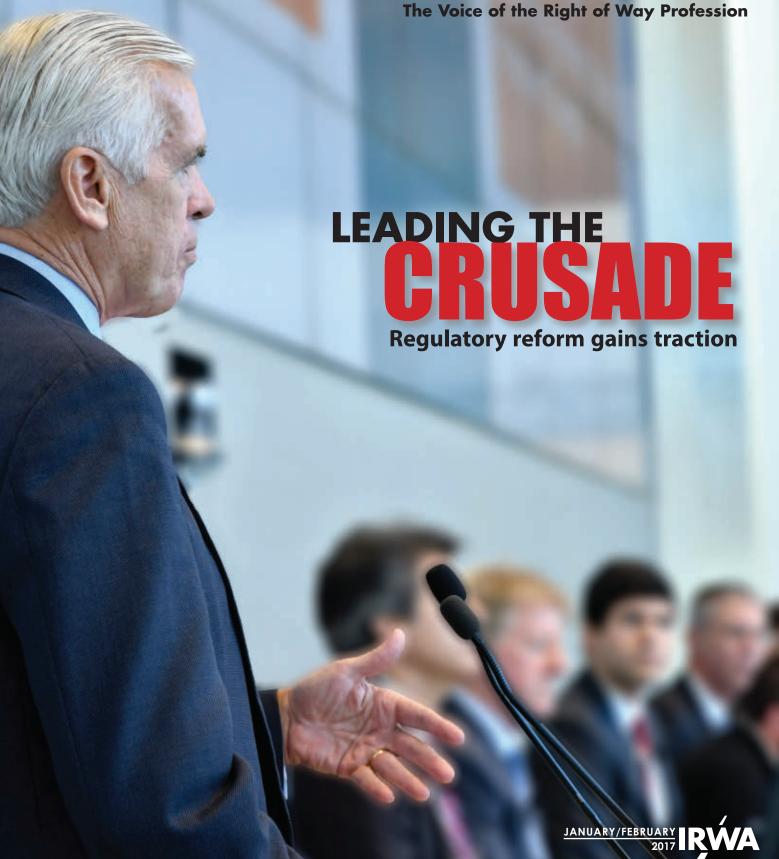
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The Voice of the Right of Way Profession

JANUARY/FEBRUARY 2017

Volume 64 Number 1

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Bridging the Problem Retrofits offer a cost-effective solution By Jack Arizcuren

Confronting Regulatory Accumulation A viable approach to regulatory accumulation By Michael Mandel, Ph.D. and Diana G. Carew

To Move or Not to Move 28 Claiming moving payments for items not being moved By Lisa Barnes, SR/WA, R/W-RAC

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Thinking Differently

Is it time to get back to the basics?

MARY ANNE MARR, SR/WA



Spending quality time visiting IRWA Chapters is one of the most rewarding parts of my role as International President. Comprised of members who share common bonds and goals, the local Chapter is an ideal place to form business relationships, partnerships and friendships. This is where we all work together on behalf of education and training, while sharing information that makes us better individually and collectively. These Chapter visits have given me an opportunity to see first-hand how belonging to a group of likeminded professionals has made a difference in the lives of our members.

Chapters, I am reminded of the longstanding history of our North American Chapters, many of which

As I visit some of our newer

have celebrated their 50th Chapter anniversary. This got me thinking about what it might be like to form a new Chapter and what it would be like to belong to one that has yet to create its history.

Visionaries for the Profession

In considering some of our newest Chapters in Mexico, Australia, and most recently Saudi Arabia, I know how challenging it can be to form a new Chapter. It is especially daunting in those countries where there is a lack of real knowledge of who we are and what we do. Forming a Chapter requires some dedicated individuals with relentless desire, determination and commitment. These are the visionaries who believe in something

bigger than themselves. They too, want to learn, contribute and grow the recognition of our profession across the globe.

In 2016, we saw the formation of Australia's Chapter 86. This past November, I was invited to visit Australia with IRWA's CEO, Mark Rieck, to meet with governmental agencies and to partner with the chapter in building programs to support membership growth. During our visit, we had meetings with high-level government and private practice representatives. Our goal was to introduce the IRWA and to better understand current issues in Australia related to infrastructure development, land rights and property issues. We met with representatives



From left, Chapter 86 President John Woolley, Mary Anne, IRWA CEO Mark Rieck and Murray Sharpe, SR/WA.



Mary Anne with Martin Clapper, a founding member of the Australian Coal Seam Gas Council.



From left, John Woolley, Dr. Georgina Davis, Queensland Farmers Federation Policy Advisor, Mary Anne and Travis Tobin, Queensland Farmers Federation CEO.





Wayne Bartesko, SR/WA, receives special recognition as first Queensland Chapter 86 President and founding member.

from the Department of Transport & Main Roads, the Gas Fields
Commission, the Department of
Industry, the Department of Natural
Resources and Mines, the Queensland
Farmers' Federation, the Australia
Petroleum Production and Exploration
Association and the Australian
Property Institute.

The Australian Property Institute (API) held its first national conference, and we were able to meet with API's leadership team to explore opportunities for developing a strategic partnership. I was invited to present a session on "The Leading Role of Real Estate in Infrastructure Project Success," and the Chapter actively engaged the attendees and generated interest in membership by hosting an IRWA booth.

High Impact Growth

It is clear that Chapter 86 is on an upward path toward membership growth and increased influence and engagement within the industry.



Presenting a session to API Conference participants.



Mary Anne with Alan Hartley, Special Projects Manager and Paul Gelston, CEO of the South Australia Department of Planning, Transport and Infrastructure

They are already developing their strategic plan and identifying key areas of focus that includes education, business development, stakeholder engagement, funding, regulations and standardization. Through the efforts of these extraordinary individuals, IRWA members everywhere will benefit through increased recognition, education and development of standards that all work to improve people's quality of life.

And I applaud some of our other new Chapters for their strategic and innovative thinking. Last year, our Mexico Chapter formed a university partnership, while our South Africa Chapter spearheaded a government accreditation program. In Saudi Arabia, in-house training was established for Saudi Aramco, and we are currently exploring a strategic partnership with the API in Australia.

A Fresh Approach

So what can we learn from our new Chapters? If your Chapter were brand new, who would you invite to your next meeting? Are there government agency leaders who might be receptive to attending? Are there some local companies whose employees would benefit from joining? These questions remind us that IRWA has so much to offer members and non-members alike. In our fast changing world, people are looking for ways to stay connected. Perhaps a fresh approach is needed to attract them.

As I reflect on my Chapter visits and their many accomplishments, I realize that regardless of where I am in the world, IRWA members are people who really do have an impact not just at a professional level, but personally as well. I encourage everyone to reach out to other professionals who would benefit from joining with us as we build a better world. \bullet



Mary Anne meets with IRWA member Paul Walker and New South Wales Department of Industry's Corrie Germin. Jason Scattolin and Diane Crosdale.









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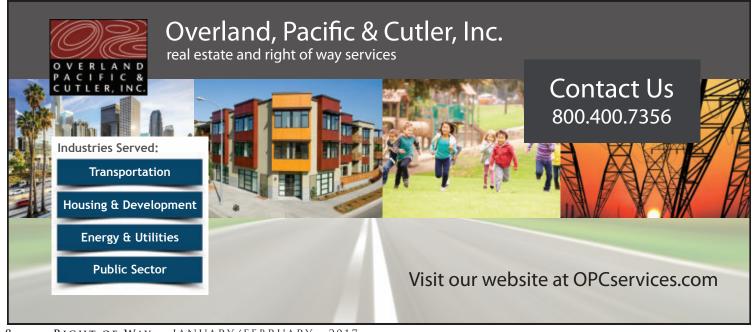
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A World of Member Value

Products and services designed to help you grow and succeed

MARK RIECK, IRWA CHIEF EXECUTIVE OFFICER



Each time we launch into a new year, I always reflect on whether the Association is providing the right member value in exchange for your membership dues value that meets your evolving needs.

To seek your input on IRWA programs, products and services, we are stepping up our member polling this year (see page 13). Your input is important to us, so I hope you will participate and let your voice be heard.

We also encourage you to take advantage of IRWA's member offerings— all designed to help you grow and succeed, personally and professionally.

Member Network - 10,000 members connected through communities of practice, making it easy to interact, ask questions and receive answers from fellow members.

Right of Way Magazine - Not only printed and available digitally six times a year, but decades of past articles can be found in our online archives. Just search by key word!

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All of these services add up to a world of member value that keep you current, credentialed and connected.

Thank you for your continued membership in the IRWA. We commend you for investing in your own career, and we thank you for making it possible for IRWA and all our members to build on a body of knowledge and experience that now spans 20 countries.

Collectively, we are improving people's quality of life through infrastructure development. Onward! 3





Members Speak Out

Debating whether adequate consultation has occurred



The November/December 2016 cover story, "Beyond the Permitting" generated some mixed feedback from our members. Following are some emails we received, several of which came from authors who requested anonymity.

"As professionals in the environmental field, we have been watching this conflict closely. The divisiveness of this issue has prompted many people in our field to take and defend particular points of view about the Native American and allied protesters, when what we really should be doing is discussing whether or not the federal framework designed to deal with cultural resources was followed as intended. As the authors suggest, the Section 106 Process of the National Historic Preservation Act of 1966, a process that was designed to bring all interested parties together to consult on a project until they reach consensus, was not followed.

The Section 106 Process is a series of decision-making steps carried out by the interested parties (Native American tribes, federal agencies, oil and gas companies, etc.) through a consultation process. This process is driven by a lead federal agency and is intended to end with a satisfactory negotiated resolution

being reached among the interested parties. What is a satisfactory negotiated resolution? Simply put, it means all the parties involved come to consensus about the tradeoff between the development of the project and the effect that it may have on the places where the consulting groups hold cultural attachment.

In the case of Dakota Access Pipeline, we have to ask, "Has adequate consultation occurred?" Based on recent events, it appears that adequate consultation did not occur, at least not in the opinion of the Native American community affected by the project."

- Anonymous

"A social license for an energy project will always have detractors. Those fringe environmentalists who believe we can succeed as a society with no new drilling, no coal being dug, no wind powering generators, no solar panels providing electricity, and no natural gas or propane. They will always protest any project that comes along. To better serve the membership, the IRWA shouldn't throw a professional right of way organization that worked diligently to acquire the easements for this project under the proverbial bus."

- Anonymous

"I read the IRWA article "Beyond the Permitting" with great interest. It is one of few articles pointing out "what went wrong" on a project. Looking forward to the new Social Ecology Course 225."

- Deanna Loewenhagen, SR/WA

"I can't begin to list all the mistakes and assumptions by the engineers and developers on this project! Having worked on a 600-mile underground project through seven tribal lands, I am very familiar with the regulations from the Department of Interior and the Bureau of Indian Affairs. For too long, the cultural environmental regulations have been ignored or laughed at. Time to put a stop to that kind of thinking."

- Dana D. Abney, SR/WA

"I wanted to let you know how much I enjoy your magazine. I like that it's available digitally as well. My favorite part of the November/December issue was the Beyond the Permitting piece and the CEO column referencing the new communication model. I'm new to the industry, and your publication has helped me understand the world of infrastructure just a little better. Keep up the great work!"

- Lou Ricca, Cardno



Ethics Reform Makes Headlines

When public trust and integrity are at stake



BY BRAD YARBROUGH

According to recent headlines, government leaders in the United States and throughout the world are making promises of improvement. In response to citizens expressing dissatisfaction with their governmental authorities, the efforts are generally focused on two areas. First, reforming the behavior of public servants, whether government employees or elected officials. Second, eliminating the bureaucratic regulations that, even as an unintended consequence, cripple the private sector from providing economic opportunities that would otherwise benefit individuals and society as a whole.

This is the crux of ethics—improving one's condition while, at the same time, respecting the dignity and worth of others.

The Role of Public Service

President Trump made a promise to "drain the swamp" and make ethics reform a top priority of his administration. And similar promises were recently made by several governors. These pledges are a response to the public's outrage over the scandalous behavior of persons in public service who wrongfully use their position for personal gain.

For instance, Gov. Andrew Cuomo (New York) recently announced a set of ethics reforms that included a process to review all contracts and agreements involving state funds "with an eye towards eliminating any wrongdoing, conflicts of interest or collusion." Mr. Cuomo said, "I believe this public trust and integrity issue must be addressed—directly and forthrightly." Reflecting the public's disgust with government, he said, "It is time for action, not words." The governors of Pennsylvania, South Carolina, Utah and Texas, to name a few, have also promised to champion ethics reform.

Effective in August 2016, the U.S. Office of Government Ethics issued 60 pages of provisions detailing the standards of federal employee behavior. Included are standards stating that, "Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws, and ethical principles above private gain." Another provision states, "Employees shall act impartially and not give preferential treatment to any private organization or individual."

Ethics in government should not be an oxymoron, although some individuals seem to face an ethical dilemma when motivated by both personal ambition and public service. While defining and enforcing the boundaries of proper conduct is important, it seems, as always, that the emphasis should be on the need for good character.

Our industry often connects with governmental authorities on various infrastructure projects. It's not unusual for a government official to have a friendly relationship with a private sector company engaged in some aspect of our industry. Is it ethical for that public servant to be given a well-compensated position with that company upon resignation

... good government can become bad when it creates a tangled web of agencies tasked to create and enforce endless policies..."

or retirement? It's easy to claim "situational" ethics, but doing so often illuminates self-serving motives.

Bureaucratic Regulation

"The care of human life and happiness, and not their destruction, is the first and only object of good government," said Thomas Jefferson, principal author of the Declaration of Independence and third U.S. President. It seems good, therefore, that governments use regulations to direct business behavior toward the public good. Doing so can stimulate results that wouldn't likely occur and prevent outcomes that might otherwise take place. Within government, these are created by countless agencies and applied to the social and economic lives of its citizens.

Harold Hamm, CEO and Chairman of Continental Resources, who has been an informal advisor to President Trump, told me, "I think it's important to look at the regulatory aspect of his reform promises. Government overreach is as bad as corruption, because it often has the same results. Regulations can put a company or an entire industry out of business. It's unethical to pick winners and losers and regulate businesses to extinction, even entire industry segments or sectors." Further, he said, "Big government can impose bad things upon the private sector, capriciously, whether it's sensible or not. This can hinder or stop a private sector project for purely political purposes."

Unintended Consequences

No matter the original intent, good government can become bad when it creates a tangled web of agencies tasked to create and enforce endless policies while ignoring the short and long term implications of doing so. Too often it seems that the burdens placed on business are the result of narrow political purposes or to justify the agency's existence.

President Trump has criticized the overreach of governmental regulations, which he insists are damaging the U.S. economy by placing costly impediments on businesses. He has promised to repeal the Dodd-Frank Act, though it will require action by Congress. This massive regulatory legislation, which was signed into law in 2010, was loaded with "unintended consequences." As President Reagan once stated, "Governments tend not to solve problems, only to rearrange them."

Regulatory Impact on the Economy

As the CEO of Valliance Bank in Oklahoma City, Brad Swickey is a wellrespected leader in the industry. In an area dominated by the energy industry, he summarized the problem with the Act and government regulation in general by saying, "I am cautious about using the term 'regulatory burden,' because regulation to ensure a safe and sound banking system or more broadly, commercial environment is important and necessary. However, as in everything, too much of a good thing becomes burdensome, and we clearly crossed that line with Dodd-Frank. Today, far too many human and financial resources

are committed to complying with government rules and regulation, as opposed to serving the community with small business and consumer lending.

In the case of the energy industry, regulators have asked banks domiciled in counties that have a reliance on oil and gas related commerce to report quarterly on both their direct and indirect exposure to the energy industry. Once again, this kind of regulatory reporting costs time and money, but even more disconcerting is the chill it put on the banking industry toward lending to energy-related companies right at a time when it needed the help. Unfortunately, overzealous regulation is often countercyclical, discouraging lending to a certain market segment, just when that market segment needs the support, creating further downward pressure on the local or even national economy."

Ethics reform is much needed in government. And while we are grateful for the hard work and commitment of the vast majority of dutiful public servants, I believe the IRWA supports the government's efforts to improve ethical conduct at the federal, state and local levels. Our Association also applauds efforts to eliminate costly, unnecessary regulations which cripple the creation and expansion of small businesses, and often paralyzes progress on the critical infrastructure projects our nation requires to grow and prosper. •



Brad Yarbrough is the Owner and CEO of Pilgrim Land Services, a right of way services company in Oklahoma City. With over 35 years experience in oil and gas, he has clients nationwide and an extensive network of landmen and agents.

