



Utility Roundup within Public Right-of-Way

Local Highway Technical Assistance
Council

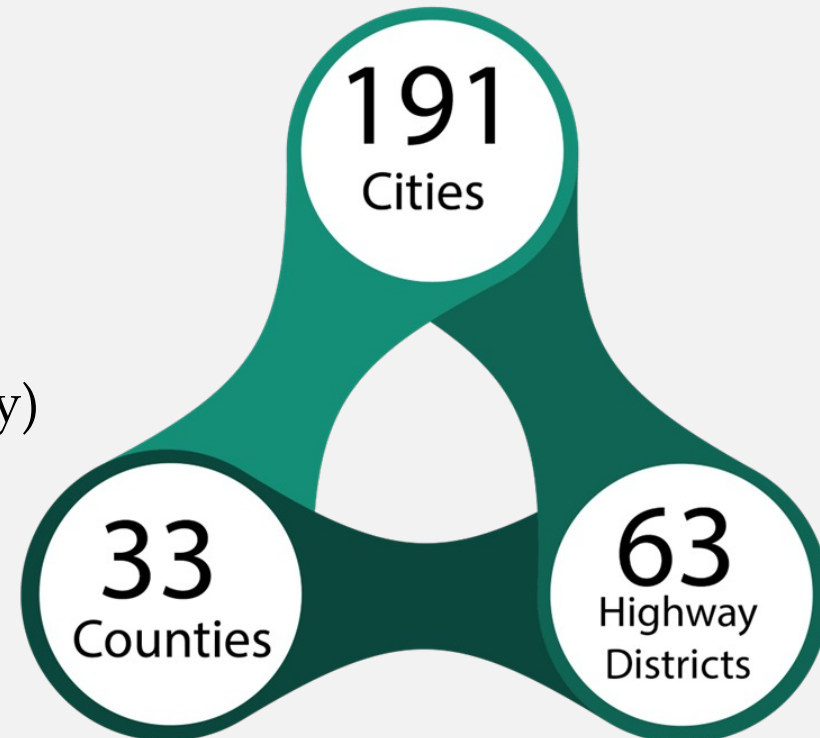
November 2023

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LHTAC Design Manager

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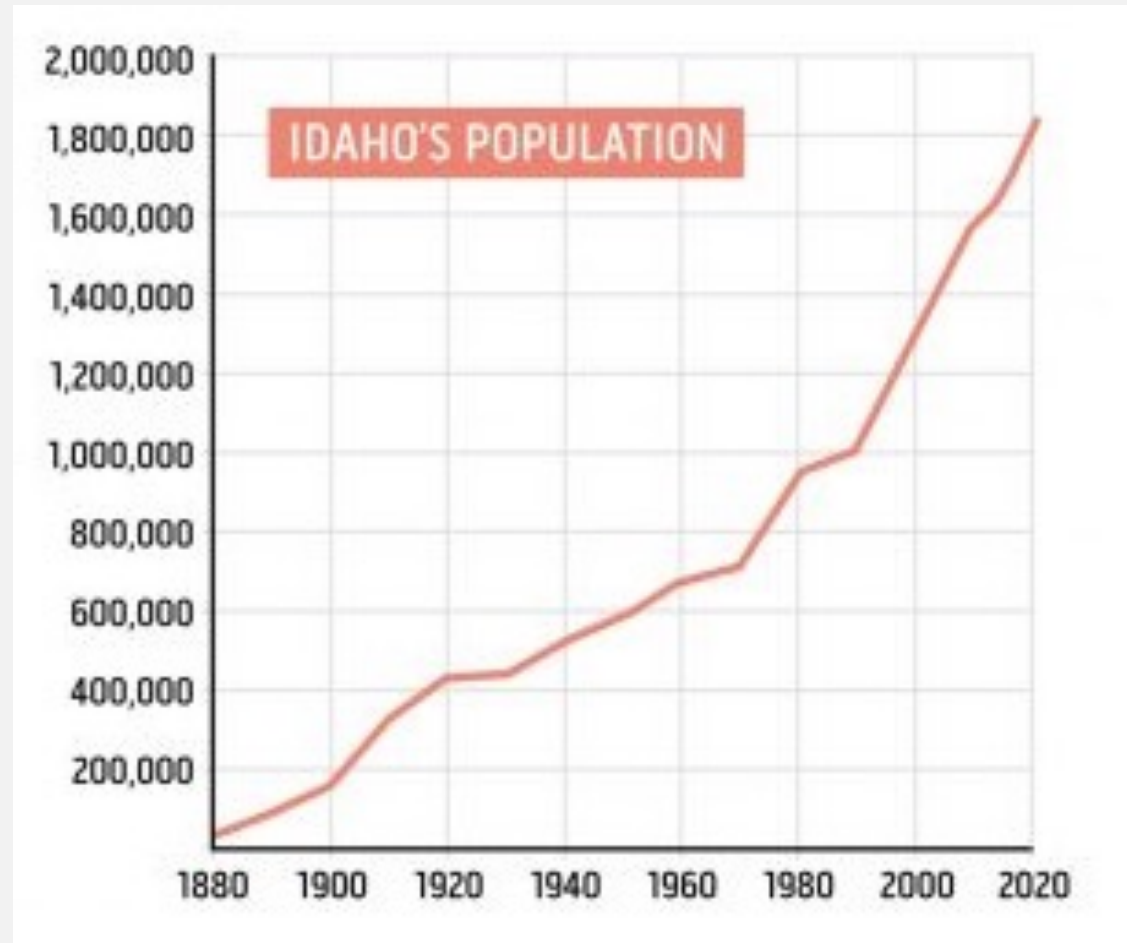
LHTAC

- Created in 1994
 - Assoc. of Idaho Cities, Idaho Assoc. of Counties, Idaho Assoc. of Highway Districts
 - Most LHJs without an engineer
 - Local Federal-aid delivery
- Local Highway Jurisdictions
 - Cities
 - Counties (w/Road & Bridge responsibility)
 - Highway Districts



Growth

- Trends indicate it is slowing
- Rural Counties are still experiencing growth
- Rural agencies experience new problems
 - Increase in rural development
 - Need to improve existing roadway network

