REGION OF OTTAWA CARLETON — REPORT
RÉGION D'OTTAWA CARLETON — RAPPORT

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DATE 1 September 2000

TO/DEST. Coordinator Transportation Committee

FROM/EXP. Director Infrastructure Maintenance
Environment and Transportation Department

SUBJECT/OBJET **MANAGEMENT OF REGIONAL RIGHTS-OF-WAY FOR UTILITY, CONSTRUCTION AND MAINTENANCE ACTIVITIES - CONSULTANT REPORT**

DEPARTMENTAL RECOMMENDATIONS

That Transportation Committee recommend that Council:

1. **receive the Ainley Group report entitled *Management of Regional Rights-of-Way for Utility, Construction and Maintenance Activities*, on file with the Regional Clerks Department;**

2. **forward the report to the Ottawa Transition Board for consideration with respect to establishing the administration of the new City of Ottawa.**

3. **amend the Regional Regulatory Code to provide:**

   a) **a moratorium for road cuts in accordance with this report;**

   b) **a pavement degradation fee in accordance with this report; and**

   c) **removal of the permanent warranty provisions, and a change of the existing liability period from 24 months to 36 months.**

4. advertise the Regulatory Code amendments as coming into effect two weeks after the date of Council's approval of this report.

EXECUTIVE SUMMARY

Utility and telecommunication company works on Regional public rights-of-way impact other right-of-way users and uses, including trees, pedestrians, cyclists, and transit, emergency and goods movement vehicles. It is the responsibility of the Region as the owner and the steward of its public rights-of-way to manage them as the scarce and valuable resource they are for the benefit of not only the rights-of-way users, but for the entire community.

In 1997, the Region initiated a comprehensive review of its practices for managing utility, construction and maintenance activities on Regional roads. The Ainley Group, the consultant engaged to undertake this work, has produced a report making over 100 recommendations for improvements. As presented in Annex A, these recommendations call for a holistic approach to Regional public rights-of-way management and propose improvements to the Region's inspection, traffic management, pavement restoration and administration practices. The study quantified the Region's administration costs for public rights-of-way management and determined the pavement damage costs incurred by the Region due to utility trenching. Further recommendations address the need to introduce new technologies for record keeping, information management and customer service purposes.

Based on the Consultant's study and time permitting, staff would be recommending a major overhaul of the Region's public rights-of-way management practices including a significant rewrite of the Regional Regulatory Code. However, the municipal amalgamation process and the coming into place of the new City of Ottawa in just a few months supersedes this approach. Therefore, it is proposed that, with the exception of several measures that must be implemented immediately to help cope with new and significant challenges associated with the deregulation of the telecommunications industry, the Consultant's final report and this staff report be provided to those responsible for establishing the administration of the new City of Ottawa to assist with that process.

The deregulation of the telecommunications industry by the Federal Government has resulted in many new competitive telecommunications companies being formed. At the time of preparation of this report, 12 telecommunications companies are using or have expressed interest in using Ottawa-Carleton's Regional roads. Without proactive intervention, over the next 12 to 18 months some downtown road sections could be sequentially trenched by five or more different companies. Experience in many US cities indicates that this occurrence would result in significant disruption to the community. However, this experience also indicates that there are measures that can be taken to help contain this disruption. Hence it is proposed that the Regional Regulatory Code be amended to make provision for a trenching moratorium in the three years immediately following road resurfacing or telecommunications trenching and to provide for the collection of a pavement degradation fee. Concurrently, it is also proposed that

the permanent warranty provision in the Regulatory Code that grants waiver of the road cut permit fee be deleted and that the normal period of responsibility for road cuts be increased from 24 months to 36 months. Experience in other cities indicate that the exemptions and associated operational conditions outlined in this report with respect to each of these measures, will encourage more co-ordination and joint trenching works.

With reference to Annex B, it should also be noted that staff is actively working with the telecommunications companies to encourage joint and co-ordinated works. This effort, combined with the three proposed Regulatory Code Amendments and such measures as requiring the telecommunications companies to install extra conduit capacity when they trench, should go a long way toward minimizing impacts. The telecommunications companies are in intense competition with each other and the "first ones in" are perceived to have a significant competitive advantage. This, along with a propensity to take advantage of what these companies believe is their statutory rights as federal entities, will make this task quite challenging, even with all the tools at the Region's disposal. Unfortunately, the companies are not likely to be in favour of the Region taking such measures even though they openly admit that joint trenching works and other such measures do make sense.

Leading North American municipalities are banding together to meet the unprecedented challenges arising from utility deregulation, competition and technological change. Staff's work and contacts with these other municipalities and with organizations such as the Federation of Canadian Municipalities, the Association of Municipalities of Ontario, the Ontario Good Roads Association, the International Right-of-Way Association and the American Public Works Association has kept the Region abreast of developments in this rapidly changing area.

The measures recommended in this report will significantly reduce the imminent disruption facing the community arising from planned telecommunications company works on Regional roads. The future implementation of many of the Consultant's recommendations by the new City of Ottawa would further decrease disruption, ensure longer road life, and encourage more efficient and safer use of the public rights-of-way.

INTRODUCTION

Hundreds of workers are killed and maimed in work zone accidents every year throughout North America. Every month there are scores of serious underground utility plant accidents that threaten property and life. Utility trenching works cause many millions of dollars damage to road pavements and disruptions to businesses and the community result in many more millions of dollars of losses.

Regional roads are public rights-of-way, which includes the space on, above and below the surface of the road, sidewalks and boulevards. Public rights-of-way are used for many purposes including trees, pedestrians, vehicles, signs and signals, street lights, electric power cables, telecommunications cables, sewer systems, water mains, gas lines and many types of street furniture (see Figure 1 in Annex F). Municipalities, as owners and stewards of the public rights-of-way, have a legal duty and responsibility

to manage and balance all these essential and competing uses and must have in place public rights-of-way management practices and policies to ensure the health, safety, welfare and economic well being of the community. Public rights-of-way are valuable and finite resources which must be managed by municipalities for the benefit of all users and the public.

Not long ago there was just one monopoly telephone company, one monopoly electric company, one monopoly gas company and so on. They were treated as public utilities providing essential services and often served the taxpaying public as a whole. However, industry deregulation and the ensuing competition has resulted in multiple players vying for the use of scarce public rights-of-way space. Some US cities are dealing with more than 30 telecommunications companies on their rights-of-way. Figures 2 and 3 in Annex F highlight the scarcity of space in urban public rights-of-way.

All this pressure on the municipal rights-of-way and advancing technology has increased municipal awareness of the issues involved and the associated impacts. This combined with the fiscal realities of the times is prompting many municipalities to be much more proactive with respect to public rights-of-way management issues, including the recovery of municipal costs associated with the presence of utilities in the public rights-of-way, and obtaining proper compensation for the use of municipal property by private profit seeking companies.

In addition to the subject matter of this report, as directed by Regional Council, staff is very actively working with several other organizations such as the Federation of Canadian Municipalities and the Association of Municipalities of Ontario with respect to protecting municipal interests on public rights-of-way issues. Staff is also liaising with numerous other cities, agencies and organizations in keeping abreast of current developments in this rapidly changing area. Last year Ottawa-Carleton replaced San Francisco as one of five utility and public agency members on an American Public Works Professional, Educational and Professional Committee formed in 1998 to deal with just these issues.

BACKGROUND

Regional Council, at its meeting of 14 May 1997, appointed Ainley Graham and Associates Limited, now the Ainley Group Consulting Engineers Planners, to undertake a review of "road cut" management and administration on Regional roads. This study was to include a thorough investigation of the experiences of other agencies and involve an assessment of possible amendments or improvements to the existing Regional Regulatory Code, service agreements, data management systems, permit issuance procedures, warranties, inspection practices and enforcement approaches. Consideration was also to be given to personnel resource requirements, administrative requirements, operational characteristics and organizational issues.

It soon became apparent as this study began that the term "road cut" management was an inaccurate expression for the large range and importance of the municipal responsibilities and duties involved. The term used most commonly throughout North America is "public rights-of-way" management. In fact, in keeping with the "everything is in the name" philosophy, the use of the term "road cut" over the years,

and the relatively "narrow" scope that the term implies to some, may have inadvertently contributed to the stagnation of the continuous development of the public rights-of-way function and a lack of recognition of the importance and significance of the municipal consent process for utility works on Regional roads.

Unfortunately, the municipal public rights-of-way management function has not been given much attention by some municipalities in recent years. People can relate tangibly to the utilities and the telecommunications companies. We turn on the tap and water flows, we can see the street lights, natural gas heats our homes and we watch cable television and use the telephone every day. We see the physical presence of the utilities as they go about their work on the road. However, the important municipal public rights-of-way management function that ensures that all these things take place in an orderly and safe environment is largely invisible. That's ironic since, municipal public rights-of-way management is the one function that is entrusted by law with the responsibility for looking out for and balancing the interests of all the essential uses made of the public rights-of-way. When the municipal public rights of management function ceases to be effective, things happen, as in Washington DC, where a main downtown street was trenched lengthways 14 times in two years or, as what happened in San Francisco, traffic jams due to uncontrolled utility works frequently caused gridlock. In worst case scenarios, chaotic public rights-of-way uses result in injuries and deaths.

DISCUSSION

The three year Ainley Group study involved the compilation and assessment of vast amounts of information. The final report (Figure 4 in Annex F) contains 106 recommendations with respect to public rights-of-way management on Regional roads. The Consultant carried out the following principal activities in this study (subconsultants or others who had particular responsibility for a portion of the work are noted):

1. Literature search of the experience and work of others (carried out by the National Research Council of Canada, a subconsultant);

2. Questionnaire to 63 other municipalities across Canada, the United States, Europe and Australia;

3. Compilation and analysis of the legal and regulatory environment (carried out by the Region's Legal Department);

4. Mapping and analysis of the Region's current "road-cut" management process (David G. Curry Management Services, a subconsultant);

5. Interviews with key personnel with all utilities and all road authorities within the Region (included staff from the Area Municipalities). All participants were also asked to complete a separate survey/questionnaire;

6. Meetings with technical advisory groups consisting of representatives of all utilities, Area Municipalities and Regional work groups dealing with the subject matter;

7. Analyses of costs associated with the current management process;

8. A study of the effects of utility trenching on the life of road pavements (carried out by the Region's Surface Projects Branch);

9. Formulation of a subcommittee to develop new trench restoration standards and specifications;

10. A study of traffic management issues (carried out by J. P. Braaksma & Associates Ltd., a subconsultant); and

11. Development of recommendations for improvements to all aspects of the Region's consent and management processes related to utility, construction and maintenance activities on Regional rights-of-way.

At the present time, certain aspects of the Region's management of utility activities on Regional roads are spread among three entities. The Region directly handles all matters on Regional roads outside the boundaries of the Cities of Ottawa and Vanier, whereas within Ottawa and Vanier, these two cities, under agreement with the Region, issue road cut permits and carry out some related functions such as field inspection and plans co-ordination. The Consultant concluded that for consistency and to successfully implement the large number of identified improvements, it is essential that a single organizational entity manage public rights-of-way issues on all Regional roads. The Consultant further identified a need to consolidate public rights-of-way management responsibilities currently distributed among several Regional organizational units to ensure the clear direction and priority needed to effectively manage the uses of the public rights-of-way. Of all the recommendations in the Consultant's study, the requirement for the Region to carry out its public rights-of-way management responsibilities in a holistic fashion is considered to be the most significant. The implementation and success of the other recommended improvements and the ability to effect a continuous improvement culture critically needed to address a rapidly changing environment depends on this. At this time, organizational and jurisdictional barriers and inertia can impede such improvements.