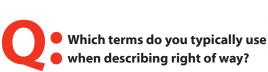


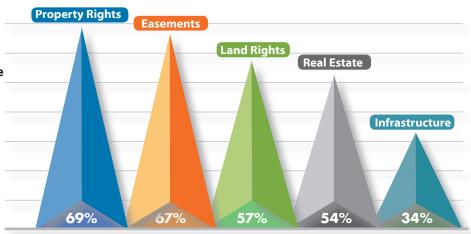
What's in a Name?

Members speak their minds about Right of Way Magazine

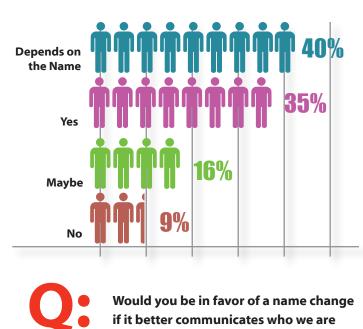
To help us better communicate who we are and what we do, Right of Way Magazine conducted a survey to assist in IRWA's rebranding effort. Nearly 1,000 members responded to the survey.

Here are some of the highlights:









INTERNATIONAL EDUCATION CONFERENCE June 11-14, 2017 Anchorage, Alaska

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Sunday, JUNE 11

- International Committee
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- · Exhibit Hall Open
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- · Region Caucuses
- Networking Welcome Reception

Monday, JUNE 12

- Morning Plenary
 Speaker
- Full Day of Educational Sessions
- · Exhibit Hall Open
- · Awards Luncheon

Tuesday, JUNE 13

- · SR/WA Recognition Breakfast and Speaker
- Full Day of Educational Sessions
- · Foundations Golf Tournament
- · Sponsored Receptions

Wednesday, JUNE 14

- Half-Day of Educational Sessions
- Board of Directors Meeting
- · Installation Banquet Reception
- Installation Banquet and Dance

For a full schedule of events and listing of sessions, visit: www.irwaanchorage2017.org



The World of Underground Infrastructure

IRWA and IKT team up on new international certificate

DEIDRE ALVES, M.ED.

Proudly partnering with IKT, the Institute for Underground Infrastructure in Germany, IRWA released its first International Underground Infrastructure Certificate program in December.

This high impact program provides unique and highly relevant information on managing our crowded underground. The program is instructed by a team of experts in the field of international underground infrastructure development and management. IKT features these instructor-researchers as part of its work in studying the complex science and engineering behind underground infrastructure, and it offers state of the art research and solutions to mitigate the complex challenges involved in this critical work.

The content is presented in six modules, with three focused on Vegetation and Infrastructure. Other modules include Basics of Underground Infrastructure, Basics of Underground Infrastructure with a focus specifically on utilities, and a final module on Realized Projects & Project Coordination. Learners

also receive a living document research whitepaper, "Best Practices in Vegetation and Infrastructure: Reducing Conflicts in the Underground," produced by IKT.

As an independent non-profit institute, IKT works on solving practical and operational issues concerning underground sewers, pipes and



Spearheading the program, IRWA's Vice President of Professional Education Deidre Alves, M.Ed. and Dr. Sissis Kamarianakis, IKT's Senior Research Manager.

other conduit engineering. The institute conducts research on the construction, operation and renovation of underground infrastructures. IRWA members have benefitted from its discoveries, as IKT researchers have shared their findings and best practices at IRWA Annual Conference sessions and in articles published in Right of Way Magazine.

A unique feature of this program is that learners can elect to take just the "Underground Infrastructure Panorama" portion as continuing education for 25 credits in lieu of pursuing the full certificate. Participants can select the option that best fits their professional development goals.

To qualify for the program, learners must hold a degree in Engineering from an accredited institution and have a minimum of two years of underground infrastructure experience directly related to an infrastructure project. The certificate is valued at 41 credits and consists of the successful completion of IRWA Course 213: Conflict Management, IRWA Course 304: When Public Agencies Collide and the new Underground Infrastructure Panorama.

I personally invite you to check it out! It provides an unsurpassed understanding of our crowded underground and offers hope and enthusiasm in fulfilling IRWA's purpose of improving the quality of people's lives through infrastructure development and IRWA education.





The Gateway Rail Tunnel Project endures a paralytic—and costly—permitting process

BY PHILIP K. HOWARD

Two new rail tunnels need to be built under the Hudson River to alleviate a critical rail bottleneck and permit overhaul of century-old tunnels. The purpose of this report is to outline the economic and environmental costs of different permitting timetables, and to propose approval mechanisms that will save taxpayers billions and avoid significant environmental harm.

A Transportation Armageddon

The Gateway Rail Tunnel Project is a \$24 billion infrastructure plan to alleviate a critical bottleneck on the Northeast Corridor rail line (Washington, DC to Boston). It will create two new tunnels under the Hudson River between New Jersey and Penn Station in New York City, rebuild capacity on the New Jersey



approaches to the Hudson, and add platform and station capacity within Penn Station. This connection is a critical transportation link in the Northeast Corridor, an area of the country that accounts for 20 percent of national GDP. Ridership on the Northeast Corridor rail line includes nearly 100,000 individual train trips each way between New Jersey and New York City every workday. The trains run at close to full capacity.

The existing rail connection between New Jersey and Penn Station consists of a pair of 105-year-old tunnels underneath the Hudson River, just south of the Lincoln Tunnel. These rail tunnels, which serve both Amtrak and NJ Transit trains, were already in need of repair when they were badly damaged in October 2012 by millions of gallons of seawater from

Superstorm Sandy, causing further deterioration of system performance. In one otherwise ordinary week in July 2015, four out of five weekdays saw total service disruption, with no trains crossing the Hudson at all. Without intervention such delays are a "soul-chilling premonition of our future," said New York Senator Chuck Schumer in August 2015, adding that he feared we are approaching a "transportation Armageddon."

A Regional Crisis

At the heart of the Gateway Project, which was first proposed by Amtrak in 2011, is the creation of two new Hudson River tunnels. Further disruptions on the existing tunnels are inevitable, and each of them

must be closed down, at some point in the next decade, for at least a year of repairs. Closing one without the creation of additional tracks will reduce system capacity by 75 percent. The economic and environmental effects of closure, without new tunnel capacity to replace the existing tunnels, will be harmful to the regional economy and cause paralytic traffic jams through much of the day. In May 2015, during a tour of the current tunnels, New Jersey Senator Cory Booker told reporters, "I want to focus people on the fact that we're in crisis."

New rail capacity under the Hudson has been studied since at least 1971. A proposal to build two new tunnels was incorporated in the ARC (Access to the Region's Core) Project that was approved in 2009, after six years of environmental review, with an initial budget of \$8.4 billion. In 2010, the project's stated cost had risen to \$11 billion and New Jersey Governor Chris Christie withdrew his state's share of the funding. The project was terminated after \$600 million had been spent.

Plan to Double Capacity

Gateway's proposed two tunnels are similar to those in the ARC Project but will take a slightly more northerly path under the Hudson, terminating at Penn Station. (The ARC tunnel would have terminated under Herald Square in Manhattan, without a direct connection to Penn Station.) Gateway will also involve adding platforms to Penn Station and rehabbing bridges and crossings in New Jersey to improve system capacity.

With the addition of two new tunnels, and the rehabilitation of the two current ones, Amtrak estimates that Gateway will ultimately double rail capacity throughout the project area. In 2015, Amtrak estimated that Gateway would cost \$20 billion—half for the new tunnels and half to expand capacity on both sides, including bridge upgrades and new platforms for Penn Station. In early 2016, Amtrak raised the estimated costs to \$23.9 billion.

Final costs will depend on when work can begin. Planning for the project is substantially complete, and with permits in place, work could start by the end of 2017. However, Gateway requires environmental review and permits from almost two dozen federal, state and local agencies.

Today, there is no clear path to review and permitting for the project even though the similar ARC Project underwent a six-year environmental review and was fully permitted. Nor is there agreement as to the scope of review that is required. Amtrak estimates a process of three years. Other participants have suggested that it will take twice as long. A five-year review process would mean the new tunnels would not open until 2028 at the earliest, past the time at which one of the existing tunnels will likely be shut down for repairs.

Time is Money

In our 2015 report, "Two Years, Not Ten Years," Common Good found that a six-year delay in environmental review and permitting more than doubles the total cost of infrastructure, including continuing capacity inefficiencies. The report also found that lengthy environmental review often causes environmental harm by prolonging bottlenecks. The main flaw in the current processes for infrastructure approval, the report found, is the absence of clear lines of authority to make judgments needed to make sure the review process moves forward and does not get bogged down in immaterial issues and disagreements.

With a project the size of Gateway, time is not just money, but lots of money. As set forth on page 20, when compared to an 18-month process to finish review and permitting, a three-year permitting timetable could increase taxpayer cost of the project by over \$3 billion. A further two-year delay would increase costs by almost \$10 billion.

The importance of Gateway is undeniable. There are no serious arguments against the project. Nor are there any serious alternatives, which have already been studied as part of the ARC review. Delay in starting

The Gateway Project will expand and renovate the Northeast Corridor rail line between Newark, New Jersey and New York City. The line's original tunnels and bridges were built over 100 years ago and suffered major damage during Hurricane Sandy.

work will only raise costs, drag down the regional economy, and cause environmental harm. Conversely, the environmental benefits of building Gateway as soon as possible are compelling. Better rail capacity takes cars and buses off the road. Avoiding the nightmare scenario of premature shutdown of an existing tunnel is itself an overriding reason to start construction as soon as practicable. What is needed to advance the public interest—to save taxpayers billions and avoid a potential "transportation Armageddon"—is an expedited and certain legal path to approval of Gateway.

Cost-Benefit Breakdown

Based on engineering, design, and evaluation work already completed, we understand that construction on the Gateway tunnels could commence by late 2017, or roughly 18 months from April 2016, and that the tunnels could be operational seven years later, in late 2024. As stated earlier, delaying permits by another 18 months will increase costs by over \$3 billion, with costs rising at a higher rate with further delays. The main potential costs and benefits are as follows:

Environmental benefits of increasing rail capacity sooner.

The permitting documents for the ARC Project projected an additional 80,000 trips by train per day over the current baseline, a nearly 50 percent increase in ridership, upon project completion. Gateway would double the ARC capacity (ultimately adding around 160,000 additional train trips). Increasing rail capacity produces a commensurate drop in automobile usage. The analysis for ARC estimated that 80,000 additional train trips would translate to a 4.9 percent decrease in daily car trips across the Hudson, some 590,000 fewer miles driven per day. Based on the same metrics, Gateway would save over 1.1 million miles per day, reducing automobile traffic across the Hudson by nearly 10 percent.

Economic benefits from construction stimulus. ARC planning documents concluded that the project would generate nearly 100,000 jobs in the region during the construction phase, and approximately \$9 billion in business activity during that same period. ARC's environmental impact statement (EIS) also estimated that the construction phase of the project would generate around \$1.5 billion in federal, state and local tax revenue.

Economic and efficiency benefits of increased rail capacity. A post-mortem report of ARC by the Government Accountability Office aggregated various economic analyses which concluded that economic growth attendant to improved transportation infrastructure would generate somewhere between 44,000 and 100,000 additional jobs, and lead to an increase of up to \$4 billion in personal income during the 10 years following the project's completion. The analysis also concluded that the project would generate \$120 million a year in business activity over the long term, and that home prices in regions served by the project would increase by an average of 4.2 percent following the project's completion, resulting in an additional \$375 million a year for local governments from increased property tax revenue.

Gateway will provide double the capacity of ARC, at double the cost. However, we conservatively assume no greater economic benefit from Gateway than from ARC. Because we cannot determine the net benefits of what the ARC analysis calls increases in "business activity," we discount that number by 80 percent.

Construction cost increases due to delay. As a rule of thumb, developers estimate an increase in construction costs of at least five percent for each year of delay in a project. Two percent is due to inflation in hard costs, and three percent for carrying overhead for each additional year. In 2003, ARC was projected to cost \$3.7 billion. By 2010, because of a number of factors, including delay, the cost estimate had risen to \$12.4 billion.



As Chair of the nonprofit government reform coalition Common Good, Philip Howard has worked closely with leaders of both major political parties in the United States.

Costs attributable to closures of existing tunnel. Amtrak estimates that further degradation of the two existing trans-Hudson rail tunnels will result, sooner rather than later, in a 75 percent decrease in capacity when one tunnel must be shut down for repairs, or a loss of over 131,000 train trips per day (65,500 each way). The closure for repairs is estimated to be for one year. Once repairs are complete for one tunnel, the other must be shut down for repairs. At the rate used in ARC's permitting documents, noted above, shutting down one tunnel translates to nearly one million additional miles driven in the region per day. The three Hudson River automobile crossings already exceed capacity during rush hours. Because congestion time rises disproportionately as traffic exceeds capacity, a rail tunnel closure will result in dramatic increases in delays.

Tunnel Closure Assumptions

None of the participants have publicly commented on how much longer the existing tunnels can remain in service before being closed for repairs. Nor do they suggest how many more short-term closures will be required.

For simplicity, we assume a relatively optimistic scenario:

For a three-year permitting process with approvals, we assume a 25 percent chance that a tunnel must be shut down in seven years, and that the second tunnel can remain open until the new tunnels are completed;

For permitting processes lasting either five or seven years, we assume a 75 percent chance of shutdown ten years from now, and that the second tunnel must be closed after the first is repaired;

Upon a shutdown in all scenarios, we assume an increase of 50,000 cars per day entering Manhattan, based on Amtrak's estimate of a loss of 65,500 round trip train rides per day (131,000 total trips) and assuming a diversion of lost rail passengers to cars at a rate of 1.3 passengers per car when a tunnel is closed.

To date, there has been no comprehensive, publicly available analyses of the potential effects of a surge in traffic of the size that would occur when one of the existing tunnels shuts down and many of those passengers divert to cars or stop commuting altogether.



The Price of Permitting Delays

Using an 18-month review and permitting process as the baseline, with permits granted by late 2017, the cost of additional permitting delays includes delayed construction benefits, lost business activity, and lost property tax revenue (all based on ARC projections). Doubling the baseline 18-month review and permitting process—for a total of three years—increases the project cost by \$3.3 billion.

With a permitting date of March 2019, the calculations are as follows:

Construction cost increase from 18-month delay: 5 percent yearly premium on \$24 billion construction cost x 1.5 years = \$1.8 billion.

Delayed construction benefits: \$4 billion in construction income + \$1.8 billion in net business activity (\$9 billion in business activity less 80 percent) + \$1.5 billion in tax revenue on construction activity) discounted at 3 percent over 1.5 years = \$317 million.

Loss in general business activity: \$120 million in business activity yearly discounted by 80 percent x 1.5 years = **\$36 million.**

Lost property tax revenue: \$375 million in tax revenue yearly x 1.5 years = **\$562.5** million.

Delay in environmental benefits: 401 million additional yearly vehicle miles driven generate 181,898 tons of CO2 emission per year x 1.5 years = 601 million additional miles driven, **272,000 tons of CO2 released**.

Additional costs from one-year shutdown of one tunnel (assumes 25 percent chance of tunnel closure by Spring 2023).

Environmental effects: 736,000 additional tons of CO2 released yearly x 25 percent chance = **184,000 tons of CO2 released.**

Lost productivity due to 50,000 additional automobiles crossing Hudson into NYC daily: \$2.3 billion per year x 25 percent chance = \$575 million.

The total monetary cost of an 18-month permitting delay is \$3.3 billion. Using these same calculations for lengthier permitting delays, the cost for a 3.5 year delay totals \$9.8 billion and a 5.5 year delay rises to \$13.4 billion.

However, a NJ Transit analysis concluded that a traffic spike caused by a similar reduction in rail capacity would create major congestion as far as 25 miles from the bridge and tunnel approaches on the New Jersey side. ARC's EIS similarly found that as many as 44 intersections within Manhattan would be plagued by persistent gridlock during peak hours if car traffic increased by a similar level (up from the nine intersections that currently experience gridlock during peak hours).

Traffic modeling software, used here to derive economic loss, additionally shows that average vehicle speed, throughout the affected region, could drop by as much as 10 percent during rush hours. No one has calculated the specific delays caused at the entrance to the Hudson crossings by 50,000 additional cars.

