating or removing utilities from highway construction projects. Local road authority (LRA) representatives were also invited to attend to bring their perspective and interests to the study process. The Mn/DOT Offices of Construction Contract Administration and Technical Support shared the responsibility of chairing and organizing four study workshops. In order to have broad representation in this process, participants with a wide range of perspectives were invited. Local organizations and agencies represented a collective group in cases where individual jurisdictions could not be represented. The charge specifically directed Mn/DOT to develop recommendations for improving the process regarding notice given to utility companies (UCs) about construction projects that affect utility facilities. The Legislature also directed that study recommendations should clearly define the rights and responsibilities of each party involved - Mn/DOT, construction contractors, and UCs - in order to improve the process of utility relocation. Mn/DOT attempted to address these directives in the study process. The study's recommendations may be used by LRAs to the extent they wish. They are encouraged to implement them whenever possible.

B. Who Participated

Utility Relocation Study participants included personnel in Mn/DOT's Construction and Contract Administration, Utility Agreements, Technical Support, Land Management, and Intergovernmental Policy offices as well as Mn/DOT Districts and the Mn/DOT Metropolitan Division. Utility participants represented the telecommunications and energy providers. Contractor participants included a road construction company, utility relocation company, and a contractors' association representative. A representative of Gopher State One Call (GSOC) participated. A League of Minnesota Cities representative as well as engineering consultant, city, and county representatives were also involved because utility relocation issues do not just affect state trunk highways.

C. Meeting Processes

Mn/DOT set up participative workshops to study utility relocation issues. Participants were divided into breakout groups at each workshop to focus on specific topics. The primary topics for each meeting were:

September 9, 1999, Workshop 1: Issues

October 14, 1999, Workshop 2: Solutions/Barriers

November 3, 1999, Workshop 3: Possible Actions

December 9, 1999, Workshop 4: Recommendations/Implementation

Breakout groups were asked to select their top priorities from each item discussed. These were shared with the large group at the end of the day. Breakout items were further condensed after each large group discussion.

Participants identified the following issues at Workshop 1 as most critical:

1. Lack of sufficient communication, scheduling, and coordination in the planning, right-of-way acquisition, design, and construction phases of road construction projects inhibits timely relocation of utilities.
2. UCs need a place to relocate (on the roadway or private right-of-way), and sufficient time to move.
3. The roles, responsibilities, and priorities of Mn/DOT (or other road authority), UCs, and contractors during construction are not clear.
4. There is no set of agreed-upon policies, procedures, best practices, and responsibilities for utility relocation by state or local governmental units, utility owners, GSOC, or contractors.
5. Accurate locations of existing facilities owned by UCs, communication companies, and local governments are often not provided. These are necessary for early planning and design, and later for safe construction work.

D. Communication/Involvement

The results of each workshop were drafted and sent to all participants so they could prepare for the next workshop. Participants were often asked to respond to workshop documents and to the wording of process documents for the next workshop. The participant response rate was excellent and participants had input into the development of all final documents.

VII. Findings

After the final Utility Relocation Study workshops were completed, the Minnesota Department of Transportation (Mn/DOT) compiled all results. Members of an internal Mn/DOT work group reviewed the workshop results and developed some basic findings. They included the areas of agreement by the workshop participants which were the basis for the recommendations and actions that follow. These findings were distributed to all participants for review and include their collective comments.

1. Road authority (RA), utility company (UC), Gopher State One Call (GSOC), and contractor representatives arrived at a better and broader understanding of the issues from the perspective of other involved parties. This broader understanding should lead to better cooperation among the parties. All parties agree on the overall public benefits of being able to resolve utility relocation issues among themselves.
2. RAs recognize the need for better early coordination with UCs during planning and design phases in order to help avoid major delays during construction. (The advanced UC planning needed for buying supplies, possible right-of-way, and customer contracts often requires a significant lead-time.) RAs at all levels of government need to recognize this early coordination responsibility, particularly for major utility relocations. Consultants, as extensions of RA staff, also need to do more early coordination.
3. RAs, UCs, and GSOC agreed that early coordination meetings to discuss RA and UC's upcoming programs of projects prior to actual project-specific coordination would be beneficial. This is now occurring in certain areas of the state. (These meetings would likely be for geographic regions of the state.)
4. RAs recognize the right and the need for utilities to be located in the highway right-of-way and the benefits that they provide to the citizens of Minnesota. RAs recognize the need to consider additional right-of-way necessary to accommodate existing utility relocation needs and accommodate those right-of-way needs to the extent practicable.
5. RAs do not have any direct contractual control over UCs schedules during the construction phase, but do have regulatory control.
6. UCs and GSOC recognize the need to provide existing utility location information and contacts to RAs for design so that construction plans can reflect utilities as required by Statutes and so that contractors can later confidently bid on those plans. Field locates may be needed to provide the most accurate information for design purposes. RAs and contractors stressed the need for more accurate utility information in the future. UCs have no problem providing locates within the parameters of current GSOC requirements. RAs and contractors would prefer more accurate locations than the existing requirements provide. In the future, the Global Positioning System (GPS) will hopefully provide accurate locations in an economical manner to the accuracy desired.

7. UCs recognize that RAs have the responsibility for constructing and maintaining roads and that cooperation in helping to complete construction and maintenance activities in a timely manner is beneficial.
8. Once a workable schedule is agreed-upon, UCs recognize the need to provide adequate staffing for relocations and prioritize the work so that timely relocations can occur. If major emergencies such as storms occur, UCs need to inform RAs and contractors of their plans and priorities.
9. RA requests for utility design information need to trigger UC planning activities to help utility relocations go smoothly later. UCs need to receive preliminary plan information in order to begin actual utility relocation design.
10. There may be a need for GSOC procedure changes to allow them to respond appropriately to early utility design information requests. A procedure needs to be established by which the RA can request the names of utilities located in an area without automatically triggering field locate requests. The 90-day-or-less time-frame for design location information is too short for appropriate coordination in most instances. It is not clear in the Statute that earlier requests may be submitted, as long as the final one is within 90 days. UCs need to be as responsive to design requests as to field-locate requests for information. The requests for design information to UCs need to be treated with an appropriate level of urgency as required by Minnesota Statute 216D.
11. Construction contractors recognize the need for involving UCs in pre-construction conferences and in developing their construction staging plans so that proper coordination and scheduling can occur. Ultimately, contractors control the timing of their detailed scheduling of construction operations to meet construction requirements and have some flexibility to shift operations as circumstances warrant. UCs and contractors need to commit to a schedule and complete relocation work according to the mutually agreed-upon schedule (unless utility relocation has not been completed prior to construction). RAs must assume a greater leadership role in schedule coordination and conflict resolution.
12. RAs, construction contractors, and UCs all need to solve problems together as they occur. The RA should take the lead in helping the parties solve common problems including making sure schedules are coordinated during construction. This will help ensure the safety of workers and serve the overall public good.
13. Contractors want RAs to be more involved with utility relocations and contractors want to be compensated for utility relocation delays which affect their operation. However, RAs do not have direct responsibility for day-to-day contractor or UC schedules making determination of cost responsibility very difficult. RAs recognize that when good early and detailed schedule coordination has occurred, the need for recovery of costs from UCs should be needed infrequently. In rare cases when early coordination has occurred, but early utility relocation does not occur according to agreed-upon schedules, and such delays result in increased time or cost for the project, RAs may pursue recovery of those costs.

14. UCs do not want to be held accountable for delays if sufficient lead time is not provided, but are willing to be held accountable if given sufficient early notice and involvement in schedule coordination. While RAs cannot eliminate all potential obstacles, they do need to do the early coordination steps within their control.
15. Each party needs to develop internal procedures to deal with the utility relocation issue in light of the understanding gained from this process.
16. The Minnesota Public Utility Commission has adopted Permanent Rules Governing Standards for Users of Public Rights-of-Way. Many of the issues discussed during our meetings are addressed in the Rules.
17. There is a great need to provide education and to communicate information to all participants involved with these issues after this report and procedures are available. A very informative brochure produced by Northern States Power (NSP) “Construction Projects: Your Facility Relocation Partner” is one example of such information.
18. Many parties who were not in the study need to be informed about the findings and recommendations of study participants.
19. All participants recognize that improving the utility relocation process will take time and effort since many projects have long planning and design lead times. This representative group agrees to meet again in October 2000 to review progress toward the goal of more timely utility relocations.

VIII. Recommendations

Many of the following recommendations had general support from all participants. Recommendations that did not have full support include participant comments. Since utility relocation is complex, with many parties involved, full consensus was sometimes not possible. The schedules below were developed as a result of group discussion.

General Actions

Recommendation 1. Utility companies (UCs) should provide current and accurate information about their appropriate contacts for relocations.

Implementation

Each UC should provide contact information on a Web site and/or in a brochure or other convenient format. UC Web sites should contain contact information for all agencies to access. UCs should update this information to keep it current. UCs should provide information that can ultimately be linked to a Minnesota Department of Transportation (Mn/DOT) site to provide the same information as UCs.

Time Frame

6 months

Primary Responsibility

UCs

Recommendation 2. Mn/DOT should create and maintain a Web site with the UC contact information.

Implementation

Mn/DOT is in the process of establishing this Web site. Cooperation from UCs will be required to keep contact information current.

Gopher State One Call (GSOC) Comment

GSOC had concern about where the database can be accessed without a ticket and whether UCs want to be notified. They will bring this up with their board.

Time Frame

6 months

Primary Responsibility

Mn/DOT with assistance from UCs and GSOC

Recommendation 3. GSOC should consider establishment of utility coordination committees statewide.

Implementation

GSOC is currently doing this in some areas of the state, but not all UCs are involved. There was a meeting in January 2000 to determine interest.

Primary Responsibility

GSOC

Recommendation 4. Mn/DOT should reconvene study participants again to review progress.

Implementation and Schedule

Mn/DOT will arrange a meeting of participants for October 2000.

Utility Installation Phase

Recommendation 1. UCs should create and retain accurate installation information.

Implementation

UCs must provide the best record location/map information available on utility installations in compliance with current Minnesota Rules. If the road authority (RA) needs additional, updated accurate mapping information, UCs must comply with GSOC Statutes. Field locates may be necessary if maps or other information provided is not sufficient. UCs must retain accurate records and assist in locating their facilities for highway design purposes. Accuracy of locations and information provided will be per statutory requirements.

Utility Comment:

UCs cannot supply maps that are more accurate than what is in their files.

Time Frame

Ongoing

Primary Responsibility

UCs

Recommendation 2. Mn/DOT and local road authorities (LRAs) should develop reasonable enforceable conditions for when utility installation information is not received as required by the permit.

Implementation

Mn/DOT should adopt permit special provisions language that clearly defines the consequences of failure to 1) provide information about location of utilities, and 2) relocate in a timely fashion, such as probation or revocation of permit. Mn/DOT should review standard permit language and revise as appropriate. LRAs should enforce provisions of the law, Public Utility Commission (PUC) Rules, and local ordinances.

Utility Comments:

RA should adopt a provision for timely response relating to processing and issuing permits. Periods of delay erode lead-time to utility construction schedules. The adequacy of RA resources for processing permits has become a concern of UCs.

Sanctions are a poor choice of solution and are unlikely to change the behaviors of those who do not comply. RAs need to communicate the need and importance of responding appropriately. RAs should attempt improvements in the process aimed at getting better results.

