



RIGHT OF WAY MAGAZINE

The Voice of the Right of Way Profession

**IRWA'S
GLOBAL CONGRESS
IN MEXICO**

JANUARY/FEBRUARY
2018

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RIGHT OF WAY

The Voice of the Right of Way Profession

JANUARY/FEBRUARY 2018

Volume 65 Number 1

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In This Issue...



We delve into IRWA's developing relationship with the government of Mexico, as well as other partners and organizations from around the world.

We heard from top officials on strides being made in telecommunications, energy and housing in Mexico. We had the opportunity to share best practices for infrastructure real estate professionals and experienced the best of Mexico City's history, art and culture—all while building new bridges with our VIP participants.

This experience was all made possible by our partner, Institute for Administration and Appraisal of National Real Estate (INDAABIN), who shares our purpose.

Please join us in exploring IRWA's Congress on Global Infrastructure Real Estate, beginning on page 24 of this issue.

MARK RIECK
IRWA CHIEF EXECUTIVE OFFICER

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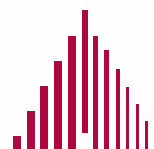
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Examining Our Core Ideology

IRWA's vision of the future



JERRY COLBURN, SR/WA

Wow! As John Mayall once wrote, time is fading “like melting footprints in the snow.” In this new year, we all need to take stock of where we are and where we are going as an Association. This requires us to further explore our Core Ideology, which consists of our core purpose, our mission and our core values.

Our core purpose describes the organization's reason for being. Our mission describes who we are, what we do and how we do it. And our core values are the enduring principles that guide the behavior of the organization. These are some of the guiding principles that we have been discussing with our leadership and strategy consultant, Glenn Tecker, as we re-imagine the IRWA.

Identifying Our Target Areas

During our 2017 Annual International Education Conference in Anchorage, we met with the voting directors to gather thoughts and ideas from across our leadership to shape our core ideology. We then continued the conversation in October during the Region 1 Fall Forum in Phoenix, Arizona.

With the help of IRWA members from every leadership position, we have identified target areas that will form the basis of the long-range

strategic plan, which will be based on the cumulative vision of the future. Some of these target areas are:

- ⊙ Demographics
- ⊙ Business & Economic Climate
- ⊙ Legislation/Regulations
- ⊙ Technology & Science
- ⊙ Politics & Social Values
- ⊙ Global Dynamics

We then identified which components need to be explored so that we can establish our goals for each of these groups. These components are:

- 🔍 The Public
- 🔍 The Profession & Professionals
- 🔍 IRWA Members
- 🔍 IRWA Chapters
- 🔍 IRWA as an Organization

Common Goals

During the Fall Forum, we broke into groups to create goals and strategies relevant to each component of the IRWA. As the day progressed, common threads emerged. Some of the shared thoughts include building trust in our profession, improving public relations and outreach to ensure that we are recognized as experts in our field, developing partnerships with other organizations, identifying and recruiting potential leaders, and providing creative educational packages and innovative programs to provide high levels of member benefit.

These collective thoughts have been distributed to our membership through a questionnaire. We plan to meet again in the Spring with a group of representative leaders to hone our strategies and move forward with a vision for IRWA's future.

In Summary

Among the established goals, one in particular resonated with me: “The IRWA, as an organization, will consistently engage, educate and lead the right of way industry to create enriched infrastructure experiences across the world.”

We are developing objectives and strategies to achieve our lofty goals. We have explored the mega-issues associated with these goals, as well as the unsatisfactory conditions that exist today. Personally, this has been a great experience. Having built businesses from inside of the private sector, this exercise has given me insight into what it takes to look at change from a higher level. What we know today is not what we need to know tomorrow.

Every day the public benefits from a safer and improved infrastructure, as well as the related economic benefits thanks, in part, to IRWA's role in its development. People around the world enjoy increased access to infrastructure and an improved quality of life. We are all part of this. ✨



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Wonder Awaits

In pursuit of an IRWA certification

BY DEIDRE ALVES, M.ED.

Recently, I had the opportunity to talk with an elite-level runner. Tall, strong, self-assured and grounded, he began to tell me the story of how he completed a 100-mile race—*without ever stopping*.

Although his intense training, preparation and mental fortitude to push through adversity was extraordinary and paramount to his success, what actually captivated me the most was what he experienced *during* the race and how a beautiful inspiration changed him forever.

A Breakthrough Moment

The course of the race was arduous. Competing terrains and conditions added to its difficulty, and it was clearly a race for the elite of the elite. The course spanned a 24-hour period and not all of the runners made it.

About mid-way through the race, the runners began an ascent that progressively narrowed. Consequently, many runners dropped out at this point. But suddenly, the

course became quiet and very still. With weary bones and spirits, the runners found themselves descending to unveil a spectacular waterfall. It was a sight of wonder. One that held you in awe and touched the soul. The runners were forever changed.

And this is what captivated me the most about his race—this unexpected vision that presented itself and somehow changed the participants forever. I couldn't help but recognize that this is what happens in the pursuit of an IRWA certification. Yes, the pathway is challenging with progressive levels to reach (RWA, RWP, SR/WA). Yes, it takes mental and physical fortitude to push through adversity. And yes, not all make it. But it is the unexpected wonder that awaits the infrastructure learner which makes it all worth it. These breakthrough learning moments forever change you, making you better at your job, more capable of serving the needs of the public good, professionally advanced in knowledge and skill, and ready to positively impact the infrastructure industry.

Pursuing a Certification

The pursuit of IRWA certification changes you forever. I invite you to experience the wonder that awaits you by simply having the willingness to receive it, move forward and say “yes” to the gift of professional development in your life.

When you reflect on the IRWA purpose of improving the quality of people's lives through infrastructure development, never forget that you are part of our beautiful purpose—it's *your* quality of life, *your* professional development and *your* pursuit of professional excellence advancing with IRWA Certification. ✦



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Finding Your Purpose

How individual drive can help the Association as a whole

BY BONNIE BLALOCK, R/W-RAC

Purpose is what drives us. It is why we make each and every decision and ultimately, what gives our life meaning. When I was asked to share my purpose at my recent Region Forum, I was terrified. Partly because public speech is not my strong suit, but mostly because I didn't think I'd be able to present it in a way that was as monumental as the time I discovered my purpose.

A Career Change

At age 21, my entire identity was linked to my ability to help others. I was a certified nursing assistant working my way through nursing school. I loved my work, but after several years of very demanding, long and inconsistent hours, it started to take a toll on my mental and physical health. I finally realized that it was time for a change.