Calculating the Cost of Permitting Delays

The estimated costs and benefits of delay are approximate. The numbers are drawn from ARC review documents, and the congestion effects are based on the generally accepted Balanced Transportation Analyzer traffic model.

While increases in construction costs and environmental costs are generally dollar-for-dollar losses, the reduction in business activity is a more complex equation and different categories may offset each other at the margins. As noted, we have generally applied conservative assumptions, including using economic benefits comparable to the ARC Project for the Gateway Project of double the size and scope, and using optimistic scenarios for a potential shutdown of the existing tunnels. Different assumptions that are realistic could increase the costs of permitting delay by another 50 to 100 percent.

Neutralizing the Bureaucratic Inertia

Other countries, including Germany and Canada, complete review and permitting for large projects within one to two years. They achieve this without sacrificing public input, transparency, or quality by allocating clear lines of authority to make sure deadlines are adhered to.

For Gateway, much of the review has commenced or has already been completed. The main environmental issues raised, as noted, have been extensively studied and published in the ARC review. Finishing permitting within 18 months is achievable provided there are authority mechanisms in place to avoid blind alleys or delays caused by bureaucratic inertia.

The mechanisms needed to achieve this timetable could include the following:

Executive order by the President.

By executive order, the President can declare an expedited timetable for Gateway to avoid economic and environmental harm. The President can designate the Chair of the Council of Environmental Quality to make decisions about the scope and adequacy of environmental review, and give the head of the Office of Management and Budget the job of resolving all other permitting issues. He can also require state and local governments to abide by the timetable or risk federal funding.

Legislation. Congress could enact a law exempting Gateway from various federal requirements (including further environmental review), preempting state and local permits if they fail to meet the designated timetable (similar to the procedure in place for permitting interstate gas pipelines), and expediting judicial review.

...a six-year delay in environmental review and permitting more than doubles the total cost of infrastructure..."

State and local adherence to deadlines. The governors of New Jersey and New York could appoint a project czar, and use their powers to set and enforce timetables.

A Viable Solution

Infrastructure projects come in many shapes, sizes and circumstances. The best process will depend, in part, on weighing the circumstances, including the costs and benefits of delay and debate. An optional project with material environmental costs should generally have a process with time for reasonable debate. The collapse of a bridge or highway will generally call for immediate repair, as occurred when the Santa Monica Freeway was rebuilt in 66 days after the 1994 Northridge earthquake in Los Angeles.

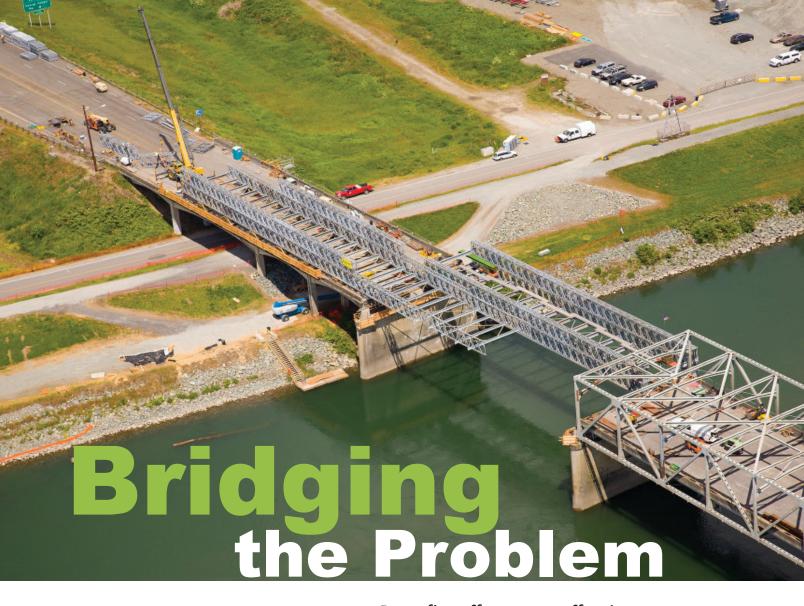
The circumstances of the Gateway Rail Tunnel Project require a process that is completed by the time contractors are able to begin work for four critical reasons. First is the risk of shutdown of the damaged existing tunnels itself. Second, there is no reasonable alternative to the new tunnels, and third, the delay will add billions to the cost and will be harmful environmentally. Lastly, the costs and benefits have already been extensively studied and debated with the similar ARC Project. Meeting this timetable requires that multiple governmental agencies

meet time deadlines, and that an overriding authority exists to resolve disagreements that are inevitable among agencies with different public mandates. The main challenge in achieving this result is that agencies are not used to working this way. That is why commitment by political leaders is vital. Public support for a disciplined timetable is also essential. The benefits more than justify a determined effort to make sure this happens: Taxpayers will save billions, traffic congestion will be reduced, and the New Jersey and New York economies will get a needed boost—just by minimizing red tape. ❖

This report was originally published by Common Good in May 2016 and supplements its 2015 report, "Two Years, Not Ten Years: Redesigning Infrastructure Approvals."



Philip Howard is a well-known leader of government and legal reform in America. He is the Chair of Common Good, a nonpartisan, nonprofit government reform coalition, and the author of several best-sellers, including The Death of Common Sense and The Rule of Nobody. Visit www.commongood.org.



BY JACK ARIZCUREN

ridges that are highly functional rarely get in the news. They do, however, when accidents or failure occur. Fortunately, with only a few exceptions like the 1-5 Skagit River Bridge in Washington State in 2013, bridge failures are not a common occurrence.

Nonetheless, there are tens of thousands of bridges at the state and local level that need to be replaced in the next 10 years because they are either structurally deficient or functionally obsolete. A bridge is considered structurally deficient when it has certain conditions placed on it to ensure its safety, such as speed or weight limits. When a bridge design is not suitable for current use, it is deemed functionally obsolete.

Retrofits offer a cost-effective way to rebuild America's failing infrastructure

Balancing the Issues

Replacing any bridge can have significant issues affecting local commerce and transportation needs, as well as serious environmental concerns. As a result, creative methodology has become critical to rebuilding America's infrastructure. By using some ingenious engineering, we have found a way to use prefabricated commercially offthe-shelf material that offers a cost-effective solution.

When the historically significant George E. Tryon Bridge in Northern California required rehabilitation in 2015, Acrow Bridge provided a temporary hanging truss system in order to maintain traffic flow. The steel span arch bridge, known as the South Fork Road Bridge, was originally erected in 1948. Located near the town of Hiouchi in Del

Norte County, 80 percent of the land is publicly owned national and state parkland. This forest area is notable for containing some of the finest oldgrowth redwood groves in existence, as well as scores of unique plants and flowers, dozens of species of coastal birds and fish, rocky primitive beaches and sea stacks, pristine rivers, and historic lighthouses. The Smith River itself is one of the largest undammed rivers left in the United States and a part of the National Wild and Scenic River program.

The Smith River region is also a top tourism destination, making it an important part of the regional economy. Maintaining the area's transportation infrastructure is crucial, and the Tryon Bridge project is the fifth South Fork Road bridge replacement in six years.

Adding Safety and Efficiency

Looking at the bridge's structure offers a lesson in bridge architecture and changes that have made bridging more efficient and safer in recent decades. A prime example of a small-scale bridge built in the economic expansion after World War II, the Tryon Bridge is one of only a few solid-ribbed arch bridges in California built using welding, an innovative construction method of the 1940s and not widely used in bridge construction until the mid- to late 1950s. The welds created cleaner lines and a smoother appearance to the components. The bridge is also notable as an example of mid-twentieth century Modernism as applied to transportation infrastructure. Both the arch design and the welding resulted in the use of less steel than might have been used in a truss structure.

In 2011, however, the bridge was declared by Del Norte Community Development engineers to have the lowest sufficiency rating of any county-maintained bridge. Subsequently, it was found to be functionally obsolete at inspection. With a deteriorating lead-based paint matrix, a replacement was deemed necessary.

It was determined that the steel span of 206-ft long and 24-ft wide would be replaced with an aesthetically similar new concrete structure 231-ft long by 32-ft, 4 inches wide, with the additional width accommodating bicycles and pedestrians on a stretch of road with heavy tourist vehicular traffic. The springing arch main span is 141 ft and crosses the south fork of the Smith River at approximately 65 ft above the river.

The \$11 million project was developed for the U.S. Department of Transportation, Central Federal Land Highway Division. It includes the bridge, a 500-ft long northern approach, a 200-ft long southern approach, and the reconstruction of an adjacent road. During all phases of construction, it was required that a minimum of one lane of traffic be maintained, which is where Acrow's temporary truss system was a critical element in the project.

When initial bids came in over budget, Acrow Bridge collaborated with Flatiron, a contractor who was able to value engineer a hanging formwork truss bridge outside the existing steel structure. The Acrow structures utilized were two 155-ft clear spans, 9-ft out-to-out. The dual superstructures were erected and set above roadway elevation on the outside of the right of way. The temporary bridge made it possible for the formwork, concrete and rebar to be set prior to transferring the bridge load to the new concrete arch. Thus, the Acrow superstructures acted as a high strength, low footprint trellis that allowed construction activity to progress all the while allowing alternating flows of traffic to use the route. It is anticipated that the project will be completed in 2017.

Mitigating the Challenges

While the rehabilitation of the Tryon Bridge did not present right of way issues, it did pose numerous difficulties. For example, there was a need to work during the construction timeline with restricted staging areas at the site, requiring staged removal and construction. As one of the wettest places in California, the local environment could be harsh at times with an annual rainfall of 67 inches. Additionally, the bridge is located on the very steep, rocky banks of a 60-foot deep environmentally sensitive gorge, and the area is home to threatened and endangered wildlife species. Access of heavy haul trucks and oversized permit loads is severely limited, which also made the Acrow Truss system advantageous since the truss panels are shipped in 10-foot increments.

In addition to regulatory oversight by the U.S. Department of Transportation, the adjacent land is owned by the California Department of Parks and Recreation and the U.S. Forest Service, as well as private individuals, so multiple-agency coordination was a necessary element in the planning and execution of the bridge replacement project.

In summary, a community long served by an engineering gem of its era is duly receiving an innovative retrofit for the future. An environment so pristine and harsh deserved a unique approach and is being well served. •



Jack Arizcuren is Regional Manager for Pacific States at Acrow Bridge where he oversees business development in the West coast market. He has over 10 years experience in the civil construction industry and can be reached at jariz@acrow.com.



Confronting Regulatory ACCUMULATION

BY MICHAEL MANDEL, PH.D. AND DIANA G. CAREW

A politically viable approach to regulatory reform

egulatory accumulation is both a process and an outcome of our reactive regulatory structure. Over time, regulations naturally accumulate and layer on top of existing rules, resulting in a maze of duplicative and outdated rules companies must comply with. However, our current regulatory system has no effective process for addressing regulatory accumulation.

To address this, we propose the creation of an independent Regulatory Improvement Commission (RIC) to be authorized by Congress on an ongoing basis. The RIC will review regulations as submitted by the public and present a recommendation to Congress for an up or down vote. It will have a simple, streamlined process and be completely transparent. Most importantly, it will review regulations en masse in a way that is politically viable.

Regulatory Approval Process

The current approval process for all new federal regulations is governed by Executive Order 12866, which dates back to 1993. It requires rulemaking agencies to assess proposed regulations, directing agencies to "assess both the costs and the benefits of the intended regulation and, recognizing that some costs and benefits are difficult to quantify, propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs."

This cost-benefit analysis is perhaps the most important part of the approval process. It is where the rulemaking agency estimates the rule's potential cost and expected benefits. It is so influential to the decision process that in 2005, the Office of Information and Regulatory Analysis (OIRA), housed



in the Office of the President, issued specific guidance for how to conduct these assessments for proposed rules where the estimated annual economic impact was \$100 million or more.

In order for the new rule to be approved, the cost-benefit or comparable regulatory analysis must show that the benefit outweighs the cost—there must be a "net benefit." Benefits can be social or economic, so that, for example, the regulation will result in less air pollution or enhance consumer safety. Costs can be in terms of business compliance, for example, the time and resources spent on items like enhanced reporting, data collection, monitoring and inspections.

Only after a review of the findings in the cost-benefit analyses and public comments received following a notice in the Federal Register will a final determination be made on whether to approve the new rule. For rules deemed "economically significant," or those with an estimated economic impact of over \$100 million annually, OIRA makes the final decision. In all other cases, the proposing agency makes the final determination. All told, the current rulemaking process consists of up to nine steps, and economically significant rules include two comprehensive OIRA reviews.

The integral role of the cost-benefit analysis in the regulatory approval process is generally accepted by both Democrats and Republicans. These analyses are seen as an objective tool to determine reasonably if a net benefit to society from the regulation exists. So, if the analysis has a net benefit, there is reasonable justification for approving and imposing the new regulation.

The Cost of Regulatory Accumulation

Our current regulatory approval process is focused on individual regulations. But regulations are hardly ever applied individually as a discrete entity—once approved, they are added to the list of regulations companies must already comply with.

As the number of approved regulations grows, they inevitably interact in ways we may not expect. And when taken together, multiple regulations can overlap or conflict, become the primary focus of company management, or even interfere with a company's willingness and ability to innovate. One could only imagine how complying with all of the various regulations together could have an impact on the efficiency of operations, organizational structure, or a company's bottom line.

Our regulatory process is not designed to systematically review or remove regulations that become redundant, unnecessary, or outdated. New regulations simply accumulate on top of old ones. In 2011, there were 169,301 pages in the Federal Code of Regulations, an increase of almost 4,000 from just a year earlier. The number of pages increased 22 percent since 2000, and by 138 percent since 1975 when the total number of pages was 71,224. That's an extraordinary number of pages for a typical business to have to be aware of and comply with.

Regulatory accumulation is an inevitable outcome of reactive regulations. The political system, understandably, reacts to major events—new technologies, corporate accounting scandals, environmental discoveries, or reports of tainted food or faulty products. The Sarbanes-Oxley Act and the Dodd-Frank Act are two very famous examples of reactive regulation, stemming from exogenous shocks to the financial system. These new rules are on top of existing reporting, accounting, and underwriting requirements.

The problem with regulatory accumulation is that it imposes an unintended, unobserved, and underappreciated economic cost. As we wrote in a 2011 paper, "an accumulation of regulations can sometimes create problems even if every regulation, taken individually, is defensible. Waves of new regulations, without elimination or rationalization of old ones, end up closing off options and raising costs."

Companies must spend money to keep up and comply with all of the rules simultaneously, old and new. Having to balance many rules together will cost more than complying with each rule separately.

For each new regulation added to the existing pile, there is a greater possibility for interaction, inefficient company resource allocation and reduced ability to invest in innovation. The negative effect on U.S. industry of regulatory accumulation actually compounds on itself for every additional regulation added to the pile.

Regulatory Accumulation and Cost-Benefit Analysis

Cost-benefit analyses are a valuable tool in understanding the societal impact of individual regulations. But what if we wanted to assess the net benefit of two regulations, 10 regulations, or many regulations implemented together?

Cost-benefit analyses do not consider the cost of regulatory accumulation. The current procedure for assessing the cumulative benefit of multiple regulations is to simply add up the costs and benefits of the individual pieces. That's how OIRA assesses the cumulative benefit of the regulations it approves. Their draft 2012 report to Congress on the benefits and costs of regulations finds: "The estimated annual benefits of major Federal regulations reviewed by OMB from October 1, 2001, to September 30, 2011, for which agencies estimated and monetized both benefits and costs, are in the aggregate between \$141 billion and \$700 billion, while the estimated annual costs are in the aggregate between \$43.3 billion and \$67.3 billion."

The implication here is that aggregating individual regulations linearly is an adequate and reasonable way to understand the societal impact of a group of regulations. But because of regulatory accumulation, regulations grouped together do not act so linearly.

Any one regulation can have a net benefit to society, as determined by a cost-benefit analysis or comparable agency assessment. But when combined with the existing array of regulations, the aggregate net benefit to society will be less than if we simply added individual costs and benefits and subtracted. For example, suppose the estimated cost of two regulations, A and B, were each \$10 million. Current practice implies the aggregate cost of A and B is \$20 million. But suppose the interaction cost—the additional cost of regulatory accumulation—between A and B was \$10 million. Then the aggregate cost of A and B is actually \$30 million—\$10 million higher than the estimate current analyses use to determine the net benefit of multiple regulations.

