

RIGHT OF WAY^{MAGAZINE}

The Voice of the Right of Way Profession



INDUSTRY ROUNDTABLE

Leveraging the value of the
right of way professional

JULY/AUGUST
2018 **IRWA**

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RIGHT OF WAY

The Voice of the Right of Way Profession

JULY/AUGUST 2018

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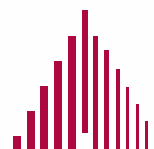
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OPENING THE DOOR TO POSSIBILITIES

Get to know the people behind the purpose



BY JEFFREY JONES, SR/WA

Four years ago, at IRWA's Annual International Education Conference in Hartford, Connecticut, a door opened for me that has led me on a journey I never expected. Since then, I have taken part in the growing of our Association through our purpose and our education. I have felt what a great honor it is to serve our members through the International Executive Committee and now, I have the privilege of serving you as your International President.

It All Begins with Education

My passion for IRWA education started early in my career. After spending 17 years in road design with the Road Commission for Oakland County, the position of Right of Way Supervisor became available and that meant a possibility for change and a



promotion. I was chosen for the position and went to work for Jim Fanzini, P.E., J.D., who showed me that this wasn't just a promotion—it was an opportunity to make a difference. Jim was not only a licensed professional engineer and attorney, he was also an educator to me as he passed on his vast knowledge of the right of way field. A short time later, I was enrolled in my first IRWA course and looking forward to IRWA credentialing.

In the same way that my right of way education has grown and evolved, so too has the IRWA education program. Three years ago, there was a change in the IRWA Professional Development area, which led to the creation of the Credentialing Committee and the Partnership for Infrastructure Professional Education (PIPE). The Credentialing Committee has made it much easier for our Regions, Chapters and members to report continuing education programs. And the PIPE continues to come up with some wonderfully improved courses that center on the student. I was amazed after attending and participating in Course 102: Elevating Your Ethical Awareness. The interactive components of the class made for a truly enjoyable experience. I would also like to call attention to our new two-day Course 100: Principles of Land Acquisition, as well as Course 218: ROW Acquisition for Electrical Transmission Projects. These are just a few of the great courses to take advantage of.

Purpose Drives Our Association

I have personally witnessed how this Association improves the quality of

people's lives through infrastructure development. I have enjoyed visiting our Chapters and Regions and watching as Presidents and Chairs instill that purpose. Along the way, I have heard so many of the empowering stories that our members have to share. Our members throughout the world bring the higher purpose to life with water, roads, power and communication.

For the past year and a half, we have taken a good look at the IRWA overall. We have had meetings which included the insight of members, committees, Chapter Presidents, Region Officers, the Advisory Council and IEC members to come up with models for the IRWA. I ask that all of us—members from all Chapters and all levels of the Association—open our minds and start to think about tomorrow for the IRWA. We have had a nice 84-year run, but that was yesterday. We need to position ourselves for the future. Just like that door that opened for me four years ago in Hartford, we can open a door for the IRWA to take us great places as we journey into our 100-year anniversary.

As Past President Mary Anne Marr, SR/WA, once said, "This coming year is just a small part of something much bigger...our future." Those words have great meaning as we move through the 2018-2019 year. I am committed to serve the IRWA, our members and the growth of the Association. Thank you for the opportunity to serve as International President. I look forward to working with you all to build a better world together. ✪

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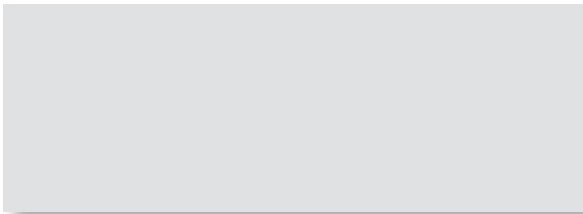







38 years of commitment to the Right of Way Industry and home base to 2017/2018 IRWA President, Jerry Colburn, SR/WA

In This Issue...



In this issue, we launch a new periodic feature called the Industry Roundtable. Industry roundtables are made up of IRWA members and friends who gather to discuss a key topic—in this case, leveraging the value of the right of way professional in today's fast-paced design-build world.



Infrastructure development is no longer a siloed industry and requires a collaborative team that can anticipate, calculate and mitigate problems before they bog down a project, drive up the cost and draw out the delivery timeline. We have gathered four experts whom we believe have something to say about the role of today's right of way professional, who does so much more than just acquire property and relocate households and businesses. They improve the quality of people's lives.

Brian Everett, Brad Kuhn, Richard Huang and Anne Mayer have been around the proverbial block a few times and have seen a thing or two. I think you will agree that IRWA's body of knowledge and body of experience is unique to the infrastructure development community.

Check out our cover story, found on page 23. Got an idea and some key contacts for our next Industry Roundtable? Contact me at riECK@irwaonline.org. We need to illuminate relevant topics and continue to raise the profile of IRWA, as well as the solutions our thought leaders offer.

Onward.

A handwritten signature in black ink that reads "Mark Rieck".

MARK RIECK
IRWA CHIEF EXECUTIVE OFFICER

THE INSTRUCTOR SPOTLIGHT SERIES

Get to know the people behind the purpose

BY DEIDRE ALVES, M.ED.

Our powerful IRWA purpose, “We improve the quality of people’s lives through infrastructure development,” is brought to life by our IRWA CLIMB Certified Instructor Team who teaches our infrastructure students with gusto and brilliance. Over the next few months, I will be bringing you The Instructor Spotlight Series, which will highlight some of the instructors on the team and enable them to share their thoughts on teaching for this impactful industry and what it means to be an infrastructure educator. We are very lucky to have this high-caliber team to serve the educational needs of our current and future students. Let’s meet our next instructor in the series, Fred Easton, SR/WA.

FRED EASTON, SR/WA

What is the most rewarding part of instructing for the IRWA?

I love the opportunity to serve the IRWA! The most rewarding moments are those times when I get a sense that the audience not only understands the material, but has figured out how to apply it in their own lives and careers. When I know I’ve made a difference in people’s lives like that, it offsets the four-hour flight delays, the lumpy hotel mattress and the



time away from my family. I live for the benefit of sharing knowledge and information.

I've also had those experiences when a class is filled with one or two "had to" students—the ones that were forced to sign up by their manager. Converting these students to learners of the content who can benefit from the information and changing their mindset to that of a lifelong learner really makes me smile.

I appreciate the interaction of helping people understand what we do. I recently had a project manager at the start of class who wanted to know why his right of way staff is "holding up all of our projects." At the end, he learned that "land acquisition is far more complex than [he] thought." The benefit of that project manager gaining an understanding of all that is involved in our work is so very rewarding to me!

IRWA's purpose is to improve the quality of life through infrastructure development. As an instructor, how do you contribute to the fulfillment of this purpose?

I contribute to our purpose by improving the knowledge and capabilities of our members and learners. An infrastructure professional who better understands the process, documents and other disciplines involved will help build higher quality infrastructure faster and without losing the public's trust. I like to tie-in a touch of ethics into every class I teach—a bit more than a touch for Course 100! I believe trust, or lack thereof, in our profession is one of the biggest issues a right of way professional may encounter. We are still paying for the unethical practices of our predecessors every time we first introduce ourselves to land owners. Increasing our awareness and adherence to ethical standards will pay huge dividends over time and cut the cost and time of the land acquisition process, making it easier for us to improve people's lives.

What is the most important thing you would like your future students to know upon entering your class?

Participate! It's the only way to gain the most benefit from my class—and most classes. While I've got some great stories and I love to share them, I do a lot of exercises and activities. Often, the activity is focused on getting the participants to share their ideas and experiences. When you do this, the entire class benefits! Also, if you do participate, the exam is a cake-walk. There are always those students so worried about the exam that they miss learning about the best content. Just relax, don't worry about it, participate and have fun. If you concentrate on the content being demonstrated, your understanding of that content will be such that you'll easily handle the exam.

A special thank you to Fred for being a part of our Instructor Spotlight Series. For more information on our CLIMB Certified Instructor Team or to book one of our CLIMB Certified Instructors with your Chapter today, please visit www.irwaonline.org/members/irwa-course-instructors and click "Find an Instructor" or contact education@irwaonline.org. ☘



Deidre Alves is IRWA's Chief Learning Officer.

IN GOOD HANDS

The YPG Region Chair reflects on a remarkable year

BY CARMELITA DELGADO, R/W-NAC, RWA

The Young Professionals Group (YPG) has been such a big part of my life and has meant so much to me. Each Young Professional has played a key role in this group and has influenced the YPG in one way or another. Our experience and moments within the YPG are what we will all reflect on as we continue to grow upward.

I recently asked the YPG why they want to be part of this group and why they want to be part of the IRWA. Several of them spoke up and passionately expressed how YPG is a “yes” group in which all their ideas can be heard. And most importantly, we all work together to make those ideas become reality.

This conversation helped me truly understand why we all continue to be part of this group, enduring trials and errors together. The YPG continues to have so much influence on the Young Professionals in the IRWA and being the YPG Region Chair has been such an honor. Together, we have experienced many challenges and accomplishments, which has brought us to where we are today. As Teddy Roosevelt once said, “Nothing in this world is worth having or worth doing unless it means effort, pain, difficulty.”

I could not be prouder of all the YPG Region Representatives and all the Young Professionals that have played an active role in these accomplishments.

This includes a continual YP voice in the Right of Way Magazine, the Mentor/Mentee Match Program, New Region YP Representation, as well as our YPG Webinar Training, YPG Scholarships and our new website.

As I move on in my career, I know that the YPG is left in great hands with Nikkiy Bestgen as the incoming Chair, Matthew Eckmann as the incoming Vice Chair and Derrick Roma as the incoming Secretary. I am extremely proud and thankful to all the Young Professionals who continue to make this group possible, and I would like to personally thank all the sponsors and mentors that support this group year after year. 🌟

Carmelita, I know I speak for the entire group when I say thank for everything you have done, everything you have been through and everything you continue to do. Your ability to inspire, your unwavering dedication and your energy for change will leave giant shoes to fill. You will be missed but not forgotten—because we are still going to expect you to stay involved! Good luck in your next steps and we will do our very best to continue your efforts. Thank you!

-Nikkiy Bestgen
Incoming YPG Chair



Carmelita and Young Professionals at the YPG exhibit booth during IRWA's 2017 Annual Education Conference.



The YPG during the 2017 Leadership Reception.



MEASURE TWICE, CUT ONCE

Workplace accountability builds resilient teams

BY CAROL L. BROOKS, SR/WA

The carpentry proverb, “Measure twice, cut once,” encourages a double-check on measurements for accuracy before cutting a piece of wood; otherwise it may be necessary to cut again, wasting time and material. This same proverb applies to workplace accountability where each member of the team makes a concerted effort to ensure their deliverables are accurate and on time—all the time. But how many times have you been disappointed because someone who you had relied upon didn’t come through? They didn’t keep their commitment or they didn’t deliver and thus, you couldn’t deliver. And if you did, you nearly turned yourself inside out to complete your assignment.



Putting your best foot forward is a serious matter, especially for team members who not only rely on your service or product, but can't start their assignment until you have completed yours. Taking a bit more time to "measure twice, cut once" is representative of who you are, your values and what you bring to the team. Here are a few tips to heighten the accountability barometer on your deliverables.

Accountability and Trust

Trust and accountability are closely connected and inseparable. If you keep your promises, admit to your mistakes and take responsibility, both trust and accountability increase. Not every promise can be kept, nor every commitment met, but the willingness to confront reality and make adjustments can create a mutually accountable relationship between you and your team.

Involvement

To be accountable, a team has to agree to what is being asked of them. If a target is imposed without their collective consent and buy-in, it will be a challenge to maintain team accountability.

But what about targets imposed on us from corporate, which we don't have a say in or a chance to argue about? The reality is that sometimes our consent is implied because we are an employee of an organization. This is in the same way that you must follow the laws of the country in which you live or visit without signing a document saying you agree to do so.

In these situations where targets are imposed and not negotiated, the key is to explain the why—the importance of what is being asked and give the team freedom to figure out how to best meet their goal.

Stimulated through Leadership

Team leads should "inspect what they expect" by consistently checking on team results to see if expectations are being met.

Reinforce and acknowledge the good and also comment, question and correct the bad. Clarify the expectations again if situations change or if there is apparent confusion. Focus on individual accountability to ensure everyone understands their function and their deliverables. Remember, when we are all accountable, nobody owns the task. This is why it's important to be specific. What you don't want is a situation where team members say, "I thought (someone else) was doing it!" To improve accountability, choose one person. "Bob, you are accountable for making sure the letters go out on time." This tells Bob that he is the one in charge of this task. When things go wrong, Bob knows he needs to fix it. Bob knows if he doesn't do it, nobody else is going to.

Task Ownership

Accountability gives people a greater sense of ownership over their work. When someone feels greater responsibility, they often feel personal pride, making them care more about the quality of their work. This level of commitment becomes

evident through improved motivation, enthusiasm and greater dedication to the team.

Accountability in Your Job

Think about what triggers accountability in your job performance. For me, it's that whisper of my inner voice that calls my attention to a short cut that I'm contemplating. It warns me that measuring only once can mean additional work when having to cut twice and that the best performance is the right performance.

You may be thinking that it takes time to measure twice, but the time saved and a chance to reduce your stress is worth the few minutes it takes to guarantee you are consistently putting your best foot forward. Without accountability, people won't take ownership and make sure their work is done right. Let's put our best foot forward and rally to the mantra, "measure twice, cut once" to promote team accountability and to escalate our performance to a higher level of excellence and job satisfaction. ✪



Carol Brooks, SR/WA, is owner of Cornerstone Management Skills and a well-renown author and lecturer. With 20 years experience in right of way, she is an IRWA CLIMB Certified Lead Instructor and served four years as Vice-Chair of the Partnership for Infrastructure Professional Education. © 2018 Carol Brooks. Visit www.CornerstoneManagementSkills.com.

Off to the Races!

2018 Region 5 Spring Forum



Chapter 25 Kentucky hosted an unforgettable Region 5 Spring Forum.

BY WAYNE H. KIMBEL

Fancy hats, fancier outfits, jockey silks and silkier bourbon. Combine this with quality meetings and you get an unforgettable 2018 Region 5 Spring Forum. Chapter 25 Kentucky, the host of this Forum, wanted the event to be memorable, fun, unique and contain plenty of time to address critical business. This Region Forum certainly met all of those goals.

Opportune Timing

Held on April 27th to April 28th, the Region Forum overlapped with the opening day of Churchill Downs, home of the Kentucky Derby. The Downs kicked off its spring racing meet with a Downs After Dark event on April 28th and what could be better timing for a Region 5 Forum? Chapter 25 reserved a special room in the Jockey Club area of the Downs, which provided a comfortable setting with strategic access to the betting window and the mezzanine viewing area near the finish line. The venue was located directly above a gala fundraising event held for a local arts organization spearheaded by Louisville native, Jennifer Lawrence. The movers and shakers were certainly there that night.

There were 90 registrants for this event, which was the highest attendance ever witnessed by a Chapter 25 sponsored Forum. Members and guests came from many miles away to experience the event (and perhaps some to escape the cold). We were very pleased to welcome some of Headquarters staff, specifically IRWA's CEO, Mark Rieck and Manager of Field Operations, Tim Drennan. We also welcomed Jeff Jones, SR/WA, IRWA's



IRWA's CEO Mark Rieck, President-Elect Jeff Jones, SR/WA, and Manager of Field Operations Tim Drennan.



These ladies embraced the "Southern Belle" tradition of Kentucky Derby hats.



Greg Mathias, SR/WA, Karen Alexander, John Alexander, SR/WA, Becky Merkley, SR/WA, and Bill Merkley.



Region 5's Forty for Forty Scholarship Recipients.

President-Elect and Pat Petitto, SR/WA, past International President. They not only provided their valuable input on business topics, but also joined in the fun and fellowship. We thank them for their presence and leadership at the Region Forum.

At Friday evening's hospitality and free bowling event, attendees got to loosen up and share a relaxing time with fellow professionals. Old friends and associates reunited, while new friendships launched as well. We were impressed with the skills and savvy of many members, especially Jeff Jones and Pat Petitto.

A Grand Memorial

James Donald Brent, SR/WA, a beloved member of IRWA, passed away in late 2017 to the dismay of many that had associated with him, especially members of Chapter 25. His warmth and generosity always gave good feelings to all.