Although this study began as an effort to effect improvements to public rights-of-way management on Regional roads, all the Area Municipalities were invited to participate. The imminent inception of the new City of Ottawa has made some of the Consultant's recommendations redundant. However, most of the recommendations are still very pertinent and, in view of the amount of effort invested in this project, the Consultant's report would be a valuable resource to the new City with respect to deciding how it will deal with public rights-of-way management issues. It is, therefore, proposed that the Consultant's report and Regional Council's disposition of this staff report be forwarded to the Ottawa Transition Board with a request that this information be considered in its work in setting up the administration for the new City of Ottawa.

A point form list of the Consultant's key recommendations is presented in Annex A. The Consultant's 106 recommendations have been consolidated into 79 points, some of which relate to more than one of the Consultant's original recommendations. Several of the more significant recommendations and matters raised are discussed in the following paragraphs.

ORGANIZATIONAL ISSUES

Since organizational issues are fundamental to the success of any programme, a thorough review of administration and organizational matters was included in the study's Terms of Reference. As noted above, the Consultant considers it essential that rights-of-way management responsibilities, including the municipal consent process, permitting, field inspections etc. be assigned to a single organizational unit. The Consultant indicates in the report that, at this time, "There are many Departments, Divisions, and Branches within the organization of the Region of Ottawa-Carleton that have a role in the administration or management of road cuts". The Consultant has prepared a confidential supplementary report analyzing the Region's existing organizational structure and identifying an appropriate area to locate a consolidated Rights-of-Way Management Service. Of course, the specific details of the Consultant's organizational recommendations will now be superseded by the municipal amalgamation process, but the principles articulated are still valid.

LEGAL ISSUES

In order to effectively manage a process involving multiple players, it is necessary for the various parties to be aware of their respective rights, duties and responsibilities as well as any associated limitations and boundaries. The Consultant's report includes a section, prepared by the Region's Legal Department, that outlines these matters in some detail. The potential health, safety and welfare effects of industry deregulation and competition have prompted municipalities to take a much closer look at their legal ability to be proactive with respect to public rights-of-way management issues.

It is exceedingly important that municipalities' rights-of-way management authority be recognized and respected. The alternative is high potential for "anarchy on the rights-of-way" which would be detrimental to the interests of the public and detrimental to the interests of all rights-of-way users, including the various utilities. Deregulation and competition is bringing a little bit of the "wild west" to our public rights-of-way and the municipality is the only "marshal" in town. A breakdown in municipal authority (or failure on the part of a municipality to exercise its authority) would bring higher costs for all, the spectre of taxpayers subsidizing private interests, increased liability concerns, more road damage, more disruption to businesses and the community and a host of other problems including more air and noise pollution, vibration complaints and higher vehicle repair costs. Further problems would arise from the increased exposure of workers and the public to work zone hazards and an increased potential for damage to utility plant that could lead to property damage, personal injuries and even deaths.

TRAFFIC MANAGEMENT

A steady increase in traffic volume over the years combined with a finite supply of road capacity, means a single contractor working during the peak traffic period could bring the entire downtown core of the City of Ottawa, including transit operations, to a standstill. Also impacted by utility work zones are pedestrians, cyclists, emergency vehicles, goods and service movement vehicles and other traffic. Regional roads are particularly affected because of the heavy traffic flows. Traditionally, although they possess the authority, many municipalities did not require permits for utility works that did not involve actual excavations. However, utility works involving overhead lines or maintenance holes can be just as disruptive to traffic as excavation works. Many large municipalities now require utilities to take out permits for these non-excavation works as well, to ensure traffic and work zone safety is properly managed.

The Consultant notes that as traffic management requirements by municipalities increase, so can be expected the costs to the utility/contractor. However, in these situations, costs incurred by other rights-of-way users can decrease. As shown in Figure 5 in Annex F, the total minimum cost will be a compromise between a proponent's project costs and costs incurred by others. Ideally, the economic value of travel time and other environmental benefits should be considered. The Consultant recommends that traffic management be achieved through a graduated system with more onerous traffic control procedures being required as the potential for traffic disruption increases. This would minimize negative traffic effects such as worker and public exposure to hazards, delays, increased vehicular operating costs, disruptions to access, impacts on transit schedules and emergency response times, fuel consumption, air pollution and noise pollution.

The study recommends that the existing "Road Cut Permit" be replaced with a "Rights-of-Way (ROW) Work Permit" that would be required for all utility works that may disrupt traffic, even if no excavation takes place, and that warrants for a "graduated" traffic management system be established. This system would range from "blanket" approval for minor works taking place during off-peak periods on roads with low traffic volumes and no transit traffic to a requirement for formal traffic control plans and impact studies (following the Regional Traffic Impact Guidelines) to be submitted to the Region for approval for major works taking place during peak periods on roads with high traffic volumes. The Consultant also notes the need for by-law enforcement, the use of disruption penalty clauses with fines in construction contracts, compliance with Occupational Health and Safety and Provincial standards for work zone signing and the need for good communications with the public and traffic management personnel. Traffic Operations Branch staff, when they are alerted to problems, have the ability to very quickly adjust traffic signal timing to help ease traffic congestion.

PAVEMENT DEGRADATION

As part of this study, the National Research Council of Canada carried out a literature review that identified many scientific studies showing that utility trenching permanently damages the pavement structure no matter how well restored. Road pavement structures are engineered structures just as are the pipes, wires and other plant of the utility companies. Like the human body, when cut deeply, a pavement structure exhibits a permanent scar and, what is most significant, the pavement structure within and in the immediate vicinity of the scar area exhibits a much shorter life than the undisturbed pavement. The new cracks and joints in the road permit the infiltration of water that produces a very large destructive force every time it freezes, which in this climate it does many times each winter season. Some studies indicate that utility cuts can reduce the life of a road pavement by up to 60%. The in-depth analysis of the impacts of utility cuts carried out for this study found that utility trenching reduces pavement life on urban Regional roads by 32 %.

Figure 6 in Annex F shows the structural damage and shortened pavement life at one utility trench in the Region. To highlight the fact that utility trenching damage is permanent, the road where this trench is located has been resurfaced at least once since the trench was made. The study quantified the utility trenching damage impacts on pavement life in terms of dollars per square metre of trench, as shown in Table 1.

Years since last Resurfacing	Pavement Degradation Costs (minimum) due to utility trenching (per m2)
2 or less	$24.00
>2 to 4	$20.00
> 4 to 7	$16.00
>7 to 10	$10.00
More than 10	$ 4.00

Table 1 - Pavement Life cycle costs due to utility trenching in Ottawa-Carleton

In carrying out the pavement degradation study Regional staff reviewed many of the previous studies and the scientific critiques made of them. A specific objective was to address these critiques as much as possible and staff believe this has been accomplished by producing a study that takes the science several steps further. Notwithstanding this, pavement science is very complex and some effects of utility trenching on pavement life are still to be quantified. For this reason the damage figures in Table 1 are very much minimum values. Whenever there was any doubt as to an effect, the benefit of that doubt was given to the utility companies. To illustrate the magnitude of the scope required to further advance this work scientifically, the Region is participating with other North American municipalities and utility companies in a $ 3M US utility cut consortium study being carried out by the National Research Council of Canada and the US Army Corps of Engineers.

The minimum cost to the public due to the accumulated utility trenching damage effects on Ottawa-Carleton's urban Regional roads is estimated to be $500,000 annually. Since these costs should be more appropriately borne by the utilities involved, it is proposed that the Regional Regulatory Code be amended to incorporate the fee schedule based on the costs presented in Table 1. It is further proposed that this fee schedule apply to all Regional roads not just Regional roads outside the Cities of Ottawa and Vanier and that the proceeds from such fees be deposited into a reserve account to be used as a source of funding for the Region's Resurfacing Programme. This fee would be collected at the time of issuance of permits. Since the Cities of Ottawa and Vanier issue permits on behalf of the Region for Regional roads within the boundaries of these two cities, administrative arrangements would be made with these cities with respect to collecting this fee for the months remaining in 2000. After 1 January 2001, the new City of Ottawa will be responsible for the issuance of all permits.

Notwithstanding the coming into being of the new City of Ottawa on 1 January 2001, it is important that the Region proceed with the implementation of a degradation fee on Regional roads at this time and not defer for consideration by the new City. As a result of the deregulation of the telecommunications industry by the Federal government, there are now twelve telecommunications companies using or planning to use Ottawa-Carleton's Regional roads. Three new companies contacted staff in August alone. With some US cities having to deal with more than 30 telecommunications companies using their streets, the number of companies in Ottawa-Carleton is expected to continue to increase . At this time, most of these companies are targeting large corporate customers in the downtown core. Staff is working with these companies in an attempt to minimize the amount of trenching and reduce the ensuing disruption and damage (reference Annex B). At this time up to five companies have plans to separately trench the same downtown street segments. Annex C outlines some of the problems experienced by Washington DC.

Charging utilities for the pavement damage causes by trenching would encourage utilities to work co-operatively with each other and the Region to minimize such damage. After the implementation of a pavement degradation fee, the City of Sacramento California, one of the first cities in the US to implement such a fee, experienced an 80% increase in co-ordination between excavations and the city's resurfacing schedule. The City and County of San Francisco adopted a pavement degradation ordinance in November 1998 and has experienced improved co-ordination between companies through joint trenching. In view of the significant and imminent works planned by the telecommunications companies in Ottawa-Carleton's downtown core, it is proposed that, to further encourage joint trenching works, the pavement degradation fee be waived until 1 January 2003 for all joint trenching works involving two or more utility and/or telecommunications companies. Even with the fee in place, sharing the fee among two or more utilities would still be an incentive to undertake joint trenching works.

It is proposed that the pavement degradation fee would not apply in the following circumstances:

- Works that do not affect the road pavement (i.e. sidewalks, boulevards etc.);
- Municipal road maintenance, rehabilitation, construction and reconstruction works and other municipal works carried out for the **prime purpose** of pavement provision or preservation;

- Utility or telecommunications works that involve the provision of a new pavement structure down to subgrade level, that is at least one full traffic lane wide (new joints to be co-incident with traffic lane markings) and 30 metres long and that meets current road pavement design standards to the satisfaction of the Environment and Transportation Commissioner;
- Works on roads listed in the Region's current year Resurfacing Programme as circulated to utilities and telecommunications companies;
- Works that employ trenchless technologies that are approved by the Environment and Transportation Commissioner;
- Works involving two or more utilities or telecommunications companies placing equipment during the same trenching operation (only until 1 January 2003) ("excess capacity" conduit provided by a telecommunications company and conduit purchased by the Region, under the terms of a Municipal Access Agreement or other arrangement, does not count as a utility);
- Works undertaken to relocate facilities to accommodate the Region's use of the pavement or the rights-of-way;
- Trench repair works carried out under the warranty requirements of the Regulatory Code; and
- At the discretion of the Environment and Transportation Commissioner, trenching works where the utility or telecommunications company agrees to install and provide telecommunications conduit to the Region (the Region to own).

The new City of Ottawa should look at extending the pavement degradation fee to collector and local streets. However, in view of the higher traffic volumes, including many trucks and buses, on Regional roads, from a pavement management perspective, these roads are much more critical at this time.

It is also important that all rights-of-way users be treated as equitably as possible. The existence of any public rights-of-way user, either private or public, that does not pay its share creates an imbalance that is unfair, inequitable and places an undue burden on the public and the other public rights-of-way users. The proposed pavement degradation fee would apply to all public rights-of-way users, public and private.

It is estimated that the revenue from the proposed degradation fee for Regional roads would be in the order of $50,000 annually, depending on the number of permits issued, the nature of the work and the number of permits falling into the exemption category. This figure is much lower than the estimated annual trenching damage costs incurred by the Region because virtually all of the current cost effect is due to trenching works that took place over many years in the past. The proposed degradation fee only recovers costs due to trenching works occurring from the date of implementation of the fee forward. However, the matter of recovering costs for past damage effects may be dealt with in a current proceeding in front of the Canadian Radio-television and Telecommunications Commission. Staff will follow this closely. The approach proposed above is in line with that employed by US cities who have been leading the way in this area.