That means it is neither accurate nor reasonable to represent the net societal benefit of multiple regulations in the traditional linear way. The costs in aggregate will be automatically higher because of regulatory accumulation. The net benefit to society will automatically be less.



As a catalyst for policy innovation and political reform, the Progressive Policy Institute's mission is to create radically pragmatic ideas for moving America beyond ideological and partisan deadlock.

Addressing Regulatory Accumulation

Although regulatory accumulation clearly imposes a significant cost to business and to the broader economy, there are currently no processes in place that effectively reduce the number of regulations that are outdated or no longer costeffective. There are many reasons for this, but it all comes down to how retrospective regulatory review has been traditionally approached—as self-reviews by the very agencies that originated the regulation.

Traditionally, retrospective regulatory review assesses regulations one at a time. In fact, this is the approach that has been taken by every Presidential administration since President Carter. However, multiple studies on the subject show the results have been limited at best.

We argue instead the most effective approach to address regulatory accumulation is to retrospectively review, improve, and/or remove multiple regulations, as a complement to the current practice of agency self-review. This approach to regulatory reform makes the most sense when thinking about regulatory accumulation as the result of too many "pebbles in the steam." To clear away the dam it makes more sense to take a handful of pebbles rather than pick one pebble up at a time.

Benefits of an Independent Commission

As previously mentioned, our proposal to address regulatory accumulation calls for the establishment of a Regulatory Improvement Commission (RIC). The RIC would be an independent, Congressionally-authorized body that would review existing regulations as submitted by the public. Previously proposed by Progressive Policy Institute in a 2011 paper, the RIC

would be modeled after the successful Defense Base Closure and Realignment Commission. The commission would consist of eight members appointed by the President and Congress who, after a formal regulatory review, would submit a list of 15-20 regulatory changes to Congress for an up or down vote. Congressional approval would be required for the changes to take effect, but Congress would only be able to vote on the package as a whole without making any adjustments.

The public would be active participants in the regulatory improvement process. The regulations considered by the RIC would be suggested by the public during an open comment period, and the review process used by the commission would be made publicly available. Such engagement will promote impartiality while building trust in the RIC's ability to effectively meet the stated objectives.

The RIC must be re-authorized each time Congress would like to repeat this process. Such continued reauthorization is important, as such a requirement avoids the creation of a new government bureaucracy. Continued reauthorization allows the RIC to build trust across both political parties, and reduces the potential for political gaming or perceived bias in any of the commission's recommendations.

A major benefit of the RIC is that it would eliminate the cost burdens and the lack of impartiality associated with agency self-review. An independent commission is the best way to ensure there is no hidden regulatory agenda, and it has the flexibility to review regulations across many agencies. Further, there would be no repercussion from judging a regulation to be no longer cost-effective. The RIC would have no one to answer to since after the review it is disbanded. The RIC also has the benefit of addressing several regulations at once. Perhaps the most important feature of the RIC is that it is politically feasible. It is simple to



Regulatory accumulation is an inevitable outcome of reactive regulations."

understand and has fewer moving parts, making it streamlined to implement and giving less room for political maneuvering. It does not create a new federal agency, nor does it require a minimum cost reduction. And by looking at individual regulations instead of legislation, there is less potential for political controversy among those who value the legislation's intended purpose.

Why RIC is Politically Viable

The RIC is the most politically viable approach to effectively addressing the cost of regulatory accumulation, because it bridges the gap between Democrats and Republicans. The ability of Congress to have a final vote on the package of regulatory changes keeps any reform within Congressional control. Since the RIC is dissolved after each iteration, there is no threat of major wholesale deregulation. And because there is no arbitrary requirement to recommend a certain amount of regulatory eliminations, there can be no claims of a preconceived bias.

Moreover, we argue that the RIC is the most politically viable option in creating a fruitful process to retrospectively reviewing regulations. It bridges the gap between how Democrats and Republicans approach the subject of regulatory reform, and has the potential to build trust in a process that reviews regulations en masse. Finally, the RIC could have applications for state and local governments upon proven success. The economic costs of regulatory accumulation are not limited to federal codes and statutes. States and local authorities may use the RIC as a model for addressing regulatory accumulation in their own jurisdictions.

Regulatory accumulation imposes an unintended but significant economic cost to businesses and on the economy. This is true even if the underlying regulations have a net benefit to society. To implement a successful high-growth, high-innovation strategy, the burden of regulatory accumulation must be addressed. And this must be done in a way that strikes the right balance between encouraging innovation and protecting the environment and consumers. 3

An expanded version of this article was originally published by the Progressive Policy Institute. For more information, visit www.progressivepolicy.org.



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magine that you are sitting in a relocation course and the instructor asks you to explain the difference between the actual direct loss of tangible personal property payment and the substitute personal property payment. Does an answer come to mind? Or, like many, have you heard about these payments but don't fully understand how they work?

Simply put, the aim of both of these payments is to allow a business owner to claim a moving payment for an item of personal property without actually moving it to a replacement location. A business, farm or nonprofit may use either of these payments when it elects to not move personal property. (To simplify things, this article will only refer to businesses.) There may be various reasons for not moving personal property. The owner may be going out of business and no longer needs it. Perhaps the item doesn't work or is outdated and the owner wants to modernize the operation.

These payments can provide an advantage to the business owner, as well as the displacing agency. The business is permitted to claim a payment for the items it does not want to move, and the Uniform Act regulations are structured so that payments cannot exceed what the agency would have spent to move the personal property. In some situations, the amount may even be less than what the moving expense would have been.

So how does the business owner decide whether to use one of these alternate payments, and which one may be more appropriate? The relocation agent should discuss these options during the personal interview to assess whether the owner should consider them, and the agent should continue to provide information as part of advisory services. The following are some issues to consider before establishing the payment type.



Replacing or Not Replacing

Will the business replace the personal property not relocated with a similar item at the replacement location? This is the key difference between the two payments. The direct loss payment is intended for items of personal property that the business does not want to move and will not replace at the new site. It is for those items no longer needed or wanted by the business. An owner can use this payment for almost any type of personal property, such as unwanted machinery and equipment (including equipment in storage or not being used), furniture, inventory that the business simply does not want to

move and even damaged inventory. An owner planning to discontinue the business could also take a direct loss payment for all the personal property at the displacement site.

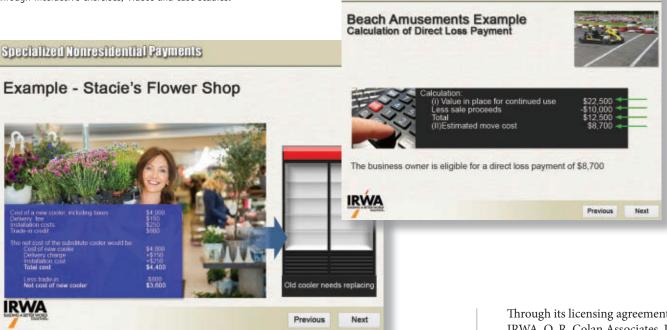
On the other hand, the substitute personal property payment is intended for items the owner will not move, but will promptly replace with a similar item at the replacement site. The substitute property payment can offset the cost of the newer item, which provides a real benefit to the business. This payment can also be used for all types of personal property the owner does not want to move. Unlike the direct loss payment, the item must be used as part of the

business operation. As such, the owner cannot elect this payment for equipment that is in storage or not being used.

Direct Loss Payments

While both of these payments are limited to what the moving expense would have been for the item, the regulations have different provisions for estimating those expenses. In the case of a direct loss payment, the Uniform Act regulations refer to "the estimated cost of moving the item as is," which requires some important distinctions about what can be included in the move cost estimate.

IRWA Course 507 demonstrates how to compute these payments through interactive exercises, videos and case studies.



Specialized Nonresidential Payments

First, for a piece of equipment that is in storage or not being used by the business, the estimate cannot include the cost of reconnecting it. This is a logical exclusion since the item is not currently connected to any utilities and the estimate should reflect the "as is" condition and installation at the displacement site. Second, if the equipment is being used in the business operation, the estimated move cost should reflect the cost to install the equipment as it currently exists. It cannot include the cost of upgrades or improvements to the equipment that are required by codes that apply at a replacement location. Again, the "as is" condition cannot consider code modifications that are not in effect at the displacement site.

So let's say the owner has a drill press that is in storage. The estimated cost to move it would only include the cost to haul it to the replacement site. If the drill press were in use, the estimate would include disconnect, hauling and reconnect expenses. However, if new codes required a safety cut-off switch installed at the replacement site, this expense would not be included.

Substitute Personal Property Payments

The substitute personal property payment is used when items are currently in use as part of the business operation. In this instance, the move cost would include reinstallation at the replacement site. The difference between reinstallation costs for a substitute personal property payment and the direct loss payment is that code modifications that would have been required for the substituted item can be included in the move estimate. So if the owner were substituting a drill press currently in use, the estimated move costs would include the cost to disconnect, haul it, reconnect and install the code-required safety cut-off switch.

A Further Look

This article is only intended to provide an overview of the differences between the direct loss and substitute personal property payments. It is certainly not a full explanation of either payment or how to calculate them. For the full Uniform Act regulations, see 49 CFR 24.301(g)(14), (g)(15), (g)(16) and Appendix A, 24.301(g)(14).

Through its licensing agreement with IRWA, O. R. Colan Associates, LLC/ ORC Training has developed an online training course that provides detailed information about these payments, along with the cost of the sale, low value/high bulk payments and related nonresidential expenses. IRWA Course 507: Specialized Nonresidential Payments is available online for those who want to learn more about computing these payments through interactive exercises, videos and case studies. For more information, visit the IRWA University online at www.irwauniversity.org.



Lisa Barnes is Vice President of Training for O. R. Colan Associates, LLC, where she develops internal and external training for the company. She has over 25 years experience in work under the Uniform Act and is the co-developer of numerous National Highway Institute courses.

Trial by Deposition

Lessons learned in the hot seat

BY VAL K. HATLEY, SR/WA

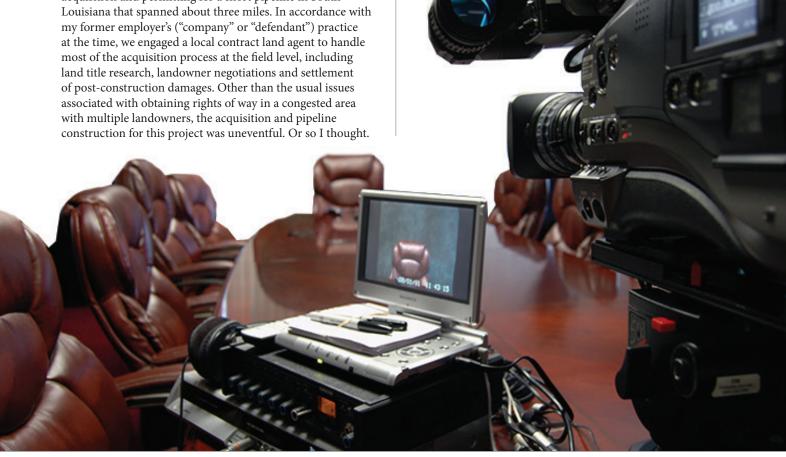
or anyone engaged in right of way acquisition at a project oversight level, you may one day be called upon to provide testimony in connection with litigation. While this is usually related to an eminent domain action, your testimony may be required for any number of other purposes.

A few months ago, I gave a deposition that involved acquiring land rights to construct a pipeline. Although I spent a significant amount of time preparing for the interview, I experienced a few surprises during the actual event that I thought I would share.

A Decade Goes By

In 2003, I had overall responsibility for the right of way acquisition and permitting for a short pipeline in South my former employer's ("company" or "defendant") practice at the time, we engaged a local contract land agent to handle most of the acquisition process at the field level, including land title research, landowner negotiations and settlement of post-construction damages. Other than the usual issues associated with obtaining rights of way in a congested area with multiple landowners, the acquisition and pipeline

More than 10 years after the pipeline began operations, a lawsuit was filed. The complainant stated that the company failed to obtain a right of way from his client, who allegedly owned land that was crossed by the pipeline. It was a small parcel encumbered by a number of roads and railroad rights of way, some of which were obtained through expropriation, which arguably transferred fee simple interests to the owners of the rights of way. In any event, when negotiations failed to resolve the dispute, the attorney for the landowner filed a lawsuit against the company.



The plaintiff's attorney had been involved in an earlier lawsuit against the parent company of the defendant, and it had resulted in a multimillion-dollar judgment against the parent. In similar fashion, he sued the company for nearly \$100 million, an amount far in excess of the fair market value of the land rights that formed the basis of the dispute. The suit alleged, among other things, that the acquisition team intentionally avoided dealing with his client and consequently, the company was guilty of trespass and that damages should be based on the total revenues of the pipeline since it began operation.

The Unexpected Scope

When my former employer contacted me about participating in the defense, I agreed to assist and was directed to provide my testimony in a deposition. Within a few days, two banker boxes arrived containing more than 1,700 pages of project-related correspondence, maps and documents for me to review in preparation for the deposition. Given that a decade had passed since this project concluded, I reviewed each folder in order to refresh my memory.

The deposition started at 8:30 am in Los Angeles where I lived at the time. One of the aspects of the process that you can control is ensuring that the deposition is on a date and at a location that is convenient for you. The attorney for the opposing side was present, along with their support staff and an expert in oil and gas land rights. A court reporter and video cameraman, along with my attorney, were also present. I was expecting a few hours of questioning.

Little did I know, but the ordeal was just beginning.

One of the first questions I was asked was whether I had discussed the case with my counsel (who represented the defendant) and whether she had helped me prepare for the deposition. There is nothing wrong with your attorney helping you prepare for the deposition, such as reviewing the paperwork and talking about what you will probably be asked to discuss. And although you have a right to have your attorney at the deposition, do not be surprised if they are mostly silent. This simply signals to the attorney for the other side that counsel has complete confidence in their witness' ability to handle the questions without the need to jump in or steer the conversation.

I went into the hearing believing that only the subject matter of the lawsuit would be discussed. Much to my surprise, one of the first exhibits produced was an extraneous note that I had written in 1978 that was completely unrelated to the case. The attorney asked me to tell them what was I thinking when I wrote the note. While trying to remain professional, I thought to myself, you've got to be kidding.

The reality is, you cannot assume that the inquiry will be restricted to the subject of the lawsuit or even be connected to that project. Although you can (and should) review the files associated with the project beforehand to familiarize yourself with what you think will be addressed, do not be



Despite reviewing more than 1,700 pages of project documentation, the opposing attorney continued to ask repetitive questions on unrelated topics.

surprised if you are deposed in matters that are apparently insignificant, old, or entirely unrelated to the subject matter of the lawsuit. For instance, because the land expert for the other side specialized in mineral law, I spent a lot of time discussing the differences in servitude agreements and oil and gas leases.

Always keep in mind that it is perfectly acceptable to say you don't know the answer if you do not remember. You are under oath, and it is reasonable that you will not have total recall of all events that occurred years ago.

Repetitive or Irrelevant Questioning

There were several instances where the opposing attorney held up a document and asked if I had seen it before and, if so, whether I remembered it. I did not want to guess, so when I was told that the attorney would be questioning me about the document, I asked to read it first. On average, it took me about 10 minutes to review each legal or title document, and at times, I felt like I was wasting everyone's time. But I knew that if I wanted to speak intelligently about the document, taking the extra time was definitely the prudent thing to do.

As the hearing went on, I found myself repeatedly testifying that I did not recall the specific details being asked. I kept thinking that I should have better recall. Of course, that is part of the opposing attorney's strategy—creating doubt. Being under oath, I was compelled to respond honestly, even if I kept repeating, "I don't recall" over and over during the course of the deposition. This is especially important when faced with those state of mind questions, like what I was thinking when I wrote that note back in 1978. The opposing attorney may try to imply that you had an ulterior motive or something to hide, especially if they can show that you handled things differently in one case than you did in another even if there was a valid reason for doing.

The opposing side wins a victory when you are confused, inconsistent and/ or contradictory. You can reduce the likelihood by reviewing the pertinent

...one of the first exhibits produced was an extraneous note that I had written in 1978 that was completely unrelated to the case."

materials presented to you, taking the time to construct your thoughts before verbalizing your response, and stating that you do not know the answer if this is accurate.

Addressing Internal Inconsistencies

It is not unusual that filing systems differ from one pipeline to another even if the operator is the same. The opposing counsel will assert that any variances in the filing procedures or document controls from one pipeline system to another are due to bad faith. For example, if there are field notes from the agent in some files, but not in the one that is subject to the litigation, the other side may assert that there has been an effort to hide information.