Unexpectedly, someone offered me a full-time administrative position in their right of way firm. Without even having a clue as to what right of way was, I accepted the opportunity thinking it would be temporary and I'd be back to nursing before I knew it.

To my surprise, I discovered an intense hunger to grow and the desire to change. I went to real estate school, started working as an agent and decided to commit to right of way for my career. However, I struggled with the fact that I was no longer directly helping people the way I had as a nursing assistant. At the time, I didn't feel that widening a road or relocating a property owner was a positive. This guilt inadvertently affected my productivity and drive. I was ready to give up on this career choice.

Embracing an Unexpected Experience

One morning, everything changed. On my way into work, I stopped at a store to get some cereal and milk. I was in a hurry and normally, I would have been extremely annoyed with how long it was taking the clerk to ring up my two items, but something seemed off. I decided to ask her if she was okay and she responded with a huge sigh and asked if I had the time to listen. I stayed there and listened as she confided in me. I left wishing I could have done more. So when I got back to the office, I wrote her an encouraging note, and had someone drop it off to her. I didn't see her again for a long time, but when I finally did, she recognized me immediately, hugged me and told me how much I had helped her that day.

It was in that moment that I realized my purpose as a professional lies in how I approach my career. I wondered if I could take what I gained from that experience and apply it to my job. The first opportunity came when a property owner began taking their anger out on me about a project. Instead of reacting, I let them vent. I listened. In doing so, the conversation shifted toward them expressing to me that they were not actually angry with me or with the project. Instead, they were upset over something personal going on in their life. It helped me build a level of trust and rapport with the property owner, and we were able to properly address their concerns.



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While it may not always work, I have found that taking this approach in a genuine and patient manner has not only helped me in my interactions with property owners, but with my colleagues as well.

Whether it's simply letting someone vent or advocating for someone who may not otherwise have a voice, I've discovered that I can serve my industry in so many ways beyond my role description. Not only have I learned to balance my personal and work life, this profession has provided extensive opportunities, helping me to enhance my skillset in ways that I could have never imagined. For that, I am truly thankful for the journey that has brought me here and for the opportunity to share my story through the Young Professionals Group platform.

A Group Effort

Personally, I love that IRWA is asking us to think about our purpose. This prompts each of us to look deep

inside and really think about why we do what we do. The more aware we are about our individual purpose, the stronger we will be as an organization and an industry as a whole. We are truly fortunate to be a part of an organization that supports, encourages and educates its members in such a vast capacity, and I look forward to what the future of the IRWA has in store. ✪



Bonnie Blalock, R/W-RAC, is a member of the Carolinas Chapter 31 and the Young Professionals Group Co-Chair for Region 6. She is a real estate representative for Duke Energy and has been in the right of way industry for over six years.

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The Art of Self-Reflection

Creating effective teams starts with a candid assessment

BY CAROL L. BROOKS, SR/WA

Your career success will largely depend on your ability to work effectively with others. And if you've ever been part of a project team, you've probably experienced the challenge of working alongside people who have different perspectives, attitudes and backgrounds. So one of the most important skills you will ever learn is how to identify and leverage the strengths of your team members—as well as your own.

The basis of good teamwork starts with an honest self-reflection of your core strengths and an understanding of the kinds of contributions you can make within the team framework. This effort will empower your interpersonal growth and boost confidence. Consider the following self-assessment questions:

Would You Hire You?

While it's easy to identify the strengths and weaknesses of others, it's much harder to evaluate our own. Now might be a good time to do a self-assessment. Grab some paper and divide it in half. Then list your strengths on one side and weaknesses on the other. Think about some of your past performance evaluations. From your supervisor's perspective, what are your strengths? What are some areas you need to work on? How are you viewed by your coworkers? Be honest. This will help you to make an objective assessment of what you have to offer.

What Do You Bring to the Team?

Now take the strengths that you identified about yourself and consider adding other important characteristics you may have

overlooked. Have you included positive attributes like being accountable? What about your strong work ethic and your willingness to go the extra mile? Each person on your team can benefit from what you have to offer. Your strengths have the potential to offset the weaker areas of your team.

Can You Identify the Strengths in Others?

Have you ever considered the strengths of each person on your team? Yes, it's sometimes challenging to assess coworkers who seemingly have many weaknesses and few strengths. But they got hired for a reason, so make it your goal to discover what they bring to the table. Try and put aside any personal feelings you may have. Even difficult people have at least one strength, but we must be willing to dig deep to identify it. When we uncover the strengths embedded in our team, we can maximize our overall effectiveness.

How Well Do You Perform Your Job?

Do you consistently give your best, or do you just do enough to get by? The big question is, "Do your coworkers consider you to be a professional?" A professional is someone who performs to the best of their ability, regardless of how they feel. They don't complain about the workload, gossip or back-stab. If you consistently act in a professional manner, you have the power to become a role model for your team.

Do You Practice the Golden Rule?

"Treat others as you would want to be treated." As important as this golden rule is, it has always been counter-intuitive for me. Applying it literally forces me to stop and do the direct opposite of what I was planning. In other words, I have to rethink my behavior. Treating people as I want to be treated has challenged me to choose the high road. And this has saved me from myself in countless situations!

The bottom line is that thorough and reflective assessments that reveal both strengths and weaknesses can become your guideposts to career success. By taking an honest look at yourself and the other members of your team, you will not only build stronger teams, you will also enhance the lives of others. ☼



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

Sexual Misconduct in the Workplace

Our society is facing a colossal ethical crisis



BY BRAD YARBROUGH

With so many shocking stories in the news today, you may be wondering what this world is coming to. Or is it just me?

Take, for instance, the scandalous reports of sexual misconduct by high-profile individuals. The number of claims and criminal proceedings are disturbing and reveal an outbreak of sex-related transgressions. While unbridled lust is not a new phenomenon, social misdeeds are now broadcast more widely and quickly to a public with an insatiable appetite for news and opinions.

Indeed, there is an explosion of sexual harassment news. And the blast ought to wake us up. There is just too much at stake. It's time to have a more candid discussion about sexual ethics in regards to the workplace.

The Battle Between Good and Evil

Generally, ethics is the conscious framework necessary to do the right thing. Thomas Aquinas emphasized the principle "Do good, avoid evil." But that

begs the question of what is good and what is evil. While there is agreement about the virtues of honesty, self-discipline, politeness, good manners, trustworthiness and generosity, it seems that there is still much ignorance about acceptable sexual behavior. Of course there is. We are in the midst of an ethical crisis.