MORATORIUM

The Consultant has recommended that the Region introduce a special permit review for proposed trenching works on roads that have been constructed/reconstructed/resurfaced within three years. It is common for other cities to use the concept of a moratorium in an attempt to minimize the impacts of utility trenching. Usually this takes the form of trying to restrict trenching works for a period ranging from two to five years on roads that have been newly resurfaced or constructed. Unfortunately, there has been less success with this concept than would be hoped. Kansas City, Missouri, and Austin, Texas, both very proactive cities with respect to public rights-of-way management issues, have found respectively that 60 % and over 50 % of their "moratorium" streets have been trenched within two years of resurfacing. The need for utilities to undertake repair works and the statutory framework surrounding the use of public rights-of-way by utilities and telecommunications companies can significantly compromise a moratorium process.

However, staff is still of the view that a moratorium concept is a very useful tool, especially if employed in conjunction with other tools such as a pavement degradation fee, to encourage joint utility works, to encourage better co-ordination with other works and to generally discourage the incidence of trenching. Trenching on recently resurfaced roads or on roads recently disturbed by other trenching works would not be eliminated by the introduction of a moratorium, but it could be reduced.

The City and County of San Francisco adopted a new ordinance in 1998 stating that no permits shall be issued on any moratorium street, but municipal staff is given the authority to grant a waiver for "good" cause. A written request for a waiver is required from a utility and city staff may place additional conditions on the permit, including the charging of fees in excess of the usual permit fee to recover unusual costs. Billings, Montana, has a similar ordinance and has found that utilities now give greater attention to the condition of their facilities in the rights-of-way before streets are resurfaced and that they now look to alternative methods (access from side streets, use of trenchless technologies etc.) to provide service.

Since a similar moratorium concept would assist with Ottawa-Carleton's efforts to deal with the immediate challenge posed by the plans of several telecommunications companies to each separately trench Regional roads located in the central core (reference Annex B), it is proposed that a moratorium process be implemented by the Region at this time rather than waiting for the new City of Ottawa to address. It is proposed that Ottawa-Carleton's utility trenching moratorium consist of the following elements:

- To apply to all Regional roads (or portions) that have been resurfaced for three years or less;
- With respect to trenching works involving the installation of telecommunications duct, apply to all Regional roads (or portions) that have been trenched for the installation of telecommunications duct in the previous three year period;

- No permits to be issued for moratorium roads without a written waiver from the Environment and Transportation Commissioner;
- Waiver requests by a utility or telecommunication company must be in writing and outline in detail why the proposed work could not be deferred beyond the moratorium period and why alternative methods to open trenching are not feasible. These alternatives must include trenchless technologies, use of alternate streets, and the use of abandoned plant or the plant of others and other reasonable alternatives;
- Emergency work involving danger to public safety can be carried out without a waiver but written justification, including all the elements of a written waiver request and clearly outlining why the work was deemed to be an emergency, must be provided along with the required permit application;
- Municipal road maintenance, rehabilitation construction and reconstruction works and other municipal works carried out for the **prime purpose** of pavement provision or preservation are exempt;
- Utility works involving the repair of fluid and/or gas leaks are exempt;
- The Environment and Transportation Commissioner may establish special conditions for issuing a waiver and a permit with respect to restoring special pavement surfacings, collecting financial security and additional cost compensation for the reinstatement of special pavement surfacings by the Region in conjunction with its own programmes and ensuring that aesthetics and other urban environmental features are completely restored; and
- All written waiver requests and associated permit applications for all moratorium Regional roads must be submitted to the Permits Issuance Unit of the Environment and Transportation Department with no delegation of this function to any privately owned or publicly owned utility or other user of the public rights-of-way.

PERMIT FEES

Regional Council has adopted the Federation of Canadian Municipalities' (FCM's) public rights-of-way management principles that, among other things, state that municipalities must be able to recover all their costs due to the presence of utilities or telecommunications companies in the public rights-of-way. Failure of these entities to compensate municipalities for all these costs results in an effective transfer of wealth from the general property taxpayer to the utility and telecommunications companies, their customers and shareholders. Regional staff has done much work on this and has presented Council's position to both the Ontario Energy Board in respect of the current model natural gas franchise proceeding and to the CRTC in conjunction with the current proceeding with respect to the use of public rights-of-way by telecommunications companies. Regional Council has recognized that the FCM principles and the principle of "user pay" is applicable to all utilities. A summary of the compensation model presented to the CRTC is attached as Annex D.

The first compensation item noted in Annex D relates to the recovery of general administrative costs associated with the Region's rights-of-way management activities. These cost types are usually recovered by municipalities via a permit fee (called by such names in various municipalities as a "road

cut" fee, an excavation fee, a municipal consent fee etc.). This fee is intended to recover costs that are easily quantified and include the following:

- clerical time for permit issuance,
- record keeping (permits, plans, consents, insurance certificates, bonds correspondence, etc.),
- field inspection (traffic, physical restorations, line assignment),
- technical review of plans and circulation/co-ordination,
- legal advice, and
- associated general overhead

The Consultant has determined the Region's current costs for carrying out these activities are $395 per permit for minor works not requiring a circulation of maps, plans and drawings and $560 per permit for major works that do require a plans circulation and review. Ottawa-Carleton's current permit fee of $107.50 is obviously insufficient to recover the above-noted permitting costs. However, as outlined in the following section on "Permanent Warranty", the major utilities are not even paying this low permit fee at this time. This situation means that the various utilities are currently enjoying a significant economic subsidy at the expense of the general taxpayer.

If not for municipal amalgamation, staff would be recommending an immediate increase in the permit fee to cover costs. However, the coming into being of the new City of Ottawa will likely mean some significant changes in the public rights-of-way management process. Legally, a permit fee must be designed to reflect actual costs incurred. Management costs (traffic inspection etc.) for high volume Regional roads may be greater than for local streets. If the new City of Ottawa decides to spread its combined administrative costs for all roads over the much larger number of permits involved, a resulting permit fee could be lower. Alternatively, even if the new City were to keep a separate permit fee for arterial roads, i.e. roads that may need more review work, inspections etc., any change in the resources involved, salary scales and changes in process, including perhaps the introduction of efficiencies or the implementation of some of the recommendations from the Ainley Group study, could all affect costs and the permit fee that would be required for cost recovery. Therefore, on the basis of the expectation of significant changes, the fact that it will only be few months before some of this may happen and since it is proposed to eliminate the permanent warranty exemption (see next section), which means that the utilities would then be subject to the modest $107.50 fee that they were not paying before, no further action is being recommended with respect to the permit fee at this time. It should be noted that this permit fee would only apply to permits issued by the Region for Regional roads outside the Cities of Ottawa and Vanier, since these two cities administer the permitting process on behalf of the Region at no cost to the Region and set their own fees accordingly.

The other compensation elements listed in Annex D are dealt with elsewhere in this report (degradation fee) and in the Municipal Access Agreements that are being negotiated with the various utility and telecommunications providers.

PERMANENT WARRANTY

As noted in the section on pavement degradation, utility trenching causes permanent damage to the pavement structure no matter how well the work is restored. This was not well understood some years back and utility companies will dispute this even today, although the preponderance of scientific evidence supports. The Region's Regulatory Code contains a provision that exempts a utility from the existing permit fee if the utility enters into an agreement with the Region to provide a lifetime warranty for its road cuts. Current knowledge suggests that the lifetime warranty concept is not valid.

Firstly, although the deleterious impact of trenching is permanent, in practice the "permanent" warranty has an effective life only until the next time a road is overlaid (on average around five years for a given new trench). Secondly, very poor trench restorations, which have a very severe immediate impact on pavement life, show significant signs of failure within just two or three years. Thirdly, the long term damaging effects of well restored trenches, which is less visual in the early years, cannot be ameliorated via a permanent warranty concept. Since all trenching causes long term damage, retrenching old trenches in an attempt to "fix" them will not solve the problem. Digging up thousands of old trenches, most through subsequent municipal overlays, would impose enormous costs on both the utilities and the community and the logistics would be impossible. So the permanent warranty, although it sounds attractive in concept and is often served up by utilities as the simple answer to the complex trenching problem, only practically addresses particularly bad trench restorations and these are evident in just one or two years.

The irony of the current permanent warranty concept is the Region actually waives its permit fee in exchange for the privilege of having its roads permanently damaged. This, of course, is a double benefit to the utility companies.

In view of the above, it is proposed that the current permanent warranty provision in the Region's Regulatory Code (Subsubsection 2.5.4 (7)) be deleted and that the "regular" warranty period provided for in Subsection 2.5.15 2 (a) be extended to 36 months from 24 months. This means that the utilities would no longer be exempt from the permit fee. At the present time, all the major utilities are being treated as if there were agreements in place with respect to the permanent warranty. Staff have not been able to locate any such agreements on file and are unaware as to when such practice commenced. Should any such agreements be produced by the utilities, adequate notice will be given in accordance with the terms of such agreements with respect to their termination. The Regulatory Code adopts the City of Ottawa's Road Cut By-law for Regional roads within Ottawa's boundaries. This by-law has a similar permanent warranty provision for the exemption of permit fees. However, since under agreement, the City of Ottawa administers the permitting process at no cost to the Region at this time, the exemption in the City's by-law does not mean lost revenues for the Region. Undoubtedly, this is an area the new City of Ottawa would want to rationalize.

The collection of a pavement degradation fee as proposed in this report will compensate the Region for the long-term damaging effects of trenching and the elimination of the permanent warranty exemption to the permit fee will remove the second part of the double benefit currently being enjoyed by the utilities using Regional roads outside the Cities of Ottawa and Vanier.

RESTORATION STANDARDS

The Consultant's study also recommends that the Region adopt new restoration standards for utility trenches. Such standards are designed to minimize the long-term damage effects of trenches. Current restoration practices in the field vary from utility to utility and are influenced by the level of inspection. The recommended standards were developed by a study subcommittee comprised of the Region, the Consultant and three major utilities. A set of standard drawings and specifications was prepared to address the several categories of utility work and pavement conditions encountered. The standards include features to deal with minimizing the introduction of new cracks and joints, ease of construction, the availability and cost of materials and minimizing damage to pavement areas immediately adjacent to the trench (See Figure 7 in Annex F).

A typical standard restoration drawing developed is shown in Figure 8 in Annex F. The Consultant's cost estimates indicate that the recommended new standards would be about 20 % more costly for the utilities, but with reference to the lowest overall cost curve shown in Figure 5 in Annex F, both the utilities and the public would gain from lower long-term damage costs to Regional roads and from a reduction in the other disruptive effects associated with poorer quality restorations. Of course, these improved standards go hand in hand with the many other recommendations in the Consultant's report. For example, improved restoration standards would not be effective without proper workmanship or adequate field inspection and testing. Since the implementation of these standards are not critical to addressing the more immediate telecommunications issues facing the Region in the core area, it is proposed that they be referred along with the remainder of the Consultant's recommendations to those responsible for establishing the administration of the new City of Ottawa.

INFORMATION MANAGEMENT SYSTEMS AND TECHNOLGY

The Consultant recommends the implementation of an internet accessible utility plan design, circulation, approval, permitting, as-built drawing, records and management system that would tie in with the Region's Geographic Information System. Next to the Consultant's organization recommendations, this may be the most important recommendation in the study report. The Region's current abilities in this area as applied to public rights-of-way management needs to be updated. Very little is automated at this time, there is limited co-ordination ability with other systems, and the quality of data needs improvement. Basic management information is currently difficult to obtain as most of the records are in a loosely organized paper form.