Variances in filings systems may be due to a number of factors. This is often the case when merging companies combine their respective right of way files. Local laws and regulations vary from one jurisdiction to another and this will influence what needs to be part of the land title research and what ultimately makes its way into the permanent right of way files. Also, the corporate protocol for what is included in the permanent files may have changed over the years, especially with the advent of new technologies.

The plaintiff's attorney continued by pointing out that in some cases the company retained all chain of title documents, but in other cases it only kept a copy of the vesting deed. Referencing another project I had worked on in the 1980s, the attorney asked me to explain why the right of way files for that project included all of the supporting land documents (including liens, encumbrances, and

subordinations) and none were included in the files for the pipeline that was the subject of the lawsuit. Consistency is also required when determining what is transferred from the field files to the permanent files at the corporate level. As part of their internal operating procedures, companies need to determine whether they will retain all working drafts, which by nature are subject to change. And if there is a policy regarding disposing of non-critical information after a predetermined time, you need to adhere to that policy and apply it across the board. A good time to ensure that your files are standardized across systems is when they are converted to an electronic database.

Although there may be good reasons for content differences in the files from one project to another, you will likely be asked to explain why at the hearing, especially if the method for handling title reports/documentation looks inconsistent or irregular.

Some Final Thoughts

For most projects, the requisite land title research often occurs at locations that are remote from the company's offices. And while there are many benefits in having an experienced and versatile acquisition agent, land title research is one function that, in most cases, should be segregated and assigned to a specialist regardless of the scope of the project. A title specialist is better equipped to take advantage of the technological resources available, while ensuring compliance and documentation with standardized processes. Title specialists are especially skilled in determining whether legal support may be needed to help interpret difficult title issues

and bringing these issues to the client's attention.

During my 12 hours of questioning, it didn't take long before I began to feel like the subject of a criminal investigation. And when the questions were especially ridiculous or repetitive, it became harder and harder to keep from responding sarcastically. Even when the camera was off, I knew that anything I said could—and probably would—be taken out of context. My legal counsel encouraged me beforehand to take frequent breaks. If you find yourself in the hot seat for hours on end, short breaks can really help to renew your focus.

In the End

The case was settled before it went to trial. Although I don't know the exact figure, I understand that the settlement amount was considerably less than the plaintiff sought. The lawyers assured me that my time and efforts to assist them in preparing for the trial contributed to reaching the settlement.

This was only the second time in my career that I was subjected to a deposition of such intensity and duration. And while no amount of preparation beforehand would have made either experience pleasurable, just know that each of us has some level of control over the process. With some advance preparation and a little insight into what to expect, anyone can be better prepared for "their day in court." •



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BY RYAN RAY

It was June 2008, and we were having our most profitable year in company history. On our way to a project site, my client looked at me and said, "Our management tells us it will be like this for another 10 years." My mind started to race. Ten more years! I envisioned buying a boat, building that dream house and retiring on the beach. Unfortunately, those dreams died just a few short months later. The project was vastly reduced in size and scope, and profits fell as we were forced to lower our rates. Ultimately, we had to reduce our staff. This was my first industry downturn.

In my opinion, there is nothing worse than laying people off. For our company, it is a very agonizing process in which we try to exhaust all other options first. It is certainly not something any of us take lightly. We recognize that, when the industry is hot, employees are hard to come by. During a downturn, employees are plentiful, but the jobs are few.

However, with a proper mindset and the right tools, finding a new job is possible. But it requires a certain understanding

about what you offer, equipping yourself with some new skills, thinking differently and outpacing the competition. We hope that this article will give you some ideas to help you differentiate yourself and put you in a position to succeed.

OVERCOMING EMOTIONS

After a layoff, your new full-time job is to secure one that pays. This job, the one that doesn't pay, will be the hardest one you will ever have. Why? Because the more time passes, the more stressful it becomes. Doubt begins to creep in, and this is followed by a sense of dread. Each morning, there is the fear of failing.

For those who haven't been through a layoff before, know that going through a wide range of emotions during this time is normal. Just do not dwell on them. I talked to a guy who had terminal cancer and asked him how he stayed so positive. He told me he would spend one hour every day allowing himself to soak in what was happening. Then he'd go back to focusing on being positive and beating his cancer. That really stuck with me.

DIFFERENTIATE YOURSELF

Nearly every job candidate has the same talking points. All claim to be hard workers, self-starters and work well with others. During a downturn, you may find yourself in a group of 20, 30 or even 100 others making the same claims. When the market is full of qualified and skilled candidates, you will need some creative maneuvers to differentiate yourself. After all, you are trying to sell a product—

yourself. And with any product, the more bells and whistles it has, the more attractive it becomes. So how can you set yourself apart? Here are five ideas:

Beef Up Your Skills

Start by focusing on the attributes you have—your talents, knowledge and work ethic. These are what will get you hired. Regardless of age or experience, we can all benefit from learning something new. This is an ideal time to take a course or add a new skill to your toolbox. Is there some training available that will help you enhance the skills and talents you already possess? Think about what you can do to make yourself more marketable.

There are many resources available, and some training programs are free. For example, Massive Open Online Courses (www.mooc-list.com) aggregates all the free online courses in one place. Another is LinkedIn (www.linkedin.com/learning). And of course, IRWA (www.irwaonline.org) offers a full range of industry-specific courses that are affordably price, many of which are available online.

2 Contact Past Service Providers

While the company you came from might be suffering from an industry downturn, other contractors you have worked with on past projects might not be. Most of us have skills that are transferable. For example, the survey company from your last project might need some help with route development. Your previous title company might need some abstracting, or the engineering firm might need some

help with permitting. Think about where there are overlapping services. Start with your network, and consider working in a related industry—one that could benefit from your specific skill set.

Offer to Work for Commission

Today's service companies are always on the lookout for their next project. So if they are not currently hiring because they don't have any open positions, ask if they will let you create one. Explain that you are willing to go out and find some new business on your own nickel—with an agreement that specifies commission and/or a defined project role if they attain the business. All you need is a phone and internet access. Not everyone will take you up on this, but someone will.

4 Bec

Become an Intern

If all else fails, offer to work as an unpaid intern. There is little risk for them and great upside for you. After all, it gives you an opportunity to show them what you're capable of doing. Today's college graduates are willing to do this, and many of them get hired because they not only got in the door, but they were able to demonstrate their capabilities.

Even if you don't get hired, you will likely gain some new experience. More importantly, you can leverage your unpaid internship in your interviews, proving that you're a hard worker even when not being compensated. You will also have a new reference, one that can vouch for your strong work ethic. I suggest offering to work 20 hours a week, as this allows you to spend the remaining 20 hours on finding a paid position.

5 Outpace the Competition

In a downturn, you need to do far more than anyone else to secure a job. If you hear about folks sending out five resumes, then you need to send out 50. If someone says they are spending a few hours a week taking training courses, then you need to be spending 20. Of course, you are probably thinking, "When will I have time for all of this?" To that we strongly suggest that you make time for it. To help you stay focused, try setting some specific goals that you can measure. Some examples include:

- Cold call 20 new companies every day
- Call 20 people in your network every day
- Read seven industry related articles daily
- Send out five resumes daily

THE PAYOFF

The reality is, it's harder to land a new job when you don't have one. This is especially true during a downturn. There is another job out there, but it may take some time to find it. While you may be tempted to binge out on Netflix, this is the time to put in 40 hours a week or more selling this product called YOU. Stay focused. Just when you think you have done all you can, do more. Finally, be creative. Look at what everyone else is doing—then do something to set yourself apart.

Even when the economy is rough, following a basic framework can help increase your chances of landing that next paying job. We hope this has been helpful for those facing the current downturn and look forward to better economic times ahead. •



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The Power of MILLENNIAL ALIGNMENT

Instead of complaining about the newest generation, organizations should be listening and learning from them.

BY ANNE ZENDER

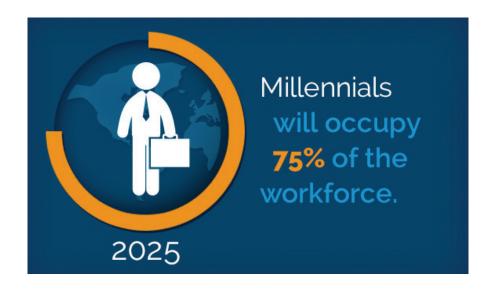
mployers can't afford to overlook the Millennial generation and the lessons they have to teach. That was the message from Association Media & Publishing annual meeting speaker, Jamie Notter, founding partner of WorkXO and author of When Millennials Take Over: Preparing for the Ridiculously Optimistic Future of Business. Millennials are important, he said, because there are so many of them, and "they are shining a light on what the future of business is going to look like."

"We're constantly saying they don't get it, they are inappropriate, they are not paying their dues," he says. "We need to stop the freaking out, and we need to start being curious about them." Notter, who has been studying Millennials for a decade or more, said he found that organizations that were "doing amazing things" were better aligned with the Millennial generation approach. "These organizations are light years ahead of everyone else and have higher levels of engagement," he said.

According to Notter, the organizations had four things in common: They were digital, clear, fluid, and fast.

In being "digital," they embraced technology and social media. Technology should be customized for customers and employees. For example, the American Society for Surgery of the Hand designed its workspace and culture around the needs of employees, not management. This has led to higher levels of engagement and more accomplishment.

"Clear" means being transparent and sharing information as a strategic activity to improve the quality of decision-making. One organization posts project management tasks and responsibilities up on the office walls so that everyone can see how things are going. People are allowed to make their own decisions without status updates or email. "In a complex world, you can't know who needs to



know ahead of time, so you make it visible, and the end result is better work and more customers," Notter said.

Regarding "fluid," organizations need hierarchy, but it should not be too rigid. One healthcare organization puts this to work by allowing people who know the most about the needs of the patient make the decisions about care—not the people in the hierarchy.

"Fast" means being able to leap ahead. One company came up with a plan for a new product line in three days, using the staff to do their own research and development. This mode of working requires employers to give up traditional management control and replace it with something they have trust in.

To maximize the wisdom of Millennials, employers should be working to build these four qualities into their culture, Notter concludes. Millennials place a great deal of value on organizational culture; they feel it is "as or more important than pay and benefits," he says.

Organizations don't have to be perfect in all of these areas, but they should be moving in that direction. "You have to be able to manage this inside your culture and be intentional about it," he said. "Build digital, clear, fluid and fast into your culture...and use what Millennials are teaching us." •

This article first appeared in the October/ November issue of Signature magazine and is reprinted with permission from Association Media & Publishing.

...organizations that were doing amazing things were better aligned with the Millennial generation approach."



Anne Zender is Senior Director of Periodicals at the American Health Information Management Association in Chicago.

IRWA Call for Awards

EACH YEAR, IRWA recognizes members, chapters and companies for their valuable contributions toward advancing the Association and the right of way profession.

The International Nominations and Elections Committee is currently accepting nominations for the following categories:

- Frank C. Balfour Professional of the Year
- W. Howard Armstrong Instructor of the Year
- · Young Professional of the Year
- Government Employer of the Year
- Employer of the Year
- Chapter of the Year
- Website of the Year
- Newsletter of the Year
- SARPA Scholarship Sponsored by RWIEF
- CRWEF Scholarship

SUBMISSION INFORMATION All forms are available on the IRWA website under the "About Us" tab and submissions will be accepted by email only.

CRWEF Scholarship application should be sent to Shannon Favaro, SR/WA shannon.favaro@fortisbc.com

Newsletter and Website of the Year should be submitted to INEC Vice Chair Randall Kopfer, SR/WA at randallkopfer@gmail.com

All other submissions should be sent to Arlene MacKenzie, SR/WA at arlene.mackenzie@gov.ab.ca

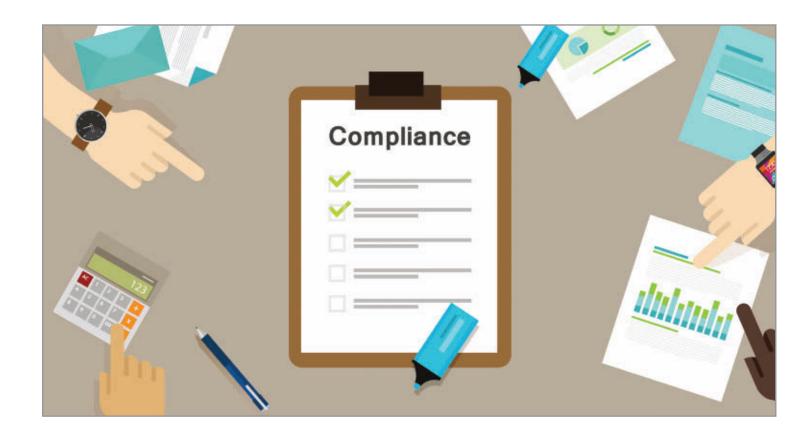
Award winners will be honored at IRWA's Annual Awards Luncheon on June 12, 2017 during the 63rd Annual International Education Conference.





Behind the Dreaded Relocation Appeal

How a displacing agency can use a relocation appeal to its benefit



BY DARRYL ROOT, JD, R/W-RAC

"We're going to have a relocation appeal."

Traditionally, these words have struck fear and dread into the hearts of relocation professionals working on federally funded projects. Visions of expensive, lengthy appeals that will delay projects and expose inaccuracies in the displacing agency's handling of a relocation case quickly come to mind. There are sometimes immediate thoughts of an acrimonious, adversarial proceeding with extensive crossexaminations of agency employees and consultants. There is also the uncertainty of the outcome, which could have an adverse impact on budget and schedule.

However, the appeal process does not have to be this way. First, it should be realized that the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (URA) does not contemplate nor cover every single real life situation found in the field. No law can do those things, and there is certainly room for interpretation of the URA and its implementing regulations, 49 CFR 24. The relocation professional should always remember this fact and understand that there can be legitimate differences of opinion on the implementation of provisions of the URA and the agency's Relocation

Assistance Program (RAP). The relocation professional should also keep in mind that displacees may appeal even if all RAP procedures have been accurately followed. Fortunately, experience has shown that there are far more appeals based upon reasonable differences in opinion than on frivolous issues. Therefore, an appeal is not necessarily an indictment or attack on the displacing agency's policies.

Through close monitoring of the appeals process and careful planning of the displacing agency's appeals policy and procedures, the appeal can be well

REGULATORY COMPLIANCE

The URA's implementing regulations, 49 CFR 24, state: § 24.10 Appeals.

- **(a)** *General.* The Agency shall promptly review appeals in accordance with the requirements of applicable law and this part.
- **(b)** *Actions which may be appealed.* Any aggrieved person may file a written appeal with the Agency in any case in which the person believes that the Agency has failed to properly consider the person's application for assistance under this part. Such assistance may include, but is not limited to, the person's eligibility for, or the amount of, a payment required under § 24.106 or § 24.107, or a relocation payment required under this part. The Agency shall consider a written appeal regardless of form.
- **(c)** *Time limit for initiating appeal.* The Agency may set a reasonable time limit for a person to file an appeal. The time limit shall not be less than 60 days after the person receives written notification of the Agency's determination on the person's claim.
- (d) *Right to representation.* A person has a right to be represented by legal counsel or other representative in connection with his or her appeal, but solely at the person's own expense.
- (e) Review of files by person making appeal. The Agency shall permit a person to inspect and copy all materials pertinent to his or her appeal, except materials which are classified as confidential by the Agency. The Agency may, however, impose reasonable conditions on the person's right to inspect, consistent with applicable laws.
- (f) *Scope of review of appeal.* In deciding an appeal, the Agency shall consider all pertinent justification and other material submitted by the person, and all other available information that is needed to ensure a fair and full review of the appeal.
- (g) Determination and notification after appeal. Promptly after receipt of all information submitted by a person in support of an appeal, the Agency shall make a written determination on the appeal, including an explanation of the basis on which the decision was made, and furnish the person a copy. If the full relief requested is not granted, the Agency shall advise the person of his or her right to seek judicial review of the Agency decision.
- **(h)** *Agency official to review appeal.* The Agency official conducting the review of the appeal shall be either the head of the Agency or his or her authorized designee. However, the official shall not have been directly involved in the action appealed.

managed and productive for both the agency and the displacee. Careful planning of the agency's appeal process means ensuring compliance with the URA as a basis for any appeals program.