Time Frame

1 year

Primary Responsibility

Mn/DOT, LRAs

System Planning Phase

Recommendation 1. RAs should meet with UCs to review upcoming projects and discuss short-and long-term project schedules and other issues.

Implementation

Mn/DOT's Action Plan will include an action for Mn/DOT districts to schedule a meeting or otherwise provide information to area UCs regarding the upcoming construction program. LRAs are encouraged to meet yearly with UCs to review upcoming projects and schedules. Local RAs will also follow Public Utility Commission rules and ordinances. (The GSOC coordination meetings may also serve this purpose if a decision is made to hold them.)

Time Frame

1 year

Primary Responsibility

Mn/DOT and LRAs

Recommendation 2. RAs should take the lead with representatives of this study to develop a relocation procedure document which includes a general process flow chart. A process to educate and inform all parties should also be developed and implemented.

Time Frame

The first meeting of the task force occurred in January 2000. The document should be available within 3-6 months.

Primary Responsibility

Mn/DOT and LRAs.

Recommendation 3.

UCs should communicate the time needed to respond to road authority relocation requests based on the level of magnitude of relocation.

Implementation

UCs need to communicate to RAs the usual times needed to review and determine the impact of relocation. UCs should give RA advance information about total project lead time they require. UCs should be involved early in the planning stage and communicate to RA time needed to determine impacts, plan, budget, design, and construct their facilities subject to specific project requirements. Typical lead times should be included in relocation brochures and Web sites. It is recognized that actual lead times are project dependent.

Time Frame

1 year

Primary Responsibility

UCs

Project Development Phase

Recommendation 1.

RA should take the lead for early project notification to UCs to integrate and coordinate utility relocation with total project view and UC needs in mind. RAs should provide adequate project lead-time, communicate schedule, and involve the utility in the project planning process.

Implementation

LRAs should share plans for coming year(s) to coordinate with UCs. UCs should give notice of the lead time required for projects. LRAs should follow law, PUC Rules, and local ordinances. Mn/DOT's Action Plan should include development of procedures that outline planning, design, and construction activities to address utility relocation including early notice and coordination with UCs. Mn/DOT's Action Plan will stress the need for Mn/DOT and UCs to work together to develop reasonable and coordinated schedules on a project specific basis.

Utility Comment:

LRA needs to provide adequate notice and lead time to improve timely relocation of utilities. No recommendations for new practices have been included in the report that specifically addresses counties and municipalities. UCs will be driven to project-specific agreements before a commitment to a schedule can be realized.

Need to assure this recommendation is effected when engineering consultants are used on projects.

Time Frame

6 months

Primary Responsibilities

Mn/DOT and LRAs

Recommendation 2.

GSOC procedures should be studied and revised if necessary so that RAs may obtain early utility location information for design in a timely fashion from UCs without automatically triggering a field locate. In some cases, a field locate may be needed to obtain sufficiently accurate information.

Implementation

GSOC should review their procedures. UCs and GSOC agreed that locates can be done as many times as RAs need, but the last time will take 90 days. This issue may be addressed in the future.

Time Frame:

1-2 years

Primary Responsibility

GSOC

Recommendation 3.

RA should take the lead (with utility involvement) to coordinate right-of-way acquisition activities, and should provide adequate space for UCs to accomplish their relocation work to the extent practicable. Adequate time must also be provided to accomplish any relocation. Coordination should include working with UCs to define construction limits and identify locations for utility relocation.

Implementation

UCs recommend and support RA leadership to coordinate right-of-way acquisition. Coordination is needed early in the design process prior to RA right-of-way acquisition. UCs may need RA clearing, grubbing, and grading before they can relocate. Mn/DOT will establish general guidelines for consideration of utility right-of-way needs as part of the right-of-way to be acquired for the highway corridor and how to consider utility needs which are practical in the development of construction limits. UCs must work with RA to inform them of utility needs. All parties must act in a timely manner.

Utility Comments:

Mn/DOT needs to clarify that right-of-way will be provided to the extent possible to remove right-of-way obstacles (and utility permits). The recommended plan may go a long way toward removing this obstacle for UCs, and will ensure an earlier commitment to a firm relocation schedule.

Recommend construction limits include utility needs, subject to UC acceptance.

Recommend that the RA has an obligation to provide utilities with a place to go (needed to commit to firm schedule).

LRAs need to commit to providing right-of-way to support that their required projects with improvement in timely relocation of utilities. No recommendation for new practices has been included in the report that specifically addresses counties and municipalities.

Local Road Authority Comment

LRAs do not believe they have the legal authority to purchase additional right-of-way solely for the use of UCs that are on the existing right-of-way.

Time Frame

3-6 months and ongoing

Primary Responsibility

Mn/DOT and LRA.

Recommendation 4.

RA's and UCs should consider other utility relocation options including, but not limited to, purchase of additional right-of-way.

Implementation

This will be part of the RA's coordinated planning process during project development. Mn/DOT will include typical options and guidance as part of the Mn/DOT Utility Coordination Technical Memorandum.

Utility Comments

UCs will continue to pursue right-of-way in kind objective on relocations. Options can be discussed in difficult situations; however, significant UC business issues affecting competitiveness, reliability, operation, and maintenance of the UC's facility, may drive the need for right-of-way as the solution.

UCs have an equal right to be on the highway right-of-way and cannot be ordered off or to relocate without a place to move to.

No recommendations or new practices by counties and municipalities have been included in the report, which addresses UC right-of-way needs. Early coordination to identify and acquire utility right-of-way requirements should be supported by LRAs to ensure a firm plan and schedule.

Time Frame

1 year

Primary Responsibility
Mn/DOT, LRAs, and UCs

Recommendation 5. RA should work with UCs before project letting to develop contract special provisions and establish the construction schedule information to be included in contract documents.

Implementation

Mn/DOT will include an action in the Mn/DOT Action Plan to develop contract special provisions on complex projects to alert contractors of specific known relocation coordination needs, construction staging plans, and utility relocation construction schedule. LRAs should also attempt to do these items as the need arises. Contractors should bid according to special provisions.

Contractors Comments:

Contractors strongly feel that consequences and accountability need to be built in if the special provisions are not adhered to. A financial (de)motivation to the RA and UCs should be considered.

Utility Comment:

UCs will provide strong support for special provisions. They will confirm schedule issues and communicate a firm schedule to the RA (owner). UCs will provide input and coordination to contractors.

Time Frame

3-6 months. It is important to start now, but will be an ongoing and longer term action before results are visible on all projects since planning and design is often done years in advance.

Primary Responsibility

Mn/DOT and LRAs to initiate as part of highway project design. UCs need to be involved when requested.

Recommendation 6. UCs should provide accurate and timely location information maps, as-builts, and/or field location information when requested by RAs in accordance with applicable Statutes.

Implementation

Mn/DOT will include an Action in the Mn/DOT Action Plan to request information in a more specific fashion using standard request language based on applicable Statutes.

Utility Comments:

They cannot provide more accurate information than they have.

Time Frame

6 months

Primary Responsibility
UCs at request of RAs

Recommendation 7. RAs should hold pre-letting conferences when it is anticipated that major utility relocation conflicts may arise during construction. UCs need to attend such meetings.

Implementation

RA will determine the complexity of utility relocation in cooperation with UCs. For these complex projects, the special provisions shall contain a section offering invitations for contractors to attend the pre-letting conference. UCs need to participate.

Contractors Comments:

Contractors will attend these meetings and give input. Perhaps contractors could Aconsult@to provide financial impacts of not moving or changing the utilities, etc. Currently in the proposals, RAs are quite clear regarding the obligations and expectations of the contractor.

Time Frame

3-6 months

Responsibility

Mn/DOT and LRAs to initiate. Utility owners and contractors to attend and participate.

Recommendation 8. Whenever possible, relocate utilities ahead of project construction.

Implementation

Mn/DOT will study and implement innovative ways to relocate utilities. A desirable goal is to relocate utilities ahead of construction. Mn/DOT's Utility Coordination Technical Memorandum will encourage consideration of, and develop guidance for, early utility relocation.

Time Frame

3 months for Mn/DOT guidance to be available

Primary Responsibility

Mn/DOT and LRAs

Construction Phase

Recommendation 1. RAs should take the lead to coordinate and communicate mutually agreeable schedules. (The RA does not set the schedule but rather controls the overall contract completion date or total contract working days). All parties should agree on the schedule and accept responsibility to perform.

Implementation:

RA agrees to take the lead in actively coordinating a relocation plan/schedule that is agreeable to all parties. Agreement includes acceptance of accountability to stick to established plan/schedule.

LRA also has the tools of PUC Rules and local ordinances.

Utility Comments

Recommend seeking agreement on time lines of staging and construction sequence on a project by project basis. UCs should have influence on contractor's plan so a mutually agreeable schedule results.

RA take lead to resolve issues when UC schedule is (negatively) impacted by contractor's performance.

RA must accept responsibility for overall schedule requirements. Neither the UC nor contractor, has the authority to set schedule requirements without the leadership and agreement of the RA.

UCs will continue to coordinate with contractors within the framework of reasonable activity coordination. Contractors do change schedules without notice impacting utility resource plans. Contractors and UCs must have an equal responsibility to perform to an agreed-to schedule. UCs often experience cost repercussions caused by contractor changes. RAs need to require contractors to be accountable for cost incurred by UCs when this occurs.

Contractor's Comments:

We don't have the authority to set these schedules, but appreciate considering the factors that impact them. Contractors will continue to cooperate with the UCs to assist when able - sometimes the UCs need things moved in order to do their work - we do it when we can. Presently, contractors are accommodating this. If not, there will be financial repercussions.

Time Frame:

6 months to 1 year

Recommendation 2.

RAs should create a process for recovering costs incurred as a result of the UC's failure to comply with the permit and Notice and Order provisions.

Implementation:

Mn/DOT will develop a uniform approach to recover costs from utility companies when contractors are paid for extraordinary delays they encountered as a direct result of utility relocation delays. This will be done on a case-by-case basis when UCs fail to complete relocations in a timely manner, in accordance with the agreed-upon schedule.

Utility Comments

RA must provide lead-time, planning and coordination support, and right-of-way when necessary in order for UCs to be able to comply with Notice of Order@schedule requirements.

A process without UC participation or agreement does not provide a basis for cost recovery if viewed as unreasonable regulation of UCs.

A survey of UCs to discover the cause of this issue should be made, and a solution developed, to mitigate the problem. Penalties will not change the behavior of those who fail to comply and will likely invite conflicts rather than meaningful positive change.

Process must be spelled out clearly in advance - loss of flexibility and cooperation may result from fines/penalties.

Contractor Comments

A major concern is the lack of enforcement provisions in the report. While we presume that all parties involved with this issue are working in good faith. We don't have a lot of confidence that utilities will be moved in a timely fashion unless there are incentives or penalty provisions. Minnesota contractors face penalties for not completing projects on time every day. We know that it is an effective tool and we believe that having similar penalties for utility relocation delays is reasonable and will be similarly effective.

Time Frame:

6 months to 1 year

Recommendation 3. Contractors should take the lead to coordinate construction activities and schedule utility relocations.

Implementation:

None offered by contractors.

Contractor's Comments:

Contractors will attend weekly progress meetings with UCs and RA and will attend the pre-construction conference.