In honor of Don and his 50+ years of involvement with IRWA, Chapter 25 sponsored the last race of that night's card and named it the James Donald Brent Memorial. The race ended in a dead heat, which was just the way Don would have liked it. We were happy that Mark Rieck and Jeff Jones could join others in the Winner's Circle after the race, as Don would certainly have liked that too.

A Group Effort

As all volunteers for Chapter events know, hosting a Region Forum doesn't just happen by hoping for the best. A core committee of dedicated folks generously gave their time and talent to ensure that all the details were secure and that the needs and interests of attendees were given proper attention. A big thank you to everyone involved, as well as the significant others that supported them in the process.

For me, this Forum brought together all the elements for a successful event. Fellowship, learning, service and enjoyment were all part of the Forum. As a Louisville local, it was great to see members enjoying the weekend. I hope that everyone in attendance felt that their time was well-spent and left with fond memories of their visit. ★



Wayne is the International Director for IRWA's Chapter 25. He has worked with the Louisville Water Company for 19 years as a Property Specialist, handling all real property dispositions including easement and fee simple acquisitions, as well as planning assistance for projects.



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SUCCESSFUL PROJECT IMPLEMENTATION

Expanding the Operating Space of the Right of Way Professional



BY KEVIN PREISTER

Although right of way agents are professionals adhering to ethical standards and committed to industry procedures, land agents often have limited *operating space* necessary to be successful. Operating space (OS) refers to the level of discretion, authority and resources available to a professional change agent to accomplish his or her objectives. If the OS is large, many opportunities are available to accomplish change. If the OS is small, there are few options available to move objectives forward, and even a very good professional with incredible abilities and passion can be partially and even totally handcuffed.

When considering recent, large-scale social changes—such as the program to eliminate cigarette smoking—the public advocates created OS that was quite large. Thanks to lots of hard work done for many years, a foundation was created for significant social strides when the OS became available. Cigarette manufactures tried to narrow the OS to preserve their market, but the anti-smoking forces expanded the OS by ensuring that 1) the policy pieces were in place, 2) the various educational outlets could target the populations to be impacted with relevant information in a variety of formats and 3) there were programs that provided face-to-face contact at the local level.

Or take the case of the Pacific Northwest where fire ecology has gained widespread acceptance. The scientific validity of using fire as a management tool has become well-established to deal with significant changes in fire-adapted ecosystems. However, when fire ecology was first emerging in the 1970s and 1980s, the dominant paradigm was still focused on *Smokey the Bear*, who encouraged putting all fires out. At that point in time, people pushing for fire ecology had little OS and individuals had to take on personal risks to eventually open up the OS, create wider change and push for the acceptance of fire ecology.

Conditions in the Right of Way Industry

OS in the context of the right of way/infrastructure industry is the level of discretion available to the right of way agent to optimize decision-making opportunities in fostering successful project outcomes.

The following are the current conditions reported by right of way professionals during **Course 225 Social Ecology: Listening to Community**, which is currently being conducted with various IRWA Chapters:

- A. Right of way agents are skilled in building trusting relationships with landowners. However, the growing level of controversy with right of way and infrastructure projects requires them to undertake a broader community reading of the interests and issues of citizens beyond landowners in order to improve implementation and to prevent opposition movements. They need more and varied OS in order to be successful.

“Operating space creates two elements that are essential to project health: flexibility and maneuverability.”

- B. With the downward pressure on contract costs, right of way companies rarely include community engagement as a separate line item in their project bids, fearing such costs would affect their competitiveness. However, without OS granted by the owner companies, the agents can't complete the necessary community engagement in order to be successful.
- C. Right of way agents often learn of opportunities to improve project design and implementation through citizens, but they are not routinely included in the design phase of a project where such knowledge can be most effective.
- D. Internal company processes for timely response to citizen issues—either on the part of the project owner or its client companies—are often not in place, leading to escalation of issues and disruption. This can be avoided if individuals locally connected in the communities, such as right of way agents, are given the operating space with which to proceed.

For better or worse, some recent pipeline projects have created a watershed moment in the

infrastructure industry, which will be difficult to reverse without direct action to create OS at the ground level. Three changed dynamics have shifted into place:

- First, citizen issues stimulated by these projects were nationalized and communicated widely, creating resistance activities nation-wide and making local solutions more difficult if not impossible.
- Second, the timeline for preventing disruption from citizens once a project is announced is shrinking rapidly. Previously, projects took four to five years to become disruptive. Recently, we've seen projects become disruptive in just months.
- Third, national opposition groups against nearly all linear infrastructure projects will remain in existence for some years.

Therefore, it is essential to create management systems that provide OS, which can return project action to the local arena where citizens of impact and right of way professionals can take control and make collaborative decisions about the project.

Minimizing the Risks

While *decision space* is an internal, corporate function of integrating legal, technological, fiscal, physical, political and social/cultural factors in project design, *operating space* is an external function. It relates to successful community engagement and represents the essential elements for project success. The more OS that is available, the more opportunities are developed for the project to succeed.

If the agent has no “wiggle room” (the time frame is too short, the budget is lacking, project communication is inadequate or citizen issues become disruptive), the social risk to project success moves to a high threat. OS creates two elements that are essential to project health: flexibility and maneuverability. Without those two social ecology elements, the right of way agent is locked into a very narrow OS mandated by the administrative procedures of the company or the project, rather than being able to function and adjust to the communities of impact.

Entering the natural routines of a community and understanding citizen interests and issues early in the process provides maneuverability for the right of way professional. Such a discovery process in the

community expands OS because it provides more understanding and subsequent opportunities for responsive management approaches. If the client company of the right of way agent has flexibility in the design and implementation of a project, the stage is set for minimizing impacts and optimizing community benefits. As that occurs, the more extreme voices lose social standing and a “social license to operate” is created.

Creating Operating Space

The necessary elements for creating OS are as follows:

- The right of way agent has a framework for effective community engagement. They know what to do. Land agents know how to operate in a culturally-appropriate way within a community setting. They understand how communication occurs, as well as the citizen interests and issues affecting the project and they are able to build trusting relationships. IRWA Course 225 provides such a framework.
- The institutional supports are in place. This includes support up and down the management chain, job descriptions and employee evaluation criteria that include communication and community engagement skills, as well as timelines and guidelines that are community-appropriate. If there is no flexibility in project design, the timeline is too short or if there is a decision maker that is strongly opposed to this management approach, then the right of way agent will be on their own to generate success and preserve goodwill—an almost impossible task. With the ability to adapt and explore within the community

context, the opportunity for finding or developing wins increases dramatically.

James Kent Associates recently held a two-day training program for a major utility company. The first day was devoted to community discovery and the second day to internal company procedures needed for citizen issue management. The company recognized that timeliness and coordination of response to citizen issues were important and that with attention to those factors, all employees could be the eyes and the ears of the company. By making these small changes, the utility’s OS expanded, significantly building community goodwill.

- The social supports are in place. The right of way agent can create social support using Social Ecology concepts such as informal networking, relating through gathering places, seeking out network caretakers who are well-regarded by others and engaging at the face-to-face level. Working with informal networks (the governing structure of non-formally organized citizens) opens up OS because networks are more interest-based while groups and organizations are mostly position-based. As citizen issues are resolved, citizen allies are created who can then buffer the project against more extreme voices.

Right of way agents in the current environment often create their own OS so as to have the flexibility and maneuverability to improve their success with community engagement, which in turn

contributes to delivering the project on time and within budget. These change agents are the early adaptors to the new reality of understanding that the business of business is now society and its health and well-being.

Changing the World

Famous anthropologist Margaret Mead once said, “Never doubt that a small group of thoughtful, committed citizens can change the world; indeed, it’s the only thing that ever has.”

Right of way agents are in a unique position to indeed change the world. They are the bridge between communities and infrastructure projects and they need more OS to be successful. Currently, they appear to be lone individuals or small groups within companies committed to community engagement as a professional obligation. It seems that a natural next step in their efforts would be to form an open informal network among themselves to share and support each other to be productive in this new world of citizen empowerment. ☼



Kevin Preister, Ph.D., is Executive Director of the Center for Social Ecology and Public Policy. He is Co-developer and JKA Director for IRWA Course 225, Social Ecology: Listening to Community. Visit www.csepp.us or email kpreister@jkagroup.com.

Why is the public resistance to eminent domain takings so strong when property owners are compensated at market value for their properties? The answer lies partly in the endowment effect.

The endowment effect is the term used to describe the tendency of people to assign greater value to what they own than they would the same item that they don't own. The effect was first observed in the 1960's by psychologists, but the term itself was coined by the economist Richard Thaler in 1980 and has been observed in people valuing everything from real estate to chocolate bars.

Assigning high value to one's own property is not unique to one culture or time period. Supreme Court Justice Oliver Wendell Holmes wrote, "It is the nature of man's mind. A thing which you have enjoyed and used as your own for a long time, whether property or an opinion, takes root in your being and cannot be torn away without your resenting the act and trying to defend yourself, however you came by it." Taking a property from an unwilling seller, even with compensation, exacts an emotional toll. Unsurprisingly, the effect is more pronounced the longer a property has been in the owner's possession and the more "endowed" the property is with the owner's labor (such as the work that has been performed on the site, the type of improvements and the history is tied up with the property). We naturally sympathize more with the farmer whose land has been in his family over decades than with a recent buyer of vacant land along a new highway.

A Disconnect

Eminent domain is not well understood by ordinary citizens. Many are unaware that the government has this power at all. It is no wonder then that the outcry is so pronounced in situations such as the *Kelo v. City of New London* case, wherein a public development council exercised eminent domain power to acquire residential property in order to redevelop the area with a corporate headquarters and other commercial



THE ENDOWMENT EFFECT

BY MICHELE WOOD

How to approach eminent domain valuations



uses. Add to this the patchy history of minority communities' property rights and forced removals at the hands of economic progress, and we get fertile ground for resentment, anger and conflict.

Another explanation for the disconnect between governmental bodies with eminent domain power and the citizenry is the way in which the two groups view the legal concepts of ownership. Most citizens think of property as a "discrete asset," that is, as a single thing over which one can exercise dominion. In contrast, the law treats property in terms of the "bundle of sticks" paradigm, which looks at property not as a single thing, but as a collection of rights associated with the thing. In real estate, this collection or "bundle" of rights may include the right to occupy, the right to exclude others, the right to lease, etc. In psychology, the phenomenon of seeing one issue in two distinct ways is called framing. One group is seeing the issue through the discrete asset frame, the other through the bundle of rights frame, yet neither group understands that their frames are not the same. This becomes fertile ground for conflict.

Why Should Condemning Authorities Care?

When conflicts appear in communities, the community suffers. Conflicts arising from eminent domain situations are no exception. When the taking or the compensation is contested, the ensuing legal battles are expensive to the condemning authority and the taxpayers, which includes the property owner bringing the lawsuit. The delays in construction cause further harm through disruption and uncertainty, often causing very real and significant economic loss. Ultimately, public officials (including planners) are held accountable by their superiors and at the ballot box. What can be done to ensure a minimum of conflict?

First, condemning authorities should recognize that the public reactions to the idea of eminent domain are often not based on unemotional, rational responses to market value compensation. The endowment effect demonstrates that people perceive their own possessions with more value than the "market" does and therefore, they do not feel adequately compensated by market value when they are not willing sellers. In fact, the IRS definition of fair market value is "the price that property would sell for on the open market. It is the price that would be agreed on between a willing buyer and a willing seller, with neither being required to act, and both having reasonable knowledge of the relevant facts." If there is no willing seller, it is reasonable that the condemnee would feel undercompensated.

Second, the condemning authorities should take care to handle the eminent domain process with these sensitivities in mind. The framing of property rights as discrete assets should be understood as authorities approach property owners and engage in negotiations for the properties. For example, it should not be assumed that the power of eminent domain is well understood by the property owner and that they likely have been thinking of their property as the actual dirt and improvements, not as a collection of legal rights to that dirt.

The language used by the condemning authority when approaching an owner and negotiating can have a big impact on the outcome. Specifically, care should be taken to emphasize gain over loss. Examples of phrasing might include the gain of monetary compensation, the potential gain of improved transportation in the area, the gain of economic success in the community and the gain of infrastructure to serve the affected home or business. These are all ways in which to reframe the idea of "taking" into a frame of "building" and bridge the gap between the property owner and the condemnor. Lastly, the condemning authority, in conjunction with the municipality,

may want to consider elements of symbolic compensation in addition to monetary compensation. The emotional loss of property could potentially be mitigated by the addition of a sign or plaque in public areas, the planting of a tree with a plaque naming the former owner of the site, or other ways to memorialize former ownership. This echoes our tradition of honoring charitable gifts to the community by publicly recognizing the benefactor by name. Again, this helps reframe a "taking" to a contribution to the community.

In Summary

The endowment effect tells us that how we value the property of someone else is not the same as how we value our own property. This presents challenges for a framework that assumes a buyer and seller use the same method to determine a price. While eminent domain procedures and compensation cannot be tailored to the subjective experience of each property owner, certain aspects of the psychology of ownership can be used to help smooth the process and better pave the way for more harmonious communities with great infrastructure projects. ★



Michele Wood, MA, is a Director of Business Development for the Right of Way and Litigation Services practice groups with Valbridge Property Advisors | Houston. She also heads up research and special projects for the firm. She has worked in valuation for 15 years, including right of way assignments in multiple states.

IRWA Presents

THE INDUSTRY ROUNDTABLE

Leveraging the value of the right of way professional

For years, the right of way component of infrastructure projects was often overlooked and left for the final hour. However, we at the IRWA know the true significance of this role. As we examined in our November/December 2017 cover story, "Securing a Seat at the Table," the overwhelming benefits of consulting right of way professionals in the initial planning phase of a project prove just how much attention should be given to the right of way team. And we're not the only ones who have recognized this. In recent years, we've seen a shift in the delivery of infrastructure projects—most notably the design-build method—and we've also witnessed the startling ways in which these alternative methods affect our industry.

We've gathered four experts in the field to give their insight into these recent changes, and to share their thoughts on how we can leverage this change as an opportunity to redefine the role of the right of way professional.



Chair of Nossaman's Eminent Domain and Valuation Practice Group, **Brad Kuhn** is a recognized leader in advising on all real property aspects of infrastructure and development projects. Brad has led some of the largest infrastructure projects in the nation and currently serves as IRWA's General Counsel, where he has also served as President of the Inland Empire Chapter.

Since 1986, **Brian Everett** has been involved in virtually every aspect of real estate consulting and right of way program management. For the past four years, he has served as the President and CEO of OPC LLC, one of the largest agency-focused, right of way consulting firms in the nation. His background in program and project management has helped pave the way for this pinnacle position in his career.

As the Executive Director of the Riverside County Transportation Commission (RCTC), **Anne Mayer** leads a staff of 49 with an annual budget of \$881 million. Anne spearheaded the initiation of inland Southern California's first innovative finance and innovative project delivery efforts, which are coming to fruition on State Route 91 and Interstate 15.

Richard Huang is the Principal Project Manager for Parsons Corporation, and he is currently the Deputy Program Manager and Engineering Manager working on California's 405 freeway delivery. He has 22 years of extensive engineering experience with an emphasis on large, complex Alternative Delivery Programs across the U.S.

Q: How has the delivery of infrastructure projects changed over the last several years and how has that impacted the role of right of way professionals?

Brad: In the past, almost all infrastructure projects were developed and constructed through the traditional design-bid-build process. Right of way acquisition was not traditionally viewed as a critical path item, and it was much easier to secure possession of needed properties in an expedited manner. As a result, right of way acquisition activities were not given significant attention until very late in the process. Well, over the last several years, project delivery methods have changed. Project funding has routinely become contingent upon construction start-dates or project operations dates. Although these new delivery methods (such as design-build) have expedited the project timeline, it has wreaked havoc on the right of way acquisition process. By significantly narrowing the duration between project design and property delivery, right of way acquisition activities have become a critical path item with little to no leeway for delays without jeopardizing project funding. Exacerbating the problem, many states have made it more difficult and lengthy to acquire property rights or deliver possession.

Richard: And adding on to that, with the alternative delivery methods such as design-build or even P3s (where cost and schedule certainty prevails), right of way is often delivered just in time of the construction need, increasing the risk to successfully deliver the right of way needed for these capital improvement projects.