Additionally, any applicable state and/or local laws must be observed. For example, many agencies have procedures that involve a formal appeal on the record and in front of a disinterested third party hearing officer who renders a written opinion.

No matter what the specifics of the appeals process are, the relocation professional should be thoroughly familiar with them and the associated deadlines for filing. Also, the appeals procedure should be clearly stated and outlined in writing and given to the displacee at the first meeting with the relocation agent.

Applying the Lessons Learned

For the relocation professional, what is most important is what's learned from the appeal decisions. Are any of the decisions generally applicable to common problems routinely found in the field? Or are the decisions too specific in nature? If generally applicable, how can the decisions be implemented in the RAP? How can the decisions be used to improve the RAP? If a mistake was made by the agency, how can it be avoided in the future? How could the appeal have been avoided? Is the agency allowing enough time in its overall project schedule for the appeal process?

By evaluating these questions and instituting lessons learned, the relocation appeal does not have to be a completely negative event. The displacing agency can use it as a way to strengthen its RAP and improve its ability to lessen displacee hardship in the future. •



Darryl Root is a Program Manager and Central California Regional Lead for Overland, Pacific and Cutler, Inc. and has been in the right of way industry for 25 years.





Legalities of an Alcohol **Beverage License**

Condemnations involving businesses that sell alcoholic beverages

BY MICHAEL F. YOSHIBA, ESQ.

A few years ago, a redevelopment project by the City of La Mirada, California sought to acquire an antiquated retail strip center for development and construction of affordable housing. The strip center had a typical California mix of tenants that included a fast food restaurant selling Baja-style fish tacos, storefront churches, an acupuncture clinic, an indoor softball training facility and a neighborhood beer/wine bar called the Anchor Inn.

The Anchor Inn was outfitted with an assortment of unmatched tables and chairs. a record playing jukebox, a cigarette machine, unflattering lighting and a bar area with wobbly red vinyl stools stretching across the back of the room. Behind the bar were neon lighted beer signs, the usual collection of glassware, stacked snack bowls and beer tap handles. But above all these details, the most memorable thing about the Anchor Inn were all the difficulties the transaction eventually presented. Though there were many legal challenges in acquiring the property rights to this retail strip center, none were more challenging than trying to secure property rights from the Anchor.

Challenges for the Acquiring Agency

The Anchor Inn had been in this location for more than 10 years, with several more years remaining on their lease when the City approached the business owners about purchasing their property. Business at the Anchor Inn was not brisk, but it attracted enough patronage and produced sufficient revenue to allow the owner-operator-bartender to cover monthly expenses and market-rate adjusted rent. Six months was initially allotted for negotiations toward an agreement followed by displacement and relocation. But upon further investigation, the legal complexities surrounding this proposed acquisition became readily apparent, and six months was not enough.

In California, the manufacturing, distribution, storage and sale of alcoholic beverages is regulated through laws enforced by the Department of Alcoholic Beverage Control (ABC). The alcoholic beverage license in the Anchor Inn location was not automatically transferrable to another location. Changing locations was subject to the local municipal codes and ABC regulations. In this instance, the Anchor Inn was conditionally permitted to operate at the existing location, but any subsequent move of the business required a new conditional use permit.

After an exhaustive search for a replacement site in the City was unsuccessful, the only option was a move to surrounding cities. Anchor Inn's owner had considered at least a half-dozen new locations but could not find any that were convenient and readily accessible to his existing customer base. And all of the proposed locations already had existing alcoholic beverage licenses, thus his current license would be unnecessary.

LEGAL INSIGHT

And if the Anchor Inn owner were to opt for a purchase of another existing bar with an alcoholic beverage license, he would have to apply to the ABC for a license transfer. The transfer application review would take a minimum of 30 to 120 days before the ABC would decide if it was approved or denied. If denied, the appeal process could take up to a year, not even considering the expense of pursuing this option. Finally, the costs associated with purchasing another business and location was uncertain. What was certain, however, was that the Anchor Inn was unable to relocate the business or purchase another similar business within the six-month acquisition timeline allocated for the project.

Complicating this situation was the fact that the business showed no profitability and was thus found to have no business goodwill. (California is one of a handful of states that compensates

displaced businesses for loss of business goodwill.) In sum, the business had a market-based rental rate (so no bonus value of leasehold), fixtures and equipment that were fully depreciated and nearly obsolete, an unsold alcoholic beverage inventory, a worthless ABC license, no business goodwill, and relatively few options to relocate because of the ABC rules, regulations and associated delays in obtaining permission to transfer or relocate the business.

A Viable Solution

Nonetheless, the City worked with the Anchor Inn owner to craft a mutually acceptable solution. The Anchor Inn owner decided that the difficulties in trying to move the business or buy an existing business were neither feasible nor desirable. The business owner was contemplating retirement within a few years anyway. The parties

reached an all-inclusive monetary settlement agreement, and the Anchor Inn's alcoholic beverage license was voluntarily surrendered back to the ABC, who would later issue that surrendered permit to a new applicant via its lottery system. Affordable homes now occupy the location of the former Anchor Inn and serve as a successful result that began and ended with ABC.



Michael Yoshiba is a shareholder in the Eminent Domain and Litigation Departments of the Los Angeles law firm, Richards, Watson & Gershon.



15TH ANNUAL RIGHT OF WAY MAPPING COMPETITION

Enter your map today!

Sponsored by IRWA's International Surveying & Engineering Community of Practice, this annual competition will be held in conjunction with IRWA's 63rd Annual International Education Conference, June 11, 2017 in Anchorage, Alaska.

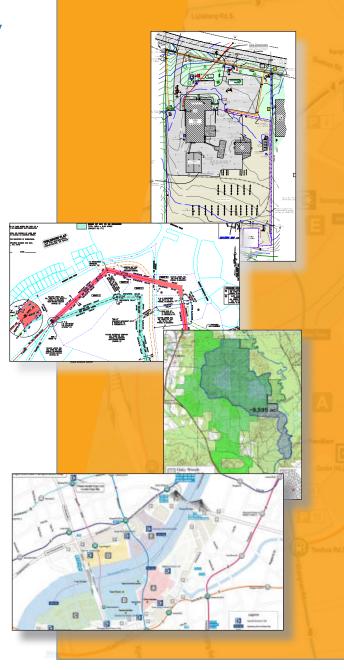
Winners will be announced in Right of Way Magazine and at the Annual Education Conference, where winning maps will also be displayed. Winners will receive recognition at a national, regional or local IRWA meeting.

Eligibility: Anyone can enter, however each entry must be sponsored by an IRWA member. Members may sponsor multiple entries. Maps must be associated with the right of way profession including related disciplines.

Rules: One entry per person in each category. A map may only be entered in one category. Each entry shall be a standalone single sheet. Maps and entry forms must be submitted digitally using Adobe pdf files. Entries under the transportation, oil & gas, and electric & utility categories must be maps/plats prepared for, or in support of, boundary/right of way line retracement or acquisition. This includes, but is not limited to, property or right of way survey maps and plats. Entries under the Industry General category shall be maps or exhibits related to highways, pipelines, utility lines, telecommunication lines (or associated facilities) prepared for general purposes such as public hearings, presentations, conceptual plans, etc. Examples include, but are not limited to, ownership exhibits, GIS and aerial photos (with or without overlays), etc.

Judging: Entries will be judged on overall presentation, orientation and the effective use of graphics, legends, symbols and innovative methods.

Disclaimer Information: If contractual confidentiality precludes submission, the title block can be cleared of all pertinent information and state "Prepared for Competition due to Jurisdictional Confidentiality."



15th Annual Right of Way Mapping Competition Official Entry Form (please print or type) IRWA Sponsor Entrant's Name Company Name or Agency Address City State/Province Zip/Postal Phone Email Category Transportation Oil & Gas Electric & Utility Industry General



JEFFREY JONES, SR/WA, R/W-URAC, R/W-RAC, R/W-NAC Candidate for IRWA International President-Elect

Jeff has been a member of IRWA's Michigan Chapter 7, Region 5 for 20 years.

Education

Attended Michigan Technological University, Houghton, MI and Lawrence Technological University, Southfield, MI. Additional coursework completed through IRWA, achieving the SR/WA Designation in 2000, the R/W-RAC and R/W-NAC in 2002, and the R/W-URAC in 2010.

Employment

Right of Way Supervisor for the Road Commission for Oakland County, MI, 1978 - 2011; Currently a contracted Right of Way Specialist with Hubbell, Roth & Clark, 2011 - Present.

IRWA Activities

- International Vice President,
- International Treasurer,
- International Secretary, 2014 - 2015
- International Governing Council Member,
- International Finance
- Region 5 Chair, 2012 2014
- Frank C. Balfour Professional of the Year, 2008

- Past Chair and Vice Chair, International Local Public **Agency Committee**
- Past Member, International **Liaison Committee**
- Region 5 Professional of the Year, 2008
- Past Region 5 Vice Chair, Secretary, Treasurer
- to the International Local **Public Agency Committee**
- Chapter 7 Professional of the Year, 2008
- Past Chapter 7 President, President-Elect, Vice Professional Development, Committee member, **Education Committee** Co-Chair, International Director, Newsletter Editor, **Nominations and Elections** Committee Member

Other

- IRWA Certified Course Coordinator
- IRWA Instructors Task Force Member, Specialty Task
- Editorial Advisory Board member for Right of Way

At this time, I am well into my third year serving our members as part of the International Executive Committee, and I thank you for this wonderful opportunity. As an Association, we continue to grow, in large part due to the efforts of our talented members, Chapter leaders, International Committees, Communities of Practice, IRWA staff, as well as my fellow International Governing Council members. I thank you all for your time, talents and insight as we move our Association forward for the benefit of our members.

In July of this year, the IEC addressed the Association priorities and our strategic plan, which ultimately led to IRWA's Purpose Statement and a restructured Mission Statement. Our Purpose, which is improving people's quality of life through infrastructure development, was presented to the IGC and received unanimous approval. The IGC also approved the update to the Mission Statement, which promotes our ethics, education and standard of excellence.

And that's not all. This past year, we kicked off the Inaugural Congress for Global Infrastructure Real Estate in conjunction with our Annual Conference in Nashville to an overwhelming success. The Congress will continue to grow as a standalone educational meeting on a global stage. Our Young Professionals are continuing to have an impact on our Association, and their expanding participation at the Chapter and Region level has increased awareness of the IRWA, thereby adding to our growth.

This year, I have served as the IEC liaison to the Partnership for Infrastructure Professional Education and the Credentialing Committee. It has been quite an experience to sit with and assist these two groups of talented individuals as they transform the learning experience for our members. Having been involved with the CLIMB Instructor Development program has allowed me to see first-hand how the CLIMB experience creates an interactive environment, keeping students engaged and improving overall content retention. By the end of our fiscal year, we will have held two CLIMB Instructor Development programs for existing instructors and one CLIMB session for new instructors.

As we move forward and live our purpose—to improve people's quality of life through infrastructure development we will build a better world together. It continues to be a privilege to serve on the International Executive Committee and to give back to our Association. I look forward to the opportunity to continue the work.

I am respectfully submitting my name for consideration as IRWA International President-Elect.





AIMIE MIMS, SR/WA, R/W-AMC, R/W-NAC Candidate for IRWA International Vice President

Aimie has been a member of IRWA's Minnesota Chapter 20, Region 3 since 2010.

Education

Earned a Bachelor's degree in Political Science from the University of Minnesota Morris and Master's degree in International Studies and Conflict Resolution from the University of Denver. Is a licensed real estate agent in the State of Minnesota and achieved the SR/WA Designation in 2015, the R/W-NAC in 2015 and the R/W-AMC in 2012.

Employment

Right of Way Project Manager at HDR; 2013 to Present. Previously, with Xcel Energy from 2011-2013 as a Siting and Land Rights Technician, and Westwood Professional Services from 2008-2011 as a Siting and Land Rights Specialist. Served as a Peace Corps Volunteer in Guyana, South America from 2004-2007.

IRWA Activities

• International Treasurer,

- International Secretary, 2015 - 2016
- International Global **Relations Group** 2014-2015
- Elections Committee, 2014-2015
- Community of Practice, 2012-2015
- Past Chapter 20 President-Elect

Other

• Served on the Land Use Advisory Committee as District 9 Committee Member of the Metropolitan Council of the Twin Cities

It's an exciting time to be a part of the work we do as real estate infrastructure professionals and members of the Association. As we continue to focus on IRWA's higher purpose—bringing quality of life to communities through infrastructure development—we recognize our efforts are making a big impact domestically and internationally. Our projects are delivering safer, more reliable services like water, electricity, fuel, communications and roads to people at home and abroad, thereby improving their quality of life.

Because the work we do is so important, it's critical that our Association has a focused, strategic plan in place. It's essential that we continue to invest in our members by providing the education, credentialing and leadership development opportunities required to succeed. In recent years, we've seen great success with key initiatives, including the creation of industry-specific credentialing pathways, implementing the CLIMB Instructor Development program, fostering growth of our Young Professionals group and hosting the first Congress for Global Infrastructure Real Estate. But we can't stop—we won't stop there.

It was my honor to be elected as your International Treasurer this past year, working to actualize our Association's higher purpose of improving people's quality of life through infrastructure development. I look forward to what's to come for our members. And I will continue to focus on the Association's highest priorities—those that provide the most significant impact, including taking a strategic look at how our Association is structured, branding and how we connect with others, and demonstrating our value to employers. Providing you with the tools, training and support needed for success will lead all of us toward greater opportunities to impact the lives of people everywhere.

I respectfully ask for your support in my candidacy as your IRWA International Vice President. Thank you.





SHARON N. SLAUENWHITE, SR/WA Candidate for IRWA International Treasurer

Sharon has been a member of IRWA's Atlantic Canada Chapter 65, Region 8 since 2003.

Education

Earned a Bachelor's degree in English Literature from the University of Prince Edward Island, a Certificate in Public Sector Leadership from the University of Prince Edward Island and an Information Management Certificate from Holland College. Completed additional coursework through IRWA, achieving the SR/WA Designation in 2008.

Employment

Supervisor Provincial Roads, Government of Prince Edward Island, Department of Transportation, Infrastructure and Energy, 2007-Present. Previously was a Paralegal at the Department, 2003-2007, and a Paralegal and Title Researcher at Matheson and Murray Law Firm, 1990-2003.

IRWA Activities

- International Secretary, 2016-Present
- Canadian Right of Way Education Foundation, President, Vice President and Secretary Treasurer, 2008-2010
- International Governing Council Member, 2014-Present
- International Finance Committee, 2014-Present
- International Ethics Officer, 2014-Present

- Region 8 Chair, 2014-2016; Vice Chair, 2012-2014
- Region 8 Professiona of the Year, 2013
- Canadian Right of Way Education Foundation Director, 2013-Present
- Chapter 65 President, Vice President, and Secretary, 2006-2012
- Chapter 65 Membership Chair, 2004-2006, Education Chair, 2010-2014, Professional Development Committee Member, 2008-2011
- Certified Course Coordinator, 2009-Present

Other

- Financial Management Institute of Canada, 2012-2015
- New Haven Riverdale Community Council, 2004-Present
- PEI Commissioner of Oaths and Affidavits, PEI Supreme Court, 2003-Present
- PEI Provincial Government Transportation and Infrastructure Renewal Strategic Planning Group, 2010-2012
- PEI Commissioner of Deeds, 1996

Whether you are new to the workforce or a seasoned professional, to excel in a right of way career requires a network of colleagues and mentors that you can call on to seek advice or to share best practices. Professionals in infrastructure real estate recognize that change is constant, and in order to retain a competitive advantage, we must always be looking for new learning opportunities, looking ahead to the future and preparing for the challenges it will bring.

Who knew 15 years ago that IRWA would create virtual classrooms that allow our members across the world to take a course from their laptop if a classroom experience was not a practical option? Looking ahead, what will education in infrastructure real estate look like? What challenges and innovations will impact our Association as we plan for that future? How many new Chapters and new members will we have 15 years from now, and how will that impact our services, our governance, and the education resources that will be available to our members?

For me, serving as a member of the International Executive Committee has brought a new focus to those questions. And helping the IRWA prepare for the future that our growing international membership and future leaders will face is our highest priority. Since joining the IEC, I have had the opportunity to get a glimpse of that future, and it is very promising!

At the International Governing Council meeting in 2016, I marveled at the new perspectives and fresh ideas that were generated from the Young Professional representatives in attendance. They embrace change and their positive energy will help carry us forward.