RA sets the schedule, contractors will implement it.

Utility Comments:

Would like RA lead on schedule/cost if changes occur.

UC will coordinate with contractor on activities in schedule.

RA must accept and take a leadership role on the project schedule, including changes that might affect cost or schedule. UCs will coordinate activities with contractor in agreed-to schedule.

This recommendation, as stated, is in contradiction with Recommendation #1 (construction phase). RAs will not schedule relocation activities. Recommend deletion of Aand schedule utility relocation@from this recommendation.

Schedule changes of the contractor which adversely affect the utility relocation cost, must become the responsibility of the RA or the contractor.

Coordinating construction activities falls under the control of the contractor; however, scheduling utility relocation is the responsibility of the RA and UC.

Road Authority Comments:

If contractor modifies construction staging schedule during the contract, contractor takes all responsibility and liability to coordinate utility relocations. The contractor is responsible to coordinate and prosecute the work according to the contractor-s staging schedules.

While Mn/DOT sets the overall contract completion schedule, the contractor has responsibility for scheduling which must be done in close cooperation with utility work.

Time Frame:

6 months to 1 year

Recommendation 4. RAs should develop a plan of action if unforeseen circumstances occur.

Implementation:

RA takes the lead for developing a AChain of Command@document for UCs, contractors, and RA, and will develop a plan for use when lack of action exists beyond a reasonable time period by one or more of the parties.

Contractors Comments:

Contractors will make themselves available for weekly progress meetings.

In response to the Act of God,@don-t just communicate the changes, but allow for flexibility and altered time lines.

Utility Comments:

Recommend UCs communicate immediately to RA (project manager) regarding issues/problems that occur.

This recommendation is very vague and management of a project issue is the RAs responsibility to resolve. If this is focused on a Afailure to perform,@it is each organization-s responsibility to act. This includes the RA project management of the schedule, the contractor, and UC performance to an agreed-to schedule.

If this is a reference to UCs=concerns about Acts of God@which can pull resources away from a project, then it makes sense. In those cases, the financial disincentives in the relocation agreement and the contract for the project would need to be flexible enough to allow for extensions.

Time Frame:

6 months

Recommendation 5. RAs should hold pre-construction conferences with all parties involved.

Implementation:

Mn/DOT project engineers are to schedule pre-construction conferences for all projects. Districts will be reminded of the need for these conferences and to provide sufficient lead-time to participants. It is important that the UCs place a priority on attending.

LRA should schedule pre-construction conferences with UC participants when utility relocation work is anticipated to be an issue.

Contractor's Comments:

Contractors will attend and come prepared with a plan and schedule.

All parties should attend and make it a priority

Utility Comments:

Recommend UCs attend to extent possible.

Will always participate, may not always attend. When can't attend, communicate information to RA (project manager) before meeting.

RA meeting with UCs ahead of preconstruction meeting is recommended to develop a clear plan involving all UCs. This has been an effective practice on some projects.

Time Frame:

6 months

Recommendation 6. As owners, RAs should assume greater responsibility to ensure utility relocation occurs and that both UCs and contractors are held accountable for agreed-upon schedules.

Implementation:

For Mn/DOT, project engineers will assume a greater role to ensure that all within their authority is being done to promote timely relocations.

Utility Comments:

RA must assume more responsibility for managing the project to a successful completion.

Contractors have difficulty working to planned schedule activities and are not always fair about working to agreed-upon schedules with UCs. UCs often experience additional expenses for stand-by and re-mobilization of crews due to contractor plan changes.

Time Frame:

1 year

Recommendation 7.

UCs should commit to a firm schedule when necessary early coordination has occurred, and should communicate when Acts of God@and/or emergencies require a change.

Implementation:

UCs recommend that they make schedule commitment to RA and communicate resource decisions of UC to project manager.

Utility Comments:

UCs must communicate resource decisions to RA, including changes or re-commitment to a start date when crews are reassigned to emergencies.

Emergencies or Acts of God@from UC perspective must be communicated to contractors by RAs.

UCs need to communicate to the RA and the contractor when An act of God@requires reallocation of resources away from the relocation project to service restoration or other higher priority projects.

Acts of God@and/or emergencies will need to be further clarified and may differ from one UC to the next, but should make references to significant storm or naturally occurring events which may require dedication of the UC-s equipment and personnel in excess of the norm. It should also cover natural events, which prevent the productive progress of work at the relocation site, i.e., rain, mud, heat, or cold.

Inability to complete the work by either the UC or the contractor, according to the original schedule, should be relayed immediately to the RA followed by a projected new schedule.

Time Frame:

6 months

Recommendation 8.

During construction, the contractor takes the lead and is responsible for prosecuting the work according to the schedule agreed to by all, within the parameters established in the contract language.

Implementation:

Contractors will provide a detailed plan.

Contractors will provide a schedule update to all involved.

Contractor will act in essence as a project manager.

Utility Comments:

The agreeable schedule, and any changes, are established by all parties involved. By the nature of the work, the contractor becomes the main driver of the schedule; however, the project manager title and function must remain with the RA. Assigning that function to the contractor would seem to open the door for the concern that was expressed earlier, involving contractors changing an agreed-upon schedule for their benefit.

Project management practices must improve to promote more timely execution of the work. All parties must improve their project scheduling coordination and communication practices to produce positive results.

UCs take exception to the implementation points presented.

UCs will work with contractors to coordinate activities.

UCs and contractor have a responsibility to communicate and coordinate with each other, and communicate changes to the RA to ensure accountability to all parties.

The RA must keep the project manager role independent of UC and contractor's roles. Equal accountability to schedules should be required of UCs and contractors. Frequently, contractors have been the cause of UCs' inability to hold to a schedule because of unplanned and uncommunicated changes in contractor's schedule.

Time Frame:

6 months

IX. Specific Minnesota Department of Transportation Actions

The Minnesota Department of Transportation (Mn/DOT) Utility Coordination and Relocation Action Plan

This Action Plan outlines the specific actions Mn/DOT will take to establish department-wide procedures to implement the recommendations of the Utility Relocation Study participants. Mn/DOT recognizes the urgency to implement these recommendations and will begin each of these activities within six months.

General Actions

Recommendation 1. Establish utility company (UC) contact list and Web site.

Implementation

Mn/DOT will update and maintain a list of UCs, their contact people, addresses, and phone numbers, for project development activities. A Web site accessed through Mn/DOT's home page will be developed to provide up-to-date information to other road authorities (RAs).

Time Frame:

A letter requesting updated contact information has been sent to all known UCs. The Web site should be fully operational within 6 months. Actual content and completion is dependent on UC response.

Responsible Office:

The Office of Technical Support, Utility Agreements Unit, is responsible for this activity.

Recommendation 2. Provide education and training.

Implementation

Mn/DOT will provide training to project development staff within the Department regarding utility relocation procedures established as a result of the study effort. A utility procedures document and two technical memorandums regarding the utility relocation process and right-of-way acquisition procedures relating to utility relocation will be distributed to Mn/DOT project development staff. The utility procedures document will also be distributed to UCs, contractors, and local governments as a guide for the utility relocation practices on highway projects.

Time Frame:

The initial training within the Department has already begun. Ongoing training will be provided as developing issues and procedures require.

Responsible Office:

The Office of Technical Support, Utility Agreements Unit, is responsible for directing this activity.

Recommendation 3. Arrange follow-up meeting.

Implementation

Mn/DOT will organize a follow-up meeting inviting the participants of this study effort to review progress of study recommendations and identify improvements and continuing concerns regarding the utility relocation process.

Time Frame:

The meeting will be scheduled for October 2000.

Responsible Office:

The responsible Offices are Technical Support (Utility Agreements Unit) and Construction Contract Administration.

Utility Installation Phase

Recommendation 1. Revise permit special provisions language regarding installation information requirements.

Implementation

Mn/DOT will revise permit special provisions as necessary to include requirements for as-built information. Enforcement provisions/conditions will be developed for failure of UC to comply with permit as-built information requirements.

Time Frame:

The revised permit will be prepared and implemented within 6 months.

Responsible Office:

The Office of Technical Support, Utility Agreements Unit, is responsible for directing this activity.

Recommendation 2. Create and maintain data base of as-built utility locations.

Implementation

Mn/DOT will create and maintain a data base and Web site to file as-built utility information. This Web site will be used by Mn/DOT project managers as a means of determining utility presence and location for project development purposes.

Time Frame:

Scanning of approximately 50,000 existing utility permits is underway. Creation of the data base and file management system is expected to be complete within 12 months and then will be kept current with new utility permit information on an ongoing basis.

Responsible Office:

The Office of Technical Support, Utility Agreements Unit, is responsible for directing this activity.

System Planning Phase

Recommendation 1. Share upcoming program of projects.

Implementation

Districts and Metro Division will annually schedule a meeting(s), or share information through other means, with UCs to review the upcoming program of projects. Special emphasis should be placed on the next year's projects and future projects which may have major UC involvement in order to discuss potential impacts, opportunities for cooperation, and coordination.

Time Frame:

Initial District/Metro Division meetings will be arranged within 6 months.

Responsible Office:

Districts and Metro Division are responsible for this activity.

Recommendation 2. Develop utility relocation procedure document.

Implementation

Mn/DOT will take the lead, with assistance from the Federal Highway Administration (FHWA), UCs, local road authorities (LRAs), and contractor representatives to develop a utility relocation procedures document. The document will contain general information on the process, responsibilities, contacts, and time lines for each party as well as a flow chart of a typical utility relocation procedure identified during this study process. The document will be distributed to Minnesota road authorities (RAs), UCs, contractors, and Gopher State One Call (GSOC).

Time Frame:

The document will be prepared and distributed within 6 months.

Responsible Office:

The Office of Technical Support, Utility Agreements Unit, is responsible for coordinating this activity. Further involvement from various Mn/DOT Offices, UCs, and contractors is necessary.

Project development phase

Mn/DOT recognizes the importance of these recommendations and intends to have all recommendations for the project development phase implemented within six months. However, most construction projects for the 2000 construction season are already designed or nearing completion of design. Many larger projects currently in the project development process will take several years to complete. The result is that some projects constructed in 2000 and 2001 will not reflect the benefits of improved early coordination during project development.

Recommendation 1. Improve design information requests.

Implementation

Mn/DOT will standardize forms and procedures for project development staff to use for design level utility location information requests from UCs. Location information requests will be specific, and in accordance with applicable State Statutes. Methods may need to be developed to enforce requirements of design information requests for failure of UC to provide required location information.

Time Frame:

The revised forms and procedures will be completed and implemented within 6 months.

Responsible Office:

The Office of Technical Support, Utility Agreements Unit, is responsible for directing this activity.

Recommendation 2. Early UC involvement in Mn/DOT project development.

Implementation

Mn/DOT will develop a Technical Memorandum that outlines requirements for early utility identification and coordination, utility information in plans, and special provisions. The Technical Memorandum will include standardized coordination letters for District and Metro Division use, and the location of the Web Site for UC contact names and addresses. It will emphasize the desirability of utility relocation prior to construction whenever feasible.

Time Frame:

A draft of this Technical Memorandum is complete. The final Technical Memorandum will be issued within 4 months.

Responsible Office:

The Office of Technical Support, Utility Agreements Unit, is responsible for directing this activity. Mn/DOT Districts and Mn/DOT Metro Division are responsible to assist with development of the Technical Memorandum and implementation during project development.