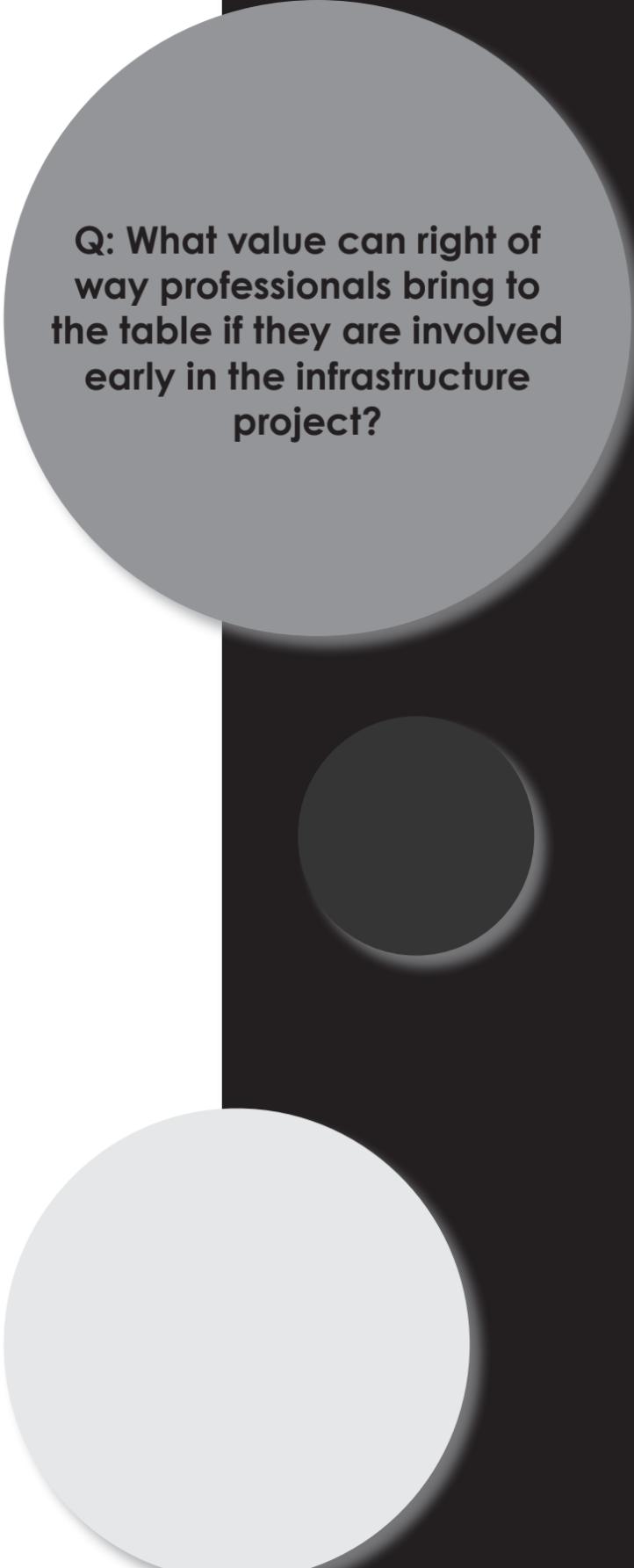
Brian: I definitely agree about the added pressure on the right of way acquisition process. Since construction is dependent upon right of way, the schedule is driven by successfully securing and clearing the required property. Failure to do so can result in construction delays and potentially to liquidated damages. Accordingly, OPC recognized the necessity and sensitivity to the schedule and started incorporating this element in a more detailed manner 10 years ago with the 91 CIP project. Today, the needs from our partner agencies is more “turn-key” control under a single roof resulting. For OPC, this resulted in certain vertical integration, such as title abstracting, plan review for right of way impacts, right of way engineering and appraisal working simultaneously under one right of way program manager in-house to help reduce timelines and assure successful delivery.

Anne: It certainly is challenging, but I would say the change to a design-build project delivery environment has given right of way professionals what they’ve always asked for throughout the years—early inclusion in the design process. As mentioned, design-build must include right of way in the early stages of a project to ensure proper timing and delivery provided in the project schedule. Just as the delivery of design and construction has offered greater flexibility, it has proved true for right of way delivery as well. For example, in a design-build project, right of way can be delivered in groups, allowing construction to proceed sooner in priority areas that are critical to a contractor, especially for long-duration project features, such as long bridge structures and retaining walls.

Richard: As popularity increases on these alternative delivery methods, the importance of the right of way professional increases with it, not only with agency support but as an advisor to the developer, joint-venture partners as well.

Brian: It’s a far cry from the days when we were simply brought in after design was complete and we bought property and moved households and businesses. We now have an opportunity to assist in assessing critical path parcels and other project-related risks associated with the numerous right of way functions and schedule impacts.





Q: What value can right of way professionals bring to the table if they are involved early in the infrastructure project?

Richard: The value of involving right of way professionals early in infrastructure projects is the reduction of risks associated with delivery of the right of way. The right of way schedule can be further developed to provide better accuracy to the overall program schedule, and the right of way professional can also identify critical items early so mitigation measures can be developed.

Anne: In addition to that, early involvement ensures right of way professionals a place at the table and important status as part of the project delivery team. Knowing they have a handle on the right of way delivery and are able to provide status updates on their efforts gives those on the project team relief in knowing all of the moving parts in a highly complex project are working cohesively.

Brad: I'd say some of my most successful projects have involved the entire right of way group from the inception of a project. We have been able to come up with realistic budgets and schedules, minimize significant damages claims and reduce chances for project delays and change orders by fully vetting potential risks and focusing on the most critical property impacts. While there may be some additional up-front costs associated with this approach, the long-term savings are substantially outweighed since one small delay or change order could jeopardize a project schedule or budget to the point of preventing a project from being built.

Brian: I coined a phrase for a CLE presentation 10 years ago and it holds more value in today's design-build environment than it did back then. "Mitigate before you litigate." The value can be tremendous when the right of way program manager and the team are brought in early. Specifically, in the areas previously mentioned, such as identifying challenges to schedule, challenging ownership and title clearance issues.

Anne: And involving the right of way professional means utilizing them in all phases of the project. In the environmental and preliminary design stage, right of way professionals can identify specific property uses that might require additional time. They can also provide input on acquisition of mitigation land and inform the team about financial impacts of certain acquisitions, such as severance damages or loss of goodwill that need to be accounted for in the project budget. Getting involved during the design phase and staying involved during construction is key to seamless delivery.

Brian: They can even assist by being the public interface of a project. Early involvement allows for consistent public information and messaging. Nothing is more damaging or time consuming than inconsistency in information. While not necessarily a quantifiable aspect, success should include "staying out of the papers" and complete transparency and consistency. Having the entire team involved early can play a tremendous role in saving time, resources and money.



Q: What efforts can those in the right of way industry play outside of the traditional roles when working cohesively as a team?

Brad: Appraisers, attorneys, right of way consultants, relocation experts, public agencies and engineers can work as a team to identify potential risks and come up with the best potential solutions for the overall project.

Brian: I believe it is incumbent on right of way professionals to share the successes and challenges experienced through our project work. A strong, experienced team with a complete understanding of our project mission, roles and messaging will result in success. We in the industry must continue and update our methods through on-going educational updates and heavy involvement, such as that which is available with the IRWA. The team needs to have a full understanding of the changes in funding sources, impacts and auditing oversight agencies. When the right of way professionals bring this comprehensive understanding to the discussion, that message is shared consistently with the community impacted by our projects. We are the “human element” and the day to day face.

Richard: And by having a more complete understanding, the value of right of way professionals supporting infrastructure projects are ever increasing from their traditional roles. Right of way delivery strategies are evolving to meet the needs of the projects. More and more right of way professionals will venture into new roles outside the norm, especially with alternative delivery methods.

Brad: It all goes back to teamwork and the necessity to include the right of way professional in that team. Working independently, many issues can be missed or not thoroughly vetted. For example, we recently worked on a project where the engineer decided over 20 temporary construction easements (TCE) were necessary to construct a project and the agency was moving forward to acquire those rights. When the right of way acquisition group met with the engineers as a cohesive team, it was determined that the TCEs were not necessary, but they would result in \$100,000 in construction cost savings. Those savings were vetted out compared to the acquisition costs, which would have likely been in the millions of dollars due to potential damages claims. The group decided that as a whole, the project was much better off avoiding the TCEs. That way, they would pay an additional \$100,000 in construction costs, but save millions on the acquisitions. The entire right of way acquisition team was needed to help reach that determination and it was one that would have likely been missed in the past.

Anne: Additionally, right of way professionals play an important community relations role as well. A great deal of communication and information is exchanged during the various levels of the right of way process and productive relationships with property owners and businesses impacted by a project are crucial to a project's success. Right of way professionals are there to answer questions or provide property owners appropriate direction as it may relate to their individual parcel or a project concern. They also can relay critical issues from a property owner to the project team, which can be addressed by design engineers and community relations personnel. Relocations are often very stressful especially for those whose primary residence is impacted by a project. Right of way professionals must bring their softer skillsets to those transactions to minimize the stress and anxiety that comes with a move. The 91 Project required the relocation of 55 senior citizen residences in a mobile home park. The right of way team developed an implementation plan identifying key social services partners, best practices for outreach and goals for ensuring the transitions were conducted with compassion and empathy. While we succeeded in getting the process completed on time, our most important accomplishment was the respect we demonstrated in working with elderly and disabled residents and their families.

Richard: I would say the biggest opportunities for agencies to improve right of way delivery come from streamlining state and federal policies, identifying and remedying internal delivery deficiencies, offering incentives to entice owners to accept offers, using alternative delivery approaches to shift sensible right of way risks and of course, starting the right of way acquisition process as early as possible.

Brad: I agree—beginning early definitely increases your chance for success. A well-thought out acquisition plan, schedule and budget, as well as an early focus on mitigation options can substantially reduce project delays, cost overruns, change orders and contractor delay claims. Involving the right of way team early in the process and working cohesively with the engineering team, design team and the construction team can lead to a much smoother project delivery. Agencies like certainty, and there is a lot that can be done to improve that certainty by reducing risks.

Anne: The same goes for strategizing parcel acquisition early in the project development phase. Perform research on the properties required for a project and prepare a plan for the acquisitions. Always think about streamlining approval processes, information sharing and staying transparent, creating trust with stakeholders, agency management, property owners and the public. Internally agencies need to minimize the amount of paperwork or the need for physical files by embracing an electronic system to store project files available to all. A parcel file, for example, contains so much information about a specific parcel, but are oftentimes excessive and “super-sized.” The agency is required to keep the files for quite some time (even after the project is complete), which can be cumbersome and lead to the storage of files away from the public agency office. Additionally, electronic filing systems provide an improved method of information retrieval by anyone on the project team.

Brian: I certainly agree with everyone that early involvement with the right of way team is the greatest of the opportunities for improvement. Too often we are brought in at the 11th hour and the irony is that it’s not uncommon to hear “it’s held up by right of way.” That’s typically an unfair assertion given that we may have been brought to the dance very late in the program. Some agencies remain resistant to fully accept the value that the right of way team can bring to the projects’ success. Furthermore, recognizing right of way as “the human element” or wild card of project delivery will go a long way for agencies as the demand for more expeditious delivery of infrastructure increases.

Q: What are some of the biggest opportunities for agencies to improve right of way delivery?



Q: What are the biggest obstacles to ensuring right of way professionals participate in early project delivery and what recommendations do you have to overcome those obstacles?

Brad: Infrastructure is still a rapidly evolving industry, and delivery options are constantly changing and modernizing. Yet many public agencies are comfortable with what they know and may be reluctant to stray away from tried and true methods of project delivery, particularly on the right of way acquisition side.

Brian: Yes, they definitely can be reluctant. That's why we need to break down the barriers of existing norms in long-standing agencies unaccustomed to the rapid changes emerging in infrastructure demands. Time is of the essence and our industry is trapped in a "that's the way it's always been done" mentality. We have a responsibility to educate our agency partners with examples of successful alternatives.

Richard: As with typical hurdles when dealing with change, repeated education and persistence are necessary to capture buy-in from the industry. You have to show the value of initiating right of way professionals early in the program delivery. That small added services cost has the potential of saving millions in the long run.

Anne: I agree—it is absolutely necessary that agency management recognizes the critical role of right of way. After all, nothing gets delivered without acquisition of property rights and relocation of utilities to clear conflicts. But first, we collectively need to work with our state and federal partners to break down the project development process silos.

Brad: Ultimately, I think as more agencies involve right of way professionals early in the process and experience first-hand the benefits of such efforts, I believe it will provide a level of comfort for others to continue to pursue this opportunity. As the leading industry group, the IRWA is continuing to provide opportunities for learning, growth and improvement, so hopefully project owners will secure beneficial takeaways from the wealth of knowledge and experience at their fingertips.

Anne: We have to change the mindsets of project team members such as project managers and design engineers. Once you can influence that mindset and create a united, team approach, success is certainly within reach.

Brian: Speaking of team approaches, it was great honor to work with this dedicated team and I'd like to thank each member for coming together for this worthwhile article, for their great insight and for their continuing commitment and contributions toward "Enhancing Lives through Infrastructure." I'd also like to thank the IRWA for years of commitment to our industry and this platform to share our message. 🌟





LEADERSHIP DEVELOPMENT PILOT PROGRAM

Young Professionals weigh in

In May, a number of IRWA Chapter leaders were invited to experience an exclusive Leadership Development Pilot Program led by Mind Gym, an expert on behavioral science and educational psychology. Focused on the impact one can have on others, the event aimed to develop innovative leadership programming with IRWA and attendees had the opportunity to provide feedback and observations after the experience.

Among those who attended were two Young Professionals, Janella Cordova and Gabe Becerra. Janella is a Senior Project Manager for OPC and has worked in the right of way industry since 2008. She is currently the International Electric & Utilities Committee Chair and one of the Young Professional Representatives for Region 1. Gabe is a Senior Right of Way Agent for OPC with experience in project management, acquisition, relocation and right of way engineering/design. He is also a Region 1 Young Professionals Representative, the Communications Chair for Chapter 67 and he was recently elected to be the Chapter's incoming Treasurer.

As the two Young Professionals in attendance, Janella and Gabe provide a unique perspective on the event. They were challenged to think about their motivation, assess their purpose and analyze their respective motivational styles.



Q: Why did you feel it was important to attend this Leadership Development Pilot Program?

Janella: When opportunities arise to focus on leadership development, raise your hand and volunteer to put in the effort and the work. Dedicating time to programs like Mind Gym can have a great impact on your development. Furthermore, it is important as a Young Professional in this industry to be a part of the strategic development of the future of the organization.

Gabe: As a Young Professional and a future leader of my Chapter, I found it almost necessary to attend. I find it one of my top priorities both in my personal life and my professional one to push for growth. Self-reflection allows me to understand and realize where I can work to better myself. I find I flourish with change and when I step outside of my comfort zones. This program emphasized thinking about one's motivations. It allowed me to question my intentions of being a leader, pushing me to grow and think outside of the box.

Q: Describe your experience that day.

Janella: I was grateful to be invited to a pilot program that the Association is considering. The day started on our feet. We were immediately engaged to think about how we motivate others and how everyone is motivated differently. We were asked to assess why we do what we do and how today can benefit that. We split up into our respective motivational styles and focused on how best to communicate or how best to motivate each different style. As a Young Professional, understanding what motivates others in such an interactive, positive and straightforward manner was refreshing. I would describe the day as engaging, interactive and highly informative.



Gabe: To begin with, I was very honored to have been invited to such a training. As I walked into that conference room and saw other leaders and members of IRWA, I felt equal and excited to work side by side with other well-experienced professionals. If I had to use just one word to describe the overall experience for the day, it would be *energy*. The moderator was very energetic and with concise statements, she was able to pique our interest in participating. The outcome of this energy was rather organic in the sense that our responses came naturally. The groups worked fluidly and effectively on each step of the activities.

Q: Tell us about your most memorable moment from the event.

Janella: The most memorable moment was at the end when the idea of treating others as they would like to be treated had a resounding effect on everyone. I thought about our morning, how I could motivate others and how I could better

approach my communication with those around me. The day was a build-up to this moment where I understood that although we may have similar goals, we are all motivated distinctively.