I attended the second cohort of the new instructor training workshop, the CLIMB. The calibre of the candidates who are stepping up to become IRWA instructors is strong validation that our curriculum is in good hands. Our new instructors will join our existing CLIMB-Certified instructors as industry experts, leading the way with a genuine desire to share their experience and help others become better professionals.

I have also been part of the discussions centering around what changes will be necessary to ensure that the governance of our Association will keep pace with our growing membership on an international scale. Discussions with our members and planning for change will be ongoing for many years to come, and I welcome the opportunity to help IRWA prepare for a brighter future.

I ask for your support to continue this important work as I submit my name for the position of International Treasurer.





ANA RAUSCH Candidate for IRWA International Secretary

Ana has been a member of IRWA's Gulf Coast Chapter 8, Region 2 since 1992.

Education

Earned a Bachelor of Science degree in Biology and Chemistry, as well as an MBA in Finance from the University of Houston. She is a licensed real estate broker in the State of Texas and completed additional coursework through IRWA, achieving her SR/WA and R/W-RAC Designations.

Employment

Senior Vice President at Percheron, LLC 2009 present. Previously served as Vice President of Real Estate for Houston METRO.

IRWA Activities

- Vice-Chair, International Electric & Utilities Committee, 2011-2012
- Served on International Finance Committee, 2012-2013

- Committee, 2005-2009
- Region 2 Chair, 2014-2016
- Chapter 8 President, 2005
- Chapter 8 Professional of the Year, 2007
- IRWA Certified Course

Other

- •Member, Gulf Coast Power Association
- Women's Energy Network
- Commercial Real Estate

The world is changing quickly and so is the need for infrastructure. IRWA has always focused on the evolution of our industry, as well as connecting, educating and improving the professionals within it to create the highest standard of practice. It is only through the strength of this network that we can all succeed together.

I was blessed to have found the right of way profession straight out of college, and I have been a member of IRWA for 24 years. I have had the honor of making friends across the country, all connected by this profession that we love thoroughly. I have also had the privilege of serving at the local, regional and International Governing Council levels, and I have observed the evolution of the industry as a whole, as well as the professionals within it. Our profession is becoming more nuanced, with more diverse viewpoints. But at the root of it, this industry is filled with passionate, energetic and caring individuals. We have added Chapters all over the world, spreading our footprint and developing the industry to further advance our membership—who are now coming from all generations, genders and ethnicities. As we learn new and better ways of doing business, we must keep an open mind and a fresh perspective, while honoring the traditions that have made IRWA a global Association of talented professionals.

As our Association grows, we need to make sure that we are staying current in technology to help our Chapters and Regions with their reporting requirements. Technology can help our membership stay connected, get current information, attend webinars, take classes and attend monthly meetings virtually—and that is only just scratching the surface of what we can do.

Education needs to be our top focus, and offering education in multiple forums is key. We need timely feedback from our members as to the direction they want their education to go, and the IRWA needs to be able to provide classes in a variety of formats to meet that need.

The Association requires hard work, excellence and honesty not only from itself, but from each member of its expansive network. Whether working with an individual to find a solution to a singular issue, mentoring a Chapter, or collaborating and coordinating with other regions, I am privileged to have the responsibility to serve the best interests of the IRWA and its membership. It is only with the highest ethical standards and transparency that the IRWA can address the full scope of growth and evolution in its member base with the best possible education and mentorship.

I respectfully ask for your support as I submit my candidacy for International Secretary.

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>> IRWA COURSES

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

BASIC RIGI		g.
	HT OF WAY DISCIPLINES	
100, 100C 100i* 103*	Principles of Land Acquisition Principles of Land Acquisition-International Ethics and the Pight of Way Profession	4 day 2 day
103 104* 105*	Ethics and the Right of Way Profession Standards of Practice for the Right of Way Professional The Uniform Act Executive Summary	1 day 1 day 1 day
	CATION/NEGOTIATIONS	1 uay
200*	Principles of Real Estate Negotiation	2 day
201	Communication in Real Estate Acquisition	3 day
203* 205*	Alternative Dispute Resolution Bargaining Negotiations	2 day 2 day
207	Practical Negotiations for U.S. Federal & Federally Assisted Projects	2 day
209	Negotiating Effectively with a Diverse Clientele	2 day
213 * 215	Conflict Management ROW Acquisition for Pipeline Projects	1 day 2 day
218	ROW Acquisition for Electrical Transmission Projects	2 day
219	Introduction to Presentation, Instruction and Facilitation	2 day
225	Social Ecology: Listening to Community	1 day
MANAGEM		
303* 304*	Managing the Consultant Process When Public Agencies Collide	2 day 1 day
APPRAISAI	L	
400*, 400C		2 day
402* 403*	Introduction to the Income Capitalization Approach Easement Valuation	1 day 1 day
406A*	15-Hour National USPAP Course Uniform Standards	2 day
406B*	of Professional Appraisal Practice 7-Hour National USPAP Course Uniform Standards	1 day
4000	of Professional Appraisal Practice	ı uay
409	Integrating Appraisal Standards	1 day
410 411*	Reviewing Appraisals in Eminent Domain Appraisal Concepts for the Negotiatior (online only)	1 day 1 dav
417	The Valuation of Environmentally Contaminated Real Estate	2 day
421, 421C 431	The Valuation of Partial Acquisitions Problems in the Valuation of Partial Acquisitions	4 day 1 day
RELOCATIO	N ASSISTANCE	
501	Residential Relocation Assistance	2 days
502	Non-Residential Relocation Assistance	2 days
503 * 504	Mobile Home Relocation Computing Replacement Housing Payments	1 day 2 days
505	Advanced Residential Relocation Assistance	1 day
506	Advanced Business Relocation Assistance	2 day
507*	Specialized Nonresidential Payments (online only)	1 day
520	Special Topics in Replacement Housing	1 day
520 ENVIRONM	ENT	1 day
520 ENVIRONM 600*	ENT Environmental Awareness	1 day
520 ENVIRONM	ENT Environmental Awareness Understanding Environmental Contamination in Real Estate Environmental Due Diligence and Liability	1 day 1 day 1 day 1 day
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* Asterisked courses are available online.

SR/WA Review Study Session

SR/WA Review Study Session (Canadian)

3 days

3 days

SR/WA

SR/WAC



Mott MacDonald Welcomes Ron Aitkens as Vice President—Strategic **Transit Development**



With over 35 years of experience, transit professional Ron Aitkens joins Mott MacDonald as the new Vice President—Strategic Transit Development to assist in transit opportunities in the U.S. and Canada. His expertise includes engineering, project development, and transit system operations and maintenance. He has also held executive oversight responsibility for monorail, light rail and people mover projects, and he has a strong knowledge of transit system delivery.

Kinder Morgan's Tom Hutchins elected INGAA Foundation Chairman

Kinder Morgan is proud to announce that Tom Hutchins, the Vice President of Environmental Health and Safety for their natural gas business, was elected by the Interstate Natural Gas Association of America (INGAA) Foundation's board of directors as the 2016-2017 Chairman. Tom brings over 30 years of industry experience in field engineering, project management and operations. INGAA Foundation President, Don Santa, pointed out that Hutchin's expertise in pipeline operation and environmental, health and safety gives him the insight ideal for the role of Chairman.

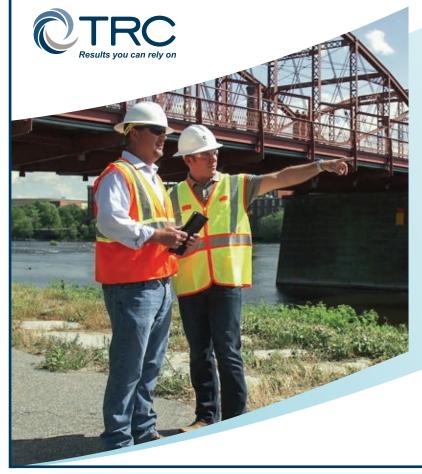


David Cline Joins Cardno as **Professional Engineer**

Environmental permitting expert, David Cline, P.E., has recently joined Cardno in their Salt Lake City



office to assist with environmental engineering projects. These include solid and hazardous waste facility planning, surface impoundment permitting and design, as well as environmental Phase I and II site assessments throughout the United States. David has over 32 years of experience in environmental engineering and is a registered professional engineer in Utah and California.



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OIL & GAS

Shell Signs Oil Deal With Iran



During his campaign, President Trump criticized the Obama administration's landmark nuclear agreement with Iran and has vowed to renegotiate the terms or scrap

the deal all together. Despite this, Royal Dutch Shell signed an agreement with Iran's state oil company in December to explore future projects, leading many to assume that the giant energy companies are unlikely to halt their plans in light of President Trump's pledge to undo the nuclear deal.

Shell's return makes a giant breakthrough for Iran's energy industry and comes right after negotiations with Total S.A., a French multinational integrated oil and gas company who signed a \$4.8 billion deal to develop a large natural-gas field in Iran. Prior to these deals, U.S. restrictions on transactions with Iran seemed to have made European companies cautious. But Iranian President Hassan Rouhani successfully pushed for deals with high-profile companies ever since the U.S. presidential elections.

In addition to claiming that Iran has fantastic resources, Shell CEO Ben van Beurden spoke to the Wall Street Journal in November and pointed out that the company would "only want to take significant investment risk if we see reasonable stability of [Iran's] legal status and—equally important—we will only engage in projects that do make economic sense."

And as the Wall Street Journal concludes, Total and Shell are certainly aware of U.S. policies since they both have substantial American operations. Despite this, their negotiations with Iran suggest that they plan to build ties with Iran anyway, and they are prepared to handle any fallout with the Trump administration.



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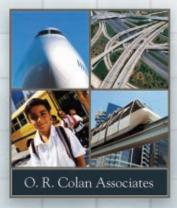
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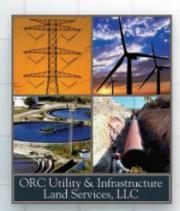
- Junior Agent ROW
- Junior Agent ROW Utilities
- Junior Agent Appraisal
- Acquisition / Relocation Agents
- Title Agents
- ROW Project Managers
- ROW Utility Project Managers
- Certified General Appraisers

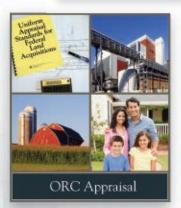
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Israel Embarks on Largest-Ever Infrastructure Project

If everything goes according to plan, Israel may be beginning commercial production of their largest-ever infrastructure project by the end of 2019. The project will involve further developments of its Leviathan offshore gas field in the Mediterranean.

The project has faced years of delay, but has now entered the first phase. This includes a \$4 billion investment to produce 12 billion cubic meters of gas and the drilling of eight production wells that are intended to link to an offshore production-and-treatment platform. Currently, 200 engineers are working on the planning of this platform and are optimistic about the results. Yossi Abu, CEO of Delek Drilling, points out that nearly 60 percent of the project has already been finalized, including much of the procurement.

The second phase—an expansion of production to 21 billion cubic meters of gas per year—will depend on potential export deals with Turkey, Egypt and Southern European countries. Luckily, things are already looking hopeful. Last month, the Israeli Energy Minister met with his Turkish counterpart to discuss future gas shipments to Turkey and Europe through a 500-kilometer

undersea pipeline from the Leviathan field to Turkey's southern Mediterranean coast. There have also been discussions of gas shipments



from the Leviathan to Egypt's Mediterranean coast after the construction of a 450-kilometer pipeline. The plan also proposes the construction of a 1,300-kilometer pipeline, which would transport gas from the Leviathan field to Cyprus, Greece and Italy.

"The Israeli economy will benefit as, up to now, it has faced constraints on gas supplies," said Chen Herzog, Chief Economist and energy expert at BDO Consulting of Tel Aviv. "Once Leviathan is on line, there will be sufficient supplies to meet the rapidly expanding demand as well as substantial quantities for export."



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EDUCATION

CLIMB Instructor Development Shows Continued Success



IRWA's CLIMB Instructor Development Program is an innovative learning lab designed to integrate cutting-edge instructional methods that support a powerful learner-centered experience. These instructional methods—along with the

CLIMB standards of instructional excellence (communication, content, leadership, instruction, method and behavior)—center on long-term learning retention, assessment accountability and application of these newly acquired skills.

The first CLIMB was held in January for existing IRWA instructors and was met with huge success. More recently in November, over 60 instructor candidates hoping to become CLIMB certified instructors gathered in Texas for the two-day development program. This program is the first of several requirements to obtaining approval to instruct IRWA courses.

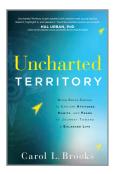
According to Deidre Alves, M. Ed., IRWA's Vice President of Professional Education, "this second CLIMB Instructor Development Program was a huge success and further solidifies IRWA's position at the forefront of infrastructure education, advancing our purpose to improve the quality of people's lives through infrastructure development."





MEMBER NEWS

Walk Through Uncharted Territory with Carol Brooks, SR/WA



In December, internationally recognized author and trainer Carol Brooks, SR/WA, released her latest publication, Unchartered Territory. A longstanding IRWA member and the Owner of Cornerstone Management Skills, Carol has learned that facing life's challenges requires being brave enough to look inside ourselves and navigate the uncharted territory of our pasts, our mindsets and our fears.

In Uncharted Territory, Carol explains how to achieve a "youphoria lifestyle," which requires getting rid of old habits and negative thinking that holds us back from joyous living. She believes this a personal choice, but in order to make it a reality, we must address what lies below our attitudes, habits and fears. These are the culprits that lurk in our mindset and hold us back from leading the lifestyle that we want, need and deserve. "By examining my own attitudes, habits and fears, I discovered that the only person in the way of my happiness was myself—and my wrong thinking," says Carol.

With over 15 years of experience in public utilities and local public agencies, Carol has been instructing IRWA courses since 2002. In addition to her CLIMB-Certified and Master Instructor status, she is also Vice Chair of IRWA's Partnership for Infrastructure Professional Education, chartered to mentor and groom IRWA's instructors, with the goal of building a world-class faculty and exceptional education programming. She is a frequent contributor to Right of Way Magazine and her regular column, Back to Basics, was featured from 2010-2014.

"Carol has spent her entire career encouraging people to aspire to their highest levels of fulfillment and personal growth," says Barbara Billitzer, Right of Way Magazine's Publisher and Editor-in-Chief.

"Even as she weathers the most challenging times, she is always focused on helping others to become the best they can be."

Uncharted Territory is available in a hardback or kindle version at amazon.com and barnesandnoble.com. For more information, visit www.cornerstonemanagementskills.com.

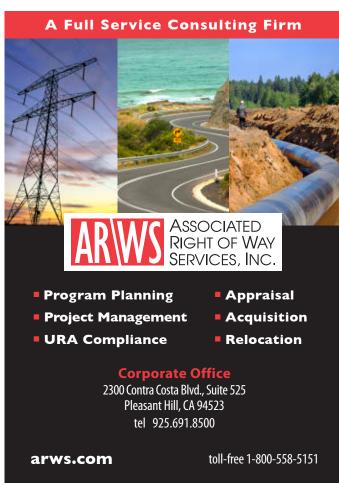




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GLOBAL NEWS

Mexico Opens Huge Opportunities for Oil and Gas Investors

After a 75-year monopoly of Petroleos Mexicanos (Pemex), Mexico has been negotiating with potential foreign partners and investors. Mexico has opened its oil and gas doors, creating unprecedented opportunities for investors. In fact, the U.S. Energy Information Administration revised its 2040 forecast for Mexican oil and gas production to increase by 76 percent.

Steve Hanson, CEO of International Frontier Resources Corporation, predicts "over the next four years, we will see accelerated growth for a country with massive oil and gas resources, excellent infrastructure, a transparent investment framework, and a new hunger for foreign partners. In short, it is the largest energy opportunity in the world today—and the door has just been opened."

The interest and competition is expected to intensify. While many investors have turned their eyes to the possibilities, Business Insider takes note of three companies in particular (Exxon Mobil, Pan American and International Frontier Resources) that have already begun making moves to take optimal advantage of this open door.

As Business Insider points out, "Right now, there is nothing bigger than Mexico when it comes to oil and gas sales. We're talking about North America, large oil reserves, good infrastructure, and discoveries that are already in development. As such, the waiting list is going to be a long one, so the first movers are key."