The basics of sexual ethics have evolved throughout history from old-fashioned values to the new morality of the 1920's before arriving at that liberated place where "if it feels good do it." The consequences of being "me" centered instead of "we" centered have been damaging, if not disastrous. Weakened ethical considerations have given rise to a society that promotes the entertainment appeal of sexual acts, the marketing value of sexually charged campaigns and the growth of the porn business into a multi billion-dollar industry. At the same time, our society insists on protecting individuals from being victimized by unwanted sexual aggression or unwillingly subjected to

sexual settings. This has culminated in a colossal ethics crisis.

The focus of sexual ethics has become an issue of consent. Any individual that expresses themselves in a manner that has a suggestive sexual element had better know if the recipient or witnesses find those acts or expressions acceptable—whether verbalized or merely a gesture. Ethical conduct must also address those situations where consent cannot truthfully be obtained, such as from minors, the mentally disabled, anyone under the influence of drugs or alcohol or someone who believes they must consent for self-preservation whether physically, socially or economically.

As a starter, every employee, employer, contractor, vendor, associate, business owner and board member must fully understand the law. It is Title VII of the Civil Rights Act of 1964. In effect today, it is applicable to all U.S. employers with 15 or more employees. And anyone affected by the offensive conduct in question—not just the person to whom it is directed—may be a victim.

Types of Harassment

There are two different types of sexual harassment claims, although the manner in which a court will distinguish between the two has become blurred in recent years:

Quid Pro Quo: Sexual harassment that occurs when a supervisor or one in an authority position requests sex, or a sexual relationship, in exchange for not firing or otherwise punishing the employee or in exchange for favors, such as promotions or raises.

Hostile Work Environment. Sexual harassment that occurs through the presence of demeaning or sexual photographs, jokes or threats. The inappropriate behavior or conduct must be so pervasive as to create an intimidating and offensive work environment.

What Constitutes Sexual Harassment?

When sexual harassment accusations are made, other ethical considerations are required. Among them are the right of individuals to due process, the sensibility of statutes of limitations and the reality that an individual's character can undergo change over time—for better or for worse. Another weighty ethical issue is the victim's right to privacy and how to offer a less painful procedure for the reporting of sexual misconduct whether of a criminal nature or not. And because cultural traditions and religious faith greatly influence beliefs about what constitutes good or evil sexual practice, worldwide ethical positions vary.

Call to Action

With such mixed messages coming from a highly sexualized society, there's a vital need for an intentional, proactive strategy aimed at eliminating the incidence of sexual misconduct. Businesses should immediately address sexual harassment policies and provide more training to its employees. This has become one of the largest ethical issues of our day, and our professional association should be applauded for giving attention to it. The IRWA and its members are collectively committed to ethical excellence.✱



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.

As stated in Title VII of the Civil Rights Act of 1964, the offense is defined as: *"Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when submission to or rejection of this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment."*

The Equal Employment Opportunity Commission offers additional guidance on what constitutes sexual harassment, including the following:

- ☛ The conduct of the offender must be offensive and unwelcomed by the victim.
- ☛ Harassment may still occur when there is no economic injury to or discharge of the victim.
- ☛ The harasser can be the victim's supervisor, an agent of the employer, a supervisor in another area, a coworker or a non-employee.
- ☛ The victim and harasser may be a woman or a man. The victim does not have to be of the opposite sex.

In hostile work environment cases, the court will consider the following factors:

- ✓ Frequency of the alleged inappropriate behavior
- ✓ Severity of the behavior
- ✓ Conduct of the victim
- ✓ Context of the alleged harassment
- ✓ Size of the employer's business
- ✓ Nature of the employer's business
- ✓ In a hostile work environment claim, whether a reasonable person in the position of the plaintiff would have thought the environment to be hostile

DEADLINE FEBRUARY 1, 2018

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 applications should be sent to Shannon Favaro, SR/WA, at shannon.favaro@fortisbc.com

Newsletter and Website of the Year should be submitted to INEC Vice Chair Jenni Kriner, SR/WA, at jk17bear@yahoo.com

All other submissions should be sent to Randall Kopfer, SR/WA, at randallkopfer@gmail.com

Award winners will be honored at IRWA's Annual Awards Luncheon on June 25, 2018 during the 64th Annual International Education Conference.



THE POWER OF COMMUNITY ENGAGEMENT

BY JAMES A. KENT, JD

Preventing project opposition requires a cultural component in the decision-making process

With traditional project planning, there appears to be little problem identifying potential roadblocks that can lead to costly delays. However, it is often the community's opposition to a project that causes the most significant challenges. All too often, the local community first learns about a project after decisions are made and the project is underway. Clearly, that's too late.

In launching a new project, working with the local community beforehand has become critical to its success. As one executive told me, "Once people understand how

the project will benefit them, they will typically support it."

But rather than start with understanding the project benefits, the company starts with its traditional design and route planning, with little consideration to how the project may impact the social and cultural aspects that exist within the community. Since every community operates within its own cultural boundary, anything that intrudes on it has the potential to ignite a negative reaction. And this only serves to delay the project, sometimes halting it altogether. People want to be able to predict, participate in and control their environment in a

manner that maintains or improves their well-being. That means companies must rethink how they operate if they want to avoid potential opposition.

Reality Check

A project will either be welcomed by the community or be fought by it. If the disruption caused by project opposition can be taken off the table, the company will gain an enormous financial and time advantage. But this requires that the social and cultural component be addressed early on in the planning phase. Otherwise, the company can only react when trouble surfaces.

When the citizens impacted by a new project are taken by surprise, they are likely to react. Before long, there's opposition to the project, leaving the company with little recourse other than to defend it. The response is to invest more resources at the problem, launching public relations campaigns and organizing formal meetings. But this one-way communication only serves to intensify the conflict. Once a company is perceived as the villain, more and more citizens join in the effort to oppose the project. If only those impacted by the project had been considered beforehand.

The social and cultural environment of a project's location now requires the greatest attention. To prevent complexity from occurring, it is essential to understand the political, cultural and social world within which projects eventually have to function. And this requires the project team to become knowledgeable about the people where the project is located.

A New Concept Emerges

Understanding the dynamics within the impacted community is no easy task. To implement will require a new team to be integrated into the project planning methodology: The Community Engagement Team.