Gabe: I would have to say the most memorable moment in the event happened even before we began the "workout." Upon entering the room, the layout of the space was like any other conference room I had seen before. The tables and chairs lined up in a "U" shape, giving me the assumption that we were going to listen to yet another presentation. However, the Mind Gym moderator came in and instantly created a sizable impact on my overall impression of the program. She asked the staff to remove all the tables and to leave behind just enough chairs for those participating. She made it known that we were not there just to listen to the program, but to *be* the program. I had never experienced a seminar where there was so much engagement expected from the those in attendance. It instantly gave me a feeling of accomplishment as I

felt we (the participants) were the driving force behind the success of the program.

Q: What is your biggest takeaway?

Janella: Taking the time to understand what motivates others or colleagues can have a great impact on common goals for an organization.

Gabe: The realization that everyone truly has a different motivational style. By participating in this program, I learned how I could be a more effective leader, as well as a more contributory member of any team.

Q: How can this experience help to shape future IRWA Leadership Development Programming?

Janella: I have always felt that the IRWA is forward-facing. These types of pilot programs are no small feat for the organization to take on, and I am sure they have been strategically and methodically coordinated to provide the Association the highest benefit. Mind Gym was different than other development programs because it was concise and impactful, and if

IRWA continues to provide such development programming to its members, they will open the door to important tools for our members to be successful in the industry.

Gabe: A leadership development program such as the one we experienced would help to shape the innovative potential for future leaders. Our industry—as well as our goals for improving infrastructure—are constantly changing, increasing and yielding value to the public. Having a program that puts stress on the positive differences in each leader would produce a healthy balance of integrity, teamwork, excellence and respect at all levels of the organization.

Q: How can the Association as a whole benefit from this Leadership Development Pilot Program?

Janella: Investing in professional development will help elevate the Association. This investment will boost retention and growth for the organization, especially as it focusses on recruiting the next generation of right of way professionals. They

say that millennials strive to have a “higher purpose” in life. As a millennial myself, I would say I strive to be a part of something that believes its actions impact the world. By investing in the professional development of its members, this Association shows me that they care about the impact we have. I want to be a part of building an innovative, sustainable and happy future—and I believe IRWA does too.

Gabe: Ultimately, a leadership development program like this would help to elevate the right of way profession, as well as the Association. A program like this would assist the current and future leaders of IRWA to become a powerhouse of energy, drive, passion and understanding. Our members would be individuals who understand how best to work together to achieve the common goals. These achievements would allow those outside of the industry to see the benefits and potential career opportunities within the profession. This could aid in expansion and outreach, as well as increase member participation and member satisfaction within the Association. ★

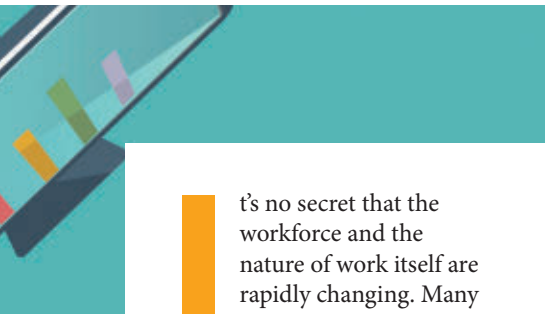




EIGHT ELEMENTS

Creating a high-performance enterprise

BY SUE BINGHAM



It's no secret that the workforce and the nature of work itself are rapidly changing. Many organizations, particularly large ones, are like an ocean liner that can't turn on a dime. If an organization is not actively promoting and integrating the following eight elements, that organization is already behind and will experience negative impacts as the workforce shrinks and traditional management practices continue.

The root cause is that traditional management practices and H.R. policies have been created to catch the "bad apple." Let's start with the premise that the vast majority of employees are good people—we might even say 95 percent fall in this category. That leaves the small minority of five-percenters or bad apples. Often this group occupies a much larger percentage of managements' time and attention. To try to rid the organization of these people, penalizing and insulting policies are created that often catch good people in their net. When treated the same as a five-percenter, 95-percenters feel embarrassed and de-valued. What's worse, this creates a bureaucratic system that makes it nearly impossible to get rid of those for whom the policies were created.

A Path to Success

The following eight elements are common sense and uncomplicated, but the absence of them will seriously hurt organizations in the near future.

1 Positive Assumptions About People

Dealing with the five-percent unconscious taints your assumptions about people. If leaders have spent time dealing with someone who lies, lays out, does the minimum required and tries to get away with as much as possible, that experience can create a distrust and desire to micromanage and control everyone. Evidence of these assumptions is seen when there is restricted access to specific areas for certain groups, such as doors, cabinets and tool cribs locked. Managers accept performance minimums vs. maximums, information is guarded and self-management is a distant concept. It becomes irrational for employees to feel like valued adults and in return, the organization receives compliance, a lack of passion and a check-the-box performance.

Leading with positive assumptions about the quality and integrity

of the majority of the workforce promotes pride, passion and accountability.

2 Identification and Elimination of Negatives

A negative is defined as "anything that minimizes vs. maximizes a person's feeling of value to the organization." Many of these are almost invisible to the people who have the power to eliminate them. Examples include free water or coffee in some areas and not in others, reserved parking for executives, punitive policies that apply to one group of employees but not another, differences in holiday and vacation schedules, late performance appraisals and wage increases.

Most of these negatives are easy to eliminate. Leaders only need to put themselves in the shoes of their hourly-paid employees to see and feel them—and then get rid of them.

3 Mutual Trust and Respect

Major headway in creating an environment of mutual trust and respect can be achieved by doing the first two elements. And if a company wants to be able to unlock supplies and equipment and treat people as responsible adults, there must be recognition that there will

Clearly communicate trust as a core value and treat any violation of trust as a dischargeable offense.

probably be some theft and deceit until the five-percenters are gone. However, it will be worth it to have created a high trust environment for the rest of the workforce. In addition, it creates the standard that trust is a required attribute in order to receive a job offer. Clearly communicate trust as a core value and treat any violation of trust as a dischargeable offense.

4 Open, Two-Way, Adult-to-Adult Communication

In essence, share information, be open and avoid secrets. Speak to everyone at every level as you would a neighbor you like. Remember that people, regardless of the type of work they perform, have the same desire for involvement and respect as managers and senior leaders do.

5 Employee Engagement

Visionary experts in areas of organizational development predict the end of hierarchies—at least as you know them today. If it can be agreed that the people doing the jobs are the ones who know the jobs the best, why aren't leaders empowering employees to solve problems and create continuous improvement in every organization?

6 Training

A company's investment in training reflects its value for people and a clear belief that good people only get better and produce greater results with an investment in their development.

Manufacturing companies often have a substantial budget for preventative maintenance on equipment, but limit (or even reduce if revenue is low) the necessary dollars for maintaining each person's potential capacity.

7 Competitive Wages and Benefits

In a high-performance culture, the objective is to make wages and benefits a non-issue. If people are challenged, valued and fairly compensated, they are reluctant to take another job for more money. Fairness is perceived and achieved by regularly checking the market value for all jobs and paying competitively (meaning around and often somewhat above the market midpoint), sharing the survey data if someone is interested and being transparent about ranges and the compensation structure. If a company is providing competitive pay and benefits, there shouldn't be any mystery around this topic.

8 High Expectations

Many leaders will admit that they have employees who are only doing the minimum. In most traditional companies, job descriptions are specific with regard to the tasks to be performed. Instead, write job profiles that set high expectations for the results versus the tasks involved. And replace that common phrase at the bottom of those descriptions that says, "All other duties as assigned" with "Proactively support the team and company in achieving its objectives." Now the

person who just waits to be told what to do is no longer meeting the minimum.

When leaders don't set high expectations, they shouldn't be surprised when average results are achieved. Furthermore, high expectations give people a purpose for their work, especially when their leaders believe they will be successful.

Start Now

There are many applications under each of these elements that convert the words to tangible actions and practices. If any of these eight elements are missing within an organization, it's time to take action. It's valuing employees and doing the right thing that leads to exceptional performance. It really isn't complicated. ☘



Sue Bingham is the founder of the HPWP Group, a master coach, speaker, and author of the forthcoming book, *Creating The High Performance Work Place: It's Not Complicated to Develop a Culture of Commitment*. At the forefront of the positive business movement, Sue supports leaders as they achieve their vision of success, and designs common-sense systems that make people and organizations more effective. For more information about Sue Bingham, please visit: www.HPWPGroup.com.



GAS STORAGE

A critical asset for the natural gas industry

BY BETH R. MINEAR, ESQ.

Although natural gas was a recognized resource as early as the 1600s, the first well wasn't drilled until 1821 by William Hart in Fredonia, New York. For almost the next century, gas was largely produced and used on demand, with gas shortages common in the winter heating months and price fluctuations based upon the laws of supply and demand. In 1915, the first natural gas storage field was completed in Welland County, Ontario, with the U.S. close behind in completing the Zoar field in Buffalo, New York the following year. The ability to store surplus production in the summer months for withdrawal during the winter months stabilized the gas industry.

“The need for land professionals who have mastered this sub-specialty of the natural gas industry is increasing.”

For federally-regulated gas storage, these fields are covered by the Natural Gas Act and considered as part of gas transmission like pipelines and other assets. For intra-state or otherwise state-regulated gas storage, the public service commissions that are responsible for rates and regulation have storage field oversight.

The Business Need for Storage

In addition to domestic availability and price stability, gas storage can be seen as the unsung hero of the natural gas industry as a whole. Production wells would need to be shut in if there was nowhere to store the surplus in summer months and many leases provide that the lease is lost if a well is shut in longer than a certain amount of time. In this era of shale, losing leases can be a business killer for many small companies. With the downturn of coal and the comparatively inexpensive increased use of natural gas to fuel electric generation, having sufficient gas storage for peak electric seasons has driven up the need for storage.

July 2016 was the first storage withdrawal in the summer since 2006, largely due to gas-fed electric generation and increasing pipeline infrastructure. Also, many Americans have been looking to compressed natural gas vehicles as cleaner alternatives to gasoline, so refueling stations have been popping up even in the most rural of states. The need for gas storage will only continue to rise as companies switch to this environmentally-friendly fuel alternative.

Storage Well Integrity Issues Prompting Renewed Focus

Although the Pipeline and Hazardous Materials Safety Administration (PHMSA) was aware that it needed to have additional integrity oversight for gas storage wells, the Aliso Canyon storage well leak in southern California gave regulators the push it needed. The leak was detected and reported on October 23, 2015 and wasn't contained until the well was plugged on February 18, 2016. While the PHMSA's primary focus has been on pipelines, there has been renewed interest in this sub-specialty of the gas industry. From regulatory direction shifting to encompass natural gas storage, prudent land professionals will need to understand the basics of gas storage in order to support the efforts of companies that have storage. It's also the perfect time to highlight this little-understood area of right of way, and to understand why natural gas storage is the unsung hero of the industry. With approximately 413 storage fields nationwide—of which approximately 222 are regulated by the Federal Energy Regulatory Commission (FERC)—there is and will be a lot of work for the right of way industry and the clients we serve in the next few years.

Mechanics of Gas Storage

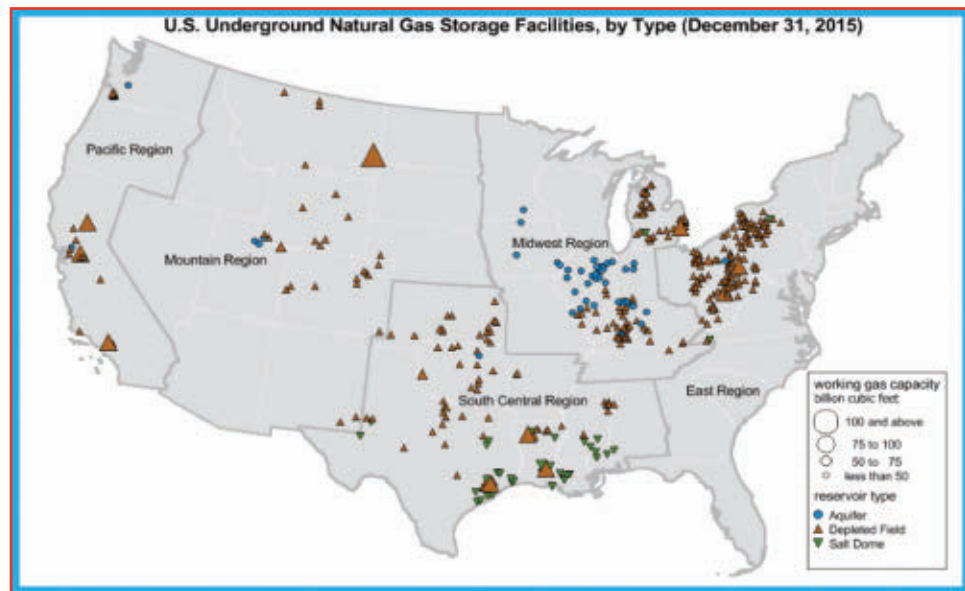
Contrary to popular belief, gas storage fields are not the large, man-made tank farms above ground, nor are they typically large tanks underground. Natural gas is generally stored in natural occurring subsurface formations. There are three types of underground gas storage

fields. The first are aquifers, which are water-bearing sands with gas trapped by impermeable rock. The second are salt caverns or “domes,” which are hollowed out salt beds. The third are depleted production fields where the native oil or gas has been commercially produced, leaving behind the pore space to refill. Of the approximately 413 storage fields nationwide, approximately 333 are depleted production fields. Instead of being an empty cavern, the pore spaces in sedimentary rocks are now capable of holding injected storage gas for future use by customers.

Right of Way

In topic discussions with right of way professionals, unless they work for or with a company that owns or operates storage, a frequent comment is that it’s “landman work” tied to the mineral interests. Oddly, natural gas storage is *not* “landman work” and has little to do with the mineral interests. The storage rights remain with the surface owner if the mineral interests of oil and/or gas are severed, unless specifically granted as well. In my nearly 20 years of work with gas storage clients, I have only seen that twice in the thousands of storage land rights I have reviewed. There are dozens of subsurface, stratigraphic layers underground—some of which have been commercially depleted by production and may be suitable for reinjection of gas produced elsewhere. Each of these layers is a subsurface right of way, acquired, analyzed and disposed of in the same manner as surface rights of way.

And as with any right of way, the rights can be obtained by fee grant by the surface owner, by a permanent right of way for suitable strata, by a paid-up lease subject



Source: eia.gov

to termination, by yearly lease, or by any other form of grant. For the commercially depleted production fields in particular, these grants often include the rights to utilize any remaining native reserves, with or without additional payments. Right of way professionals must understand the basic terminology for storage interests and land rights in order to support the reservoir engineers and other technically skilled clients, whether internal or external.

Basic Gas Storage Terminology

As discussed, storage gas is not typically considered a mineral other than by scientific composition. The ability to specifically understand the differences among the jobs of different gas volumes will help land professionals support clients and negotiate with landowners. Gas stored is typically gas produced elsewhere, stripped of liquids and impurities and largely rendered “tariff-quality” for regulated use. Most states consider such gas as personal property due to the dominion exercised over it and no

longer real property when stored. Gas storage companies charge customers to store the customers’ gas and to withdraw when needed. Just like with pipelines, capacity to store can be firm or intermittent, depending upon agreements between the parties and under the regulatory tariffs.

This storage gas is then no longer categorized by molecule, but by volume of what fills the subsurface right of way. These volumes are broken down into the following types:

- **Native Gas:** Gas that was naturally occurring under the property, but left behind post-production. Often not commercially producible prior to storage conversion.
- **Base/Cushion Gas:** Can be part native gas, but largely gas injected into the storage easement to provide adequate pressure for working gas.
- **Working Gas:** Gas stored for use by customers that is injected and withdrawn based upon need and contract.

Now that we've defined the purposes for the gas in the storage fields, we need to look at the definition and description of the fields. Gas storage fields are defined by the rocks that contain them. Not following any surface boundaries or maps, the geological boundary that defines the field is the reservoir. Because storage gas can also escape its own reservoir boundary, most states have recognized and/or have allowed companies to identify buffers or setback areas to protect the reservoirs from gas migration or other loss. The wells that access the working gas in the reservoir are the injection and/or withdrawal wells, while the wells that typically monitor pressure and composition for potential breach and field health are the monitoring wells. The land rights held in the storage boundaries (reservoir or buffer) are sometimes improperly vested or may be lost due to a myriad of reasons. The unacquired tracts in storage fields are called "windows" or "outs."