Recommendation 3. Create ARTEMIS project management activity.

Implementation

A Utility Coordination activity will be added to Mn/DOT's new Project Management System (ARTEMIS) to provide utility coordination milestones during project development and document that early coordination is occurring. The milestones tracked will correspond to key activities required by the utility coordination Technical Memorandum.

Time Frame:

Creation of the ARTEMIS activity is complete. Implementation will occur when conversion to the new ARTEMIS project management system is operational in early 2000.

Responsible Office:

The Office of Technical Support, Utility Agreements Unit, and Project Management Unit are responsible for directing this activity. Districts and Metro Division are responsible for tracking this activity.

Recommendation 4. Develop Mn/DOT procedures for coordination of right-of-way and right-of-way acquisition procedures.

Implementation

Mn/DOT will develop a Technical Memorandum which identifies procedures for consideration of utility relocation and right-of-way requirements early in project development. These activities should occur prior to determination of project construction limits and right-of-way acquisition requirements. Right-of-way required for the project should be established in consideration of the planned utility relocation. Whenever practicable, the right-of-way for the project should be sufficient to accommodate utilities relocated as part of the project.

Time Frame:

This activity will be implemented within 4 months.

Responsible Office:

The Office of Land Management is responsible for directing this activity.

Recommendation 5. Develop Mn/DOT procedures to involve UC in development of construction schedule and special provisions.

Implementation

Mn/DOT project engineers will meet with UCs prior to establishing the construction schedule to consider utility relocation requirements and schedules. If necessary, special provisions will be developed for the project to alert the contractor of specific timing and coordination needs prior to bidding. Need for this activity will be on a project-by-project basis.

Time Frame:

This activity is being implemented on a project-by-project basis.

Responsible Office:

Mn/DOT Districts/Metro Division Project Engineers are responsible for this activity. Office of Technical Support, Special Provisions Unit, will assist with development of special provision language.

Recommendation 6. Hold pre-letting conferences.

Implementation

On projects involving complex utility relocation issues, Mn/DOT project engineers will schedule pre-letting meetings to discuss utility issues, construction schedule, and consider utility relocation requirements prior to bidding. UCs need to attend these meetings in order for them to be successful.

Time Frame:

This activity will be implemented in 3 months as determined necessary on a project-by-project basis.

Responsible Office:

Districts/Metro Division Project Engineers are responsible for this activity.

Construction Phase

Recommendation 1. Revise Notice and Orders.

Implementation:

Notice and Order letters will be written to include more specific information regarding construction and utility relocation schedules which are to be developed in coordination with UCs during project development. Procedures for this activity will be included in the utility relocation Technical Memorandum. Need for this activity will be determined on a project-by-project basis.

Time Frame:

The revised Notice and Order procedures and letters will be implemented by the Technical Memorandum within 6 months with input from UCs.

Responsible Office:

The Office of Technical Support, Utility Agreements Unit, is responsible for directing this activity. Mn/DOT design project managers and construction engineers are responsible for provision of specific relocation information.

Recommendation 2. Develop procedures to recover costs due to utility relocation delays. These cost recovery issues will be addressed on a case-by-case basis.

Implementation

Mn/DOT will develop a uniform approach to recover costs from UCs when contractors are paid for extraordinary delays they encounter as a direct result of utility relocation delays. This will be done on a case-by-case basis when utility companies fail to complete relocations in a timely manner, in accordance with the agreed-upon schedule.

Time Frame:

These procedures will be developed within 6 months.

Responsible Office:

The Office of Construction and Contract Administration, along with Mn/DOT Districts and Mn/DOT Metro Division, are responsible for directing and implementing this activity.

Recommendation 3. Take a more active role in utility coordination during construction.

Implementation

Mn/DOT will assume more responsibility for coordinating and communicating with both contractors and UCs when issues arise which require the RA's active involvement. This direction is being communicated to resident and project engineers.

Time Frame:

3 months

Responsible Office:

The Office of Construction and Contract Administration is responsible for directing this activity.

Recommendation 4. Mn/DOT will develop a plan of action if unforeseen circumstances occur which cause project delays.

Implementation

Mn/DOT resident/project engineers will take the lead for developing a Chain of Command document for UCs, contractors, and Mn/DOT, and will develop a plan for use when lack of action exists beyond a reasonable time period by one or more of the parties.

Time Frame:

Within 6 months

Responsible Office:

The Mn/DOT Districts and Mn/DOT Metro Division resident/project engineers will be responsible for carrying out this activity. The Office of Construction and Contract Administration will provide leadership in establishing guidelines.

X. Continuing Issues, Follow Up, and Conclusion

Throughout the process, issues kept emerging, which made it apparent that study participants would not have time to fully resolve some issues including:

1. The accurate location of in-place and future utility facilities. Both the contracting industry and the road authorities (RAs) deem it very important to have accurate location of in-place utilities in order to both design accurate plans and to safely perform excavation during contract operations. Utility companies (UCs) do not have precise historical utility information and are aware of the need for installations to be more accurately recorded.
2. The method of accurately locating future utility installations in the field for later reference remains an item that needs further discussion. There is available technology that will give XYZ coordinates on above-ground utilities and below-ground utilities if readings are taken before the facility is covered and backfilled. The new technology, known as Global Positioning System, will position objects in the X and Y coordinate within inches and the Z coordinate with half the horizontal accuracy. To position within inches today either requires considerable post processing of data, or requires instruments that cost in excess of \$10,000. Less expensive instruments are available, but not with the capability of locating features within inches. The existing statutory location requirements are "general" for design location, with no specific accuracy defined, and "approximate" for excavation, with accuracy of two feet horizontal and no vertical requirement. This is not considered sufficient accuracy for contractors and RAs. UCs are hesitant to commit to accuracy of such locations due to changes to the surrounding environment after installation and cost of accurate information.
3. Precisely how the purchase of additional right-of-way to accommodate utility placement in the highway corridor should be addressed is not well understood. Local road authorities (LRAs) may have to operate under different laws, rules, and regulations than does the state.
4. The need for sanctions or penalties is an important theme for contractors. Contractors have expressed a strong desire for RAs to recover costs incurred due to utility relocation delays. There was agreement that the best approach is to have better cooperation and coordination and adhere to schedules to avoid such occurrences. LRAs are exploring sanctions in Public Utility Commission Rules and the Minnesota Department of Transportation (Mn/DOT) will develop procedures to recover such costs if it ultimately becomes necessary for certain projects.
5. A task force will be working on developing a relocation procedures document. The document will include a process flow chart. It will build on the efforts of all participants and serve as a concise education resource.
6. There needs to be a continuing dialogue between the UCs and RAs regarding the exploration of relocation options that can be used in lieu of acquisition of additional right-of-way, and, in the final analysis, do what makes sense.

7. There needs to be more exploration and effort on the part of RAs to develop ways by which utilities can be cleared before major construction work starts.
8. How will the utility relocation process be affected by projects developed by the design-build method? This new potential method raises a new set of questions, which we have no experience to deal with at this time.

Workshop participants agreed to meet again in October 2000 to discuss the results of study recommendation implementation and to determine what noticeable changes have occurred in the utility relocation process. **It is also expected that full implementation of recommendations will take several years and annual evaluation discussions may be needed.**

All workshop participants agreed that study results should be shared with UCs, counties, cities, and townships in order to further enhance the utility relocation coordination efforts. While they are not bound by the study recommendations, they will be encouraged to consider them thoughtfully.

CONCLUSION

The recommendations in this report do not require legislation at this time. The study process served to highlight some of the complex interrelated issues involved with the utility relocation process. Progress was made in gaining better mutual understanding of the issues, even though complete consensus was sometimes not achieved.

While Mn/DOT cannot speak for all RAs, specific Mn/DOT actions noted above will help the process go more smoothly for trunk highway projects.

Mn/DOT has already begun to improve its process through education of project managers and designers. The need for better early utility coordination during the preconstruction phase has been emphasized at functional group meetings. The utility right-of-way lead time issue has been emphasized. The key construction staff has also been informed as to what will be expected of them in terms of greater utility coordination and scheduling coordination among the parties.

The need to spread the information learned during this study process beyond Mn/DOT to LRAs is important. Our efforts will be focused through the State-Aid Group of Mn/DOT and the LRA task force representatives.

A broad distribution of the final report to participants and other parties will be made so that the information learned is available to others to adapt for their use.

XI. APPENDIX:

Descriptions of Utility Relocation Study Workshops

Workshop 1: Issues

A. Introduction

Minnesota Department of Transportation (Mn/DOT) Deputy Commissioner Doug Weiszhaar welcomed participants to the first Utility Relocation Study workshop on September 9, 1999. The purpose of the study was discussed and mutual desire for improvements to the current utility relocation process was expressed. Participants were given a packet that included the legislative direction and participant charge for the study, current standard specifications, and State Statutes relating to utility relocation, and well as various federal guidelines and reports. The current general utility relocation process and responsibilities were also discussed.

B. Desired Outcome

Participants were asked to develop the issues needing to be addressed by the study. The goal of this workshop was to gain an understanding of the issues from all perspectives. This set the stage for the development of solutions.

C. Process

Participants were randomly selected in advance of the workshop and divided into three mixed breakout groups. In the breakouts, participants were asked to brainstorm issues they have encountered during the utility relocation process. Once all issues were raised, the groups worked to combine like issues, eliminate irrelevant issues, and prioritize the top five to seven issues that most needed to be addressed. After the breakout sessions, the large group reconvened. Each small group presented the issues they identified and prioritized. Once all issues were on the table, the large group conducted a final prioritization of key issues. **A smaller group further combined issues to reach a manageable number.**

D. Breakout and Large Group Activity Results

Five issues were identified and prioritized at the September 9 workshop:

1. Lack of sufficient communication, scheduling, and coordination in planning, right-of-way acquisition, and design, and construction phases of road construction projects inhibits timely relocation of utilities.
2. Utility companies (UCs) need a place to relocate (on roadway or private right-of-way) and sufficient time to move (if relocation is actually necessary).
3. The roles, responsibilities, and priorities of Mn/DOT (or other road authority (RA)), UCs, and contractors during construction are not clear.

4. There is no set of agreed-upon policies, procedures, best practices, and responsibilities for utility relocation by state or local governmental units, UCs, Gopher State One Call (GSOC), or contractors.
5. Accurate locations of existing facilities owned by UCs, communications companies, and local governments are often not provided. These are necessary for early planning and design, and later for safe construction work.

You may request a copy of the detailed results from Workshop 1.

Workshop 2: Solutions/Barriers

A. Introduction

The second Utility Relocation Study workshop on October 14, 1999, began with a welcome and introductions of all participants. The legal framework for Mn/DOT right-of-way acquisitions was also discussed to clarify that Mn/DOT may purchase sufficient right-of-way to accommodate all transportation uses including utilities. Local road authorities (LRAs) were uncertain about their ability to accommodate UC needs in their purchase of right-of-way.

B. Desired Outcome

The desired outcome for participant discussions at this workshop was to determine what could be done to deal with the issues identified in Workshop 1, who would be responsible, and what might make it difficult to accomplish the solutions.