This is in contrast to systems implemented by various US Cities. Many large US cities now have in place GIS permitting systems that can be accessed from a proponent's premises via the internet. San

Francisco, Philadelphia, Cincinnati and Phoenix (see Annex E) are four of many that have rights-of-way management systems in place. San Francisco's system allows a proponent to actually mark the area of a proposed excavation on a map from a personal computer before submitting this over the internet along with a permit application. The City of Philadelphia's system will identify all utility works on a computer map with colour codes flashing to indicate a potential permitting conflict with another project.

Implementing such an automated permitting records system for public rights-of-way management is one of the most significant steps that could be taken by the new City of Ottawa with respect to customer service and the effectiveness of municipal public rights-of-way management. Any such system should consider the use of Global Positioning System (GPS) co-ordinates to locate utility trenches in the field. The cost of this technology is now so low that it is feasible to request anyone applying for a permit to automatically provide these co-ordinates. The accuracy of low cost GPS equipment has also improved markedly since the US military has stopped intentionally degrading the satellite signals for security reasons.

ONE-CALL - DAMAGE PREVENTION PROGRAMMES

In the US, formalized underground utility damage prevention programmes that make use of a one-call notification system have been cited as the most widely accepted approach to reducing excavation damage. One telephone number is provided to excavators (be they contractors, home owners, utilities, public agencies, or others) to call to notify of their intention to excavate and to have all existing underground facilities marked (located). The US Federal government encourages such a programme via funding incentives and 48 US States have implemented mandatory one-call statutes of one sort or another. Benefits include lower utility damage costs, less property damage, fewer injury and fatal accidents, reduced excavator down time and protection of the environment and natural resources. A Transition Board Project Team is exploring the concept from the perspective of the utilities saving money by carrying out joint utility locates or by utilizing the existing Ontario One-Call System.

From a municipal public rights-of-way management perspective, one-call systems make a lot of sense and strong support is recommended. With the deregulation of the telecommunications industry and the arrival of the new telecommunications companies, there will soon be six or seven more telephone numbers for excavators in Ottawa-Carleton to call. One of the unexpected benefits of a one-call system found by one US City was that, when it matched up one-call "locate" requests in its area with municipal excavation permits issued by the municipality, it found that there was a lot of excavation work taking place without the proper permit authorizations. This information was used to increase municipal permitting revenue and to assist the municipality in better managing its public rights-of-way in terms of traffic and pavement restoration inspection, co-ordination with other works, ensuring the protection of other rights-of-way uses such as trees and the plant of other utilities as well as ensuring public safety.

OTHER

Staff would have preferred to be presenting a much required comprehensive re-write of the Regional Regulatory Code for approval at this time. However, the time required to do this and the coming into being of the new City of Ottawa in just a few months precludes this. Three measures that are needed immediately to assist with managing the use of Regional roads in the core area and a few other key elements of the Consultant's review of public rights-of-way management on Regional roads have been singled out for discussion in this staff report. Notwithstanding this, each and every one of the Consultant's recommendations as listed in Annex A are important and should be reviewed in detail by those responsible for this process in the new City of Ottawa.

Proactive public rights-of-way management by municipalities is essential for the health, safety and welfare of the community. Everyone, including the utilities and other rights-of-way users, benefits from this. The unprecedented rights-of-way management pressures facing municipalities today are prompting many of them to realize that they must reorganize and modernize their practices in this area. Even the most progressive and proactive cities are being challenged. The Ainley Group study is just a first step in this process for the Ottawa-Carleton area. There is much work to be done to successfully put these recommendations into practice. Much depends on it. Fortunately, the existing capability of the Region and the Area Municipalities will greatly facilitate.

CONSULTATION

The utility and telecommunications companies, the Area Municipalities and Regional staff were invited to participate in this study via meetings, questionnaires and personal interviews. In early August 2000, a copy of the Consultant's final report was provided to all, including new telecommunications companies not yet authorized to use Regional roads. In mid-August 2000, the utilities, the telecommunications companies, the Area Municipalities and the contractor community, through its association representatives, were requested to specifically comment on the three Regulatory Code amendments proposed in this report. Staff also outlined the three proposed amendments at a meeting with the telecommunications industry on 28 August 2000 (Ottawa Hydro and Enbridge Consumers Gas also in attendance). All of these entities will be informed of the time, date and place of the Transportation Committee meeting at which this report will be considered.

Written comments have been received from Bell Canada, The Ottawa Construction Association and Trans-Northern Pipelines and are attached as Annex G.

Bell Canada supports many of the recommendations in the Consultant's report and indicates that these will be reviewed further with the City of Ottawa's Underground Public Utilities Co-ordinating Committee (UPUCC). With respect to the three proposed Regulatory Code amendments, Bell is in agreement with the moratorium principle but, concerning the proposed pavement degradation fee, it does not support "an additional fee to cover the general revenue requirement of the Region for its

resurfacing program". Bell advises that it is prepared to provide a lifetime warranty for its trenches and that fees associated with the process be limited to the extent that its specific trenches cause "out-of-pocket" expenses to the Region.

It should be noted that consultation in this study has included all the members of Ottawa's UPUCC as well as many non-members. It would be expected that the new City of Ottawa would continue to dialogue with all stakeholders with respect to the matters outlined in the Consultant's report, which recommends that the scope of Ottawa's existing UPUCC be expanded to encompass the entire Region (and hence all of the new City). Staff strongly supports the utility co-ordinating committee approach. With respect to Bell's other comments, as presented in this report, the lifetime or permanent warranty concept does not work and by applying a pavement degradation fee on a per square metre basis, Bell's fees would be limited to the Region's lost life-cycle costs for Bell's specific trenches.

The Ottawa Construction Association expresses general agreement with the report and suggests that more work be done with respect to determining more durable repair methods. Staff notes that the Region is participating in the National Research Council of Canada/US Army Corps of Engineers Utility Cut Consortium study. The National Research Council of Canada was a subconsultant on the Ainley Group study and, to a large extent, the current international consortium study was a direct fallout from work initiated by the Region. The Ottawa Construction Association suggests that its contractor members could provide both technical and practical input. Staff wholeheartedly agrees with this and will discuss this with the Steering Committee for the Consortium project. Over the years, the local contractor community has made many significant contributions to the Region's road preservation programmes.

The National Capital Heavy Construction Association has verbally indicated that it has no concerns with the proposed Regional Regulatory Code amendments. Several other utilities have contacted staff with questions, but at the time of preparation of this report there were no other outstanding issues. All stakeholders were requested to provide their comments before 31 August 2000 to enable this report to be submitted to Transportation Committee for consideration at its 20 September 2000 meeting.

REGULATORY CODE AMENDMENTS

It is recommended that in accordance with this report the Regional Regulatory Code be amended as follows:

1. provision be made for a moratorium in the three years immediately following road resurfacing or telecommunications trenching during which time road cut permits will not be issued except in those circumstances described in this report ;

2. to provide for collection of a pavement degradation fee, calculated in accordance with this report, to be paid as a condition of road cut permit issuance; and

3. to delete the permanent warranty provisions, and change the period of responsibility for road cuts from 24 months to 36 months.

FINANCIAL IMPLICATIONS

Approval of the recommendations in this report would result in estimated new annual revenues of $50,000 from pavement degradation fees and $20,000 from permit fees. This would be in addition to an estimated $200,000 of revenue in 2001 from Municipal Access Agreement fees arising from parallel rights-of-way management initiatives by the Region. Although not accruing to the Region, the measures recommended in this report will also significantly reduce disruption costs experienced by the community at large due to utility works on Regional roads. The future implementation of many of the Consultant's recommendations would further decrease municipal and other costs through longer road life, less disruption and more efficient and safer use of the public rights-of-way.

Approved by
L. O'Keefe for /W. S. Beveridge, P. Eng.

LAR/ms

Attach. (7)

ANNEX A

MANAGEMENT OF REGIONAL RIGHTS-OF-WAY FOR UTILITY, CONSTRUCTION AND MAINTENANCE ACTIVITIES - CONSULTANT'S KEY RECOMMENDATIONS

1. Establish Region-wide right-of-way management service
2. Consolidate management responsibilities in a single Regional organizational unit
3. Revise the Regional Regulatory code to reflect recommendations
4. Apply the recommended revised rights-of-way management processes to all Regional roads
5. Develop a public communications plan (utilities, contractors, public) for new processes
6. Implement a continuous improvement process (research, investigation etc.)
7. Make the revised rights-of-way management processes available to others as models
8. Establish a Region-wide Public Utilities Co-ordinating Committee
9. Establish a Region-wide utilities plan registry
10. Establish standards for utility plans
11. Utilize a GIS system for the plans registry, for permitting and other records
12. Investigate means for physically identifying trench "ownership" in the field (possibly GPS)
13. Implement an electronic (internet) system for permitting, circulation of plans, as-built drawings etc.
14. Enhance the pre-planning co-ordination process and encourage continuous improvement
15. Require all utilities and public agencies to produce multiple year capital construction plans
16. Improve the accuracy of utility and municipal capital works forecasts as much as possible
17. Bring developers and major land owners into the co-ordination process
18. Establish standard utility line assignments (location standards for utility plant) for Regional rights-of-way
19. Require utilities to strictly adhere to line assignments unless specific approval is received from the road authority
20. Adopt the City of Ottawa's CR-90 (being updated to CR-98) standard location plan pending the development of specific Regional standards
21. Provide advance co-ordination notices to property owners in conjunction with capital projects
22. Require utilities to canvas property owners for service needs before all major works
23. Encourage utilities to install service stubs in new construction to reduce future road cutting
24. Require the removal of abandoned utility plant in conjunction with other works where feasible
25. Require utilities/contractors to routinely provide geotechnical and other rights-of-way information (e.g. as-built changes) to the Region
26. Require utilities to upgrade plant in conjunction with new road construction
27. Establish standards for co-ordination, joint trenching and joint contracting
28. Develop an arbitration system to resolve co-ordination disputes
29. Develop standards, including time standards for the utility consent/permitting process
30. Provide staff and other resources to meet consent /permitting time lines
31. Minimize requirements for circulations on minor works
32. Utilities/contractors be required to indicate why trenchless installation techniques cannot be used
33. Terminate municipal consents if work has not commenced within a specified period of time
34. Permit utilities to carry out a portion of the plans circulation process with parallel information to be provided to the Region
35. Require as-built drawings to be provided to the Region

36. Require utilities to be responsible for all costs associated with plant not being installed per approved drawings
37. Consolidate engineering design and utility circulation (municipal consent) circulations when possible
38. Replace the current "Road Cut" permit with a "Right-of-Way (ROW) Work" permit and require approvals for non-excavation work in the rights-of-way
39. Establish "blanket" permits for routine non-intrusive works
40. Terminate the practice of utilities issuing their own permits (i.e. issuing own consents)
41. Establish a "special permit review process" (moratorium) for pavement/sidewalk work less than three years old
42. Carry out periodic reviews of emergency work for conformance with the Regulatory Code
43. Enforce all Regulatory code provisions (emergency numbers and contacts, bonds, peak hour works etc.).
44. Keep records as legal evidence of municipal consents for utility works
45. Enter in legal agreements with utilities to address all legal matters pertaining to utility activities on Regional rights-of-way
46. Implement a contractor pre-qualification system for all road works contractors
47. Implement a quality control/quality assurance system for all utility trenching works
48. Require utilities to include quality performance measures in their contracts
49. Require site supervisors for all utility and other road works to be certified for working on road structures
50. Establish a road work certification pre-qualification training programme (possibly in conjunction with Algonquin College)
51. Clearly document all road trenching and other work standards and distribute to utilities/contractors
52. Maintain safe pedestrian and cyclist access through work zones
53. Require municipal utilities and entities to follow the same requirements as the private sector
54. Establish smoothness standards for trenching reinstatements
55. Continue to research issues regarding mechanical means for asphalt trench restorations
56. Encourage utilities to explore better ways of trench restorations
57. Routinely inspect right-of-way works both from a traffic and trench restoration perspective
58. Ensure that defective trench restorations are repaired expeditiously by the responsible utility
59. Introduce a Provincial Offence Notice System for Regulatory Code sections
60. Eliminate the existing life-time warranty provisions in the Regulatory Code (including the fee exemptions)
61. Establish a three year warranty for all trenching works
62. Inspect all trenches within the warranty period
63. Establish traffic requirements, including traffic management plans, for rights-of-way work
64. Require ROW Work Permits where non-excavation work will adversely affect traffic flow
65. Establish a traffic management staff contact for setting traffic conditions and co-ordinating with other traffic operations staff
66. Require utilities/contractors to contact the traffic management contact before starting any major works
67. Establish an information system to monitor road occupancies on a daily basis for traffic flow issues
68. Require traffic signals personnel to be contacted by utilities/contractors any time emergency work is carried out in peak hours

