

Acquisition Guidance

Identifying and evaluating options in advance of acquiring new property for material sources, stockpile sites or disposal / staging areas can be an expensive and time consuming process. The purpose of this guidance is to identify the various factors that should influence the identification, evaluation and phased selection process associated with acquiring ownership or control of a new property, for disposal / staging, stockpiling or as a material source.

The purpose of this guidance is **not** to tell a region whether or not to buy property for the purpose of a new stockpile, disposal / staging area or for use as a source of material. Determining the need for a new parcel of land to be used for stockpiling, disposal / staging or a new source or the expansion of an existing source of material is a decision that should be made by region management based on input and recommendations from the Region Material Source Management Team. The recommendation to pursue a site should be based on the existence or lack thereof of existing properties or sources that will meet the identified need in the area of interest. The decision by region management should be accompanied with an identified funding source for the investigation, acquisition and property monumentation.

Phase 1

What type of Property:

- Disposal / Staging area
- Stockpiling
- Material source

What Type of Source: what kind of material is needed?

- A/C or concrete quality material source
- Embankment source
- Sanding rock source
- Something unique: size of material (rip rap), other special requirements

Proposed Service Area: based on the availability, reserves and location of other ODOT owned or controlled sources, or size of other ODOT parcels, what is the expected service area for this new or expanded property? (This will influence the size and location of the parcel or sites under consideration.)

- How close is it to the next source or property in the ODOT-owned or controlled material source network that provides similar material or functionality?
- How many highways would this parcel service?

- Mile point ranges on the highway(s)?
- Will the source or property be used by more than one region or district?

Geology: what location(s) have the right rock type to meet the needs? (Only applicable to material source selection)

- Based on mapped geology
- Based on visual inspection of the site or rock exposures in the area
- Based on existing similar material sources that have or had acceptable material
- Based on historic information
- Based on well logs

Phase 2

Surface Ownership: Who owns the parcel(s) of interest?

- If privately owned, by whom? (single party, company/corporation, a family trust)
- If publicly owned, by whom? (state, county, federal - Federal land cannot be purchased, but it can be utilized via permit or easement as described in the ODOT / USFS MOU or outlined in the Title 23 process. State and county land may be purchased or possibly used via permit or agreement)

Mineral Rights Ownership: Ownership of the minerals rights may be different than that of the surface ownership. (Both privately owned and publicly owned surface parcels may have different ownerships between the surface and mineral estates). Split estate ownership will influence both surface and subsurface value and will result in additional steps in the acquisition process. (Mineral rights are only applicable in source property selection)

- Is the parcel of interest a split estate?

ODOT / Landowner History:

- Has ODOT ever purchased or attempted to purchase property from the owner of the site?
- Has ODOT ever had any other dealings with the property owner?
- Has ODOT attempted to buy or deal with adjacent property owners?

Local Zoning / Land Use Designation: What is the local zoning on the property of interest?

- Some land use zones or designations may or may not allow mining or disposal / staging.

- Some land use zones or designations will influence the permitting process required for mining.
- Are there any zoning overlays or special designations on the parcel of interest? (county, state, federal)

Existing Parcel Size: In the areas of interest, are there numerous small parcels or tax lots, or a few large parcels? Larger parcel size generally equate to a lower price per acre, less chance of dealing with multiple owners and lower chances for opposition from other parties.

- How big are the land parcels in the area of interest?

Parcel Size of Interest:

- How large of a parcel is needed to meet the identified needs?
- Will ODOT attempt to buy a portion of a larger parcel?

Required Parcel Size: Some land use zones have minimum parcel sizes – EFU-40, EFU-80 for example which stand for 40 or 80 acre minimum parcel size in an Exclusive Farm Use Zone.

- How does the parcel of interest compare to county requirements for minimum lot size in that zone?

Exemptions for Minimum Parcel Size: In the county or counties that the site is in, are there exemptions to minimum lot size that would allow you to purchase a smaller lot size than is normally required in that zone?

- Public parcels?
- Parcels used for mining?
- Acquiring lands adjacent to existing ODOT property?

Time of Need for Access to the Property:

- Will ODOT need to be able to access and operate in the site at night to accommodate night paving?
- Will ODOT need access to the site 24 / 7 for use in emergency for material removal or disposal?

Conflicting Social Uses: Are there identified conflicting uses that may preclude the use of the site as a material source?

- Are there homes close to the site or along the access or travel route?
- Are there schools or other sensitive uses located in near proximity to the site or travel route?

- Are there planted vineyards, farm stands or other agricultural / farming related uses that may be impacted?
- Are there any designated recreation facilities or areas in the vicinity such as parks, campgrounds, ball fields?

Access:

Existing:

- Does the site have developed access?
- Is the existing access legal?
- Will access improvements be required? (bridges, culverts, road surfacing or increased widths, grade)
- Does current site access cross single / multiple ownerships?
- Does current site access leave directly from a state highway?
- Does current site access leave directly from a public road?

To be developed:

- Will access need to be developed?
- Would developing access involve multiple ownerships?
- Would the developed access leave directly from a state highway?
- Would the developed access leave directly from a public road?

Travel Routes: How will trucks and equipment access the nearest State Highway?