The Community Engagement Team would be responsible for becoming fully immersed in the local community, with the goal of understanding their local networks, engaging in a two-way dialogue about the project and learning about the issues and concerns that currently exist.

The challenge is to look beyond the project's timeline and budget—to see the project from the community's point of view. But this necessitates a two-way dialogue based on engaging, learning and listening. It requires companies to work collaboratively with citizens before the final decisions are set in stone, and

this can only happen with face-to-face interactions. People need to know that their issues are being heard. By demonstrating that the company understands those concerns, trust can begin to develop. And once people no longer feel threatened, they have the space to view the new project as a potential benefit rather than an intrusion.

Right of way professionals should form the bulk of this new team. They are the ones that have early involvement with the landowners. From their community vantage point, they will know who to talk to, timing and sequence concerns and the kind of language to use in media handouts. They can also provide valuable input into the public relations strategy to ensure it aligns with the local culture. Armed with all this knowledge, the team can ensure that the issues and concerns are addressed before project implementation. The project can then be absorbed into the fabric of the community without causing disruption.

Hindsight is 20/20

Many projects that have become controversial would have benefited from this new model. In a recent pipeline case, when formal opposition surfaced, the local farmers who could have grounded the issue geographically were not contacted to have a voice in the project. Outside ideological groups gained control, and without the support of the local farmers, all the company could do to address the issue was to hire lawyers, lobbyists and special interest consultants and to conduct massive advertisement campaigns to persuade decision makers.

In situations where hostile reaction sets in, locals often shift their allegiance from understanding the potential benefits of the project to supporting the vocal opposition. At that point, the project has become too complex to manage. Instead of simply investing in the communities of impact, millions of dollars are spent trying to manage the chaos.



A Community Engagement Team can facilitate a two-way dialogue and demonstrate that they understand the issues and concerns of those impacted by the project.

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People want to be able to predict, participate in and control their environment in a manner that maintains or improves their well-being.

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In the pipeline project referenced, many local governments—which were initially in favor of the project—joined the opposition. After disruption set in, the company proceeded to spend millions of dollars trying to influence the political system at all levels. Those efforts proved to be fruitless. The issue eventually returned to a well-organized local network of farmers who had been opposing the pipeline project over worries about its impact on the ground water. That issue could have been taken off the table early had the company fully understood the water concerns of the informal network of farmers, local citizens and those who owned adjacent land that had a historical survival connection to it.

The Invisible Suddenly Appear

It is vital to recognize that these local informal networks are functioning 24/7 within the community. And while they are often invisible on a day-to-day basis, they are the first to appear when a catastrophe occurs. Think about the power of the self-organizing networkss that formed after the hurricanes in Texas, Florida, Puerto Rico and the Virgin

Islands. Citizens—through their own internal processes—organized immediate rescue operations. Human brigades were assembled to remove rubble in hopes of finding buried neighbors. Everyday citizens formed rescue teams to supply and distribute whatever resources they could get, and every life saved became a spontaneous celebration. Natural leaders emerged. They formed quickly because of word-of-mouth communications, knowledge of the local terrain and a shared mission to help neighbors and strangers in real-time situations.

Managing Social Risk

We believe that using the Community Engagement Team concept before a project is officially launched will result in dramatic benefits. Many projects, however are launched without input from the right of way professionals who are tasked with negotiating with local property owners. Without adequate time to develop trust and relationships, property owners are often caught by surprise when an agent shows up and they first learn about the new project. Practically overnight, disruption and backlash begin to surface.

Rather than spending time and money on public relations campaigns, those resources would be better served if they were used to build relationships and trust within the community impacted by the project. This requires more time being spent listening and responding, and less time on telling, promoting and acting like an authority. Once the self-organizing networks understand how they can participate in and benefit from the project, they can serve as a buffer to opposition groups that have their own agenda.

Integrating a Community Engagement Team to prevent costly complexity from occurring will be a new idea for many. However, the project environment today is difficult in almost every aspect of development. To remove the threat of the social impacts is a tremendous step toward creating stability and maintaining the sustainability of projects. But this requires action, and that means implementing a strategy for managing social risk into every phase of an infrastructure project. ✪



Jim Kent has been crafting empowered collaborations among corporations, communities and governments for more than 30 years. He is President of JKA Group and co-developer of IRWA Course 225, Social Ecology: Listening to Community. Visit www.jkagroup.com.

THE DANGERS OF MISCLASSIFICATION

Referring to right of way professionals as independent contractors



Lawsuits and regulatory actions attacking the alleged misclassification of workers as independent contractors have posed scary and expensive legal problems for some right of way service firms. It's an issue that both the managers of firms and the individual contractors should be aware of so that it can be handled prudently.

Justifying the Position

To show how aggressive some labor and tax agencies can be on the issue, let's consider a recent situation in New Jersey. The case concerned pyrotechnicians who handled fireworks shows for a pyrotechnic manufacturer named Garden State Fireworks Inc. For the most part, fireworks shows



BY PETER CHRISTENSEN

are special events, occurring most frequently on holidays. In fact, 80 percent of the company's business occurred on the Fourth of July. Therefore, many pyrotechnicians only provide their services a few days each year and hold other "real" jobs from which they earn their true living.

Given the unique character of the work, Garden State treated its 100+ pyrotechnicians as independent contractors. The company didn't direct the details of how these pyrotechnicians set up their shows, and the contractors never did any work for the company at its manufacturing plant. Their services were limited to handling shows out in the field.

Garden State had been audited in the past by the IRS, who had reviewed its practice of compensating pyrotechnicians as contractors, specifically confirming in writing that the classification was acceptable for federal tax purposes. Yet, several years later in 2013, the New Jersey Department of Labor challenged the company's practice for purposes of state unemployment and disability contributions, demanding more than \$30,000 for the unpaid contributions and penalties. The Department of Labor justified its position on the basis that New Jersey's classification test is different and more stringent than the test for federal tax purposes. The state Labor Commissioner ruled in favor of the Department of Labor and the penalties were imposed.

This result should have been improbable. How could a pyrotechnician—who only works in that capacity a few days a year and who holds a full-time regular job—plausibly seek the benefits of unemployment insurance after working on a Fourth of July fireworks show? Well, the New Jersey Department of Labor is renown for its extreme positions, and that's exactly the position it took. After four years of struggling through expensive hearings and proceedings, the company finally appealed that result to the Superior Court of New Jersey, Appellate Division. In September 2017, common sense prevailed, and the appellate court determined that the state was wrong. The appellate court reasoned: "It is difficult to conceive that an individual who does work for a company one to three days a year, while

working full-time in another profession, could be reasonably considered an employee of that company."