C. Process

Participants were divided into the same three mixed breakout groups that met in Workshop 1. In this breakout, participants were asked to brainstorm possible solutions to the five issues identified in Workshop 1, and to consider the possible barriers to implementing these solutions. After brainstorming, the groups worked to combine similar solutions and barriers, to eliminate some and then to prioritize the top four to five solutions. Breakout groups were also asked to determine which of the major partners - Mn/DOT, contractors, UCs, and GSOC - would be responsible to follow through on each solution. After the breakout sessions, the large group reconvened. Each small group presented their solutions and barriers. The large group was asked to watch for similarities in solutions and barriers so they could be combined as much as possible.

D. Breakout and Large Group Activity Results

Solutions, which were many, were organized by the primary responsible party: RA, UCs, GSOC, and contractors. Solutions which involved more than one primary responsibility group were listed under each group. The responsibility areas were further divided into four phases:

- Utility installation phase
- System planning and information/communications phase

- Project development/right-of-way acquisition phase
- Project construction phase

You may request a copy of the detailed results from Workshop 2.

Workshop 3: Possible Actions

A. Introduction

At the third Utility Relocation Study workshop on November 3, 1999, introductions were made and the day's agenda was reviewed.

B. Desired Outcome

Each breakout group looked at priority solutions proposed by the other functional groups - RAs, UCs, and GSOC and contractors - in an effort to understand the different priorities. The desired outcome for this workshop was for each represented group to develop recommendations for priority solutions, determine how they should be implemented, and consider how participants will know when they have been successful. (This was to be done after having received participant perspectives on what was important as noted above.)

C. Process

Participants were broken up into three functional groups - RAs, UCs, GSOC, and contractors. Each group voted on the top four priority solutions that had been proposed by the other groups. Functional groups then added their priorities to stakeholder priorities. Groups were asked to develop recommendations for priority solutions and determine how the recommendations should be implemented. They were also asked to include a plan for how to reach agencies who weren't present. Finally, they were asked to consider how they would know solutions would be successful

D. Breakout and Large Group Activity Results

Because functional groups did not fully complete their activity to develop recommendations and an implementation strategy for the final legislative report, a fourth meeting was set up for December 9, 1999. A table that included preliminary recommendations was sent to all participants. A worksheet with space for implementation considerations was also created and sent to each functional group. They were asked to review the information in the table and worksheet for their functional area and to bring their ideas to the December 9 workshop.

You may request a copy of the detailed results from Workshop 3.

Workshop 4: Recommendations/Implementation

A. Introduction

The fourth Utility Relocation Study workshop on December 9, 1999, began with introductions and a review of the day's agenda. Volunteers were requested to work on issues that extended across all functional groups; five people volunteered for this activity.

B. Desired Outcome

The desired outcome for December 9 discussions was to develop the information for the main body of the Utility Relocation Study report to the 2000 Minnesota Legislature by completing the functional authority worksheets, including recommendations (what each functional group planned to do or not do and why), an implementation strategy (how it will be done), and a general time frame (short = six months, medium = one year, and long = > one year.)

C. Process

Participants were broken up once again into the same functional groups, with UCs and GSOC comprising one group. A fourth mixed group was created with volunteers from each functional area to deal with general issues. The main focus of the December 9 workshop was for each functional group and the mixed group to complete the worksheet by adding recommendations, implementation strategies, responsible parties and a general time frame for each identified recommendation.

D. Breakout and Large Group Activity Results

You may request a copy of the detailed results from Workshop 4, which includes a table of recommendations, implementation strategy, responsible parties, and time frame for implementation. The information in this table was the basis for the recommendations section in this report.

UTILITY RELOCATION MATRIX WITH FUNCTIONAL GROUP COMMENTS

Phase	Potential Actions	Recommendations (what we plan to do)	Implementation Strategy (how we will do it)	Who	Time Frame Short=6 mths Med=1 yr. Long=>1 yr.
Installation	1. UCs will provide current and accurate contact information on a database/Web site.	UCs will provide current and accurate contact information.	<ul style="list-style-type: none"> ▪ Each utility will commit to providing information on a Web site and/or in a brochure or other format available to them. ▪ UC Web sites will contain contact information for all. ▪ UCs will update this information as needed. ▪ UCs will provide info on their own Web sites/brochure but ultimately Mn/DOT will maintain a link or provide same information as UCs. 		Short - everyone may not have a Web site in six months, but we'll have that information available.
Installation	2. Create/ maintain up to date Web site with the UC contact information.	Create/maintain up to date Web site with the UC contact information.	<p>Mn/DOT is in the process of establishing this Web site.</p> <p>Cooperation will be required to keep contact information current.</p> <p>GSOC COMMENT: Depends on whether database can be accessed without a ticket and whether UCs want to be notified. They will bring this up with their board.</p>	Mn/DOT UCs	
Installation	3. UCs will create and retain accurate installation information for new installations.	UCs will create and retain accurate installation information.	<ul style="list-style-type: none"> ▪ UCs will provide the best record location/map information available on utility installations in compliance with current MN rules (depends on RA maintaining information they provide). ▪ If RA needs additional, updated accurate mapping information, UCs will comply with GSOC Statutes. ▪ Utility will assist in locating for design purposes for RA. ▪ UCs will retain records. ▪ Definition of accurate will be per statute. <p>UTILITY COMMENT: RA must use information and show it on plans.</p>		Short
Installation	4. GSOC will consider establishment of utility	GSOC will consider establishment of utility	GSOC COMMENT: GSOC talking about it, but not all UCs are involved. There is a meeting scheduled in		

Phase	Potential Actions	Recommendations (what we plan to do)	Implementation Strategy (how we will do it)	Who	Time Frame Short=6 mths Med=1 yr. Long=>1 yr.
	coordination committees statewide.	coordination committees statewide.	January 2000 regarding setting up a statewide group.		
Installation	5. Develop sanctions for not receiving utility installation information as required by permit.	Develop sanctions for not receiving utility installation information as required by permit.	<p>Uphold conditions of permit.</p> <p>Develop sanctions such as probation or revocation of permit.</p> <p>Review standard permit language and revise as appropriate.</p> <p>LRA (LRAs) will enforce provisions of law, PUC (Public Utility Commission) rules and ordinances.</p>	Mn/DOT LRAs (local RA)	
System Planning	6. RA shall meet with UCs to review upcoming projects and discuss short-and long-term project schedules and other issues.	RA shall meet with UCs to review upcoming projects and discuss short-and long-term project schedules and other issues.	<p>Mn/DOT's Action Plan will include an item for the districts to schedule a meeting or otherwise provide information for UCs that are expected to be affected the upcoming construction program.</p> <p>LRA-s (local RA) are encouraged to meet yearly with UCs to review upcoming projects and schedules. LRA-s (local RA) also follow PUC (Public Utility Commission) rules and ordinances.</p> <p>UTILITY COMMENTS: Three recommended options: 2. Coordinating committee - can be forum for gathering information. 3. Mn/DOT lead coordination meeting. 4. Mn/DOT Web site - organize information on projects by county or highway provide ability to reply on known impacts and notify RA contact.</p>	Mn/DOT LRA-s (local RA) UCs	
System Planning	7. RAs shall take the lead with all parties involved to develop a joint procedure/guidelines		<p>MIXED GROUP COMMENTS:</p> <ul style="list-style-type: none"> ▪ Make sure to include sanctions for non-compliance of action pans and time lines (schedules). 		

Phase	Potential Actions	Recommendations (what we plan to do)	Implementation Strategy (how we will do it)	Who	Time Frame Short=6 mths Med=1 yr. Long=>1 yr.
	document that includes action plans for each party. A process to educate and inform all stakeholders in the use of this document will also be developed.		<p>UTILITY COMMENTS:</p> <ul style="list-style-type: none"> ▪ No recommendation without “scope” definition. ▪ Utility role to provide information and comment on draft. ▪ RA draft without direct utility participation in meetings. 		
System Planning	8. UCs need to communicate the time needed to respond to RA relocation requests based on level/magnitude of relocation.	UCs will communicate response time.	<ul style="list-style-type: none"> ▪ UCs will communicate the time needed to review and determine the impact of relocation. ▪ UCs will give RA advance information about total project lead time. ▪ UCs will be involved at planning stage. ▪ UCs will communicate to RA time needed to determine impacts, plan, budget, design, and construct their facilities subject to specific project requirements. ▪ UCs will develop a brochure and Web site with lead times for relocations. 		Medium
System Planning	9. Review relocation progress after a year and get this group together again.		<p>MIXED GROUP COMMENTS:</p> <ul style="list-style-type: none"> ▪ In full agreement with this recommendation. <p>UTILITY COMMENTS:</p> <ul style="list-style-type: none"> ▪ Recommend we meet again (one-time only) to discuss and identify recurring problems, check progress and build relationships. 		
System Planning	10. Develop a flowchart that details the total utility relocation process and our expectations of utility owners and others.		<p>MIXED GROUP COMMENTS:</p> <ul style="list-style-type: none"> ▪ The burden for this falls on the RAs - logical fit. ▪ Would like to see quality control/quality checks to make certain that the utility relocate is done according to permit - again the RA’s responsibility. <p>UTILITY COMMENTS:</p> <ul style="list-style-type: none"> ▪ RA will develop flowchart with support from UCs. ▪ Participate to assure time lines are understood. ▪ RA to define expectations to assure timely relocation. 		

Phase	Potential Actions	Recommendations (what we plan to do)	Implementation Strategy (how we will do it)	Who	Time Frame Short=6 mths Med=1 yr. Long=>1 yr.
System Planning	11. Identify key contacts for utility issues.	For GSOC, see #1 and #2. UCs will identify key contacts for utility issues.	UCs will develop a brochure and Web site with contacts for design, construction.		Short
Project Development	12. RA give UC adequate notice of required relocation. 13. RA will provide adequate project lead time and communicate schedule and specific relocation information.	RA will take lead for early notification to UCs to integrate and coordinate utility relocation with total project view and utility needs in mind. Provide adequate project lead-time, communicate schedule, and involve the utility in the planning process.	LRA-s (local RA) share plans for coming year in December, coordinate the process, UCs give notice. LRA-s (local RA) follow law, PUC (Public Utility Commission) rules and ordinances. Mn/DOT will issue Action Plan and Technical Memorandum outlining expectations for pre-design and design including early notice and coordination with UCs. Relocation lead-time is project specific. Mn/DOT and UCs work together to develop reasonable and coordinated schedule on a project specific basis.	Mn/DOT LRAs (local RA) UCs	
Project Development	14. RA shall take the lead early to coordinate and integrate utility relocation with total project view and utility needs in mind. 21. RA shall provide formal notification of the project to the UC and early involvement in the planning process.	(See #12 above)	(See #12 above)	Mn/DOT LRAs (local RA) UCs	
Project Development	15. Provide contact people to improve communications throughout the whole process: primary contact, design	UCs will provide contact people.	UCs will develop a brochure and Web site with contacts for design, construction.		Short

Phase	Potential Actions	Recommendations (what we plan to do)	Implementation Strategy (how we will do it)	Who	Time Frame Short=6 mths Med=1 yr. Long=>1 yr.
	contact, and construction contact.				
Project Development	16. Change the time line for requesting GSOC information (question if legislation is needed; in many instances, 90 days is not enough time).	Pending	COMMENT: You can do it as many times as you want, but the last time will take 90 days. If law is opened, maybe it can be addressed GSOC will not get involved this legislative session unless necessary).		
Project Development	17. RA take the lead (with utility involvement) to coordinate right-of-way acquisition activities.		UTILITY COMMENTS: <ul style="list-style-type: none"> ▪ UCs recommend and support RA leadership to coordinate right-of-way acquisition. ▪ Utility will inform RA of utility needs. ▪ Coordination needed at pre-design stage (prior to RA right-of-way acquisition). ▪ UCs may need RA clearing, grubbing, grading before they can relocate. 		
Project Development	18. RA should accommodate UCs when practicable. 25. RA provide right-of-way adequate to accomplish relocation and time to accomplish relocation. 20. RA will work with utility to define construction limits and identify location for relocation.	RA shall provide adequate space for UCs to accomplish their relocation work to the extent practicable and time to accomplish the relocation. This includes working with UCs to define construction limits and identify location for utility relocation.	Mn/DOT will develop a Technical Memorandum establishing general guidelines for when it is appropriate to purchase additional right-of-way for utility accommodation as part of the highway corridor and how to consider utility needs which are practical in the development of construction limits. All parties shall act in a timely manner. UTILITY COMMENTS: <ul style="list-style-type: none"> ▪ Recommend construction limits include utility needs, subject to utility acceptance. ▪ Recommend RA has obligation to provide UCs a place to go (needed to commit to firm schedule). 	Mn/DOT LRAs (local RA) Utility Companies	
Project Development	19. RA and utility will look at other utility relocation options besides right-of-way	RA and utility will consider other utility relocation options other than additional right-of-	Part of the coordinated planning process during project development.		