69. Train municipal forces that regularly travel Regional roads to recognize and report traffic problems due to utility works
70. Strictly enforce Traffic and Parking By-law and Regulatory Code provisions for traffic matters
71. Implement fees to recover all the Region's costs for rights-of-way management
72. Implement fees to recover the Region's costs due to lost pavement life
73. Consider implementing additional fees for rights-of-way occupancy when rights-of-way areas are unavailable for other uses due to utility works
74. Apply for special legislation should existing enabling legislation preclude implementing other recommendations
75. Apply implemented fees to all utilities (private and public sector)
76. Credit cost recovery fees to the accounts from which expenses are incurred
77. Use pavement degradation fee revenues for funding resurfacing works
78. Consider phasing in some fees and monitoring/adjusting as proceed
79. Review other rights-of-way fees such as those for encroachments to bring up to date

ANNEX B

Region of Ottawa-Carleton
735 Industrial Avenue
Ottawa, ON K1G 5J1
Environment & Transportation Department
Infrastructure Maintenance Division

Tel. (613) 560-6094, Ext. 1114
Fax. (613) 739-9757

Région d'Ottawa-Carleton
735 avenue Industrial
Ottawa (Ontario) K1G 5J1
Service de l'environnement et des transports
Entretien des infrastructures

Tél. (613) 560-6094, Ext. 1114
Télécopieur (613) 739-9757

8 August 2000

File: **50** 41-00-0001

SEE DISTRIBUTION LIST ATTACHED

Dear Sir/Madam

Re: Public Rights-of-Way within Ottawa-Carleton - Co-ordination of Use

Further to the co-ordination meeting held on 6 July 2000, the draft meeting notes have been revised based on the comments received and are attached. A "red-lined" version is also attached to highlight the changes made. Network plans have been received from five companies and four of these plans (four different colours) are shown overlain in the attached composite map of Ottawa-Carleton's urban core (a better plan is being prepared, but we want to share this information with you as early as possible). As indicated in the overlay, several downtown blocks have as many as four companies (so far) planning to use them.

Shortly after the 6 July 2000 meeting, applications for municipal consent were received from one company. With respect to all road sections where this first company proposes to trench, the company has been requested to canvass each of the other telecommunications companies for interest in participating in a joint build and to provide documentation regarding the results of this exercise (for each road section involved) to Ottawa-Carleton along with information outlining how any such interest in a joint build will be accommodated (including the issue of the joint use of access and lateral service connection structures). In conjunction with the canvass, this company was advised to indicate to the other companies that Ottawa-Carleton has indicated that it may impose a trenching moratorium on any road section that is included in this canvass after that section is trenched once for the installation of telecommunications plant. Each canvassed company would be provided with a minimum of two weeks to respond so as to provide for a reasonable review period. The first company has also been advised that Ottawa-Carleton will require spare duct capacity to be installed and that it must make every effort to utilize existing support structures, including the abandoned plant of others.

From the co-ordination meeting, the comments received after and from the prior and subsequent talks with many of you, it is obvious that there is a strong consensus with respect to the merits of joint trenching works. The challenge is to address and overcome the potential barriers that might keep this from happening. The benefits, less road and other infrastructure damage, less community disruption, reduced public and worker exposure to work zone hazards, more efficient use of very scarce public rights-of-way space and less cost to the industry, are so significant that we must make a concerted effort to bring this about. If the level of co-operation we have seen so far is any indication, we will be successful.

In this regard, a follow-up meeting is scheduled for Monday 28 August 2000 at 2:00 PM in the Richmond Room, 2nd Floor, 111 Lisgar Street Ottawa, Ontario, K2P 2L7. It would be appreciated if those noted in the attached distribution list or a representative would provide me with advance confirmation of their attendance at this meeting. To ensure that this meeting is as productive as possible, it would also be appreciated if you would review the attached composite network plan and come prepared to talk about consolidating trenching plans to as few street blocks as possible and to discuss other ways of minimizing the amount of trenching and disruption on the streets involved.

Please do not hesitate to contact me at the above-noted telephone number should you have any questions or should you require any further information. I look forward to seeing you on the 28th.

Yours truly

Original Signed by
L. A. Ross, P. Eng.

L. A. Ross, P. Eng.
Manager Surface Projects Branch
Infrastructure Maintenance Division

LAR/ms

Attach. (4)

cc: Ms. J. Cameron, Federation of Canadian Municipalities
Mr. H. Drenth, Bell Canada
Mr. W. Cole, City of Ottawa
Mr. G. Craig, City of Nepean
Mr. M. J. E. Sheflin, Region of Ottawa-Carleton
Mr. W. S. Beveridge
Mr. J. Miller
Mr. D. Brousseau
Mr. J. Bell
Mr. L. Shallal
Ms. L. Eng
Mr. W. Harper
Mr. D. Johnston

PUBLIC RIGHTS-OF-WAYS WITHIN OTTAWA-CARLETON
CO-ORDINATION OF TELECOMMUNICATIONS COMPANY USES

DISTRIBUTION

Ms. C. Schneider, TELUS
Ms. S. Evans, 360networks
Mr. R. Dubord, Wispra
Mr. L. Bureau, National Capital Commission
Mr. E. Everest, National Capital Commission
Mr. R. Logue, Enbridge Consumers Gas
Mr. J. Tweedie, Enbridge Consumers Gas
Ms. R. McIntyre, Rogers Cable TV
Mr. G. Bird, Wispra Networks
Mr. C. Malone, Ottawa Hydro
Mr. W. Bedford, City of Kanata
Mr. M. Laliberté, TELECOM
Mr. R. Viau, Comm Expert
Mr. J. Grayston, TELUS
Mr. S. Hoy, 360networks
Mr. C. McLorg, 360networks
Mr. R. Noble, Region of Ottawa-Carleton
Mr. K. Ledingham, Bell Canada
Mr. L. Lyons, Constance Bay Cable TV
Mr. H. Pascoe, City of Ottawa
Mr. M. Latreille, Group Telecom
Mr. R. Ropchan, Group Telecom
Ms. N. Miles, Bell Baker for the City of Nepean
Mr. B. Stansfield, Region of Ottawa-Carleton
Mr. E. McArthur, Region of Ottawa-Carleton
Mr. J. Toeg, Region of Ottawa-Carleton
Mr. J. Armstrong, Rogers Cable
Mr. A. Chamberland, Vidéotron Télécom
Ms. S. Bélair, Vidéotron Télécom
Mr. T. Connolly, AT&T Canada
Mr. R. Pitchers, City of Gloucester
Ms. L. Meloche, City of Ottawa
Mr. M. E. Maclean, Village of Rockcliffe Park
Mr. K. Lamer, City of Kanata
Mr. W. Robinson, Township of Osgoode
Mr. B. Humphrys, Township of Rideau
Mr. B. Carry, Township of West Carleton
Mr. R. Townend, Township of Goulbourn
Mr. R. Martineau, City of Cumberland
Mr. C. Laviolette, City of Vanier
Mr. P. Pedersen, Public Works and Government Services Canada
Mr. V. Sahni, Region of Ottawa-Carleton

ANNEX C

D.C. Taxpayers Stuck With Bill for Trench-Weakened Streets

By Lyndsey Layton
Washington Post Staff Writer
Wednesday, March 15, 2000 ; A01

For more than a year, trenches dug in D.C. streets by telecommunications companies have clogged the flow of cars, imperiled cyclists and mangled suspension systems and nervous systems.

A gash in the road waits to be filled as a utility crew makes its way down 16th Street. (Bill O'Leary - The Washington Post)

But the real cost of all that gouging is hidden beneath the pavement, and taxpayers are footing the bill.

Each trench dug to bury a gas pipe or fiber-optics cable weakens a street, chopping years off its life span, according to engineers. The utility cuts cause roads to age prematurely, requiring top-to-bottom reconstruction sooner and adding millions annually to the cost of maintaining streets.
"The analogy would be if you had a shirt and cut out a square. It's not the same, even if you patch it," said Steve Chan, staff engineer for the City of Los Angeles.

Although Los Angeles and other cities charge telecommunications companies for long-term damage, the District does not--instead passing on those costs to taxpayers. Other cities also require access fees for burying cable under public streets. Although the D.C. Council approved such a fee in 1997, the city has yet to impose it.

"This administration has let these companies get away with murder," said D.C. Council member Carol Schwartz (R-At Large). "We want to encourage telecommunications access here, but we don't need to let people take advantage of us."

The only fee the District currently charges is $24 for a permit to dig one or more trenches.

The city did propose a fee for use of the underground space in December--at a rate of $739 per mile, one-third the national average--but it has been delayed by negotiations with the telecommunications companies, said Vanessa Dale Burns, director of the Department of Public Works. She said discussions with the nine major telecommunications companies digging in the District have been difficult. "They want no fees, no fees," she said.

But several telecommunications firms interviewed disputed that and said they had no problems with the modest access fees proposed by the District.

"We recognize the need to compensate the cities for any damage that is done to the roadways, and we are willing to pay whatever it takes to restore the structure," said John Windhausen, president of the Association for Local Telecommunications Services, which represents about 200 companies.

In the Washington suburbs, where wider streets and shoulders make digging easier in the first place, utility companies pay varying fees. Some counties are awaiting a high-profile court test involving Prince George's County, where the county imposed a franchise fee of 5 percent of a utility company's revenue from the new cable. AT&T says the fee is excessive and amounts to a royalty instead of payment for road damage.

In the meantime, companies abide by whatever rules are set by localities, said Alan Caminiti, spokesman for Metromedia Fiber Network, which plans to lay more fiber-optic cable than any other concern in the world by 2004.

"We follow the dictates of the DPW," he said. "The permits spell out exactly what we have to do in terms of safety and restoration, and we follow those rules scrupulously."

The disruption and damage to roads may bother taxpayers and motorists, Caminiti said, but it's a small price to pay for progress.

"A place like Washington should be delighted that the various carriers are interested in putting [fiber-optic cable] in," he said. "These are the arteries that will breathe life back into the city. . . . The fiber-optic backbone of the 21st century is being laid."

The 1996 Telecommunications Act, which deregulated the industry, said communities cannot obstruct competition among the companies vying to sell telephone, cable and Internet service. If one company is allowed to bury its cable beneath the streets, they are all entitled to the same access.

Passage of the federal law triggered a digging frenzy from coast to coast. "There was just an invasion," said Leonard Krumm, a Minneapolis public works official who chairs the Utility and Public Right-of-Way Committee of the American Public Works Association.

D.C. officials could not provide an estimate of the amount of damage being done to city streets, or even say how many of the city's 1,100 miles of streets are being sliced open for utility cables on any given day. In 1996, more than 5,000 cuts were made in the District. Last year, 6,683 cuts were made, according to the DPW. Windhausen thinks the District has reached its peak in terms of digging.

