



ADMINISTRATIVE RULES OF MONTANA



18.7.211 AREAS OF COMMON USE AND OWNERSHIP

- (1) This section applies to those situations where both utility facilities and highway facilities occupy a given piece of land and where the utility has a real property interest in the said land. This situation most commonly occurs as follows: Prior to expansion, improvement, or new construction of the highway, the utility constructed its line on land where it had a compensable interest; subsequent to this, the highway was widened or newly constructed, and the area where the utility had property rights was purchased by the department; the utility was not required to be relocated for the physical construction of the road, but remained and continued to occupy the land in which the utility company had an easement (in this case, the utility continues to occupy an easement which predates the right-of-way acquisition by the department, and thus the utility continues to occupy land in which it has a compensable real property interest) . The situation of joint use and joint occupancy can conceivably occur in other ways, but the above is far the most common manner which gives rise to the common use situation.
- (2) In those situations described in (1) above, the parties should enter into a written agreement, thereby acknowledging their respective rights of ownership and use. Said written agreement may be a "common use agreement," or it may be of any other form acceptable to the parties and appropriate to the situation.

Authorizing statute(s): 60-3-101, 60-4-402 MCA

Implementing statute(s): 60-3-101, 60-4-402 MCA

History: Eff. 12/31/72; AMD, 1995 MAR p. 854, Eff. 5/12/95.