If a state labor department takes the position that pyrotechnicians who work a few days a year cannot be classified as independent contractors, how do you think such government agencies may view the classification of professionals providing daily right of way-related services within right of way firms? When such firms are challenged on the practice, they often do not fare as well as the fireworks company—unless they are well prepared to support their classification.

Incentives for Treating Workers as Contractors

Most companies that treat any of their workers as independent contractors recognize the strong economic and operational justifications for the decision. Common reasons supporting the practice include:

- Independent contractors don't have to be paid overtime for working more than eight hours in a day or 40 hours in a week.
- Contractors can be hired and fired more easily.
- Bookkeeping is simpler with contractors, as companies need only report payments to them on an annual 1099 tax form and don't withhold taxes or make Social Security and Medicare contributions for them.
- Firms do not typically offer contractors regular employee benefits like 401k contributions, paid sick or vacation time, or maternity leave.
- Firms usually don't pay unemployment or disability premiums for contractors.
- Classifying a service provider as an independent contractor may insulate the firm from liability for the service provider's errors or omissions.

It's important to note that using the independent contractor classification is quite often not a one-sided preference. Many right of way professionals themselves prefer to be treated as contractors rather than employees. A key reason for that preference is that the arrangement enables the individual to deduct business-related expenses to a much greater level than an employee. A person working as an independent contractor and reporting their income on IRS Schedule C may write off expenses such as business vehicle use, home office costs, business meals, insurance and supplies. This may lower their taxable income. Many individuals also simply prefer "being their own boss."

Evaluating Whether Workers are Properly Treated as Contractors

While the economic incentives are strong, the risks stemming from misclassifying workers as contractors are real and significant. When audited or sued by state and federal agencies, some right of way firms have been found liable for significant sums for unpaid employment taxes, social security contributions and workers compensation premiums, along with substantial penalties and interest.

Right of way firms have also found themselves as defendants to lawsuits filed by workers contending they were misclassified as contractors and therefore did not receive benefits to which they may have been entitled to had they been given employee status. Aggrieved workers may sue for unpaid overtime, unpaid employee expenses, penalties and interest.

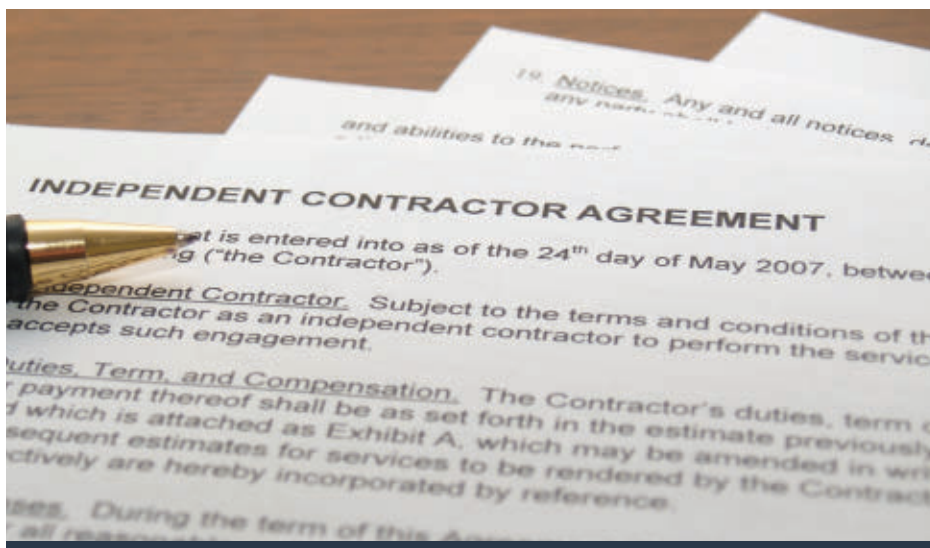
All companies treating right of way professionals as contractors are advised to seek knowledgeable legal counsel about how to handle the legal arrangements properly under the specific laws of the states in which they operate. Whether or not classification of a service provider as a contractor is legally correct is a difficult question to answer. The legal tests differ for federal tax purposes versus for overtime, unemployment insurance, workers compensation or liability. And the tests also vary by state. There is simply no single standard for determining whether a worker is properly treated as an independent contractor.

Although the specific tests and their factors vary significantly, there is a general theme that runs through most. The key question under what is referred to as the "common law" test is the firm's control over the worker.

The IRS has summarized the common law test in its wage withholding regulations and states that a worker generally will be considered an employee when: "the person for whom services are performed [the right of way firm] has the right to control and direct the individual who performs the services [the contractor], not only as to the result to be accomplished by the work but also as to the details and means by which that result is accomplished." Treas. Reg. §31.3401(c)-1(b).

Below are some key factors relating to control that need to be considered. If any of the questions have strong "yes" answers or more than a few are "yes," the company should think twice before classifying the worker as contractor.

- Does the company train the worker on how to perform their right of way services?
- Is the worker required to be present on the company's premises or office?
- Is the worker required to work certain hours or days?
- Is the worker required to devote substantially full time to the firm?
- Does the company pay for the worker's tools such as computers, software and data?
- Is the worker paid by the hour or week (as opposed to by project)?
- Is the worker permitted to accept and be paid for work independent of the company?
- Are other workers performing the same service with the company treated as employees?
- Can the worker realize a profit or suffer a loss as a result of their services for the firm?



A Proper Independent Contractor Relationship

Many firms providing right of way services properly structure their independent contractor arrangements to minimize potential problems. To decrease the risk of misclassification becoming a legal problem, any company treating workers (who provide services to the company on a regular basis) as independent contractors should avoid some basic red flag practices. In particular, a company should not:

- Refer to its independent contractor service providers as “staff members” in brochures, websites or in any media—at least not without stating specifically that they are independent contractors to the company.
- Classify some workers as employees but others as contractors, even though they perform the same services.
- Require a contractor to sign a non-compete agreement or other agreement to work exclusively for the company.

A company should also utilize a written independent contractor agreement. The agreement will not be a controlling factor in any classification test, but can provide good evidence of the firm’s and the worker’s view of the relationship. Here are some key points the agreement should cover that need to be true:

- The independent contractor should have the right and freedom to work the hours that they deem necessary to perform accepted projects, and the manner of performance should be under the exclusive control of the worker.
- The agreement should permit the contractor to perform services for other firms, and permit the contractor to market their services to others.