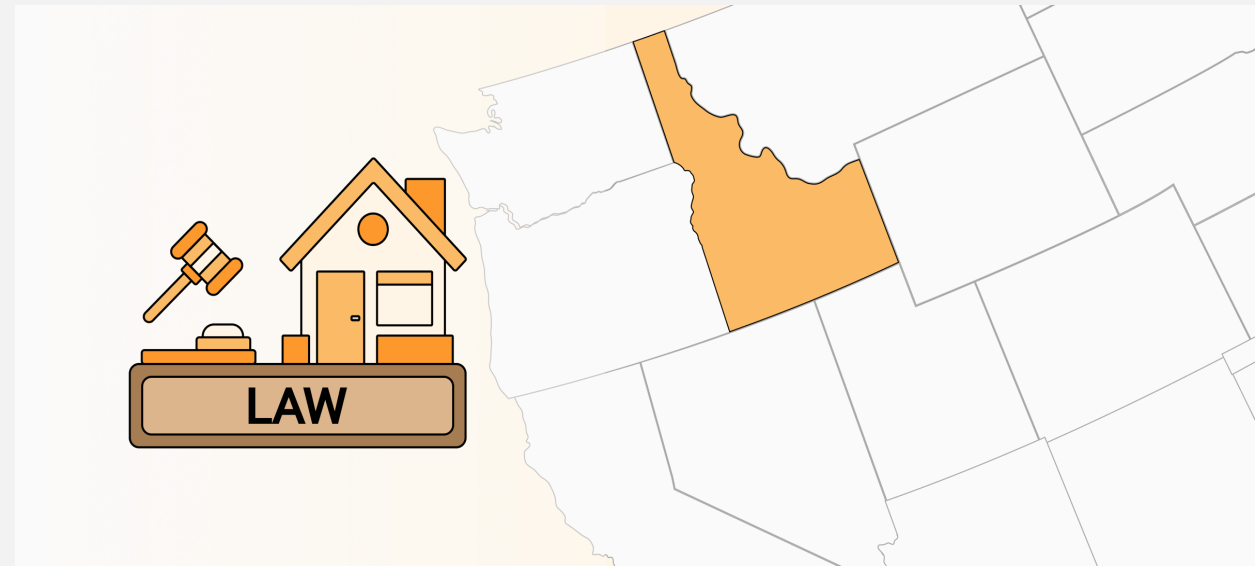


Utility in Public Right-of-Way



Utility in Public Right-of-Way (Idaho Code 40-210)

- "Utility facility" means all privately, publicly or cooperatively owned lines, facilities and systems for producing, transmitting or distributing communications, cable television, electricity, light, heat, gas, oil, crude products, ore, water, steam, waste or storm water not connected with highway drainage and other similar commodities.



Utility in Public Right-of-Way

- Public highways are intended principally for public travel
- However... the public highways and the public right-of-way are also lawfully used in connection with utilities necessary to provide services to the public.



Utility in Public Right-of-Way

- Idaho Code § 62-701, § 62-705, and § 62-1101 provides that telephone, power, etc companies may use the public right-of-way for their transmission lines.
- Idaho Code § 40-2308 provides for use of public highways and city streets by gas and water.



Utility in Public Right-of-Way

- Idaho Code § 42-3212(k) permits sewer and water districts to construct and maintain facilities across or along any public street or highway and to use the public right-of-way for their transmission lines.



Utility in Public Right-of-Way

- Legislative intent is that the public highway agencies and utilities engage in proactive, cooperative coordination of highway projects
- Attempt to minimize costs, limit the disruption services, and limit or reduce the need for present or future relocation of utilities.



Coordination with Utility

- If your project has utility conflicts or relocation, please invite utility to participate in project meetings.

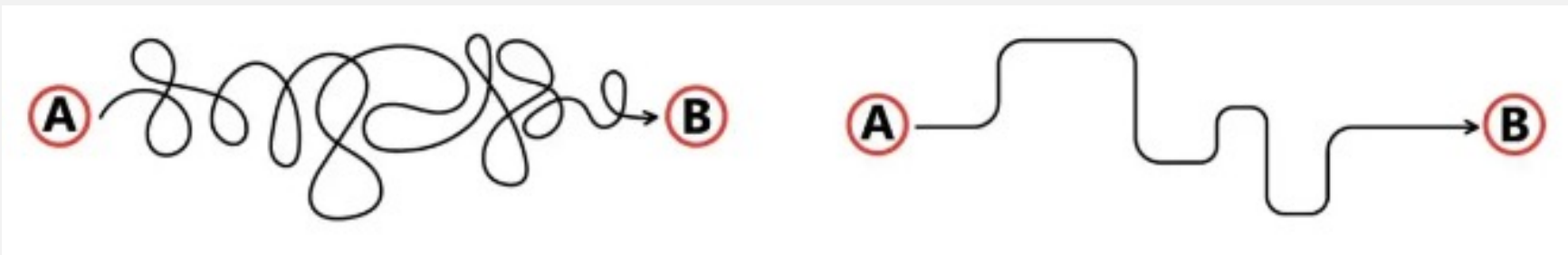
Cooperation is Required (Partnership)

- LHJs should have an agreement with utility owners in their Right-of-Way.
 - Memorandum of Understanding
 - Permit
 - Agreement
- If a LHJ does not have an adopted procedure, you should
- Based on best existing information that you already have



Relocation of Utility in Public Right-of-Way

- There are slight differences if utilizing Federal-aid
- We are discussing utilizing State or Local money