After complaints about the condition of roads reached a fever pitch last fall, the District imposed rules to gain some control over the trenching. Under new requirements, companies must complete their trench work and permanent repairs in four months. The District added two inspectors for a total of eight, who are charged with monitoring digging and the later repairs. The Department of Public Works is also creating a central computerized database so managers will know at a glance who is digging where. And it has asked companies to file trenching plans for the next two years by April 1, so it will have some idea of what the future holds.

But because the District charges no access fees and has no regulations requiring companies digging up the streets to join forces, the city can't force co-ordination among cable-laying firms. In some cities with access fees, officials have offered reduced charges to companies that share trenches.

And in San Francisco, the law requires companies that plan to dig in the same street within five years to co-ordinate their work. That reduced the number of trenches in San Francisco last year by 27 percent, said Cynthia Chono, manager of the city's street construction co-ordination center. When seven telecommunications companies wanted to bury cable in an area south of Market Street last year, they were required to dig one trench and do the work at the same time, Chono said.

"If we had had seven excavations going down that street at seven points in time, it would have been intolerable," Chono said, adding that San Francisco also charges the companies for the long-term damage to city streets.

By contrast, District streets are cut, patched and then cut again, creating perpetual disruption.

"It'll be nice one day and then all messed up the next," said Trevor Francis, 35, a bicycle messenger whose daily challenge is to navigate his 21-speed Hardrock along streets where the surface suddenly shifts from asphalt to potholes to a two-inch depression of bare, white concrete. Last month, he spent $600 in bike parts, replacing bent rims and blown tires. "If everything could be done at once, it would be much better."

The continual digging also compounds long-term damage, engineers say, and adds to the sorry state of D.C. streets, many of which are still suffering from years of neglect.

A properly maintained street in Washington has a life span of about 20 years. When a road reaches the end of its life span, it is too weak to support the weight of traffic and must be rebuilt from scratch.

Like a cake, a road is made of layers--two inches of asphalt on top of 10 inches of concrete, which sits on several feet of fill. During reconstruction, workers remove all the layers and then replace them--laying fill, pouring fresh concrete and topping it with new asphalt.

When a trench is dug for fiber-optics or other cable, utility companies cut about a two-foot wide ribbon through the asphalt and concrete until they reach soil. They bury the conduit, then backfill the trench with

dirt and put a thin layer of asphalt on top. That is the temporary patch, which is often rough and bumpy and breeds potholes.

Later, the company hires a construction firm to dig up the temporary patch, replace the fill in the trench with concrete and cover it with asphalt. This is the permanent patch. The District now requires companies to make the permanent asphalt patch as wide as a car to create a smoother riding surface than a two-foot wide patch would leave, DPW officials said.

Until the permanent asphalt is spread, exposed concrete trenches stretch around the city. That final coat of asphalt often doesn't happen for weeks or months. Meanwhile, cars slalom around the trenches, or ride in a cockeyed position with one side on the asphalt and the other on a lower level of concrete.

"It's very bad," said Luis Quesada, 52, whose Yellow Cab Mercury Marquis bobbed from side to side on 16th Street recently as if it were drunk, right wheels riding on asphalt and left wheels two inches lower on a concrete trench. "The car goes up and down, up and down. The only way it doesn't hurt your struts is if you go very slow, and that's dangerous. That can cause an accident."

And asphalt patching does nothing to repair the permanent damage to the concrete underneath the road's surface. Cuts reduce concrete strength and allow water penetration, said M.Y. Shahin, a pavement expert who has analyzed the long-term effect of utility cuts for Los Angeles, Sacramento, San Francisco, Phoenix and Burlington, Vt., among other cities.

In Los Angeles, the average 25-year life for a major road was cut to 16.5 years, he said. That means an additional $12.9 million in major road reconstruction each year, said Chan of the L.A. public works agency.

Multiple cuts in the same road--which is happening across the District--speed deterioration.

In a 1996 study, consultants hired by the District estimated utility cuts shave 25 percent off the average life span of a city road. The consultants said effect would vary from street to street, depending on traffic volumes and the condition of a street before the cut. For example, the consultants found that utility cuts on Georgia Avenue NW between Bryant and Barry streets would erase 62 percent of the remaining life of that street, causing a need for immediate reconstruction.

"Unfortunately, that's something we have to live with, for economic development," said Burns, the public works director.

But in Minneapolis, the utility companies are required to either pay a damage fee or make complete structural repairs--replace the entire slab of concrete beneath a street, said Krumm of Minneapolis.

Burns said she was unaware that Minneapolis requires a structural repair, and said the District is not considering any similar requirement. "The impact will be down the road," she said, shrugging off questions about long-term damage. "It doesn't impact us now."

In the Trenches with D.C. Road Repair

Drivers are becoming painfully familiar with the ribbon-shaped cuts in many downtown streets, usually because utility companies have installed fiber-optic cable. During the last year, 6,683 utility cuts were made in the city. These cuts significantly reduce the life span of a road and can lead to more potholes.

Here's how these roads typically are repaired:

MAKING A UTILITY CUT

1. Utility companies mark the edges of a trench, usually 2 feet wide, and use a circular saw to cut the asphalt.

2. A pavement breaker smashes the two-inch layer of asphalt and the 10-inch layer of concrete.

3. New cables or conduit are buried in the soil. The trench is packed with fill, usually crushed stone.

4. A temporary asphalt patch is applied.

PERMANENT PATCH

5. Later, contractors are hired to replace the temporary patch.

6. The trench is re-excavated, soil and fill are tamped in place and a thin layer of plastic is laid in the trench. New concrete is poured over the plastic.

7. The Department of Public Works requires that a full lane of asphalt around the cut be scraped off. New asphalt then is poured and smoothed.

PROBLEMS WITH PATCHES

The District has 1,100 miles of streets, which -- if properly maintained -- have a life span of 20 years. Utility cuts reduce a street's life span by an average of 25 percent, according to a 1996 study.

If a section of road is scheduled for multiple cuts, there will be a delay in making the permanent patch, leaving the road riddled with asphalt or concrete ribbons.

If enough time passes, the temporary asphalt patches can settle, creating potholes.

Even permanent patches leave the concrete road bed vulnerable to cracking and seepage, speeding deterioration.

OTHER APPROACHES

Some cities, such as Minneapolis, require that entire panels of concrete (typically 12 feet wide by 10 inches thick) be replaced after utility cuts are made.

Other cities, such as San Francisco, require utility companies to co-ordinate their cuts so that only one trench is made. As a result, San Francisco reduced the number of utility cuts by 27 percent in one year.

WHOM TO CALL

If you have a problem or a question regarding utility cuts, call 727-1000. If your property has been damaged by utility cuts, call the Office of the Corporation Counsel at 737-3400. You will need documentation to support your claim.

SOURCES: D.C. Department of Public Works; M.Y. Shahin of Shahin and Associates; Transtec Inc.

ANNEX D

Summary of the Region of Ottawa-Carleton's Compensation Proposal for the use of Public Rights-of-Way

Compensation Item	Mechanism	Compensation ($) (Ottawa-Carleton)
Recovery of General Administrative costs	Sum quantifiable administrative costs and divide by the appropriate units (either number of permits or number of consent applications)	$395 basic permit fee $165 additional fee for major works (as an example)
Pavement Degradation (life cycle losses)	Use results of Ottawa-Carleton's Pavement Degradation study. Levy at the time of permitting. Adjust based on actual extent of trenching if necessary.	Based on pavement age: $24 per m^2 for 2 years or less $20 for 2 to 4 years $16 for 4 to 7 years $10 for 7 to 10 years $4 for 10 or more years
Relocation and Adjustment Costs	100 % responsibility of carrier. Invoiced on a project by project basis, unless the carrier undertakes the work. Surface ironwork adjustment costs and other adjustment costs required for municipal maintenance works such as road resurfacing should be 100% carrier's cost.	
Direct Quantifiable costs not covered above (e.g. damage to municipal plant, winter reinstatement etc)	Quantify costs and invoice on a periodic basis.	Invoice carrier for actual costs including overhead.
"Work-around" and other direct and indirect costs (that are difficult to quantify or that have not been quantified to date). Includes municipal disruption costs.	Negotiate a "surrogate" reasonable amount with the carrier to be paid on an agreed upon frequency.	An annual fee.
Road Use Licence Fee	Based on value of the rights-of-way area occupied. Could use standard "easement" model to establish value. Essentially involves market value ($/$m^2$) X area occupied (linear length x 2m width) X annual rate of return (0.10) X non-exclusive factor (0.50). Two or three market value zones, such as urban core, suburban and rural, could be developed.	An annual licence fee.

Notes:

1. No separate fee is proposed at this time for disruption costs incurred by the municipality. For now these costs would be recovered in conjunction with the negotiated "work-around" cost surrogate. It is noted that disruption costs to the community at large can be very high but only a portion of these are incurred by the municipal corporate entity itself.
2. Some municipalities levy both disruption (disturbances to traffic, transit, emergency services etc) and obstruction (related to the street area occupied for the utility works) fees to recover costs to the municipality and the community as well as to minimize the effects of the utility works on the community at large.
3. It is expected that municipalities would establish permit fees, costs, and road licence fee by by-law, which would be reviewed periodically.

CITY OF PHOENIX

ENGINEERING AND ARCHITECTURAL SERVICE DEPARTMENT

PERMIT APPLICATION FOR UTILITY CONSTRUCTION IN PUBLIC RIGHT OF WAY

Plans must conform to Administrative Procedure 5.1

HELP

Permittee:		Date:	
E-Mail Address:		Sub Contractor:	
Contact Person:		Phone:	
Utility Job No.		Quarter Section:	

Check appropriate box

☐ New Development		☐ City Project		☐ Other	
☐ Revision Permit #		☐ Extension Permit #		☐ Resubmital	

Development/Customer Name:		Zip Code:	
Construction Address:		Phone No:	

Description of Construction/Revision

Send this Information | Clear the Form

Cover Page

Last modified 08/13/2000 22:15:26

Last modified 08/13/2000 22:15:26

Internet Right-of-Way Permit Application Form - City of Phoenix, Arizona

Figure1: Just some of the many essential and often competing public rights-of-way uses