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While the economic incentives are strong, the risks stemming from misclassifying workers as contractors are real and significant.

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- The contractor should be responsible for their own training and “tools,” including computers, software, data and other work-related supplies.

Lastly, a simple and key component of many audits has been to look at the contractor’s business card. If the business card refers to the contractor as a staff member of the firm, that won’t be helpful to the firm’s classification position. The business card should identify the independent contractor as the operator of their own business enterprise.

In Summary

The decision to hire someone as an employee or a contractor can have a significant impact on both parties. By carefully weighing the pros and cons of both classifications, both the firm and the independent contractor can make the best strategic decision. ☛



Peter Christensen is General Counsel for LIA Administrators & Insurance Services and has been an attorney since 1993. LIA has been offering errors and omission insurance to the appraisal profession since 1977.



2017 CONGRESS FOR GLOBAL INFRASTRUCTURE REAL ESTATE

Mexico City hosts the industry's leading practitioners from around the world

BY MARK RIECK

In November 2017, right of way professionals from around the world gathered in Mexico City for the 2nd Annual Congress for Global Infrastructure Real Estate. The two-day event was filled with networking opportunities, memorable sites and valuable insight into the future of IRWA's global membership.

A Brief History

IRWA's global presence has grown dramatically over the past 10 years. We started with members in Canada and the United States and with affiliate organizations in Japan and South Africa. Now, IRWA boasts members in 17 countries, with new Chapters in Australia, Mexico, Saudi Arabia, South Africa and Nigeria as well as an affiliate in South Korea.

The efforts toward a Global Congress originated decades ago with an International Luncheon conducted annually by IRWA officers with the JCCA, Japan's Compensation Consultants Association. This luncheon grew in size and stature when it became part of IRWA's Annual International Education Conference, evolving into a multi-country affair. At the 2015 Conference in Nashville, Tennessee, IRWA conducted its first ever Congress with 15 countries participating in presentations. That event paved the way for a free-standing Congress in 2017.

Expanding the Event

Mexico City was seen as a natural partner for the 2017 Congress because of its strategic location in North and

Latin America and because of the budding relationship between IRWA and INDAABIN, Mexico's Institute for Administration and Appraisal of National Real Estate.

One challenge in conducting an event in another country is that language can be a barrier to fully understanding vendors and even partners. For that reason, IRWA engaged a meeting planner, Cindy Noboa-Garcia, who had a mastery of language and cultural expertise. We were concerned about moving our VIPs through Mexico City traffic as we visited multiple cultural and social venues, but thanks to event sponsors Percheron, LLC and Parametrix, we were able to rent Mercedes Sprinters that literally whisked participants to the venues we visited.

A Cut Above the Norm

"From the beginning, we wanted to branch out from the norm of always having events in a hotel venue and not allowing enough time for the attendees to enjoy the host city," Cindy explained. "We also focused on providing talented keynote speakers, great educational resources and a considerable amount of networking opportunities, all while visiting a few of the most memorable Mexico City sites and venues."

Attendees were welcomed with an outdoor cocktail reception at the Terraza Restaurant at the Hilton Reforma, which set the tone for the next few days of the event. The following morning, attendees were met with a networking breakfast and



Mexico Chapter 85 President, Luis Medina



INDAABIN President, Soraya Pérez Munguía



IRWA CEO, Mark Rieck and RDA's Founding Partner, Jesús Rodríguez



IKT Managing Director, Roland Waniek



IRWA's Jerry Colburn, Alejandra Ceron, Mary Anne Marr and Ana Rausch



Justin Lyon, Carlos Sandoval and Carlos Sandoval, Jr.



Daniel Stekol, Jesus Sandoval, Carlos Varela, Tim Drennan



Percheron CEO, Trent Oglesby

a warm welcome by Congress Event Chair and President of INDAABIN Mexico, **Soraya Pérez Munguía**, as well as IRWA International President, **Jerry Colburn**, SR/WA. Our first keynote speaker, **Edgar Olvera Jiménez**, Sub Secretary of Communications and Transportation Agency, Mexico, discussed the importance of the right of way of telecommunications. **David Madero Suárez**, PH.D, CEO of National Control Center of Natural Gas in Mexico (CENAGAS), shared the different strategies of Cenagas. Wrapping up the sessions was **Trent Oglesby**, President and CEO of Percheron, LLC, who addressed right of way best practices in the U.S.

Following lunch inside the Archbishop Central Patio in the Zócalo area, attendees were able to take a private tour of the National Palace sponsored by INDAABIN. "To end our evening,

we walked through the Zócalo area to embrace the beautiful scenery and historic buildings on our way to one of the most famous restaurants, the Gran Hotel Terraza sponsored by Rodriguez Davalos Abogados," Cindy explained. "Our attendees were able to enjoy an authentic three course dinner of Mexican cuisine."

Our final day started with international keynote speaker, **Roland W. Waniek**, Managing Director of IKT's Institute for Underground Infrastructure in Germany, who discussed lessons from a developed economy in an aging society. We then traveled to the new INDAABIN building, El Centro del Patrimonio Inmobiliario, where we had a panel discussion on hydrocarbons with key stakeholders and speakers, including **Soraya Pérez Munguía**, **Daniel Engel**, Pulino, Boulos & Santos Advogados Partner-Infrastructure and

Energy, Brazil and **Abelardo García Badilla**, Major Officer of National Commission of Hydrocarbons, Mexico. Our final keynote speaker, **Enrique González Tiburcio**, Sub Secretary of Land Use Planning, Mexico, discussed the right of way of social property. Finally, we traveled through San Ángel and had a private tour of the Museo De El Carmen before dining in San Ángel popular restaurant, El Bonito.

Building Relationships

"By far the best part of the Congress was the time we spent outside of our sessions as a group," said Mary Anne Marr, SR/WA, Chair of the Council on International Relations. "We not only learned about Mexico, its history and gained some insight into the future, we also spent a lot of time together growing existing relationships and building new ones."



Humberto Olavarria, Ben Greenberg, Ale Ceron, Diana Alarcon, Carlos de la Fuente and Trent Oglesby

The event exceeded expectations in every area, with top-notch presenters and venues. Thanks to IRWA event partner, INDAABIN, we were able to attract undersecretaries for Telecommunications, Energy and Housing, and access private buildings like the President's Palace. Even our high-level partner firms from Mexico had never visited these locations before.