Relocation of Utility in Public Right-of-Way

- Some exceptions, but general rule
- If utility is inside the ROW; relocation at utility expense
- If utility is outside of ROW; relocation is at project expense
- *There is a provision for a documented hardship*



Coordination with Utility

- At the beginning of the preliminary design phase of the project, the LHJ shall
 - Give written notice of not less than thirty (30) days to the affected utility,
 - Meet with the utility for the purpose of allowing the utility to review plans, understand the goals, objectives and funding sources for the proposed project,
 - Provide and discuss recommendations to the public highway agency that would reasonably eliminate or minimize utility relocation costs, limit the disruption of utility services, eliminate or reduce the need for present or future utility facility relocation,
 - Provide reasonable schedules to enable coordination of the highway project construction and such utility facility relocation as may be necessary.

Identify Affected Involved in Project

- Dig carefully. State laws generally prohibit the use of mechanized equipment within 24" on all sides of a marked utility, which is called the "tolerance zone."
- If you must dig near the marks, hand dig or use vacuum excavation to expose the facility. After exposing the facility, avoid using mechanized equipment within the same tolerance zone.



Identify Affected Involved in Project

- The excavator may be held liable for any damages to the underground facility if this code is not followed.
- The facility owner may be liable if the owner is not a member of the established call center.



Coordination with Utility

- LHJ should recognize their goals however used best efforts to;
 - (a) eliminate the cost to the utility of relocation of the utility facilities, or
 - (b) if elimination of such costs is not feasible, minimize the relocation costs to the maximum extent reasonably possible.
- Local Highway Jurisdictions should have an agreement with utility owners in their Right-of Way.

Coordination with Utility

- No provision of this chapter shall diminish or otherwise limit the authority of this state, highway district or other political subdivision having jurisdiction over the public right-of-way.
- Nothing in this chapter shall be construed to limit, abrogate or supersede the provisions of the applicable local ordinance or regulations governing the use of the public right-of-way.

Identify Affected Involved in Project

- Advanced Notice: 2 business days
 - Number of days in advance of a digging project that you need to notify the one call center of your intent to dig
- Marks Valid: 4 weeks
 - Defines the period of time the facility marks (paint, flags, stakes, etc.) are valid according to state law or practice



Locating Utilities

- Provided list of utilities at project site
- Locate utilities during project development
- Mark utilities for survey
- Pothole for depth and exact locations



**Know what's below.
Call before you dig.**

Utility Relocation

- Utility Hearing Waiver
- Utility Hearing
- Board Order
- Utility Agreement
- Typically there is no contact between a utility company and contractor



Utility Hearing Waiver

- Letter notifying utility of project and utility impacts
- If utility relocation is solely at the Utility's expense, then only need a signed Utility Hearing Waiver
- No utility agreement required if hearing is waived
- Send waiver letter along with utility plans for review
- Give time limit for signature

February 25, 2020

Clint Brewington
Northern Lights, Inc.

Re: Project No. A020(346); Eastriver MP 10, 11, 11.2, Bonner County, Key No. 20346