Acquisition of Storage Rights

As discussed, acquisition of gas storage rights is little different than acquisition of surface rights. The storage rights are owned by the surface owners, even if the mineral rights have been severed. The need for acquisition is constant, as there can be dozens of outs in an existing field and hundreds of parcels to acquire for new fields. Since the year 2000, FERC has approved approximately 115 federal gas storage projects. The need for land professionals who have mastered this subspecialty of the natural gas industry is increasing.

For general field operations, the need to upgrade storage rights is ongoing. Existing rights may only have the right to drill one storage

well, but another may be needed on a large tract. An existing lease may have no surface rights, but the storage company may need to drill a storage well. Clearly, expertise in surface negotiation is coupled with understanding of the subsurface.

In the area of valuation, payments for storage rights is vastly different than for surface acquisition. Going from the market value standpoint, there is no wide market for a subsurface storage easement. As storage is a regulated function of natural gas, the owners of a field certificated by state regulators or the FERC have the right to acquire rights by eminent domain in the unlikely event that negotiations fail. From these court cases across the United States, we see that many times landowners attempt to sway the fact-finders from market value and argue that the value should be aligned with the company need instead of the market as a whole. Time and again, this argument has failed, so unless there are remaining native reserves owned by the surface owners, the typical market value per acre is around \$50.

PHMSA's New IFR

Effective January 17, 2017, PHMSA issued its Interim Final Rule (IFR) for natural gas storage to "address critical safety issues related to downhole facilities." The IFR applies to natural gas storage fields and imposes the American Petroleum Institute (API) Recommended Practices 1170 and 1171 for storage well integrity as to risk management, construction, maintenance and recordkeeping, among other requirements. While many meet and/or exceed API standards, storage companies will need to have procedures in place that address many factors including maintenance and physical site work activities. Storage Operators were required to submit the First Annual Report under the new regulations by March 15, 2018.

As PHMSA's IFR mandates that downhole integrity issues must be assessed and addressed in the near term, land professionals may think that the work is for reservoir engineers or the operations, maintenance and integrity teams for storage companies. But that work cannot proceed without land professionals, as these companies will need support from right of way for follow through on compliance. From a property rights perspective, land professionals will need to coordinate with these internal technical departments to identify wells that may not be compliant and aid in planning for maintenance and site work activities to reach compliance.

In Summary

While storage is a less exciting topic than shale for some, those of us who understand the importance of gas storage and the impact that it has across multiple industries will appreciate the value of this silent workhorse. As companies with gas storage look to comply with PHMSA's IFR or to develop/expand storage fields, there is a firm place at the table for right of way professionals who know how to support the bigger picture. ★



Beth Minear is the president of Global Project Solutions Consultants, LLC, a comprehensive project strategy, land acquisition and regulatory compliance company. She has also been a licensed attorney for more than 20 years, providing counsel and business advice to energy companies and utilities in state and federal courts in multiple jurisdictions.

THE VALUE CONCLUSION

Rounding and significant figures in appraisal work

BY BRIAN A. O'NEILL, SR/WA AND DAVID E. BURGOYNE, SR/WA

Of the thousands of words and hundreds of numbers in an appraisal report, there is one number that is always read: the value conclusion. This number is the ending of the story that appraisers are educated, trained and paid to tell. How the number is derived and ultimately presented matters. For instance, a value conclusion of \$1,041,900 tells a much different story than one of \$1,040,000 or \$1,050,000.

The first number, \$1,041,900, is the appraiser's way of telling you that they are confident that the market reflects a value of the subject property between \$1,041,850 and \$1,041,949. Having a conclusion so specific is hard to believe. The other conclusion of \$1,040,000 is much more realistic.

Accuracy and Precision

In appraisal, we utilize many different types of numbers, such as measurements, dollar values, percentages and time. We then evaluate these numbers and conclude a dollar value. The accuracy and precision of these numbers vary between and within these groups. These variances directly affect the way an appraiser should round and report numbers. The appraiser must know what these numbers mean, how they were derived and why they were reported as they are. They need to understand what is accurate and how precise these numbers are because mistaking these will compound errors.

Rounding is the application of evidence, significant figures and experience to present a number in the most meaningful way available. Rounding tells the reader how precise the appraiser's value opinion is. It is dictated by the measurement, derivation and rounding of all the other numbers used to estimate market value. While appraisal conclusions are reported in dollar figures, we are not accurate or precise enough to report a number to the penny. But if not to the penny, how do we determine where to round?

When you read a value conclusion of \$1,040,000, does this mean that all the willing buyers and sellers of the subject will accept that amount as the transaction value for their properties? Of course not. That number—which represents the market value conclusion—is telling you that the subject property will *likely* trade at a value of *about* \$1,040,000. The number expresses an estimated precision of more or less than \$5,000, which is half of the smallest significant figure unit value of \$10,000. That is a very precise number given the overall value of the property. While the goal is to be accurate, the appraisal process is more designed to be as precise as possible knowing that the elements of a report—particularly the human elements—can act irrationally, making accuracy more a byproduct of the process.

Generally, the only gauge we have for the accuracy of an appraisal is if we find out a sale price later, and even that leaves us not knowing if that price was in the appropriate range of precision or not. Particularly, when we deal with eminent domain appraisal with hypotheticals, extraordinary assumptions and jurisdictional exceptions, we need to be especially cognizant of our measures of precision. Maintaining a regimented

process of evaluating the precision of the numbers provided will help to ensure an accurate and fair representation of the precision you report as market value.

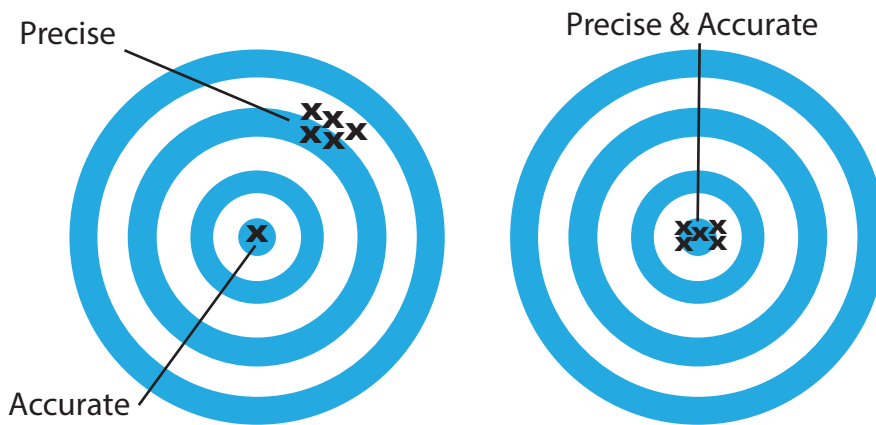
The Process

Real estate is a world of trends, variations and humans interacting, often in a highly stressful state. These do not make for ideal inputs if you demand highly accurate and extremely precise outputs. However, in fluid markets with a reasonable number of similar transactions, an appraiser can provide a relatively accurate opinion of market value with a reasonable degree of certainty if presented properly. The numbers we report represent values and concepts. By using a consistent and universal structure for reporting numbers, we can clearly communicate those ideas and concepts more clearly and efficiently.

There are three important steps to this process. First, identify the significant figures in the values you are provided. Second, apply the correct rules for processing these numbers and finally, report them with the correct significant figures, rounded appropriately.

Significant Figures

The significant figures of a number are digits that carry meaning contributing to its *measurement resolution*. The measurement resolution is effectively the smallest calibration on a measuring device. The number of significant figures in a measured quantity is the number of digits that are known accurately, plus one that is in doubt. For example, if you are measuring a pencil with a ruler that has inches as its smallest graduation, you can report that the pencil is 5.7 inches. Any other digits after the seven are not reported. Conversely, if



Accuracy is hitting the bullseye. Precision is the measure of repeatability.

you read a report and it states the lot area as 2.35 acres, you know for a fact that the area is more than 2.3 acres and less than 2.4 acres and that it is likely near the middle of those two.

In real estate, significant figures are utilized in area calculations (areas), rates and ratios (taxes, damages, etc.), sale prices and the measurement of time. Knowing which digits are significant will tell you how to report your numbers that rely on these figures.

Rules for Significant Figures

When determining which and how many digits in a number are significant, we read the digits like we read the letters to spell a word—from left to right.

1. All non-zero digits are significant

- a. 245 has three significant figures
- b. 123,457 has six significant figures

2. Zeros located between non-zero digits are significant.

- a. 303 has three significant figures
- b. 20,001 has five significant figures

3. All zeroes that end numbers (trailing zeroes) are insignificant, unless the number contains a decimal *or* if you are expressly provided information to the contrary.

- a. 310,000.0 has seven significant figures
- b. 3.20 has three significant figures
- c. 310,000 has two significant figures (unless you are told otherwise)

4. Zeroes to the left of the first non-zero are insignificant

- a. 0.56 has two significant figures
- b. 0.005001 has four significant figures
- c. 0.000000020 has two significant figures

Processing Significant Figures

When operating on numbers, adding, subtracting, multiplying and dividing, we report the resulting number with the same amount of significant figures as the number with the fewest significant figures. We can only be as precise as our least precise value. Spurious digits are introduced by calculations carried out to greater precision than that of the original data. Numbers are usually rounded to avoid the reporting of spurious digits or insignificant figures. For instance, let's say an appraiser's measuring wheel reports distances to the nearest inch. She measures a building to be 42 feet 1.6 inches by 30 feet 3.7 inches. Written as decimals, the building measures 42.1333 feet by 30.3083 feet. We would write those as 42.13 by 30.31 to avoid the spurious figures because the original measurements also had four significant figures.

Now, what is the gross area of the building? It's 42.13 feet times 30.31 feet or 1,276.9603 square feet. How significant is the 0.9603 here? We suggest that with four significant figures in each of the measured distances, one would not want to have more than that in the result, so that the gross area is best reported as 1,276 square feet.

What if our appraiser's wheel is reportedly accurate to plus or minus one inch? That means that while the gradient of the wheel has inches on it, you cannot determine an extra significant figure beyond the inch. In this case, the appraiser would report the measurements as 42.1 feet and 30.3 feet, calculate the product as 1,275.6300 and report the area to the appropriate significant figure of 1,280 square feet. The building could be anything

between 1,275 and 1,284 square feet. Can anyone really say that 1,280 square feet is not reasonably accurate, given the data and devices used? In terms of precision, couldn't we measure it five times and get five different answers between 1,275 square feet and 1,284 square feet? In this sense, 1,280 square feet is as precise as our measuring instrument allows and therefore, *reasonably* accurate.

Imagine a property reportedly sells for \$25 per square foot. You speak with the buyer, the seller, the broker and the buyer's attorney and they all report the sale was \$25 per square foot for an acre lot. However, you look up the property records and discover that sale price was \$1,089,000, which is one acre at \$25, but the lot size is actually 1.04 acres. Does that mean that the market value indicated by that sale is \$25 or \$24 (\$24.04)? In this case, we propose that the measurement resolution indicates the \$25 per square foot figure. This was the number the buyer and seller had in mind and the 0.04 acres is insignificant in this instance. It is recommended that the appraiser clearly state the circumstances behind the figure utilized before they are asked about this math by their reviewer.

Rounding

We all know how to round. Round up when it's over five and down when it's less than five, right? What about when it is five? There are no set rules about the proper rounding methodology, so it's entirely up to you. As long as you use the appropriate significant figures in your calculations prior to rounding and then round to the appropriate significant figure, you may round up or down, but be consistent.

“

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”

Although “double rounding” is a method of rounding (9.46 becomes 9.5, which becomes 10), this is not an appropriate method to round in appraisal and incorrect when adjusting to significant figures. This method is often used in computer architecture.

Right of Way

There are special considerations for right of way acquisition as well. These are the *non-appraisal* realities of acquisition. Perhaps your client has reporting requirements that suggest how one rounds or reports items like site improvements. Do you round up when working for the property owner and down when working for the condemning authority? How does it look when the before value happens to be rounded down and the after value up? Can that appear like one is favoring one party over the other? What about rounding and allocations? Is there an appropriate *minimum* compensation to meet agency requirements or to even make negotiation for acquisition possible?

There are often multiple goals that need reconciling. These include being as accurate and precise as possible, assuring that a property owner understands how they are being compensated for their loss, and complying with the agency’s reporting requirements. If an agency has a policy that certain items are to be compensated for, like any trees lost get paid for, then you will need to allocate for these. We suggest that these be treated separately from the other components when considering significant figures and rounding.

Let’s revisit the \$1,041,900 appraisal. Is that figure reported appropriately if the \$1,040,000 represents the permanent just compensation for the taking and the \$1,900 is the rent for the temporary easement? This is where we depart from the rules and use our experience. If the \$1,900 and the \$1,040,000 values were calculated using proper methodology, then a

total compensation of \$1,041,900 would not be a misleading figure given the context of the analysis and explained as such. This is a simple addition of two values calculated independently, based upon two sets of different values and using different significant figures.

In Summary

We now see how the story of the \$1,041,900 is unlikely. The question is often more difficult when you know to round appropriately and your client prefers a more or less precise number than is appropriate. Like most things, this should be discussed as early as possible. Explaining a process that is reasonable, supportable and repeatable will go a long way towards clearing up their misconceptions and keeping those pleasantries between appraiser and reviewer to a minimum. ✪



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CONSERVATION EASEMENTS

Unraveling the controversy

BY LANCE W. DORÉ, MAI

Conservation easements are not a new topic to the appraisal world. Many appraisers have discussed the issues surrounding conservation easements and have worked to find a solution. There is a common methodology of Before and After that is well documented and accepted. The Before valuation should determine the market value of the property “as is,” without the conservation. The After appraisal is a valuation of the land when the easement is in place.

This common approach is proper and clear, but there seems to be a lack of clarity surrounding *how* and *what* exactly affects the value of land encumbered by a conservation easement. What factors reflect the diminution in value to support the discount?

The Basics

Understanding the characteristics of a conservation easement is important when deciphering where its value comes from. A conservation easement is a voluntary legal agreement between a landowner and another party—usually the government—which restricts the development of a piece of land. These lands are typically donated or sold by the landowners to the government or another land trust. In return, the landowners receive tax benefits. In a conservation easement, the landowners will sell their rights to the land, which allows the land trusts or government agency to use the land for recreational services, preservation of historic lands, open spaces or natural habitats.

There are two distinguishable characteristics of conservation easements. First, conservation easements “run with the land,” meaning they are perpetual regardless of a change in landowners or external influences. Perpetuity is also the only way for landowners to receive tax benefits. It must be recognized by both the landowner and the land trust that once the land is donated or sold, it will forever be used for preservation and/or conservation. Second, after the

conservation easement is signed, the landowner remains the landowner. What they are donating or selling is their rights to the land.

Controversy

Controversy surrounding conservation easements continues with the actions of both government agencies and private land trusts. The “prearranged flip” is known infamously by landowners. This occurs when land trusts enter a conservation easement with the intent to sell it later to federal or state government agencies. Often, land trusts will buy a conservation easement for less than what they will sell it to the government, earning them their profit. This vehicle of transfer is not uncommon and reflects an often unstated or assumed premise on which conservation easements are created—there is a finite and limited market for conservation easements that are almost exclusively public agencies or private groups that act as quasi-public conduits for agencies.

The Internal Revenue Service (IRS) stepped into the foray, expressing its concern regarding conservation easements for several years. While the public tends to be wary of the intentions of the private land trusts and government agencies, the IRS believes the landowners play a significant role in the controversy surrounding conservation easements. The IRS stated that they have “seen abuses of this tax provision that compromise the policy Congress intended to promote.” Tax benefits do serve as incentive for landowners to enter into conservation easements, but the IRS speculates that taxpayers have taken “inappropriately large deductions for easements.” They have also claimed that taxpayers have taken deductions when they are not entitled to any at all. The IRS is not in support of conservation easements because they maintain that taxpayers are abusing the tax relief incentive.