"The event went exceptionally well," said IRWA International Secretary, Ana Rausch, SR/WA. "I gained a better understanding of how land is acquired for infrastructure projects in Mexico, and I had multiple opportunities to ask questions and engage in discussion with key stakeholders operating in Mexico. By the end of the second day, I can honestly say that not only did I make new contacts in Mexico, I also made new friends through our shared experience at the Global Congress."

Frank Van Horn of Howard Energy Partners agrees with Ana's sentiments. "As with most of these types of events, probably the greatest value is in the people you meet and get to know," he explained. "The IRWA's 2017 Congress for Global Infrastructure Real Estate was no exception. From the questions and interaction with the keynote speakers to the attendees from across the globe, I made so many contacts that will improve my professional abilities and enrich my personal life with new friendships."

A Look to the Future

Congress and smaller summit events give IRWA the opportunity to introduce our Association to government and business leaders in other countries and dive deep into issues that we are typically unable to address in other settings. Going forward, we hope to partner with RICS, the Royal Institute of Chartered Surveyors and CPA, the Compulsory Purchase Association, in the United Kingdom for a 2018 Land Summit. And consideration is being given to a 3rd Annual Global Congress to be hosted in Canada in 2019. IRWA is proud to serve as a catalyst as the industry addresses the many challenges and opportunities in infrastructure real estate. ✪

*To explore the event program, keynote presentations and photos of the event, please visit **News & Events** on the IRWA website.*

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In the *Art of War*, the ancient Chinese military strategist Sun Tzu wrote, “Victorious warriors win first and then go to war, while defeated warriors go to war first and then seek to win.” This would serve as an ideal mantra for litigating eminent domain cases where the parties are battling over the amount of just compensation.

As most just compensation trials come down to a clash of the experts, the key to convincing the jury of your position and winning the trial is defeating the opposing appraiser with a well-planned, meticulous cross-examination. The goal is to strategically position your case to win before stepping foot in the courtroom. If you find yourself strategizing for the

JUST COMPENSATION: THE ART OF WINNING

Tips and tricks that will resonate with the jury

BY MISCHA M. BOARDMAN

first time on the eve of trial, you have waited too long to be successful. In order to design a winning cross-examination, it is imperative to start preparing at the outset of your case. Fortunately, there are some tried and true ways to effectively plan and fully prepare to win your just compensation trial before it begins.

Perform Extensive Reconnaissance

Not all experts are created equal. Some real estate appraisers author thorough reports that can be difficult to attack, while others write reports that are riddled with typos and errors offering up simple ways to undermine their opinions. Some appraisers are compelling witnesses that easily connect with jurors, whereas others simply are not likeable and cannot figure out a way to make such a connection.

The first step is to get to know the opposing expert. You need to discover their strengths and weaknesses so that you can formulate an appropriate plan

of attack. You can begin this work prior to even receiving a copy of the appraisal report. While this could require a significant amount of investigative work on your part, such due diligence will undoubtedly pay off. If the opposing appraiser is one that you aren't familiar with, start with a simple Google search. Find out whether this is an appraiser that regularly works for property owners or condemning agencies. You should collect as many appraisal reports previously written by the expert as you can—as well as deposition and trial transcripts. Reach out to other folks in the industry and gather whatever intel you can on the expert. You might be surprised how willing your cohorts will be to share these types of materials.

After you gather as much of the expert's former body of work as you are able, do a deep dive into any past appraisal work and testimony, paying specific attention to past

appraisal methodologies. You should be looking for any inconsistencies, modifications of theories or appraisal techniques and untruths. There can be a virtual treasure trove for you to discover in the expert's past appraisal work.

Identify Opposing Strategies

In preparation, an essential requirement is to study the appraisal report carefully, as this is the outline for the property owner's attack. This is not a place to skimp. You must know this document inside and out. In other words, you will want to read every word and think critically about how the pieces fit together. Most importantly, you want to look for inconsistencies and errors. What seems like a small error can eventually unravel an entire case.

This is also the time to review the law and treatises cited within the report and confirm that it is all up to date. Many times, the law changes, but



...your goal is
to make the
jury question
whether they
can trust in
what expert
says.



appraisers forget to modify their appraisal templates. This can be a particularly fertile area of attack. Fully understanding the appraiser's methodology is necessary so that you can identify where past appraisal work differed. The research you did on the appraisal expert's past work and testimony will not be useful unless you can explain to the jury why their current work is inconsistent with it.

Challenge Their Credibility

In the courtroom, an expert's ability to appear trustworthy and believable can make or break a case. Unfortunately, substance does not always reign supreme. Perception is what matters. Whether judge, jury or special panel, the trier of fact will find it difficult to find for a party whose expert they cannot trust. Simply put, credibility is paramount. It is, therefore, your job to gather information that can be used to challenge the opposing expert's ability to be convincing and believable.

At trial, the expert will have already testified prior to your cross-examination, so your goal is to make the jury question whether they can trust in what expert says. The process of undermining an expert's credibility should start early in the case and continue through to the trial testimony. While some credibility evidence can (and should) be collected early on, you will also rely significantly on the expert's deposition as some of these things you can only learn from the appraiser. At the outset of your search, cast a wide net. Early on, you will have no idea what may eventually be beneficial at trial.

After having tried many just compensation cases to jury verdicts, we have gained an understanding

of the types of things that resonate with juries and can undermine an appraiser's credibility. Here are a few for your consideration:

Juries care whether an appraiser is truly independent. Find out whether the appraiser works for both condemning agencies and owners. If not, they could appear predisposed to take certain positions.

Determine if a bias exists. For example, how much money has the appraiser made working for property owners against condemning agencies? Have they gotten rich off taking absurd positions against utility companies condemning easements? This is an easy way to demonstrate bias.

Pay specific attention to the appraiser's resume. This is the manner in which the expert communicates their experience and qualifications with the public. Any embellishments or outright inaccuracies included on a resume can be devastating for an appraiser when they take the stand.

Invest time in learning which methodologies the appraiser has used in the past. This can be a goldmine for cross-examination fodder. If an expert has always appraised utility easements in a certain way, but for some reason is now applying a new methodology which just happens to be creating huge claims for the property owner, this is critically important to your case and can significantly undermine the expert's believability.

Fight the Battle to Win the War

This brings us to the deposition. This is by far the most crucial part of the process. The single most important goal of the deposition is to eliminate any surprises at trial. To accomplish this, it's best to employ a two-prong attack.