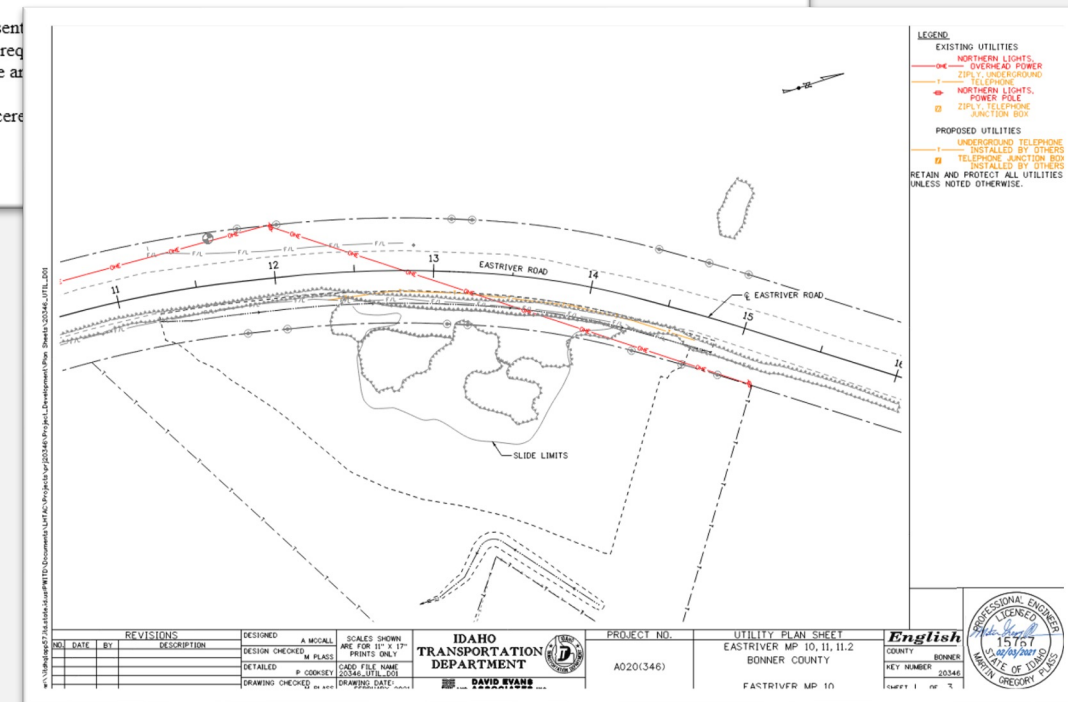
Dear Mr. Brewington:

Bonner County, with the assistance of the Local Highway Technical Advisory Council (LHTAC), is nearing completion of the preliminary design stage of a project on Eastriver Road. The project is approximately 9 miles south of Coolin, ID. The project will repair damage to the roadway and nearby slopes as a result of 3 recent slide failures; MP 10, MP 11, and MP 11.2.

We have developed a proposed utility plan for the project as shown in the drawings previously provided to you on December 19, 2019. If you agree with the existing and proposed locations depicted, please sign the attached Utility Hearing Waiver form. If you do not sign the Utility Hearing Waiver form by Thursday, March 26, 2020, your right to a Utility Hearing will be considered waived.

Your company's preliminary engineering costs covering the preparation of plans and the estimates of cost covering utility facilities to be removed, adjusted, or relocated at project expense may be eligible for federal participation. If utility facility removal, adjustment, or relocation is at Company expense, federal participation is not available and preliminary engineering costs will be at Company expense. The project sponsor will consider reimbursement of company relocation costs if documentation of property rights (copy of deeds, easements, etc.) is provided by the company.

Present
We req
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Sincere



Utility Hearing

- To allow a utility to present objections to relocating or adjusting facilities
- Can be held during regular council/commissioner meeting
- Agreed meeting time and put in agenda.
- Issue board orders based on determination



Utility Agreement

- Monetary compensation for work to relocate utility
- Project expense
- Lump Sum Utility Agreement
 - The utility performs the work and sends invoice for payment
- Utility Adjustment Agreement
 - LHJ's Contractor to perform work
 - Might be typical for bridge construction



What to do if a utility is hit

- Idaho Statutes 55-2208
- Gas line, electric, or life threatening call 911
- Call utility contact number from project development coordination
- Party responsible for damage is liable
- Wrong location marked?



Applications Now Open

- LRHIP – Applications Due November 30th
- Child Pedestrian Safety – Applications due December 7th
- Federal-aid Small Urban – Applications Due January 11th
- Federal-aid Bridge – Applications Due January 18th
- Transportation Alternatives Program – Pre-application January 5th, Applications due January 18th
- LHSIP – Applications Due January 25th
- No Rural application this year

Thank You for Attending

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208-344-0565



Advocate | Support | Train