The improper tax deductions often derive from an inaccurate valuation of the property. Landowners claim deductions for amounts that exceed the fair market value of a donated easement. The mistake here is either on the landowner’s side or on the initial appraisal of the property. In response, the IRS says it may impose penalties on all parties involved in an improper transaction concerning a conservation easement. This may include the landowner, promoters, appraisers and anyone else involved.

How and Why Conservation Easements Affect Value

Ultimately, the purpose of a conservation easement is to protect lands. The intent behind this agreement is positive but easements have been abused by grantees, grantors and the market place. To stop the abuse of conservation easements, grantees and grantors must understand *the highest and best use* of a property, so that the value of a property Before and After the easement is agreed upon by both parties. The highest and best use of a property Before a conservation easement typically holds a different value than the property After an easement is in place. This is because property rights given or taken away from the landowner in a conservation easement directly affects the highest and best use of a property, thus affecting the value. This is the fundamental concept in the *bundle of rights*.

Gathering the tangible market evidence reflecting discounts between the Before and After values is the next step. A sales comparison approach can be used and the best approach is paired sales in the Before and After. However, data can be very limiting and often subjective, especially in the After condition. Motivators can include tax incentives, markets and the relationships of the parties. This can be difficult to ascertain, but when available, the sales comparison approach is the primary accepted method to determining discounts. The issue with this is the

absolute lack of *same transfer* pairing where a comparable sold without a conservation easement and the same property sold with the conservation easement.

Cross comparable pairing can be completed, but this can be subjective in light of the limited market data set. Ideally, if Comparable A sold at \$1,000 per acre without a conservation easement and Comparable B sold for \$800 per acre with a conservation easement, the value of the conservation easement would be \$200 per acre, which shows a 20 percent discount from the unencumbered Before value. However, what often happens is due to the lack of comparables, the agency will often “imply” the discount based on an appraisal. The conservation arena has by and large attributed “standard” discounts for conservation easements based on internal appraisals and accepted “rules of thumb.”

Sonoma County—Conservation Easement History

Sonoma County has an active program of acquiring both fee and conservation easements for their open space and conservation program. Stuart Miller of Sonoma County provided overviews of their acquisition history for roughly 20 years (1992 to 2012). The current activity has slowed but has been active. It is reasonable to conclude that this agency’s involvement represents a very strong basis for market support in this area.

By comparison, I have analyzed two data sets over the past 20 years. In this data set, there are purchases of conservation easements for 1) Greenbelts and Scenic Hillside and 2) Wildlife and Natural Areas. This activity was compared to the fee acquisitions, which are 100 percent of the ownership and the conservation easements are the partial acquisitions.

Conservation Easement Discounts - Sonoma County					
Overall Averages for 20 years					
Conservation Easements (Allow for grazing and vegetative management)					
Acres					
Primary Category	# of Projects	Protected	Market Value	Price Per Acre	CE Discounts
Greenbelts & Scenic Hillside	40	7,914	\$ 38,928,000	\$ 4,918.73	19.30%
Water, Wildlife & Natural Areas	40	58,199	\$ 100,631,150	\$ 1,729.08	12.63%
Totals	80	66,113	\$ 191,302,150	\$ 2,893.55	14.28%
Acres					
Fee Acquisition	# Projects	Protected	Market Value	Price Per Acre	
Greenbelts & Scenic Hillside	17	1,939	\$ 49,405,200	\$ 25,479.73	
Water, Wildlife & Natural Areas	4	1,539	\$ 21,060,000	\$ 13,688.57	
Totals	21	3,478	\$ 70,465,200	\$ 20,263.12	

The comparison of the two provides a market basis of discounts. This is shown in the graph provided. This data compares 80 conservation easements and 21 fee acquisitions. While the comparisons are not direct (same property comparison), the quantity of data does provide support for discounts when the same highest and best use is applied to the properties (aka scenic hillsides and Wildlife). As shown, the total discount for Scenic Hillsides is 19.30 percent. This accounts for an expanded highest and best use that would likely allow for residential uses. The discount for wildlife and natural areas was 12.63 percent where the highest and best use in the Before and After is similar but still reduces the allowed uses. The combined discount was 14.28 percent.

In this data set, there are unencumbered sales with a highest and best use ranging from greenbelt/ scenic hillsides to wildlife. The same highest and best use data is presented but were purchased through a conservation easement.

Highest and Best Use Comparison

The conservation easement agreement will identify the uses that can and cannot be used on the property. They are identified as permitted uses and prohibited uses.

This comparison in the highest and best use will help you determine the impacts in the Before and After condition. Specific areas of prohibited uses often include subdividing and construction, while specific areas of permitted uses include agriculture, grazing and building envelopes.

In concluding on a final discount, it is important to reflect the nature and character of the area specific, as well as a detailed highest and best use comparison in the Before and After. A common difference noted in the highest and best is the ability to subdivide. This is important because many of the issues in case law surrounding conservation easements specifically address future uses or potential uses of the land. When the land does have a "probable" or likely transitional use to a higher development potential, there is a requirement to reflect this in the determination of the encumbered value (discount). In other words, when the land has a future probable use for more development, the discount is higher. This is an important discussion because it is easy to assume that all conservation easements are the same and that all restrictive easements impose a heavy impact on development rights. This is simply not the case.

Overall, the basis for discounts is reflected in the loss in value due to

reduced property rights which is the bundle of rights. The bundle of rights includes the right of possession, the right of control, the right of exclusion, the right of enjoyment and the right of disposition. When considering the discount for conservation easements, the main loss in the bundle of rights is the right of control, the right of exclusion and to some degree, the right of enjoyment. Without considering any loss of development rights, this would inherently reflect a discount. When development rights have not substantially changed but there is an inherent loss of property rights, discounts range from two percent to 15 percent. The other significant category of consideration is the loss of development rights. When this occurs, discounts can range from 15 percent to 55 percent.

In Summary

Conservation easements began as an effective tool to conserve lands but over time, they have raised controversy. It is important to reflect the distinction between loss of property rights without loss of development rights versus loss of property rights and loss of developmental rights. Ultimately, all parties must understand that the higher impact on loss of property and development rights, the less value the encumbered land holds, resulting in a greater discount due to the conservation easement. ☼



Lance W. Doré is the President and CEO of The Doré Group and International Realty Valuation. He is also a partner with Christine Santolucito of Santolucito Dore Group, Inc. Lance has been a real estate appraiser for over 35 years and has written several articles and books—most recently *The Secret of Real Estate Revealed*.

PREPARING FOR THE **DANGERS** OF A SITE INSPECTION

How to put safety at the forefront

BY D. WAYNE BARTESKO, SR/WA

After many years and many property visits, who can say they have never had a close call with a furry animal or two? And for those of us in Australia, it isn't uncommon to come across your occasional snake—an encounter made worse by the fact that 21 of the world's 25 most deadly snakes can be found in Australia.

As a routine part of our work life as property professionals, we go out every day on inspections and many of us have some pretty shocking stories about potentially dangerous encounters we've experienced.

A Direct Threat

Sadly, some of these can be far worse than a dog bite or even a snake bite. I know some of you have had the suggestion of a gun used as a veiled threat or even worse, some of you have been on the receiving end of a gun as a *direct* threat.

In my case, I was inspecting a semi-rural acreage and from out behind the house, a man approached me with a loaded shotgun. He pointed it toward my chest only a few feet away and asked why I was on his property. I was dressed in business clothes, had a professional appearance and I was carrying a small computer. I explained why I was at his property that day and what my required duties were for my government role. Of course, I also produced my ID card for him to look at, which had a quote from legislation embedded on the back regarding our ability "to inspect land and improvements." After examining my ID card, the landowner was finally convinced of who I was. To my great relief, he broke open the breach of the shot gun and removed the shell.

A Tragic Incident

It wasn't until almost 20 years later, while employed in Australia for a National Oil and Gas Exploration Company, that I recounted my experience. This memory was brought on by the news of an Australian State Government Environment Officer in New South Wales who was killed by a gun-wielding landholder.



When I heard this news, I was extremely saddened. I felt for the family of this person and questioned if this could have been avoided or prevented. I was forced to reflect on my own experience. After my incident, I was quite paranoid on all subsequent inspections and I was constantly on my guard, aware of the circumstances of my duties and the property to which I attended. I was

constantly alert and kept my eyes open in case anything felt out of place.

Looking Ahead

It will come as no surprise to my fellow property professionals that I was not always able to make an appointment before going to inspect property. In these cases, I felt incredibly relieved to find a barking dog (as opposed to

one hiding behind a tree) because I would know that the dog would alert the landholder about my presence. Usually, they would then come out from the house to greet me.

After many years and many inspections, I also found it interesting that the way a dog acted was often an indication of what the landholders could be like. For example, if I was

greeted by an aggressive, barking dog, it was somehow more likely that I would also encounter an abrasive landholder in the property. This was also the case with friendly dogs who often indicated friendly landowners. I mention this trick because I believe a lot of times we get caught up in the moment and we don't look ahead to what the possible outcomes might be. This habit of staying alert is especially important given the various types of dangerous situations that can happen during site inspections.

What Can Be Done?

Could these dangerous incidents be better handled if we were more prepared for all the potential outcomes? I certainly believe that training and work place incident counselling before and after incidents are necessary. Additionally, our collective incidents can be shared and learned from, providing information so that others can hopefully not come into similar situations with far worse outcomes.

Along with this, I believe that employers should have an automated workplace safety system to protect their employees, as many already do. It could take the form of a computer-based system which would warn professionals of the potential dangers of specific locations. For instance, it could indicate if a specific property has an aggressive dog, if snakes were previously seen on the property or if a landholder threatened to use a gun.

This is not meant to be an overbearing national registry. Just think of it as a simple a red flag that would come up as a warning screen for particular properties with a



Could these dangerous incidents be better handled if we were more prepared for all the potential outcomes?



potential danger, threat or hazard. This would be a simple safety precaution, not a tool to jeopardise working relations.

All over the world, thousands of property professionals go out and complete site inspections every day. Sometimes, five or six different

inspections can occur in a single day with contact to as many as five or six different landholders. Thankfully, dangerous incidents are being made less frequent with the systems that are already in place. It is evident that these workplace safety systems are important and we should try to implement them if at all possible. The unlikely incidents are too costly to employers.

Could all these incidents be prevented?

I am hopeful that by recording the actions and events which have occurred in particular cases, property professionals are completing their due diligence. And by reviewing files before going to a property, you complete a second check, increasing your odds of a safe inspection and the ability to come back home to your friends and family without so much as a dog bite. ☘



Wayne has worked as an appraiser and landman for over 25 years in Australia and Canada. He is the owner/operator of a boutique Land Access/Valuation business on the Gold Coast of Australia. Founding member and first President of Chapter 86.

A COSTLY FALL

Who's responsible for public property incidents?

BY MICHAEL F. YOSHIBA, ESQ.



Public agencies maintain and control the tap water you drink, the air you breathe, the waste you produce, the streets you travel on and the sidewalks you traverse. These underappreciated core public functions are essential to daily living in our modern society. But we tend to only notice these public functions when they are made unavailable or we are inconvenienced by water service testing, road closures, traffic diversions and sidewalks that are in disrepair. This is one such instance.

One of the earliest legal cases that I worked on for Caltrans Legal involved a pedestrian claiming an injury that happened while she was walking on a sidewalk at the intersection of a State highway and a local City street. Let me explain how and why the Caltrans Maintenance Department, the City Public Works Department and their respective legal counsels became inextricably involved in this “trip and fall” case, and why keeping records is of the utmost importance.

The Incident

The claimant, we’ll call her “Mrs. M,” was an 86-year-old city resident out doing her daily errands and traveling around the city by local bus service. Mrs. M described herself as slow but very mobile and self-reliant for her age. She claimed that prior to this incident, she didn’t require any walking assistive devices such as canes or crutches. On this day, she was wearing her prescription glasses and

comfortable, hard sole shoes with small heels. The weather was clear and dry with a few patchy clouds.

Mrs. M was traveling in a bus northbound, but she needed to get off that bus and transfer to another one for the final leg on her journey home. This was the same route that she had taken for many years prior to this fateful day. After exiting the bus, she approached an intersection and moved towards the pedestrian signal button mounted directly on the traffic signal pole. After pushing and activating the pedestrian crossing button, she waited to cross while her shoes extended slightly over the curb, facing in the direction of the intended crosswalk. But before the signal changed, a speeding car hastily turned right in front of her, causing her to “backwards shuffle.” During the backwards shuffle, the heel of her shoe caught on an obstruction protruding from the sidewalk and she proceeded to fall to the ground. After picking herself up, she managed to get home without further incident.

However, a few hours after arriving home, Mrs. M began to feel pain in her left knee. The knee began to swell, but she didn’t seek treatment for three days. It was noteworthy from her testimony at deposition that the first call she made to anyone concerning her injury was to the attorney representing her in this lawsuit. The next call that she made was to a chiropractor recommended by her attorney. Her attorney later recommended that she contact a specific physician for an x-ray



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of the injured knee to opine whether there was any structural damage to her knee which would require repair. The physician told her that she needed surgery and physical therapy for her injured knee. The estimate of total past and future medical costs, pain and suffering was \$60,000.

The Case Goes to Court

The attorneys and experts for the State and City inspected the area where Mrs. M purportedly tripped, fell and was injured. Near the accident site, there was a piece of an old metal bolt protruding a quarter of an inch above the surrounding concrete sidewalk. The bolt appeared to be the remnant of a freestanding pedestrian crossing button that had been all but removed, except for the protruding metal bolt. Mrs. M specifically claimed in her lawsuit that the quarter inch bolt was a dangerous condition of public property that caused her to snag her shoe while doing a backwards shuffle to avoid the speeding car, causing her to fall awkwardly and twist her knee.

Who's Responsible?

The State and City researched their respective records to determine which public agency owned and maintained this sidewalk area. The public entities also searched for records to identify who physically removed the pedestrian crossing button pole and left the protruding bolt in the sidewalk area.

Unfortunately, neither the State nor the City could locate records with accurate maps or the specific agreement verifying/absolving the parties of responsibility from ownership or maintenance. Therefore, while neither the State nor the City wanted to have to defend this case, both ended up having to expend time, resources and costs in this matter.