Phase	Potential Actions	Recommendations (what we plan to do)	Implementation Strategy (how we will do it)	Who	Time Frame Short=6 mths Med=1 yr. Long=>1 yr.
	(e.g., underground) and do what makes sense.	way (e.g., underground).	<p>UTILITY COMMENTS:</p> <ul style="list-style-type: none"> Need relocation in kind (change in type of facility is a utility business decision). If underground recommend by utility-reimbursement by RA. 		
Project Development	22. RA will work with utility before project letting to develop special provisions.	<p>RA will work with utility before project letting to develop special provisions.</p> <p>RA will consider the utility relocation needs in establishing the construction schedule.</p>	<p>Mn/DOT will develop special provisions if necessary to alert contractors of specific known relocation coordination needs and utility relocation construction schedule.</p> <p>Mn/DOT will also meet with UCs prior to establishing the construction schedule to take timely utility relocations into account when establishing the contract time and construction schedule.</p> <p>LRA-s (local RA) will also attempt to do these items as the need arises.</p> <p>Contractors will bid according to special provisions.</p> <p>CONTRACTOR-S COMMENTS : What's missing is that consequences/accountability need to be built in if the special provisions are not adhered to (accountability chain typically flows from utility to RA and then to the contractor. We don't have much of an ability before results are visible (since programming and planning is done out years in advance) to impact the utility portion, but it has a great deal of impact on us).</p>	<p>Mn/DOT LRA-s (local RA) UCs Contractor</p>	Long - start now, but would be ongoing and long term - a long time before results were visible (since programming and planning is done out years in advance).
Project Development	24. RA will consider the utility relocation needs in establishing the construction schedule.	(Same as #22 above)	<p>CONTRACTOR COMMENTS:</p> <ul style="list-style-type: none"> This issue is really external to contractors – we're reactive at the end. Implement a dollar/financial (de)motivation to the RA and UCs. In the “perfect world” all the utilities would be out of the way when we (contractors) start our work. 		

Phase	Potential Actions	Recommendations (what we plan to do)	Implementation Strategy (how we will do it)	Who	Time Frame Short=6 mths Med=1 yr. Long=>1 yr.
			<p>UTILITY COMMENTS:</p> <ul style="list-style-type: none"> Recommend utility provides strong support for special provisions. UCs will confirm schedule issues. Communicate firm schedule to contractor. Provides input or coordination to RA. 		
Project Development	23. UCs will provide accurate and timely maps.	UCs will provide accurate and timely maps.	COMMENT: Same as #3, in compliance with current MN rules.		Short
Project Development	26. RAs shall hold pre-letting conferences when it is anticipated that major utility relocation conflicts may arise during construction. UCs must attend such meetings.	<p>RAs shall hold pre-letting conferences when it is anticipated that major utility relocation conflicts may arise during construction. UCs must attend such meetings.</p> <p>CONTRACTOR RECOMMENDATION COMMENTS:</p> <ul style="list-style-type: none"> Fully support the issue as stated, we agree! This issue feeds into many other issues. If this is something contractors would attend, issue 22 would need to be done. 	<p>RA will determine the complexity of utility relocation in cooperation with UCs.</p> <p>For those complex projects the special provisions shall contain a section offering invitations to attend the pre-letting conference.</p> <p>UCs need to participate.</p> <ul style="list-style-type: none"> Contractors will attend these meetings and give input. <p>Perhaps contractors could <input type="checkbox"/>consult<input type="checkbox"/> to provide financial impacts of NOT moving or changing the utilities, etc. (example: it may cost \$100,000 to relocate the utilities, but if the contractor has to work with the UCs as is, it may cost them \$500,000).</p> <p>CONTRACTORS=COMMENTS:</p> <ul style="list-style-type: none"> Currently in the proposal, RAs are quite clear what the obligations and expectations of the contractor are. <p>UTILITY COMMENTS:</p> <ul style="list-style-type: none"> Redundant to #22. Recommend pre-letting conferences as necessary. 	<p>Mn/DOT LRA-s (local RA) UCs Contractors</p>	Contractor - Short
Project Development	27. When possible, relocate utilities ahead of project construction.				

Phase	Potential Actions	Recommendations (what we plan to do)	Implementation Strategy (how we will do it)	Who	Time Frame Short=6 mths Med=1 yr. Long=>1 yr.
Construction	28. RA take the lead to coordinate/communicate a mutually agreeable time line/schedule with all parties accountable for meeting it.	<p>RA takes the lead to coordinate and communicate mutually agreeable time lines/schedule. All Parties agree on time lines/schedule and assume accountability to perform.</p> <p>CONTRACTORS= RECOMMENDATION COMMENTS:</p> <ul style="list-style-type: none"> ▪ Make sure time lines/schedules are reasonable and take into account issues/circumstances that commonly occur. ▪ Contractors will continue to cooperate with the UCs to assist when able - sometimes the UCs need things moved in order to do their work, we do it when we can. 	<p>RA agrees to take the lead in actively pursuing a relocation plan/schedule that is agreeable to all parties. Agreement includes acceptance of accountability to stick to established plan/schedule.</p> <p>LRA (local RA) also has the tools of PUC (Public Utility Commission) rules and ordinances.</p> <p>CONTRACTOR'S COMMENTS:</p> <ul style="list-style-type: none"> ▪ Don't have the authority to set these schedules, but appreciate considering the factors that impact them. 		Contractor - Short
Construction	29. All parties agree on timeliness and accountability by each party to stick to the time lines.	<p>(See #28 above.)</p> <p>CONTRACTOR'S RECOMMENDATION COMMENTS:</p> <ul style="list-style-type: none"> ▪ Presently contractors are accommodating this. If not, financial repercussions. 	<p>UTILITY COMMENTS:</p> <ul style="list-style-type: none"> ▪ Recommend agreement on timeliness of staging and construction sequence on project by project basis. ▪ Agreement with contractor's plan. ▪ RA take lead when utility schedule impacted by contractor's performance. 		Short - contractor
Construction	30. Identify roles, responsibilities of all parties.		<p>MIXED GROUP COMMENTS:</p> <ul style="list-style-type: none"> ▪ Would like to add "...and hold accountable" to the end of this statement. ▪ Also need to identify consequences up-front to 		

Phase	Potential Actions	Recommendations (what we plan to do)	Implementation Strategy (how we will do it)	Who	Time Frame Short=6 mths Med=1 yr. Long=>1 yr.
			<p>assist with the accountability portion.</p> <p>UTILITY COMMENTS:</p> <ul style="list-style-type: none"> ▪ Must start early. Need roles and responsibility on total project cycle. RA is owner and must provide broader project management encompassing total project. Utility will communicate with RA for direction, planning, and scheduling. 		
Construction	31. Create sanctions for non-performance of relocation work by UC. Ensure that penalties don't tap into rate base.	RA creates a process for recovering costs incurred as a result of the utility's failure to comply with permit, and Notice and Order provisions.	<p>Mn/DOT will review its permit, and Notice and Order provisions to more clearly indicate time lines required for relocation of utilities.</p> <p>LRA (local RA) will enforce provisions of law, PUC (Public Utility Commission) rules and ordinances.</p>	LRA's (local RA) Mn/DOT	
Construction	32. Contractor takes lead to coordinate construction activities and schedule utility relocation.	<p>Contractors will take the lead to coordinate construction activities and schedule utility relocation.</p> <p>CONTRACTOR'S COMMENTS:</p> <ul style="list-style-type: none"> ▪ RA sets the schedule, contractors will implement it. ▪ This issue runs parallel with issue #39 (commit to a schedule and communicate if an "act of God" forces a change), would like to see that if an "act of God" forces a change, there is a need for everyone to adjust their schedules. For example, if UCs can't fit us in the expected schedule, we can't wait months and months for them to get back to us. 	<p>CONTRACTORS' COMMENTS:</p> <ul style="list-style-type: none"> ▪ Contractors will attend weekly progress meetings with UCs and RA. ▪ Contractors will attend the pre-construction conference. <p>UTILITY COMMENTS:</p> <ul style="list-style-type: none"> ▪ RA lead on schedule/cost if changes occur. ▪ Utility will coordinate with contractor on activities in schedule. 		Short - contractor

Phase	Potential Actions	Recommendations (what we plan to do)	Implementation Strategy (how we will do it)	Who	Time Frame Short=6 mths Med=1 yr. Long=>1 yr.
		<ul style="list-style-type: none"> ▪ Implementation of issue #28 (RA will take the lead to coordinate/ communicate a mutually agreeable time line/schedule with all parties accountable for meeting it) and issue #29 (all parties agree on time lines and accountability by each party to stick to the time lines) will take care of this. 			
Construction	33. Develop a plan of action if unforeseen circumstances occur.	<p>Develop a plan of action if unforeseen circumstances occur.</p> <p>CONTRACTOR'S RECOMMENDATION COMMENTS:</p> <ul style="list-style-type: none"> ▪ Contractors will make themselves available for weekly progress meetings. ▪ In response to the "act of God," don't just communicate the changes, but allow for flexibility and altered time lines. 	<p>RA takes the lead for developing a Chain of Command document for UCs, contractors, and RA, and will develop a plan for use when lack of action exists beyond a reasonable time period by one or more of the parties.</p> <p>CONTRACTORS' COMMENTS:</p> <ul style="list-style-type: none"> ▪ Make ourselves available for these meetings. <p>UTILITY COMMENTS:</p> <ul style="list-style-type: none"> ▪ Combine with 38. Recommend UCs communicate immediately to RA (project manager) re: issues/problems that occur. 	<p>Mn/DOT LRA's (local RA) UCs Contractors</p>	Short - contractor
Construction	34. RAs will hold pre-construction conferences with all parties involved.	<p>RAs will hold pre-construction conferences with all parties involved.</p> <p>CONTRACTORS' COMMENTS:</p> <ul style="list-style-type: none"> ▪ All parties should attend and make it a priority (especially UCs, need them there!) 	<p>Mn/DOT project engineers are to schedule pre-construction conferences for all projects. Districts will be reminded of the need for these conferences and to provide sufficient lead-time to participants. It is important that the UCs place a priority on attending.</p> <p>LRA (local RA) will schedule pre-construction conferences with UC participants when utility relocation work is anticipated to be an issue.</p>	<p>Mn/DOT LRA's (local RA) UCs Contractors</p>	Short - contractor