Figure 2: Limited space in New York City Street - 1917

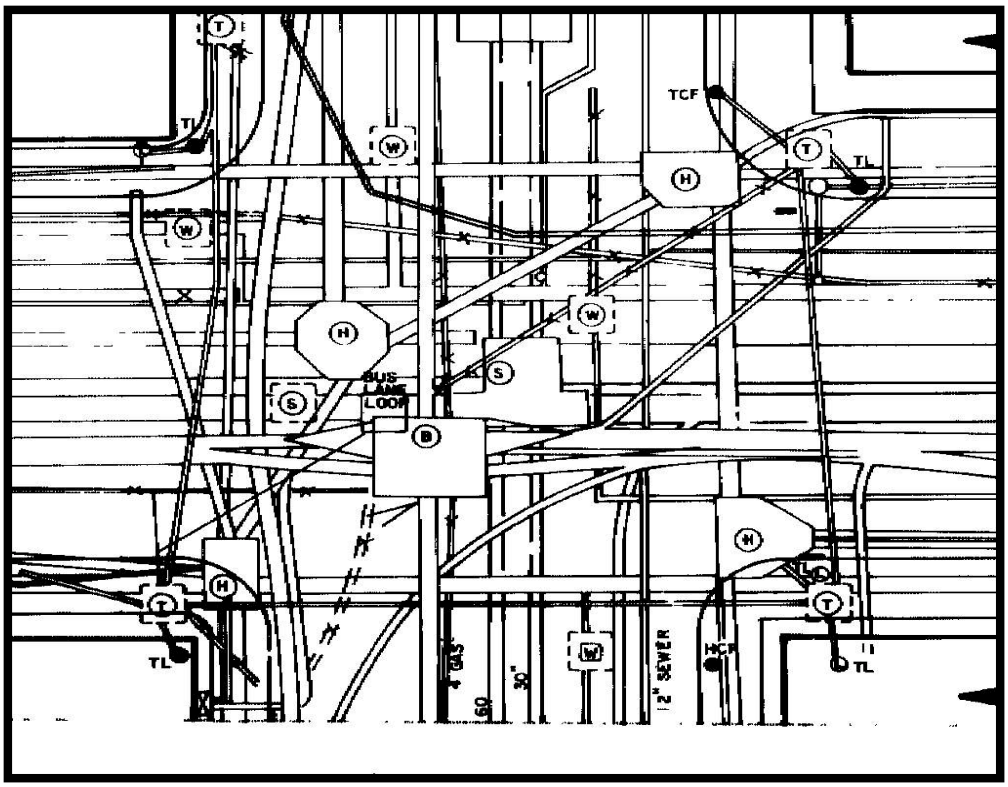


Figure 3: Limited space at Kent Street and Slater Street in Ottawa - 1999

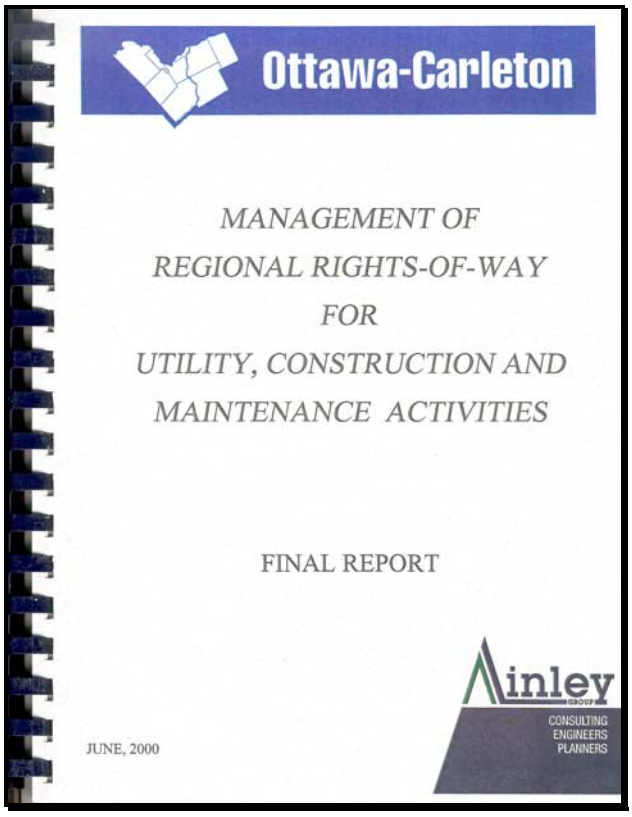


Figure 4: Ainley Group public rights-of-way management report

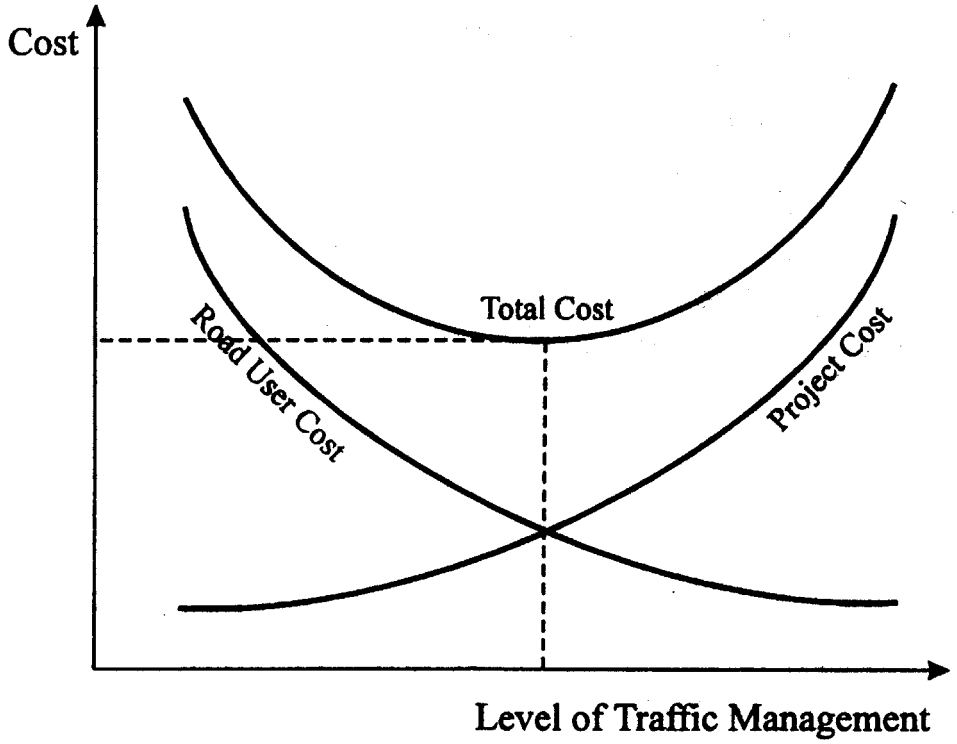


Figure 5: Costs Associated with utility work zones

Figure 6: Utility trenching permanently damages roads

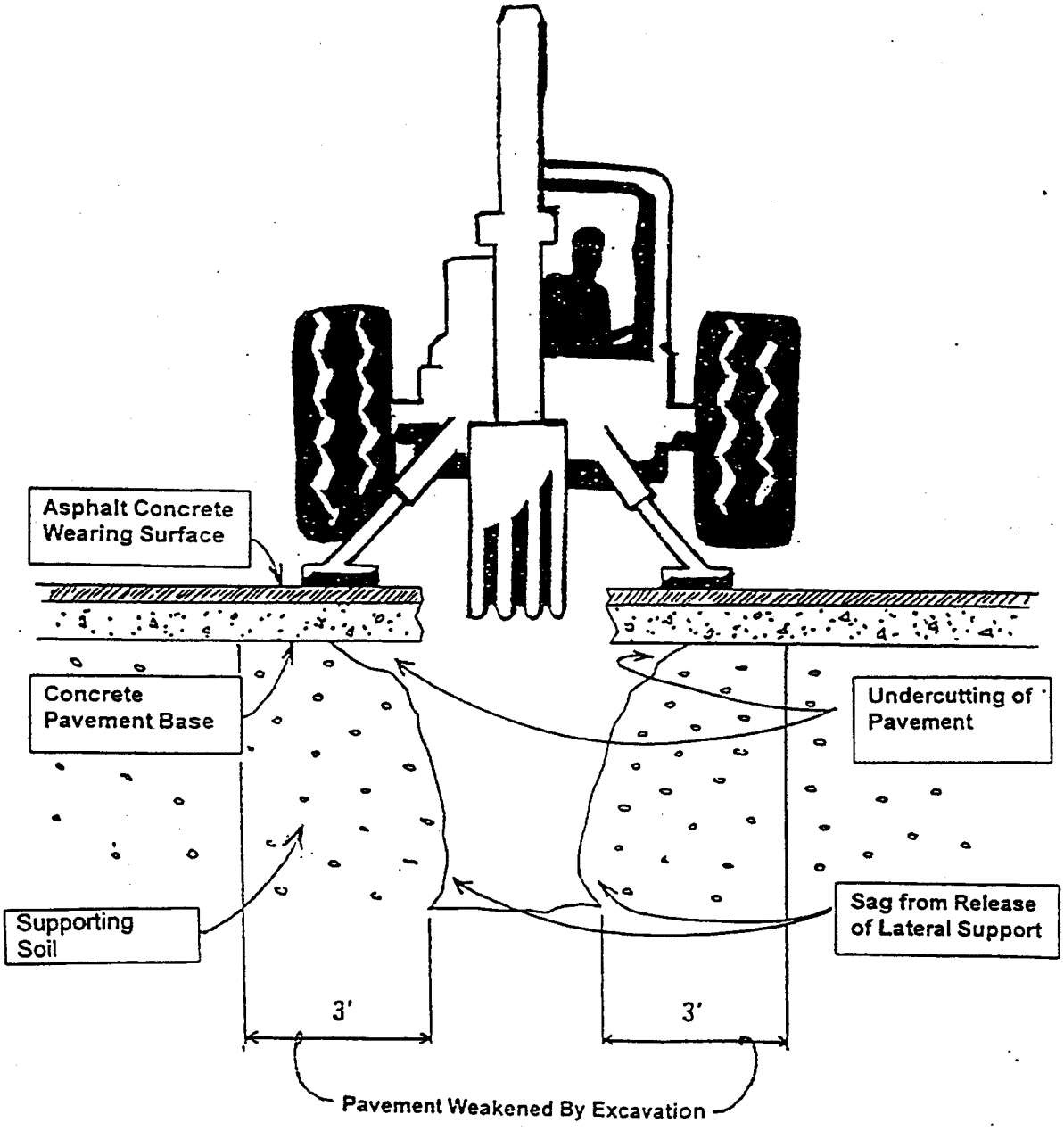


Figure 7: Typical Trench Excavation (Impact of Excavation on San Francisco Streets, September 1998)

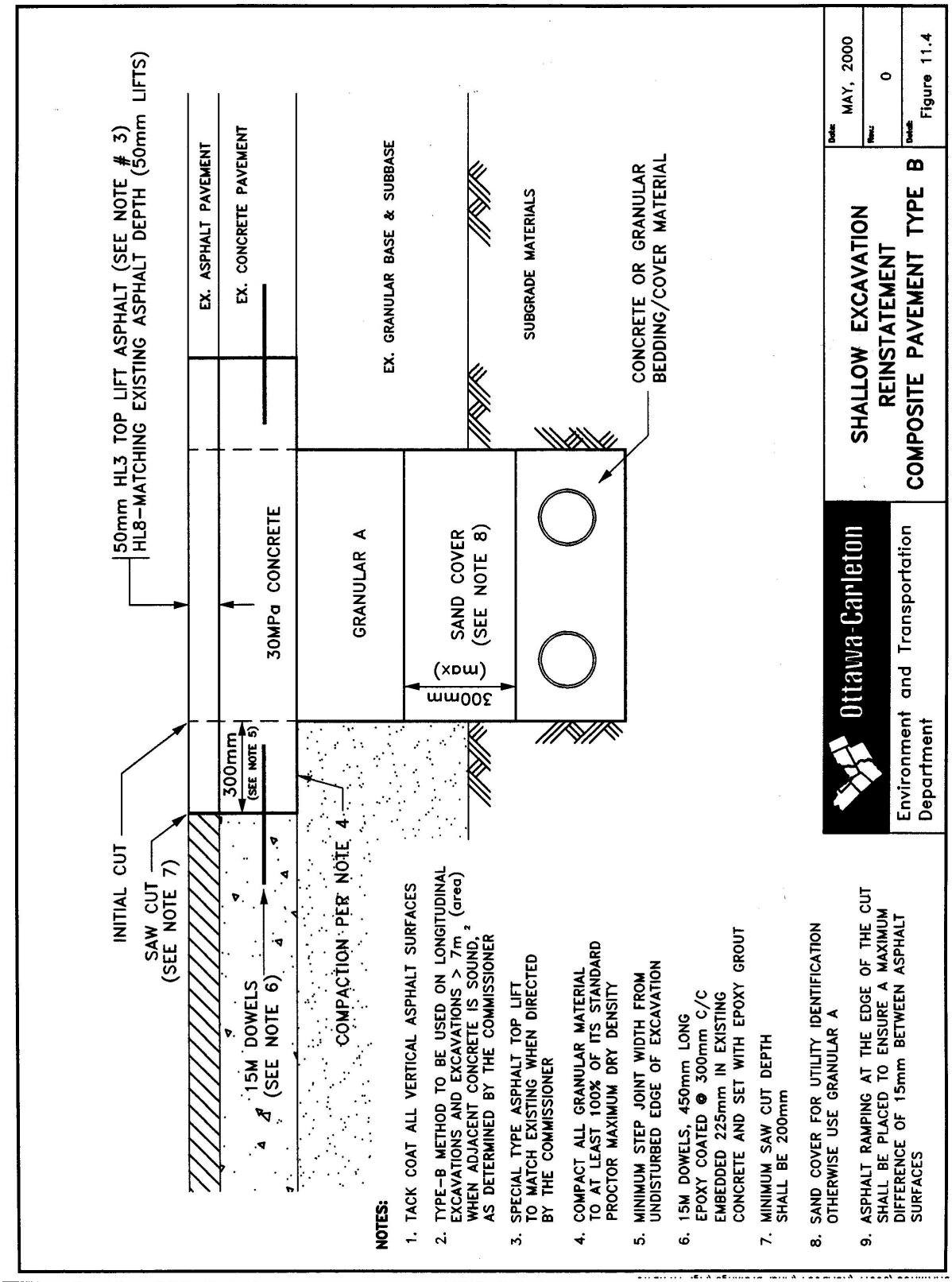


Figure 8: Typical Trench Restoration Standard Drawing

Bell Canada
Access Network
469 Coventry Rd.
Ottawa, Ontario

L.A. Ross, P.Eng
Manager Surface Projects Branch
Region of Ottawa - Carleton
735 Industrial Ave.
Ottawa, Ontario
K1G 5J1