The case ultimately resulted in a settlement with the plaintiff, where both the State and City each reluctantly paid a portion. Whether the exculpatory contract terms, maps and documents were lost, misplaced, destroyed or never contemplated will never be known—perhaps until the next “backwards shuffle” lawsuit. ☹



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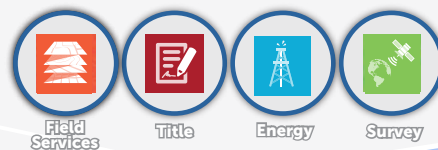
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BASIC RIGHT OF WAY DISCIPLINES

100	Principles of Land Acquisition	2 days
102	Elevating Your Ethical Awareness	1 day
105	The Uniform Act Executive Summary	1 day

COMMUNICATION/NEGOTIATIONS

200	Principles of Real Estate Negotiation	2 days
201	Communication in Real Estate Acquisition	3 days
203	Alternative Dispute Resolution	2 days
205	Bargaining Negotiations	2 days
207	Practical Negotiations for U.S. Federal & Federally Assisted Projects	2 days
209	Negotiating Effectively with a Diverse Clientele	2 days
213	Conflict Management	1 day
215	ROW Acquisition for Pipeline Projects	2 days
218	ROW Acquisition for Electrical Transmission Projects	2 days
219	Introduction to Presentation, Instruction and Facilitation	2 days
225	Social Ecology: Listening to Community	1 day
230	Oil/Gas Land Basics & Related Surface Rights Issues	1 day
235	The Canadian Oil & Gas Industry Overview	2 days

MANAGEMENT

303	Managing the Consultant Process	2 days
304	When Public Agencies Collide	1 day

APPRAISAL

400, 400C	Principles of Real Estate Appraisal	2 days
402	Introduction to the Income Capitalization Approach	1 day
403	Easement Valuation	1 day
406A	15-Hour National USPAP Course Uniform Standards of Professional Appraisal Practice	2 days
406B	7-Hour National USPAP Course Uniform Standards of Professional Appraisal Practice	1 day
409	Integrating Appraisal Standards	1 day
410	Reviewing Appraisals in Eminent Domain	1 day
417	The Valuation of Environmentally Contaminated Real Estate	2 days
421, 421C	The Valuation of Partial Acquisitions	4 days
431	Problems in the Valuation of Partial Acquisitions	1 day

RELOCATION ASSISTANCE

501	Residential Relocation Assistance	2 days
502	Non-Residential Relocation Assistance	2 days
503	Mobile Home Relocation	1 day
504	Computing Replacement Housing Payments	2 days
505	Advanced Residential Relocation Assistance	1 day
506	Advanced Business Relocation Assistance	2 days

ENVIRONMENT

600, 600C	Environmental Awareness	1 day
603, 603C	Understanding Environmental Contamination in Real Estate	1 day
604	Spot ON! Identifying Environmental Contamination of Property - Environmental Site Assessments: Phase I	1 day
606, 606C	Project Development and the Environmental Process	1 day

PROPERTY/ASSET MANAGEMENT

700	Introduction to Property Management	2 days
701	Property/Asset Management: Leasing	2 days
703	Real Property/Asset Management	1 day

REAL ESTATE LAW

800, 800C	Principles of Real Estate Law	2 days
801	United States Land Titles	2 days
801C	Canadian Land Titles	2 days
802, 802C	Legal Aspects of Easements	1 day
803	Eminent Domain Law Basics for Right of Way Professionals	2 days
803C	Expropriation Law Basics for Right of Way Professionals	2 days
804	Skills of Expert Testimony	1 day

ENGINEERING

900, 900C	Principles of Real Estate Engineering	2 days
901	Engineering Plan Development and Application	1 day
902	Property Descriptions	1 day

SR/WA REVIEW STUDY SESSION

SR/WA: SR/WA Review Study Session	3 days
SR/WAC: SR/WA Review Study Session (Canadian)	3 days

ONLINE

BASIC RIGHT OF WAY DISCIPLINES

100	Principles of Land Acquisition
103	Ethics and the Right of Way Profession
104	Standards of Practice for the Right of Way Professional
105	The Uniform Act Executive Summary

COMMUNICATION/NEGOTIATIONS

200	Principles of Real Estate Negotiation
203	Alternative Dispute Resolution
205	Bargaining Negotiations
213	Conflict Management

MANAGEMENT

303	Managing the Consultant Process
304	When Public Agencies Collide

APPRAISAL

400	Principles of Real Estate Appraisal
402	Introduction to the Income Capitalization Approach
403	Easement Valuation
411	Appraisal Concepts for the Negotiator

RELOCATION ASSISTANCE

503	Mobile Home Relocation
507	Specialized Nonresidential Payments
520	Special Topics in Replacement Housing
521	Nonresidential Fixed Payments

ENVIRONMENT

600	Environmental Awareness
606, 606C	Project Development and the Environmental Process

PROPERTY/ASSET MANAGEMENT

700	Introduction to Property Management
-----	-------------------------------------

REAL ESTATE LAW

800	Principles of Real Estate Law
801	United States Land Titles
802	Legal Aspects of Easements

ENGINEERING

900	Principles of Real Estate Engineering
903	IKT/IRWA Underground Infrastructure Panorama

For descriptions and to find a class, visit
www.irwaonline.org.



* Frank C. Balfour, SR/WA	1956-1957	Ronald L. Williams, SR/WA	1987-1988
* Richard Taylor	1957-1958	George D. Wilkerson, SR/WA	1988-1989
* Sam Houston	1958-1959	* Keith L. Densley, SR/WA	1989-1990
* Fred A. Crane	1959-1960	Gene A. Land, SR/WA	1990-1991
* Dan W. Rosencrans	1960-1961	Robert H. Tarvin, SR/WA	1991-1992
* Roger M. Lovell	1961-1962	* Donald A. Henley, SR/WA	1992-1993
* Roy A. Strobeck	1962-1963	* John W. Benson, SR/WA	1993-1994
* Dan H. Williamson	1963-1964	Donna B. Crosby, SR/WA	1994-1995
* Philip L. Rezos, SR/WA	1964-1965	Larry E. Griffin, SR/WA	1995-1996
* Adelbert W. Lee, SR/WA	1965-1966	Susan M. Serdahl, SR/WA	1996-1997
* Victor H. Eichhorn, SR/WA	1966-1967	* Woodrow Pemberton, Jr., SR/WA	1997-1998
* William F. Howard, SR/WA	1967-1968	Stephanie Rankin, SR/WA	1998-1999
* Garth J. Linkey, SR/WA	1968-1969	Dwight G. Pattison, SR/WA	1999-2000
* George R. Watson	1969-1970	* Wayne F. Kennedy, SR/WA	2000-2001
* Karl E. Baetzner, SR/WA	1970-1971	* Alan D. Wurtz, SR/WA	2001-2002
* Gene L. Land, SR/WA	1971-1972	Albert N. Allen, SR/WA	2002-2003
* Rexford M. Shaffer, Jr., SR/WA	1972-1973	Donald S. Marx, SR/WA	2003-2004
* David E. PUNCHES, SR/WA	1973-1974	Gordon E. MacNair, SR/WA	2004-2005
* William P. Snyder, SR/WA	1974-1975	Daniel W. Beardsley, SR/WA	2005-2006
Richard L. Riemer, SR/WA	1975-1976	James H. Finnegan, SR/WA	2006-2007
William L. Reid, SR/WA	1976-1977	Jim L. Struble, SR/WA	2007-2008
* Robert K. McCue, SR/WA	1977-1978	Faith A. Roland, SR/WA	2008-2009
* Wade S. Manning, SR/WA	1978-1979	Sandy A. Grigg, SR/WA	2009-2010
R. Tom Benson, SR/WA	1979-1980	Kenneth L. Davis, SR/WA	2010-2011
George E. Midgett, SR/WA	1980-1981	Randy A. Williams, SR/WA	2011-2012
* F. Larry Stover, SR/WA	1981-1982	Patricia A. Petitto, SR/WA	2012-2013
Robert L. Art, SR/WA	1982-1983	Lisa R. Harrison, SR/WA	2013-2014
W.A. Thomasson, SR/WA	1983-1984	Lee S. Hamre, SR/WA	2014-2015
Richard D. Ricketts, SR/WA	1984-1985	Wayne L. Goss, SR/WA	2015-2016
* John E. Day, SR/WA	1985-1985	Mary Anne Marr, SR/WA	2016-2017
Carroll W. Keck, SR/WA	1985-1986		
Donald H. Ellis, SR/WA	1986-1987		

* Deceased



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Pamela Taylor Becomes President/CEO of FCLAG



First Choice Land Acquisition Group, LLC (FCLAG) is pleased to announce **Pamela L. Taylor, SR/WA, R/W-RAC**, as its President/CEO. Pamela has over 30 years of experience in the infrastructure real estate industry, specializing in acquisition, relocation and property management. She has been a member of the IRWA for over 24 years and has served on the Chapter 26 board in various capacities as Professional Development Committee Chair, Vice-President and President/International Director. She is currently completing her two-year term as International Director. During her 2016-2017 presidency, she received her Chapter's award for Professional of the Year.

Michael A. Salvato Joins Mott MacDonald



Michael A. Salvato has joined **Mott MacDonald** as Vice President of Infrastructure Advisory Practices. He is based in the company's North American headquarters in Iselin, New Jersey. Before joining Mott MacDonald, Salvato had a 20-year career with the New York State Metropolitan Transportation Authority (MTA). Since 2011, he has championed the Enterprise Asset Management Program at the MTA. From 2015 to 2018, Salvato served as the Director and Program Executive for Enterprise Information and Asset Management at MTA's headquarters, introducing new asset management practices and information technologies across five operating agencies, capital construction and MTA's IT Department.

Maser Consulting Hires Holly Whitley-Cataldo



Maser Consulting PA, a multidiscipline consulting and engineering design firm, is pleased to announce that it has hired **Holly Whitley-Cataldo** as Director of Right of Way and Land Services. She is charged with managing utilities right of way coordination for the North and South Carolina regions. Her expertise is in right of way project management, acquisition and relocation primarily for transportation projects. With a background in civil and structural engineering, she has worked with the North Carolina Department of Transportation (NCDOT) and local municipalities on these types of projects. She is also experienced in property management for NCDOT-owned properties.



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Cardno Welcomes Patrick Kester



Cardno, Inc., is pleased to announce that **Patrick Kester** has joined the firm as an Acoustical Engineer in the company's San Diego, California office. Patrick has more than 10 years of experience supporting National Environmental Policy Act documents for a range of Department of Defense clients. He has extensive experience working as principal noise investigator in supporting environmental assessments, environmental impact statements, air installations compatibility use zones (AICUZ) and range air installations compatible use zones studies.

Anna Sutton Joins Cardno



Cardno, Inc., is pleased to announce that **Anna Sutton** has joined the firm as an Environmental Project Manager in the company's Monee, Illinois office. Anna has more than 13 years of experience facilitating the assessment and remediation of contaminated properties, including project management experience with major oil and energy infrastructure companies. Anna's experience includes proposing, managing and conducting Phase I and Phase II environmental site assessments, as well as field work specializing in soil, groundwater, soil gas and air sampling.

Cardno Promotes Utility Engineering & Surveying Experts to Manager Roles

Cardno, Inc. has promoted three UES leaders to newly created Regional Manager roles to support its growing Utility Engineering and Surveying business in the U.S. The promotions include **Tony DiMarino**, who will become the new UES Regional Manager in the Southeast, as well as **David Ledgerwood** who will serve as the UES Regional Manager in Florida. Finally, **Joe Marek** will become the UES Regional Manager in the Southwest.



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TECHNOLOGY

Continuing Advancements in Drone Technology

In rural areas, the potential benefits of drones include the delivery of medical supplies, a way to collect data on the status of crops and a good resource for search and rescue teams. Additionally, drones can provide a way to get better data on weather updates to help improve tornado warnings.

However, it seems that many of these areas do not have the proper communication infrastructure to support the growth of drone integration. As such, James Grimsley, the president and CEO of Design Intelligence Inc. has been working as a consultant to the Choctaw Nation of Oklahoma on its drone programs. Choctaw Nation and its 20 partners will be researching how rural communities can expand to create the necessary infrastructure to support drone integration. It will also be testing drones for agriculture, public safety and weather warning systems.

Meanwhile, the Ohio Department of Transportation will utilize both drone technology and a connected vehicle corridor for

two very innovative transportation projects. The state's 33 Smart Mobility Corridor—a 35-mile-long public testing ground for new transportation—will now be overseen by drones that can help monitor traffic and roadway conditions, as well as inform overall traffic management decisions.

"This project will help us explore the intersection between autonomous and connected vehicles on land and in the air," DriveOhio Executive Jim Barna said in a press release. "The goal is to understand how we can better manage traffic, roadway incidents, and roadway conditions using advanced technology and data analysis."



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INFRASTRUCTURE

Updates to Cost of U.S. Infrastructure Delays



Common Good, a nonpartisan reform coalition, released an update of its 2015 report, “Two Years, Not Ten Years,” which focuses on rebuilding America’s crumbling infrastructure. The report advocates for a significant reduction of red tape with the goal of infrastructure approvals taking no more than two years. As the report states in its executive summary, “America could modernize its infrastructure, at half the cost, while dramatically

enhancing environmental benefits, with a two-year approval process.” The report goes on to indicate that this goal can become a reality by consolidating decisions within a simplified framework with deadlines and clear lines of accountability.

This recent update reveals that the cost of delay in rebuilding America’s infrastructure has actually increased these past five years from \$3.7 trillion to nearly \$3.9 trillion. That \$200 billion increase includes direct costs associated with construction delays, as well as economic and environmental costs. The 2017 Infrastructure Report Card, which is created by the American Society of Civil Engineers, indicated just how much had changed since their previous report in 2012.

“The federal government continues to delay irresponsibly the rebuilding of America’s crumbling infrastructure,” said Philip K. Howard, Chair of nonpartisan Common Good. “The cost of that delay now approaches \$4 trillion – a stunning amount of waste, even by Washington standards.”

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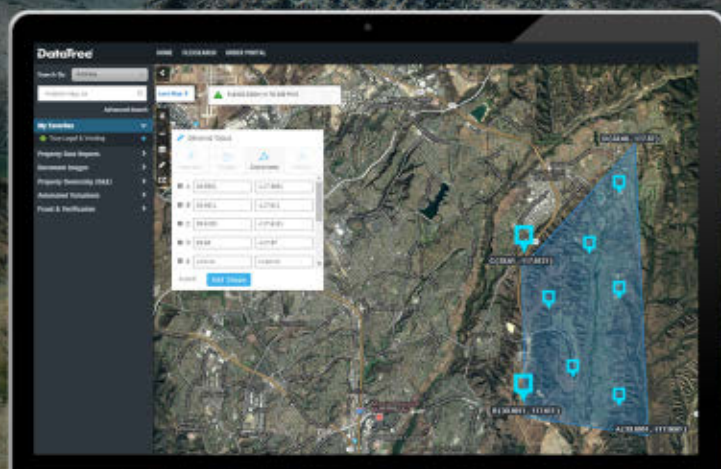
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HEADQUARTERS

IRWA Celebrates Staff Anniversaries

Recently, IRWA Headquarters celebrated the first-year anniversary of a number of key staff personnel. Astrid Anaya currently serves as the Assistant Controller, Member Services. Courtney Piscitelli serves as the Assistant Controller, Accounts Payable and DeOnna Koonce serves as the Accreditation Program Coordinator. In their individual roles, all three staff members have helped elevate Headquarters and bring quality service to our valued members.



FUNDING

U.S. Ports in Need of Funding

In the latest report from the American Association of Port Authorities (AAPA), the association projected the need for a \$20 billion investment for multimodal port and rail access projects during the next 10 years. This report, which assesses the adequacy of the transportation infrastructure of U.S. ports, arrived at this amount because of the growing population, as well as the growing goods that need to be moved. However, only \$1.1 billion out of the \$11 billion in Fixing America's Surface Transportation (FAST) Act freight funding was allocated to multimodal projects.

AAPA President and CEO Kurt Nagle said, "The findings show that while the Fixing America's Surface Transportation (FAST) Act has been essential in providing the building blocks for a national freight program, more must be done to ensure that multimodal goods movement projects have adequate resources to produce efficient and timely results. These transportation projects are crucial to address our nation's increasing freight volumes and enhance America's international competitiveness."

The benefits of investing in port infrastructure are clear, as seen in 2016 with the expansion of a shipping lane in the Panama Canal. Similarly, the Port of Long Beach's \$4.5 billion capital plan includes an on-dock rail facility that will allow cargo to be loaded directly onto trains located at marine terminals.



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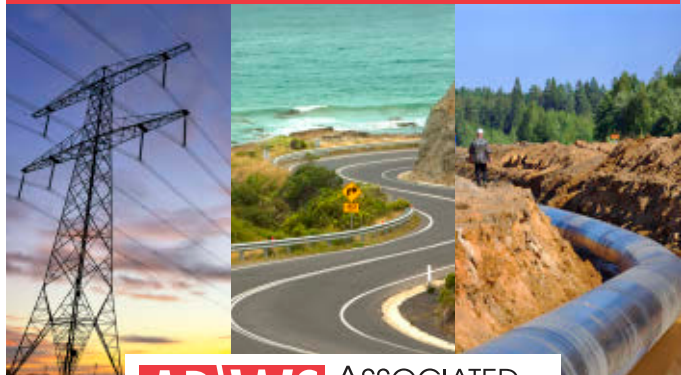
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PIPELINES

Canada to Purchase Trans Mountain Expansion Project



In May, it was announced that Canada will purchase Kinder Morgan's Trans Mountain Expansion Project (TMEP) for \$4.5 billion. The purchase will include the crude transportation project, as well as the pipeline and terminal assets constituting the Trans Mountain pipeline. The project is set to build over 1000 kilometers of pipeline paralleling the route of the existing system, and the expansion will carry crude oil from Alberta to British Columbia for export.

Canada's purchase will mean continued construction throughout the summer and federal loan guarantees will ensure that construction continues through the 2018 season. Once construction begins this year, the expanded system is expected to begin in 2020. Kinder Morgan will work with the government to find a third-party buyer for both the existing Trans Mountain pipeline and TMEP.

In a press release, the Canadian government noted, "At the appropriate time, Canada will work with investors to transfer the project and related assets to a new owner or owners, in a way that ensures the project's construction and operation will proceed in a manner that protects the public interest."