Phase	Potential Actions	Recommendations (what we plan to do)	Implementation Strategy (how we will do it)	Who	Time Frame Short=6 mths Med=1 yr. Long=>1 yr.
			<p>CONTRACTOR COMMENTS:</p> <ul style="list-style-type: none"> Contractors will attend and come prepared with a plan and schedule. <p>UTILITY COMMENTS:</p> <ul style="list-style-type: none"> Recommend UCs attend to extent possible. Will always participate, may not always attend <p>When can't attend, communicate info to RA (project manager) before meeting..</p>		
Construction	35. Post-project review with all parties (look at flow chart and determine what worked well and what should be done differently).	Post-project review with all parties (look at flow chart and determine what worked well and what should be done differently.)	<p>MIXED GROUP COMMENTS:</p> <ul style="list-style-type: none"> This is difficult because new deadlines and priorities take precedence over reviewing past work. Perhaps alternatives to meeting could be considered - could there be something on a Web site that would allow for people to communicate successes and failures for others to learn from? <p>UTILITY COMMENTS:</p> <ul style="list-style-type: none"> Recommend review of major projects from standpoint of major utility impact. Participate, but not obligated to attend when utility involvement is minimal. 		Post-project review with all parties (look at flow chart and determine what worked well and what should be done differently.)
Construction	<p>36. The RA must ultimately be responsible to ensure utility relocations occur.</p> <p>37. The utility owner needs to be held accountable. Create legislation to allow for repercussions.</p>	As owners, RAs will assume greater responsibility to ensure utility relocation occurs and that utility owners are held accountable to agreed-upon schedules.	<p>For Mn/DOT, project engineers will assume a greater role to ensure that all within his authority is being done to promote timely relocations.</p> <p>Also, See #31</p>	Mn/DOT LRA's (local RA) UCs Contractors	
	38. UCs will commit to a schedule (and communicate if an Act of God@forces a change).	UCs will commit to a firm schedule subject to all prior points being met and will communicate Acts of God@ and/or emergencies.	<ul style="list-style-type: none"> UCs recommend that they make schedule commitment to RA (project manager). Communicate resource decisions of utility to project manager. Recommend special provisions, (standard language) 		Short

Phase	Potential Actions	Recommendations (what we plan to do)	Implementation Strategy (how we will do it)	Who	Time Frame Short=6 mths Med=1 yr. Long=>1 yr.
			utility “act of God” definition or meaning.		
	39. During construction, contractor takes lead with utility owners and partners.	<p>During construction, contractor takes lead with utility owners and partners.</p> <p>CONTRACTORS=COMMENTS:</p> <ul style="list-style-type: none"> ▪ Implement the schedule that has been agreed to by all (referenced in issues #28 and #29) ▪ Contractors will make themselves available. 	<p>CONTRACTORS=COMMENTS:</p> <ul style="list-style-type: none"> ▪ Contractors will provide a detailed plan. ▪ Contractors will provide a “schedule update” to all involved., ▪ Contractor will act in essence as a “project manager.” 		Short - contractor

Minnesota Statutes 161.45 Utility on highway right-of-way; relocation.

Subdivision 1. Rules. Electric transmission, telephone or telegraph lines, pole lines, community antenna television lines, railways, ditches, sewers, water, heat or gas mains, gas, and other pipe lines, flumes, or other structures which, under the laws of this state or the ordinance of any city, may be constructed, placed, or maintained across or along any trunk highway, or the roadway thereof, by any person, persons, corporation, or any subdivision of the state, may be so maintained or hereafter constructed only in accordance with such rules as may be prescribed by the commissioner who shall have power to prescribe and enforce reasonable rules with reference to the placing and maintaining along, across, or in any such trunk highway of any of the utilities hereinbefore set forth. Nothing herein shall restrict the actions of public authorities in extraordinary emergencies nor restrict the power and authority of the department of public service as provided for in other provisions of law. Provided, however, that in the event any local subdivision of government has enacted ordinances relating to the method of installation or requiring underground installation of such community antenna television lines, the permit granted by the commissioner of transportation shall require compliance with such local ordinance.

Subd. 2. Relocation of utility. Whenever the relocation of any utility facility is necessitated by the construction of a project on trunk highway routes other than those described in section 161.46, subdivision 2, the relocation work may be made a part of the state highway construction contract or let as a separate contract as provided by law if the owner or operator of the facility requests the commissioner to act as its agent for the purpose of relocating the facilities and if the commissioner determines that such action is in the best interests of the state. Payment by the utility owner or operator to the state shall be in accordance with applicable Statutes and the rules for UCs on trunk highways.

Subd. 3. Utility interests when real property conveyed. In proceedings to vacate, transfer, turn back, or otherwise convey an interest in real property owned or controlled by the department, when the property is owned in fee by the state, the commissioner may specify that the conveyance of the department's interest does not affect a prior, existing utility easement in the property or use of the property granted to a utility under permit issued by the department. In addition, the commissioner may convey interests in real property, including an easement, subject to the right of a utility to enter upon the right-of-way to maintain, repair, replace, reconstruct, improve, remove, or otherwise attend to its equipment. Where the utility had no preexisting easement over the real property, this subdivision does not prohibit a political subdivision, government agency, or private entity from negotiating or contracting with a utility with regard to the utility's easement or other interest in the property, but the utility shall continue to hold the interest in the property and the right of reasonable entry unless and until the utility agrees in writing to relinquish its interests.

HIST: 1959 c 500 art 2 s 45; 1967 c 231 s 2; 1971 c 25 s 67; 1973 c 123 art 5 s 7; 1973 c 568 s 19; 1976 c 166 s 7; 1985 c 248 s 70; 1997 c 231 art 16 s 5

Minnesota Rules pertaining to Minnesota Statutes 161.45 and 161.46

8810.3300 PERMITS.

Subpart 1. Construction. Except as otherwise permitted, utility construction and relocation on trunk highway right-of-way shall not be commenced until an application for a permit for construction has been made and such permit granted. The permit for construction sketch shall show the location of the proposed utility with reference to pertinent features such as the right-of-way lines, curb lines, trunk highway center line, etc. A copy of the sketch shall be provided for each copy of such permit. Prints of trunk highway right-of-way maps are available upon request from the Road Plans Information Office, Department of Transportation Building, Saint Paul, Minnesota 55155.

Subp. 2. Maintenance. The utility shall obtain a work permit from the office of the assistant district engineer, maintenance, prior to performing service and maintenance operations on the interstate highways and shall also obtain a work permit prior to performing service and maintenance operations on the non-interstate highways when such operations require opening and disturbing the surface of the right-of-way thereof. In all other instances the utility shall notify the office of the assistant district engineer, maintenance, prior to performing service and maintenance operations on the non-interstate highways which interfere with the normal flow of traffic thereon. However, the company may perform service and maintenance operations on the trunk highways including opening and disturbing the surface of the right-of-way without a work permit in those instances where an emergency exists that is dangerous to the life or safety of the public and which requires immediate repair. The utility upon knowledge of such an emergency shall immediately notify the State Patrol Division. The utility shall take all necessary and reasonable safety measures to protect the traveling public and shall cooperate fully with the State Patrol Division to that end. The utility in such an event will request a work permit from the office of the assistant district engineer, maintenance, not later than the second working day thereafter when a work permit would ordinarily have been required but for the emergency.

Subp. 3. Orders to make improvements. If at any time the state of Minnesota, acting through its commissioner of transportation, shall deem it necessary to make any improvements or changes on all or any part of the right-of-way of the trunk highway which affect a utility located on trunk highway right-of-way, then and in such event, the owner of the utility shall within 15 days after written notice from the commissioner of transportation or an authorized agent, proceed to alter, change, vacate, or remove said utility from the trunk highway right-of-way so as to conform to said trunk highway changes and as directed by the commissioner of transportation. Such work shall be done without any cost whatsoever to the state of Minnesota except as otherwise provided by law or agreement and shall be completed within the date specified in said written notice, which date shall be reasonable under the circumstances. The utility shall assume all liability and save the state of Minnesota harmless from any and all claims of damage of any nature whatsoever occasioned by reason of not having removed said utility within the time specified in said notice. Notwithstanding the provisions of parts 8810.3100 to 8810.3600, the state may reimburse a municipality for the cost of the first relocation of a municipally owned utility located within the limits of a municipal street at the time that the street was taken over by

the state as a trunk highway, when such relocation is required by construction or reconstruction of the trunk highway.

Subp. 4. Along interstate highways. Utilities along the interstate highways shall be located outside the control-of-access lines except as outlined below. Where the control-of-access lines coincide with the right-of-way lines, the utilities shall generally be located on private property. Where the control-of-access lines and right-of-way lines do not coincide, utilities may in general be located in the area between them. All utilities shall be serviced and maintained without access from the ramps, loops, and through traffic roadbeds. Utilities may be serviced from frontage roads and roads other than another interstate highway which cross either over or under the interstate highway. At aerial crossings of an interstate highway, supporting poles may be located on interstate highway right-of-way if they are a minimum of 30 feet beyond the shoulders of all through traffic roadbeds; however, in no event shall they be located in a median unless its width is 80 feet or more. Manholes and other points of access to underground crossings may be permitted on the interstate highway right-of-way only when located outside the shoulders of the through traffic roadbeds, loops, or ramps. The restrictions of this subpart shall not apply to utility lines which service facilities required for operating the interstate highway.

There may be extreme cases where, under strictly controlled conditions, a utility may be permitted inside the control-of-access lines along an interstate highway. In each case there must be a showing that any other utility location is extremely difficult and unreasonably costly to the utility consumer, that the installation on the right-of-way of the interstate highway will not adversely affect the design, construction, stability, traffic safety, or operation of the interstate highway and that the utility can be serviced without access from through traffic roadbeds, loops, or ramps.

Subp. 5. Deposit, bond, or undertaking. The commissioner of transportation may require the utility, or its contractor, to furnish a deposit in the form of a certified check, a surety bond or corporate undertaking in favor of the state of Minnesota, commissioner of transportation, for any expense incurred by the state in the repairing of damage to any portion of the trunk highway right-of-way caused by work performed under a work permit or a permit for construction, including any out of the ordinary engineering supervision and inspection expense provided by the state. In those instances wherein a deposit is required, the amount of the deposit shall be specified in the special provisions of the permit. If a check is furnished, any moneys remaining over and above such expense shall be returned to the applicant.

Subp. 6. Liability. Except for the negligent acts of the state, its agents, and employees, the utility shall assume all liability for, and save the state, its agents and employees, harmless from, any, and all claims for damages, actions, or causes of action arising out of the work to be done herein and the continuing uses by the utility, including but not limited to the placing, constructing, reconstructing, maintaining, and using of said utility under this application and permit for construction.

Subd. 7. No easement. The work permit or permit for construction as issued does not in any way imply an easement on private property.