August 31, 2000

Subject: Management of Regional Right-of-Way for Utility, Construction and Maintenance Activities

Dear Mr. Ross,

This is in response to your letter of 17 August 2000 requesting comments with respect to three draft proposals contained in the Ainley Group Report.

I appreciate being given the opportunity to provide comments prior to the proposals being presented to the Region's Transportation Committee. However, as you are aware, these proposals are also being reviewed by the Ottawa PUCC and Bell will be working in concert with other utilities to provide a balanced response to the Ainley Group report.

With respect to the three specific proposals in your letter, I would like to offer the following:

PAVEMENT DEGRADATION

Although I can appreciate the Region's concern for the impact of utility cuts on road pavement, I believe each utility should be held accountable for the specific damage it causes to the integrity of the road surface. The report has an excellent section with details for the restoration of pavement cuts and I support the application of these standards to ensure the minimal impact of utility pavement cuts. As we have always provided a lifetime warranty on any cuts made by Bell, I do not support an additional fee to cover the general revenue requirement of the Region for its road resurfacing program.

MORATORIUM

I support the principle of a road trenching moratorium for roads that have been resurfaced for three years or less, however, in the day to day operation of meeting urgent customer demands, some works will definitely require the involvement of the Environment and Transportation Commissioner. As you can appreciate, new developments along existing roads demand timely utility service connections, but with every effort made to minimize the impact on the road surface.

We are quite willing to explore reasonable - alternatives to trenching on a moratorium road. As our network in an integral part of providing for public safety, I presume our emergency repairs to restore telecommunications service would also be exempt.

PERMANENT WARRANTY

As stated earlier, I believe each utility should be accountable for their specific road cuts and be prepared to provide a lifetime warranty for those cuts. The fees associated with this process should be limited to the extent that our specific pavement cut causes an out of pocket expense to the region.

I support many of the recommendations in the Ainley Group report but suggest they should be reviewed by the Ottawa PUCC to ensure consistent implementation among all of the utilities occupying the Region's roadways.

Thank you again for providing me the opportunity to provide my views on this matter and please do not hesitate to contact me if further information is required.

Yours truly,

E. W. Wood
Regional Mgr.
Access Network
(613) 742-5747

cc: Henry Drenth
Bob Simpson

THE OTTAWA CONSTRUCTION ASSOCIATION

L'ASSOCIATION DE LA CONSTRUCTION D'OTTAWA

SERVING THE NATIONAL CAPITAL REGION

SINCE 1889

August 29, 2000

Regional Municipality of Ottawa-Carleton
735 Industrial Avenue
Ottawa, Ontario K1G 5J1

ATTENTION: **Mr. Lorne Ross P. Eng.**
Manager Surface Projects Branch
Infrastructure Maintenance Division

MANAGEMENT OF REGIONAL RIGHTS OF WAY FOR UTILITY, CONSTRUCTION AND MAINTENANCE ACTIVITIES

Dear Sir:

Having reviewed the rather lengthy document that was prepared by Ainley Group Consulting Engineers it is gratifying to see that the Region has attempted to cost out the "Cost of Doing Business." It is also gratifying that the Region recognizes the difference in the quality of workmanship and materials and the important role that they play in the value of major capital investment the region has made into its' infrastructure system.

We also believe that the bonding system that is utilized by the City of Ottawa is a good quality control system along with a good performance guarantee system for the maintenance period.

If there is one criticism that can be made it is that very little study has been carried out to determine more durable repair methods. There are presently many new and varied technologies available in the industry that could reduce the impact of utility cuts on the roadway surface. With the advent of Performance Asphalts and Miniature Grinders it is our belief that improvements can be made with minimal cost increases but providing major benefits for the long term.

There are several contractors amongst our members that could provide both technical and practical input if you should desire.

We appreciate your requesting input from our association and will continue to be of assistance should you require it. We remain,

Yours truly,

John DeVries
President

196 BRONSON AVE.,
OTTAWA, ONT.,
K1R 6H4
TEL (613) 236-0488
FAX (613) 238-6124

Trans-Northern Pipelines Inc.

45 VOGELL ROAD, SUITE 310
RICHMOND HILL, ONTARIO L4B 3P6
(905) 770-3353 FAX: (905) 770-8675

2000-08-29

Region of Ottawa-Carleton
735 Industrial Avenue
Ottawa, Ontario
K1G 5J1

Attention: **L. A. Ross, P.Eng.**
Manager Surface Project Branch
Infrastructure Maintenance Division

Dear Mr. Ross:

SUBJECT: **Final Report on Management of Regional Rights-of-Way for Utility, Construction and Maintenance Activities**

We have received and reviewed the subject report prepared by Ainly Group as well as the draft proposal dated August 17, 2000. We would like to inform you that Trans-Northern does not have any comments on these proposals at this time.

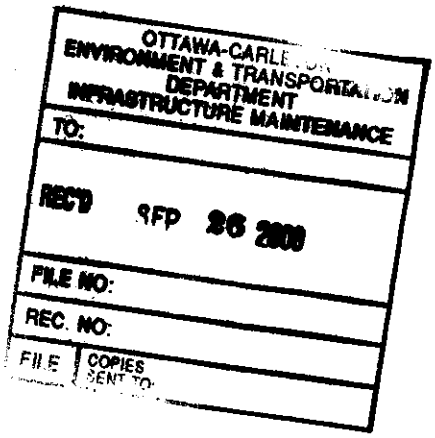
Yours truly,

TRANS-NORTHERN PIPELINES INC.

Berrin Wang

(Ms.) Berrin Wang, P.Eng.
Civil Engineer

Bell Canada
Access Network
469 Coventry Road
Ottawa, Ontario



L.A. Ross, P.Eng.
Manager Surface Projects Branch
Region of Ottawa – Carleton
735 Industrial Avenue
Ottawa, Ontario
K1G 5J1

Dear Mr. Ross,

In addition to my previous letter dated August 31, 2000, I also have these specific concerns regarding the three(3) draft proposals.

1. Better define "Emergency Work" ie: need to include "Essential Services" ie:
   - 911 service (basic phone service)
   - business lifelines (fibre/data lines/business lines)

   My question would be: If telephone/hydro was cut off to City Hall, would that be Emergency work?

2. 3 year moratorium in subsection 8.6 of report BUT appendix 2 refered to in 8.6 says 5years.

3. Better define waiver requests – need exemption for hook ups when city approves new development within 3 years moratorium.

Thank you for the additional time and opportunity to comment.

Yours truly,

E.W.Wood
Regional Mgr.
Access Network
(613) 742-5747

cc. Henry Drenth
Bob Simpson

Region of Ottawa-Carleton
735 Industrial Avenue
Ottawa, ON K1G 5J1
Environment & Transportation Department
Infrastructure Maintenance Division

Tel. (613) 560-6094, Ext. 1114
Fax. (613) 739-9757

Région d'Ottawa-Carleton
735 avenue Industrial
Ottawa (Ontario) K1G 5J1
Service de l'environnement et des transports
Entretien des infrastructures

Tél. (613) 560-6094, Ext. 1114
Télécopieur (613) 739-9757

27 September 2000

File: **50** 67-00-0001

E. W. Wood
Regional Manager
Bell Canada
Access Network
469 Coventry Road
Ottawa, ON K1G 3J4

Dear Sir

Re: Management of Regional Rights-of-Way for Utility, Construction and Maintenance Activities - Consultant Report

With reference to our letter of 22 September on this subject, thank you for your additional comments received via fax yesterday. The Region's Regulatory Code currently defines emergency work as involving public safety or health. Maintenance of 911 service would clearly fall into this category. It is my view that the utility companies, as experts with respect to the nature of the services they provide, are normally in the best position to decide if a situation is an emergency or not. The emergency exemption for moratorium roads is simply intended to reflect the status quo with respect to emergency road cuts.

Thank you for pointing out the discrepancy between Subsection 8.6 and Appendix 2 in the Consultant's report. The Consultant had originally suggested five years for a moratorium period. Some other cities use five years, but this is not realistic in my view. Five years is almost half the average resurfacing life.

The intent of the moratorium is to encourage co-ordination and joint works. The intent is certainly not to prohibit necessary works. The latter would be foolish and unsustainable. The waiver process outlined simply ensures good communication and discourages poor co-ordination and poor planning. Certainly, the approval of new development by the city within the moratorium period would be justification for a waiver if there was no other reasonable alternative. All public agencies are looking for is to have the integrity of their streets respected to the same extent that utilities respect their own infrastructure. Encouraging people to make a greater effort to co-ordinate, participate in joint works or to look at other feasible alternatives is a reasonable approach. We are realistic and know that cuts cannot be eliminated on moratorium streets but experience elsewhere suggests they can be reduced in number.

Thank you again for your comments and please do not hesitate to contact me should you have any questions.

Yours truly

L. A. Ross, P. Eng.
Manager Surface Projects Branch
Infrastructure Maintenance Division

LAR/ms

cc: Mr. H. Drenth, Bell Canada
Mr. B. Simpson

400 Chemin Coventry Road
Ottawa ON K1K 2C7
Canada

R. J. Fox, P.Eng., ing.
Technical Services
Tel 613 748 6723
Fax 613 742 4612
Email rob.fox@cgc.enbridge.com

ENBRIDGE

2000-09-15

Region of Ottawa-Carleton
735 Industrial Avenue
Ottawa, Ontario K1G 5J1

ATTENTION: Mr. Lorne Ross, P.Eng.
Manager Surface Projects
Infrastructure Maintenance Division (Industrial)

Dear Mr. Ross:

RE: Management of Regional Rights-of-Way for Utility, Construction and Maintenance Activities

We have reviewed your letter of August 17, 2000 and the draft proposals contained in the Ainley Group Report.

I commend you and your team for the thorough efforts you made in producing the report. I would also like to thank you for allowing us to participate in the study over the past few years. We were pleased to see that the Region accepted some of our recommendations.

As you are aware there are some issues that remain to be resolved between Enbridge and the Region. These are being dealt with in separate forums. I believe the Region is well aware of our position on the issues in question.

We appreciate the opportunity to comment on the proposal and we will continue to work with the Region to improve the quality of our roadways.

Yours truly,

R. J. Fox, P.Eng., ing.

RJF/rjf