They continued by noting that the assets required to build TMEP "have significant commercial value, and this transaction represents a sound investment opportunity."

Despite the long road ahead, these major companies remain hopeful of finding a solution. Project Wing is Google's proposed customer delivery and drone integration program. James Burgess, co-lead of Project Wing, said given the drone industry's projected exponential growth, "automation is a better answer for safety, as long as it's done right."

TRANSPORTATION

Domino's Pizza Unveils U.S. Infrastructure Project

Domino's Pizza, the largest pizza company in the world, is looking to fill more than just stomachs with their new "Paving for Pizza" initiative. With the goal of creating a smooth ride home for pizza deliveries and simply helping out the public road conditions, Domino's is set to make pothole repairs in towns nominated by their customers. Once customers nominate their town on the Paving for Pizza website, they have a chance to be selected to receive funds to help repair roads so "pizzas make it home safely."

"Have you ever hit a pothole and instantly cringed?" asked Russell Weiner, president of Domino's USA. "We know that feeling is heightened when you're bringing home a carryout order from your local Domino's store. We don't want to lose any great-tasting pizza to a pothole, ruining a wonderful meal."

Domino's has already begun their mission by working to repair potholes in Bartonville, Texas; Milford, Delaware; Athens, Georgia and Burbank, California.

According to the Paving for Pizza website, "Potholes, cracks, and bumps in the road can cause irreversible damage to your pizza during the drive home from Domino's. We can't stand by and let your cheese slide to one side, your toppings get un-topped, or your boxes get flipped. So we're helping to pave in towns across the country to save your good pizza from these bad roads."



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ACKNOWLEDGING EXCELLENCE

The IRWA members listed below earned a certification or designation in the past two months. We applaud them for their commitment to professional growth in the right of way field.

GENERALIST CERTIFICATION/DESIGNATION

Feechi Akobundu, RWA
Chapter 84

Lisa Alderson, SR/WA
Manitoba Hydro
Chapter 66 Winnipeg, MB

Timothy J. Atkinson, RWA
Michiana Land Services, Inc.
Chapter 10 Fort Wayne, IN

Christopher W. Bass, RWA
Central Electric Power Cooperative
Chapter 31 Columbia, SC

Bryan Baumgartner, RWA
The City of Fort Smith
Chapter 33 Fort Smith, AR

David Boswell, SR/WA
THC, Inc.
Chapter 74 Austin, TX

Craig Burns, SR/WA
Bear Land Services
Chapter 62 Sturgeon County, AB

Angela Cash, RWA
Henry County Water Authority
Chapter 22 McDonough, GA

Jene L. Cash, RWA
City of Houston
Chapter 8 Houston, TX

Terri Castro, RWA
Walker Partners, LLP
Chapter 36 Waco, TX

Kiana Chaney, RWA
Bender Rosenthal, Inc.
Chapter 27 Sacramento, CA

Malcolm Bryant Coon, RWA
Xcel Energy
Chapter 36 Amarillo, TX

Susan Cope, SR/WA
Clark Land Resources, Inc.
Chapter 11 Vista, CA

Adam W. Creech, SR/WA
Integrity Land, Inc.
Chapter 62 Fort Saskatchewan, AB

Danyelle Donnelly, SR/WA
Stateside Right of Way Services, LLC
Chapter 36 Dallas, TX

Juan Carlos De La Rosa, RWA
Chapter 85

Tyler Freeman, RWA
Bender Rosenthal, Inc.
Chapter 27 Sacramento, CA

Verne Garrison, SR/WA
Cobb Fendley & Associates, Inc.
Chapter 36 Fort Worth, TX

Nasiru Gaya, RWA
Chapter 84

Jacquie Goss, RWA
Golden Valley Electric Assoc.
Chapter 71 Fairbanks, AK

Ekwuribe Grace Uloaku, RWA
Chapter 84

Bradie Sue Grimaldo, SR/WA
Santa Clara Valley Water District
Chapter 42 San Jose, CA

Anita Gruchalla, SR/WA
Grant PUD
Chapter at large Ephrata, WA

James Hardy, SR/WA
Nova Scotia DOT & Infrastructure Renewal
Chapter 65 Halifax, NS

Douglas Harman, SR/WA
Los Angeles County Sanitation Districts
Chapter 1 Whittier, CA

Noelle Hoelsken, RWA
Stanley Consultants, Inc.
Chapter 6 Centennial, CO

Senevogh Joy Dino, RWA
Chapter 84

Karen Keesecker, SR/WA
Chugach Electric Association, Inc.
Chapter 49 Anchorage, AK

Richard M. Kullander, RWA
Alliant Energy
Chapter 41 Cedar Rapids, IA

Thomas G. Lee, SR/WA
The Regional Municipality of Peel
Chapter 29 Brampton, ON

Kevin Lee, RWA
Duke Energy
Chapter 31 Raleigh, NC

Kristine Maristela, RWA
Puget Sound Energy
Chapter 4 Bellevue, WA

Kameron T McCrary, RWA
O.R. Colan Associates
Chapter 21 South Charleston, WV

Luis Celerino Medina Flores, RWA
Chapter 85

Omer M. Moore, SR/WA
IL Dept of Natural Resources
Chapter 12 Springfield, IL

Logan John Murias, SR/WA
FortisAlberta, Inc.
Chapter 48 Calgary, AB

Brian A. Murphree, RWA
Alabama Power Company
Chapter 24 Birmingham, AL

Charlotte Alice Nelson, SR/WA
Contra Costa County Public Works Dept.
Chapter 2 Martinez, CA

Emmanuel Obumneme Mark, RWA
Chapter 84

Ezenwa M.C. Odigbo, RWA
Chapter 84

Andrea Olden, RWA
American Acquisition Group, LLC
Chapter 26 Tampa, FL

Rosaura Olguin Marina, RWA
Chapter 85

Genoveva Palacios Martinez, RWA
Chapter 85

Douglas Peeters, SR/WA
Burns & McDonnell
Chapter 26 Lake Mary, FL

Rodrigo A. Pena Porchas, RWA
Chapter 85

Joseph Poydack, RWA
State of Alaska
Chapter 49 Anchorage, AK

Lori Leigh Price, SR/WA
Eugene Water & Electric Board
Chapter 3 Eugene, OR

Jesse Ray, SR/WA
Contract Land Staff, LLC
Chapter 4 Bellevue, WA

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Chapter 49 Anchorage, AK

Tanya Ross-Hester, RWA
Ameren Missouri
Chapter 37 St. Louis, MO

Fernando L. Sandoval Miranda, RWA
Chapter 85

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Hanover County Public Utilities
Chapter 52 Hanover, VA

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Bender Rosenthal, Inc.
Chapter 27 Sacramento, CA

Alejandro Tenerio Gasca, RWA
Chapter 85

J. Andrew Thomas-Rogers, RWA
Coates Field Services, Inc.
Chapter 33 Oklahoma City, OK

Patricia V. Villa, SR/WA
Riverside County Flood Control & Water
Conservation District
Chapter 57 Riverside, CA

Lee Williams, SR/WA
SASK Power
Chapter 79 Regina, SK

Jamie Williams, RWA
Dominion Energy Utah
Chapter 38 Salt Lake City, UT

Courtney J. Willis, RWP-GN
NISource
Chapter 13 Columbus, OH

Nkiru N. Zikora, RWA
Chapter 84

Note: Education milestones include only newly certified individuals.

IRWA offers two career paths for right of way professionals: a generalist path and a specialist path.

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RWA	Right of Way Agent Certification
ARWP	Associate Right of Way Professional Certification *
RWP	Right of Way Professional Certification
SR/WA	Senior Right of Way Professional Designation

Specialty Certifications

R/W-AC	Appraisal Certified
R/W-AMC	Asset/Property Management Certified
R/W-EC	Environmental Certified *
R/W-NAC	Negotiation and Acquisition Certified
R/W-RAC	Relocation Assistance Certified
R/W-URAC	Uniform Act Certified

SPECIALTY CERTIFICATION

Carmelita Delgado, R/W-NAC
Chapter 38 Woods Cross, UT

Leesa Love, R/W-NAC
Chapter 8 Houston, TX

Diane Molina, R/W-NAC
Chapter 8 Katy, TX

Mindy Pittman, R/W-RAC
Chapter 36 Dallas, TX

Nancy Summers, R/W-AC
Chapter 57 San Bernardino, CA

*Retired as of September 1, 2014. Members who have earned this certification can retain it as long as they recertify every five years.

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IRWA Member Farewell

WILLIAM "BILL" STOLL



William "Bill" Stoll passed away peacefully on May 2, 2018 in Richardson, Texas. He was born on March 27, 1942 in St. Louis, Missouri to Harold and Elsie Stoll. After graduating from the University of Missouri at Rolla with a degree in electrical engineering, Bill served in the United States Air Force for six years earning the rank of captain.

Prior to his time with the Dallas County Public Works Department, Bill worked in the escrow services business and as a President and Sales Manager for two real estate management firms. During his 18 years at Dallas County Public Works, Bill worked as a Staff Property Appraiser and held many leadership roles on various committees within the Department. Bill was an active member of IRWA Chapter 36, North Texas Chapter, where he served as a Past President and director. He earned his SR/WA designation and was selected "Professional of the Year" for Chapter 36 in 2006. He was a state certified appraiser, held a real estate broker's license in Texas and Colorado and had a pilot's license. Bill loved working at Dallas County Public Works and he was respected and admired by those he worked with. His passions were spending time with family, camping, road trips, flying, food, investing and his faith in God.

Bill is survived by his wife of 39 years, Linda; two sons, Burke and Brett from Portland, Oregon; sisters Marilyn Chambers and Lin Heater of St Louis, MO; and brother, Steve Stoll of Atlanta, GA.

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People on the Move
Company News
Industry Insight

Project War Stories
Project Successes
Advertisements
Obituaries

RIGHT OF WAY MAGAZINE

Send submissions and inquiries to Ethel at navales@irwaonline.org

UPCOMING IRWA EVENTS

www.irwaonline.org

2019 Conference
Portland, Oregon

June 9 – June 12

2021 Conference
San Antonio, Texas

June 6 – June 9

2020 Conference
Minneapolis, Minnesota

June 21 – June 24

2022 Conference
Cleveland, Ohio

June 12 – June 15

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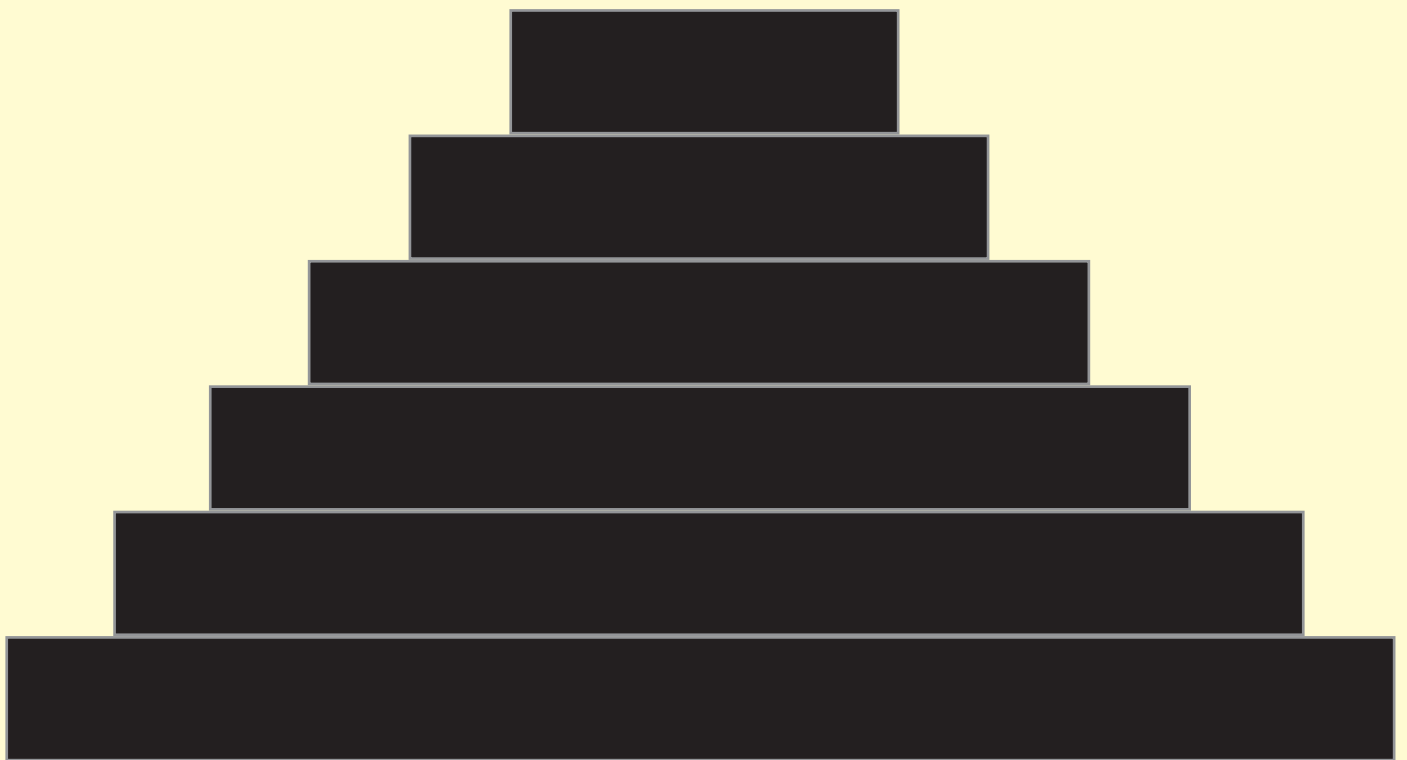
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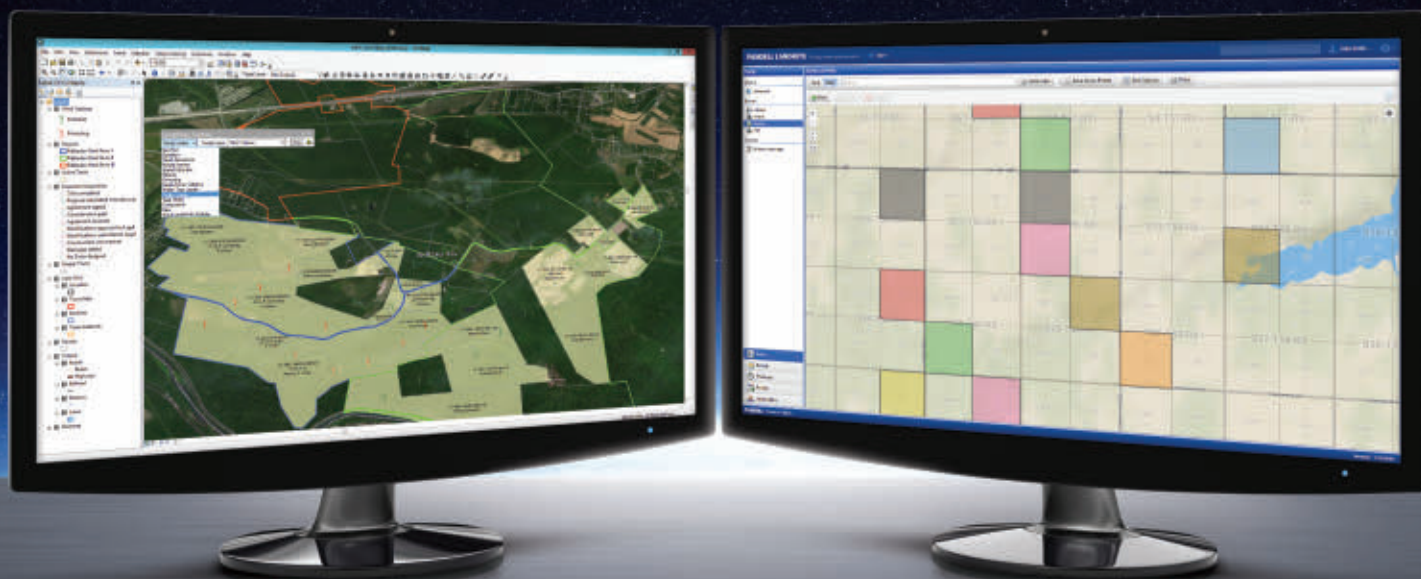
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