STAT AUTH: MS s 161.45

HIST: 17 SR 1279
Current as of 08/26/99

Minnesota Statutes 216D

216D.01 Definitions.

Subdivision 1. Applicability. The definitions in this section apply to sections 216D.01 to 216D.07.

Subd. 1a. Commissioner. "Commissioner" means the commissioner of public safety.

Subd. 1b. Boundary survey. "Boundary survey" means a survey made to establish or to reestablish a boundary line on the ground or to obtain data for preparing a map or plat showing boundary lines.

Subd. 2. Damage. "Damage" means:

- (1) the substantial weakening of structural or lateral support of an underground facility;
- (2) penetration, impairment, or destruction of any underground protective coating, housing, or other protective device; or
- (3) impact with or the partial or complete severance of an underground facility to the extent that the facility operator determines that repairs are required.

Subd. 3. Emergency. "Emergency" means a condition that poses a clear and immediate danger to life or health, or a significant loss of property.

Subd. 4. Emergency responder. "Emergency responder" means a fire department or company, a law enforcement official or office, an ambulance or other emergency rescue service, or the division of emergency management created by section 12.04, subdivision 1.

Subd. 5. Excavation. "Excavation" means an activity that moves, removes, or otherwise disturbs the soil by use of a motor, engine, hydraulic or pneumatically powered tool, or machine-powered equipment of any kind, or by explosives. Excavation does not include:

(1) the extraction of minerals;

(2) the opening of a grave in a cemetery;

(3) normal maintenance of roads and streets if the maintenance does not change the original grade and does not involve the road ditch;

(4) plowing, cultivating, planting, harvesting, and similar operations in connection with growing crops, trees, and shrubs, unless any of these activities disturbs the soil to a depth of 18 inches or more;

(5) gardening unless it disturbs the soil to a depth of 12 inches or more; or

(6) planting of windbreaks, shelter belts, and tree plantations, unless any of these activities disturbs the soil to a depth of 18 inches or more.

Subd. 6. Excavator. "Excavator" means a person who conducts excavation in the state.

Subd. 6a. Land surveyor. "Land surveyor" means a person licensed to practice land surveying under sections 326.02 to 326.15.

Subd. 7. Local governmental unit. "Local governmental unit" means a county, town, or statutory or home rule charter city.

Subd. 8. Notification center. "Notification center" means a center that receives notice from excavators of planned excavation or other requests for location and transmits this notice to participating operators.

Subd. 9. Operator. "Operator" means a person who owns or operates an underground facility. A person is not considered an operator solely because the person is an owner or tenant of real property where underground facilities are located if the underground facilities are used exclusively to furnish services or commodities on that property, unless the person is the state, a state agency, or a local governmental unit.

Subd. 10. Person. "Person" means the state, a public agency, a local governmental unit, an individual, corporation, partnership, association, or other business or public entity or a trustee, receiver, assignee, or personal representative of any of them.

Subd. 11. Underground facility. "Underground facility" means an underground line, facility, system, and its appurtenances used to produce, store, convey, transmit, or distribute communications, data, electricity, power, heat, gas, oil, petroleum products, water including storm water, steam, sewage, and other similar substances.

HIST: 1987 c 71 s 2; 1987 c 353 s 7; 1988 c 624 s 2; 1989 c 244 s 3-5; 1991 c 214 s 7; 1991 c 234 s 3; 1992 c 381 s 7; 1992 c 493 s 1-4; 1993 c 341 art 1 s 20

216D.02 Notice to excavator or operator.

Subdivision 1. Display and distribution. Local governmental units that issue permits for an activity involving excavation must continuously display an excavator's and operator's notice at the location where permits are applied for and obtained. An excavator and operator's notice and a copy of sections 216D.03 to 216D.07 must be furnished to each person obtaining a permit for excavation.

Subd. 2. Form. The notification center shall prescribe an excavator and operator's notice. The notice must inform excavators and operators of their obligations to comply with sections 216D.03 to 216D.07. The center shall furnish to local governmental units:

- (1) a copy of the notice and sections 216D.03 to 216D.07 in a form suitable for photocopying;
- (2) a copy of the display and distribution requirements under subdivision 1; and
- (3) the telephone number and mailing address of the notification center.

HIST: 1987 c 353 s 8

216D.03 Notification center.

Subdivision 1. Participation. An operator shall participate in and share in the costs of one statewide notification center operated by a vendor selected under subdivision 2.

Subd. 2. Establishment of notification center; rules. (a) The notification center services must be provided by a nonprofit corporation approved in writing by the commissioner. The nonprofit corporation must be governed by a board of directors of up to 20 members, one of whom is the director of the office of pipeline safety. The other board members must represent and be elected by operators, excavators, and other persons eligible to participate in the center. In deciding to approve a nonprofit corporation, the commissioner shall consider whether it meets the requirements of this paragraph and whether it demonstrates that it has the ability to contract for and implement the notification center service.

(b) The commissioner shall adopt rules:

- (1) establishing a notification process and competitive bidding procedure for selecting a vendor to provide the notification service;
- (2) governing the operating procedures and technology needed for a statewide notification center; and
- (3) setting forth the method for assessing the cost of the service among operators.

(c) The commissioner shall select a vendor to provide the notification center service. The commissioner may advertise for bids as provided in section 16C.06, subdivisions 1 and 2, and base the selection of a vendor on best value as provided in section 16C.06, subdivision 6. The commissioner shall select and contract with the vendor to provide the notification center service, but all costs of the center must be paid by the operators. The commissioner may at any time appoint a task force to advise on the renewal of the contract or any other matter involving the center's operations.

(d) An operator may submit a bid and be selected to contract to provide the notification center service under paragraph (a) or (c). The commissioner shall annually review the services provided by the nonprofit corporation approved under paragraph (a) or the vendor selected under paragraph (c).

Subd. 3. Cooperation with local government. In establishing operating procedures and technology for the statewide notification center, the board of directors or the commissioner must work in cooperation with the league of Minnesota cities, the association of Minnesota counties, and the township officers' association. The purpose of this cooperation is to maximize the participation of local governmental units that issue permits for activities involving excavation to assure that excavators receive notice of and comply with the requirements of sections 216D.01 to 216D.07.

Subd. 4. Notice to local government. The notification center shall provide local governmental units with a master list, by county, of the operators in the county who are participants in the notification center, and the telephone number and mailing address of the notification center.

HIST: 1987 c 353 s 9; 1997 c 187 art 1 s 15; 1998 c 386 art 2 s 69

216D.04 Excavation; land survey.

Subdivision 1. Notice required; contents. (a) Except in an emergency, an excavator shall and a land surveyor may contact the notification center and provide an excavation or location notice at least 48 hours before beginning any excavation or boundary survey, excluding Saturdays, Sundays, and holidays. An excavation or boundary survey begins, for purposes of this requirement, the first time excavation or a boundary survey occurs in an area that was not previously identified by the excavator or land surveyor in an excavation or boundary survey notice.

(b) The excavation notice may be oral or written, and must contain the following information:

(1) the name of the individual providing the excavation notice;

(2) the precise location of the proposed area of excavation;

(3) the name, address, and telephone number of the excavator or excavator's company;

- (4) the excavator's field telephone number, if one is available;
- (5) the type and the extent of the proposed excavation;
- (6) whether or not the discharge of explosives is anticipated;
- (7) the date and time when excavation is to commence; and
- (8) the estimated duration of the excavation.

(c) The boundary survey notice may be oral or written, and must contain the following information:

- (1) the name of the individual providing the boundary survey;
- (2) the precise location of the proposed area of the boundary survey;
- (3) the name, address, and telephone number of the land surveyor or the land surveyor's company;
- (4) the land surveyor's field telephone number, if available;
- (5) the extent of the proposed boundary survey;
- (6) the date and time when the boundary survey is to commence.

Subd. 1a. Plans for excavation. (a) Any person, prior to soliciting bids or entering into a contract for excavation, shall provide a proposed excavation request to the notification center to obtain from the affected operators of underground facilities the type, size, and general location of underground facilities. Affected operators shall provide the information within 15 working days. An operator who provides information to a person who is not a unit of government may indicate any portions of the information which are proprietary and may require the person to provide appropriate confidentiality protection. The information obtained from affected operators must be submitted with the final drawing used for the bid or contract. This information must be obtained not more than 90 days before completion of the final drawing used for the bid or contract.

(b) This subdivision does not apply to bids and contracts for:

- (1) routine maintenance of underground facilities or installation, maintenance, or repair of service lines;
- (2) excavation for operators of underground facilities performed on a unit of work or similar basis; or

(3) excavation for home construction and projects by homeowners.

(c) This subdivision does not affect the obligation to provide a notice of excavation as required under subdivision 1.

Subd. 2. Duties of notification center. The notification center shall assign an inquiry identification number to each excavation or location notice and retain a record of all excavation or location notices received for at least six years. The center shall immediately transmit the information contained in an excavation or location notice to every operator that has an underground facility in the area of the proposed excavation or boundary survey.

Subd. 3. Locating underground facility; operator. (a) An operator shall, within 48 hours after receiving an excavation notice from the center, excluding Saturdays, Sundays, and holidays, unless otherwise agreed to between the excavator and operator, locate and mark or otherwise provide the approximate horizontal location of the underground facilities of the operator and provide readily available information regarding the operator's abandoned and out-of-service underground facilities as shown on maps, drawings, diagrams, or other records used in the operator's normal course of business, without cost to the excavator. The excavator shall determine the precise location of the underground facility, without damage, before excavating within two feet of the marked location of the underground facility.

An operator shall, within 96 hours after receiving a location notice for boundary survey from the notification center, excluding Saturdays, Sundays, and holidays, unless otherwise agreed to between the land surveyor and operator, locate and mark or otherwise provide the approximate horizontal location of the underground facilities of the operator, without cost to the land surveyor.

(b) For the purpose of this section, the approximate horizontal location of the underground facilities is a strip of land two feet on either side of the underground facilities.

(c) Markers used to designate the approximate location of underground facilities must follow the current color code standard used by the American Public Works Association.

(d) If the operator cannot complete marking of the excavation or boundary survey area before the excavation or boundary survey commencement time stated in the excavation or location notice, the operator shall promptly contact the excavator or land surveyor.

(e) Effective January 1, 1999, operators shall maintain maps, drawings, diagrams, or other records of any underground facility abandoned or out-of-service after December 31, 1998.

(f) An operator providing information pursuant to this subdivision is not responsible to any person, for any costs, claims, or damages for information provided in good faith regarding abandoned or out-of-service underground facilities.

Subd. 4. Locating underground facility; excavator, or land surveyor. (a) The excavator or land surveyor shall determine the precise location of the underground facility, without damage, before excavating within two feet on either side of the marked location of the underground facility.

(b) If the excavator or land surveyor postpones the excavation or boundary survey commencement time stated in the excavation or location notice by more than 96 hours, or cancels the excavation or boundary survey, the excavator or land surveyor shall notify the notification center.

(c) The notification center excavation or location notice will be void six months from the issue date on the notice. A new notice will need to be issued to continue excavation.

HIST: 1987 c 353 s 10; 1992 c 493 s 5; 1993 c 341 art 1 s 21; 1997 c 196 s 1;
1998 c 348 s 1-3

*A cooperative effort of the Minnesota Department of
Transportation; statewide utility companies,
cooperatives, and organizations; local contractors and
representatives; and Gopher State One Call.*