INGAA Moves to Enhance Cybersecurity of Nation's Infrastructure



In a move to improve the security of its members' cyber networks and physical assets, the Interstate Natural Gas Association of America

(INGAA) has recently joined forces with the Downstream Natural Gas Information Sharing (DNG) and Analysis Center. This partnership aims to address both physical and cybersecurity threats to the nation's infrastructure.

More than a dozen Information Sharing and Analysis Centers (ISAC) exist in the U.S. alone, which cover industry sectors such as electric, nuclear, financial, telecommunications, information technology and water. It's no surprise that many infrastructure

sectors use these ISACs to share data and analysis within the sector, with other sectors and with federal and state governments.

"INGAA and its members are proud to join the DNG-ISAC, and we hope our knowledge and experience with these important security issues help others within the ISAC," said INGAA President and CEO Don Santa. "We hope to bring value by sharing with other members the lessons that INGAA and its members have learned from the automated information sharing pilot program."

"Information-sharing is central to a robust cyber and physical defense," he continued. "Participation in the DNG-ISAC will allow us to share more readily important information within our sector, with other energy sectors and with the government to promote the safety and reliability of the nation's interstate natural gas pipelines."



TRANSPORTATION

\$1.5 Billion Replacement Bridge Slated for 2018



Built in 1968, the Gerald Desmond Bridge is not only vital to the nation's infrastructure, it is also a main access route for the Port of Long Beach in California and surrounding communities. Unfortunately, the steel

arch bridge developed a number of issues and after several years of research, it was decided that a bridge replacement would be built with a cable-stayed design and six lanes for improved traffic flow. The bridge will also be redesigned to be high enough to accommodate most cargo ships and wide enough to better accommodate future traffic volumes. The two towers will soar 500 feet high, making it one of the nation's tallest cable-stayed bridges and providing 50 feet more clearance.

Of course, there have been some setbacks. Two years ago, the project was delayed when Caltrans engineers wished to change some design elements to ensure the seismic safety of the bridge. "With a project of this magnitude, you are going to run into challenges," said Long Beach Harbor Commission President Lori Ann Guzman. "Building a cable-stayed bridge along so many fault lines has never been done, really, globally."

Despite the setbacks, Guzman remains optimistic. The \$1.5 billion bridge is on track to open in 2018. Once the project is complete, laborers will have laid 300,000 cubic feet of concrete, equal to about 60.6 million gallons, and erected more than 90 million pounds of steel and steel reinforcement.

"We are literally changing the skyline of Long Beach in a dramatic fashion," said Steve MacLennan, the bridge's program manager. "You have one shot to really do this right."



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PUBLIC LANDS

Secretarial Order Encourages Collaboration with Native Communities



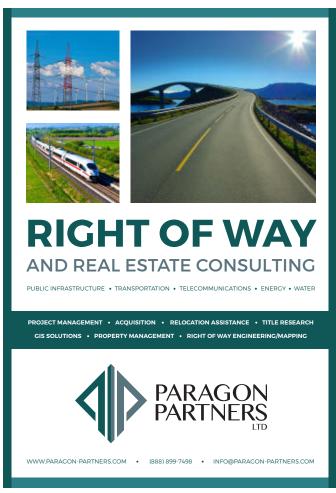
During the annual Alaska Federation of Natives Conference in Fairbanks, Alaska, U.S. Secretary of the Interior Sally Jewell announced a Secretarial Order encouraging cooperative management between the Department's land and water managers and federally recognized tribes. The Secretarial Order aims to give Native communities the opportunity to have a role in managing public lands, waters and natural resources that have geographical, historical and cultural connections to the tribes.

"This Secretarial Order reflects the Obama Administration's deep commitment to strengthen respect between the United States government and Native American and Alaska Native leaders and communities while boosting our efforts to increase tribal selfdetermination and self-governance," said Secretary Jewell. "This kind of collaboration with tribal nations will help ensure that we're appropriately and genuinely integrating indigenous expertise, experience and perspectives into the management of public lands."

The Secretarial Order encourages agencies—such as the National Park Service, the Bureau of Land Management, the U.S. Fish and Wildlife Service, the Bureau of Ocean Energy Management and the Bureau of Reclamation—to seek opportunities to engage tribes in dialog, decisionmaking and cooperative management agreements.

"This Order ensures a continued connection between Native communities and federal lands where we share complementary interests in conserving and managing fish, wildlife and their habitats, and protecting cultural resources," said Deputy Secretary Michael L. Connor. "Cooperative management and other collaborative partnerships with tribes help ensure the protection of public lands and resources, guides appropriate development, and assists in better understanding and addressing the effects of climate change."





COMPANY NEWS

Surveying and Mapping, LLC Acquires So-Deep, Inc.



Surveying and Mapping, LLC (SAM) and SAM-Construction Services, LCC have recently acquired So-Deep, Inc., a leading national provider of subsurface utility engineering services and one of the largest geospatial solutions companies in North America.

Since its inception in 1994, SAM has become a leading provider of geospatial data solutions such as land surveying, aerial mapping, asset inventory (GIS) and construction phase services. So-Deep, founded in 1981, is recognized for pioneering the marketplace as a company solely focused on underground utilities and the mapping and integrity of existing systems. The company provides land surveying, utility location and subsurface utility engineering. As industry leaders, the partnership between SAM and So-Deep will deliver complementary services, expand their collective market reach and enhance their ability to deliver project value for clients.

"We are very excited about bringing So-Deep into the SAM family of companies," said Samir G. Hanna, RPLS, CEO and Founder of SAM. "Their premiere reputation and record of success aligns very well with our own and we are enthusiastic about the synergy of services this acquisition will bring to our clients."



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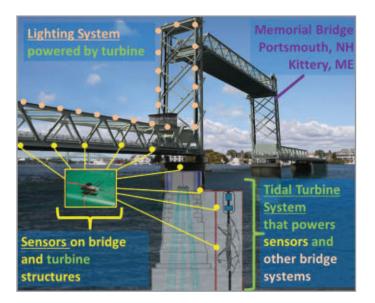
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TECHNOLOGY

New Hampshire's "Living Bridge" Project Will Measure Structural Deficiencies



The city of Portsmouth, New Hampshire, is working on a renewable energy project designed to save money on infrastructure and also help the environment. The "living bridge" project will equip the city's Memorial Bridge with 40 sensors. The data gathered from these sensors will give insight about the structural stability of the bridge, the weather, traffic patterns and more information about the marine ecology beneath the bridge. With this data, engineers will be able to fix structural problems before they become a severe emergency, saving money and protecting the community from hazards. For bridges that are already structurally deficient, the data will aid in justifying infrastructure investments. Additionally, drivers will be able to receive traffic updates, and the project provides an opportunity to learn more about sensor technology and smart-bridge technology.

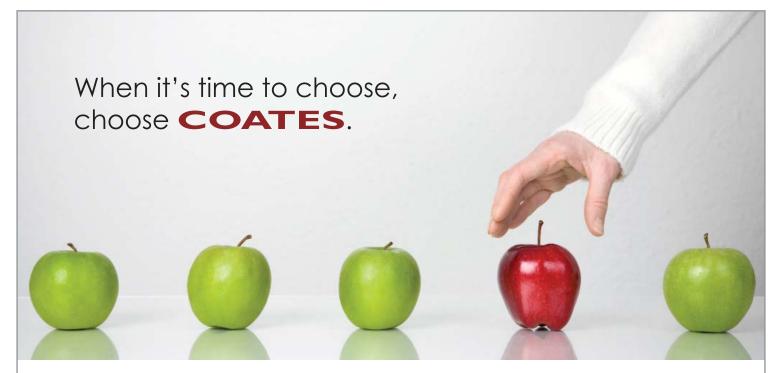
So how does it all work? The project began in 2013 when the bridge was rebuilt, and it was decided that a turbine system would convert tidal energy into electric power for the sensor system. In December, a full installation of sensors was scheduled and after six to nine months of testing, the team will install the 10-foot-by-seven foot tidal turbine system. Currently, the project has \$1.2 million in financial support from the National Science Foundation and the New Hampshire Department of Transportation.

Erin Bell, an engineer at the University of New Hampshire, claims that by installing accelerometers to measure vibration, decisions will be objective rather than subjective, allowing for an increased lifespan of our infrastructure. With sustainability as a main goal, the project could aid in extending the life of all of the nation's bridges.

PAST INTERNATIONAL PRESIDENTS

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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

Muad M. Al Ghulaiga, RWP

Saudi Aramco Chapter 7A Dhahran, Saudi Arabia

Khalid M .AI-Sharif, RWP

Saudi Aramco Chapter 7A Dhahran, Saudi Arabia

Salem M. Alalvani, RWP

Saudi Aramco Chapter 7A Dhahran, Saudi Arabia

Ahmed Aldossary, RWP

Saudi Aramco Chapter 7A Dhahran, Saudi Arabia

Mohammad M. Aldossary, RWP

Saudi Aramco Chapter 7A Dhahran, Saudi Arabia

Hadi Alsawad, RWP

Saudi Aramco Chapter 7A Dhahran, Saudi Arabia

Jana Alvares, RWA

McCarthy Right of Way Partners, LLC Chapter 36 Albany, TX

David Blackburn, SR/WA

Alberta Infrastructure Chapter 62 Edmonton, AB

Sarah Bottom, RWP

Overland Pacific & Cutler, Inc. Chapter 11 San Diego, CA

A. Brooke Crist, RWP

NC DOT, Right of Way Unit Chapter 31 Winston-Salem, NC

Chad Cutsinger, SR/WA

Chapter 25 Louisville, KY

Gregory J. Demme, RWA

Enbridge Chapter 72 Minot, ND

Leonard D. Edwards, SR/WA

Teague Nall & Perkins, Inc. Chapter 36 Ft. Worth, TX

R. Brian Flockhart, RWA

Northern Water Chapter 6 Berthoud, CO

Anita M. Garcia, SR/WA

THC, Inc. Chapter 74 Austin, TX

Matthew Hagelin, RWP

Allete, Inc. Chapter 20 Duluth, MN

Steve Herstein, RWP

Associated Right of Way Services Chapter 2 Pleasant Hill, CA

Randall T. Hickerson, RWA

Oncor Electric Delivery Company Chapter 36 Waco, TX

David K. Jackson, SR/WA

County of Ventura Chapter 47 Ventura, CA

Melanie King, RWP

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Raymond S. Barchenger, SR/WA

Chapter 72 Bismarck, ND

Michael A. Bulzomi, SR/WA

Chapter 4 Seattle, WA

William Busch, SR/WA

Chapter 25 Bardstown, KY

David Cops, SR/WA

Chapter 67 Santa Ana, CA

Joe Currie, SR/WA

Chapter 11 Oceanside, CA

Kenneth L. Davis, SR/WA

Chapter 55 Coraopolis, PA

Michael Dowling, SR/WA

Chapter 82 Naples, FL

Joseph Engel, SR/WA

Chapter 33 Wichita, KS

Teri Hallauer, SR/WA

Chapter 4 Seattle, WA

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Chapter 31 Charlotte, NC

Joyce G. Labus, SR/WA

Chapter 39 San Antonio, TX

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Chapter 65 Fredericton, NB

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Chapter at large Union Gap, WA

Bobby D. Lowe, SR/WA Chapter 24 Warrior, AL

Karen McMillin, SR/WA Chapter 8 Sugar Land, TX

Carolyn McNabb Jones, SR/WA

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Sheila M. Mills, SR/WA Chapter 74 Austin, TX

Larry D. O'Neal, SR/WA Chapter 74 Temple, TX

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Chapter 57 San Bernardino, CA

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Chapter 52 Suffolk, VA

John D. Rolling, SR/WA Chapter 17 Madison, WI

Russell Royer, SR/WA

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Chapter 20 Eagan, MN

Charles A. Thomas, SR/WA

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Zachary J. Derbes, R/W-AC Chapter 43 New Orleans, LA

Anita M. Garcia, R/W-RAC Chapter 74 Austin, TX

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Denise Lopez, R/W-RAC Chapter 36 Arlington, TX

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Caroline Tillman, R/W-RAC Chapter 28 Phoenix, AZ

Sandra S. Wanless, R/W-NAC Chapter 21 Charleston, WV

*Retired as of September 1, 2014. Members who have earned this certification can retain it as long as they recertify every five years. Those who submitted a candidacy application prior to 9/1 are still eligible for this certification.

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IRWA Member Farewell

Michael Gibelyou, SR/WA



Michael Gibelyou passed away on October 13, 2016 at the age 57. He was born in Bitburg, Germany to Tech Sergeant Loren Paul Gibelyou and Angie Hilmo Gibelyou on May 9, 1959. Michael worked for UniSource Energy Services in Kingman, Arizona for 23 years and was a dedicated member of IRWA's Chapter 28. "Along with being a very active community

volunteer, his knowledge and expertise as the Senior Right of Way Agent will be greatly missed," says Karen Williams of Chapter 28.

He is survived by his wife, Anell Paskett; children Derrick (Autumn) Seth, Tegan Steimle (Eliot), and Kevin Alec; his three grandchildren; his brother Darrell Gibelyou; his Uncle Sherald Baldwin; and his cousins. He was preceded in death by his parents, Loren and Angie, and his favorite aunt, Sharon.

Patrick Lee Hinton



Patrick Lee Hinton died September 23, 2016 at the age of 64. He was born November 20, 1951 in Casa Grande, Arizona to Jay and Ginger. A self-employed machinery and equipment appraiser, Patrick enjoyed motorcycles, hunting and fishing. He was a dedicated member of IRWA's Chapter 50.

He was preceded in death by his parents, and his brother, John. Patrick is survived by his wife of 28 years, Bobbie; children Raelynn Prandini of Fresno, Kevin of Langley, Virginia, Jack of Buckeye, Arizona, and Jared Summers of Olancha; siblings Jeanne Morris of Yuma, Arizona, and Phillip of Fresno; five grandchildren; and one great grandchild.

Carl Jacobson

Carl Jacobson—husband, father, brother and friend to many—died peacefully with his wife Kathie of 45 years, and daughter Carla, by his side. Carl was born in Rhode Island but lived in Indiana the past 47 years. Carl was proud to serve as a United States Marine. He retired from the Federal Highway Administration and was a long time member of IRWA's Chapter 10. Carl was a member of St. Luke's United Methodist Church, which he cherished.

Carl is survived by wife Kathie, daughter Carla and sister Sonya Jacobson.

Gary Slack, SR/WA



At the age of 57, Gary W. Slack passed away on October 30, 2016. He enjoyed a distinguished 19-year career where he obtained his SR/WA. He was a devoted member of the IRWA, first joining in 1992. "Those who knew him, know that he brightened up a room with his personality and humor," said Chad J. Cutsinger, Gary's

longtime employee and friend. "He would tell you that he loved being a Right of Way agent. He loved the challenge, and he loved to negotiate on everything. Right of way was perfect for him and it showed."

He was preceded in death by his parents, Eugene Slack and Florence Slack Banta. Gary is survived by his loving wife of 33 years, the former Kathy Barker; sons, Ray and G.J. Slack; grandson, Jackson Eugene Slack; sisters, Brenda Whitmer (Ted) and Debra K. Slack; and brother, Donnie McQueary (Helen).

Michael Joe Stevens, SR/WA



Michael Stevens passed away at the age of 39 on October 26, 2016 in Lexington, Kentucky. He was born on September 23, 1997 in Danville, Kentucky to Hampton Stevens and Dwight Stevens. Michael was a Senior Acquisition Agent for Percheron Field Services and supervisor on a project

for Eastern Kentucky Power Cooperative. Prior to joining Percheron in March 2015, he was a Senior Acquisition Agent for Service Resources Corporation, where he started his right of way career in 2004.

Michael was preceded in death by his grandparents, Lester and Marcelene Stevens; his aunt, Margaret Huber, and uncle, Darrell Stevens. In addition to his parents, he is survived by his sister, Kelly Stevens Gregory and husband Earl; brother, Daniel Stevens and fiancé Brandi Ratliff; Michael's fiancé Tracy Murray and her daughter, Zoe Murray; grandparents, Jeanette and Gale Hampton; niece, Summar Gregory; nephew, Ashton Gregory, and a host of family and friends who will all mourn his sudden passing.



UPCOMING IRWA EVENTS

www.irwaonline.org

2017 Conference June 11 – June 14

Anchorage, Alaska

2018 Conference June 24 – June 27

Edmonton, Alberta

2019 Conference Portland, Oregon

June 9 - June 12



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