- Will travel routes lead past or through residential areas?
- Will travel routes lead past noise or dust sensitive uses?

Conflicting Environmental Uses: Environmental clearances can be expensive, time consuming and seasonal. At this phase, the Region Environmental Coordinator should perform literature and database research possibly a quick field visit, but **not on site field work.**

- Are there any identified and documented jurisdictional wetlands on the proposed site?
- Is the proposed site adjacent to a river, creek or other water body?
- Is the proposed site near any water that may have fish or other species of concern?
- Are there any identified and documented archeological sites or known Traditional Cultural Places on or near the parcel?
- Are there identified or documented T&E plant or wildlife species on or near the parcel?

- Is the proposed site located in an area identified as critical habitat or as an area of critical environmental concern?
- Is there likelihood of seasonal limitations on operations (drilling, blasting, crushing) due to wildlife?
- Is the proposed site located in habitat that could be used for nesting by T&E or sensitive birds?
- Are there any identified and documented invasive or noxious weed issues on the site or in the area?
- Is the site located in a scenic corridor, or can it be seen from designated scenic vistas?
- If on federal lands, is the site in or adjacent to any special areas? (Areas of Critical Environmental Concern, Wilderness Study Areas, Visual Resource Management Areas, Areas with Wilderness Characteristics, mitigation sites)
- Is there a potential for hazardous materials on site? (may require a Hazmat Phase 1 Report)
- Are there any environmental red flags?

Development Considerations:

- Are seasonal restrictions likely due to weather?
- Is the site currently utilized for other purposes? (OHV, Camping, fishing, etc)
- Are there any wells or springs on or near the site that could be impacted?
- Are there any irrigation ditches/pipes on the site?
- Approximate depth to groundwater?
- Will surface drainage leave the site and enter surface water?
- Is there room for extraction, processing and stockpiling to be developed?
- Estimated overburden depth?
- Type of overburden (soil, poor quality rock)?
- Does the overburden material have any potential value or use to ODOT?
- Is there room for long term storage of the anticipated overburden?
- Estimated thickness of rock?
- Type and extent of vegetative cover? (Trees may be removed via ODOT's "Trees for fish habitat program")
- Are there any site stability concerns related to storage of materials?

Phase 3

Priority of options: After evaluating the factors above for each of the identified sites, what is the priority order of the sites under consideration?

Phase 4

Site Specific Evaluation: Once prioritization has been completed, it is time to begin site specific evaluation, meaning on the ground field work. To minimize cost it is advisable to focus the field work on the top priority site. If there are concerns related to possible environmental limitations start with environmental clearances. For a source property, if there is a concern with rock quantity or quality, complete a geologic evaluation and perform laboratory testing prior to full scale environmental work. (Note for site specific investigations on private lands a Right of Entry will likely be needed, requiring RW involvement. On public lands it is likely that some sort of permit will be required.)

Move forward with evaluation on the next lower priority site only if something is identified via the site specific effort that would preclude or inhibit use of the previous site.

- Environmental evaluation – never pursue the purchase of a site in advance of environmental clearances
- Subsurface Investigation – never pursue the purchase of a site as a source of materials that has not been investigated, unless it is an existing developed site with some history and a high level of confidence related to rock quantity
- Material testing – never pursue the purchase of a site as a material source that has not been adequately tested and shown to have consistent quality material that meets the required specifications. Depending on the site characteristics, this may mean more than one sample
- Hazardous material – never pursue the purchase of a site that has identified contamination or potential (Phase 1 ESA) without further evaluation
- If at any point in this process a “red flag” pops up, the pursuit of this site should be reconsidered and focus should switch to one of the other alternatives

Phase 5

RW Process:

After prioritization and site specific evaluation is completed, if the site will meet the identified needs, it will be time to turn it over to RW for the acquisition process.

This should not be interpreted to mean that RW has not been involved prior to Phase 5. RW will likely have been involved from the very beginning, helping the Region make the decision to pursue a new site, obtaining Rights of Entry, and providing information on prior dealings with various owners.

Turning the site over to RW for acquisition, does not mean that the Region Material Source representative is finished. There will be a need to remain

involved and work with RW and the survey staff to put together the description of the property that has been identified for acquisition.

During the RW process, there may be a need to adjust or modify the proposed site boundaries to facilitate a negotiated acquisition. Such proposals need to be evaluated to help assure that any modifications will not compromise the usability of the site. If a negotiated acquisition cannot be accomplished, ODOT will have to determine if the need for the site warrants condemnation.

When working with RW on material source properties, request that adequate funds are included in the RW budget to have all property corners pinned and the boundaries delineated as per the ODOT RW Monumentation Policy as the final step in the acquisition process.

Summary:

A seven page guidance may seem to imply a daunting and intimidating process, it is not. ODOT has the resources and staff expertise to complete the evaluation, selection and acquisition process successfully and without undue time and costs.

There are many factors that require consideration as ODOT steps through the selection and acquisition process. This guidance does not necessarily cover all possible factors that will need to be considered, as each site is unique and as such there may be issues that are not listed but that will influence the outcome of the process.

Hopefully this guidance will help those involved recognize the various potential pitfalls in advance to try and avoid unnecessary time consuming and costly options.