The goal is to strategically position your case to win before stepping foot in the courtroom—starting with a well-planned deposition.

First, you need to learn anything else about the appraiser and their valuation methodology that you have yet to uncover. This will likely be your last chance to get all of the answers that you need. Next, you want to box the appraiser in on every issue that may be important at trial. The purpose of doing this is so that you have distinct questions that only warrant a “yes” or “no” response. During the appraiser’s cross-examination at trial, you will only want to ask those questions for which you have already established their answer. If the appraiser answers differently than in the deposition, you will be able to impeach them with their own testimony. This scores major points with the jury.

Ideally, you will go into the deposition already armed with inconsistencies from the appraiser’s

past work or errors in their current appraisal. This provides you the opportunity to get the appraiser to make contradictory statements during the deposition, assuming they are unaware of what you have. You can start by getting the appraiser to affirmatively state that they have never taken a particular position or that they confirmed a particular piece of information in their current appraisal. Then you can confront them with the evidence to the contrary. Doing so will give you ready-made impeachment for trial, as the appraiser will have already contradicted themselves.

Because of the extreme importance of this piece of the puzzle, you must be fully prepared to take this deposition. Outline your questions, know what points you want to make and do not conclude the deposition until you have “yes” or “no” answers

on all the key issues. If you take a strong deposition, your cross-examination will write itself.

In Summary

Unlike the courtroom theatrics you see in Hollywood, real trials are not won by flashy speeches or lawyer’s tricks in front of the jury. Real trials are won through months, or even years, of careful preparation before the trial ever begins.

To be prepared for victory at a just compensation trial, it is essential to know the opposing appraiser inside and out. Extensive research into an opposing appraiser is essential. Through the deposition, you can lock-in their testimony so that you will already know the answers to the questions you will ask at trial. When you know what the appraiser will testify to, you can build your own case around it, further strengthening your position. Once you are armed with that research and deposition testimony, preparing for cross-examination is simply a matter of identifying the key facts that will resonate with the jury and serve to undercut the credibility of the opposing appraiser. If you can do that, victory is all but assured. 🌟



Mischa Boardman is a Senior Shareholder at Zausmer, August & Caldwell, P.C., specializing in eminent domain and commercial litigation. She has represented individuals, municipalities, publicly traded REITs, Fortune 500 corporations, utility companies and small businesses in property and eminent domain disputes.

LEVERAGING URA TOOLS TO IMPROVE PARCEL DELIVERY

Creative solutions for non-residential relocations



BY KONSTANTIN AKHREM, SR/WA, R/W-RAC

Part 1 of a 2-part series

Relocation of personal property of a business can bring unique challenges requiring creative solutions. How can URA help?

The U.S. federal regulations that govern assistance for persons displaced by federally funded programs and projects (49 CFR 24/Uniform Relocation Act/URA) recognize the adverse impact of displacements. It's worth noting that one of the URA's objectives is "to encourage and expedite acquisition by agreements..." and "minimize litigation and relieve congestion in the courts, and to promote public confidence in Federal and federally-assisted land acquisition programs." As such, the URA not only places on displacing agencies the duty of relocation assistance, but also equips us with excellent tools for solving some of the most challenging issues when dealing with the disposition of personal property in non-residential relocations. These rules, known to relocation specialists as "Actual Direct Loss of Tangible Personal Property" and "Substitute Personal Property" are excellent tools that are at your disposal in federally-assisted projects.

This is the first in a series of two articles with a narrow focus on two URA rules that can be great problem-solving tools. They are: "Actual Direct Loss of Tangible Personal Property" [§24.301(g)(14)] and "Substitute Personal Property" [§24.301(g)(16)].

Although this series will focus on the *implementation* of these tools, it is a good idea to keep them in mind at the *planning* stages of projects involving displacement of business, farms and non-profit organizations ("business"). Raising the business owner's awareness of the benefits afforded by these two rules as part of the Relocation Assistance Program rule in the early stages of working with the displacee can be very helpful in earning their trust and confidence in the program and expediting a complex business relocation. Leveraging these rules effectively and correctly can go a long way toward resolving significant logistical and financial challenges that arise in business relocations due to considerations pertaining to the disposition of personal property, such as furniture, fixtures equipment and machinery.

URA Rule: Actual Direct Loss of Tangible Personal Property

Once a suitable replacement site has been identified, the next round of challenges arises. When planning the move, the business is faced with decisions whether certain items are worth moving to the new location. This can apply to any item of

personal property. These decisions are based on a multitude of considerations, including internal and external factors such as usefulness of an item, possibility and/or feasibility of removing an item at the displacement site, adaptation of the item to the replacement site or new location factors. Typically, there is no sense in moving equipment or machinery that is in poor condition or obsolete, with little or no remaining economic life or potential value at the replacement site. A business may decide to realign its strategy and operations, downsize or discontinue its operation in part or in whole.

Recognizing and effectively navigating the displacee's considerations and knowing which relocation benefits and solutions are available will help the right of way agent establish and maintain a good working relationship with the displacee and achieve optimal results for both the displacee and the agency, as well as meet the project schedule.

For example, due to anticipated changes in the factors of production at the new location or marketing considerations, a business may decide on a strategic change and elect to discontinue or replace a certain lines of products or services, thus having no need or interest in moving the equipment currently in operation at the displacement site. The inventory of personal property should list all the movable items and include the disposition of each item (e.g. "move" or "don't move" or "replace").

The URA rule known to specialists as "Actual Direct Loss of Tangible Personal Property" [§24.301(g)(14)] is a relocation tool that addresses the "don't move" scenarios. It allows a relocation payment for personal property that is not moved. The URA provides:

Actual direct loss of tangible personal property incurred as a result of moving or discontinuing the business or farm operation. The payment shall consist of the lesser of:

- (i) The fair market value in place of the item, as is for continued use, less the proceeds from its sale, or*
- (ii) The estimated cost of moving the item as is, but not including any allowance for storage; or for reconnecting a piece of equipment if the equipment is in storage or not being used at the acquired site.*

When planning the move, the business must decide whether certain items of personal property are worth moving to the new location.

Note that there are caveats. The displacee would need to make a reasonable effort to sell the items in question unless the agency allows otherwise. The URA states:

To be eligible for payment, the claimant must make a good faith effort to sell the personal property, unless the Agency determines that such effort is not necessary. [24.301(g)(14)(i)]

This rule may be applied to any items of personal property, including goods held for sale. However, the value of such goods is established strictly based on their cost to the business. The URA states:

When payment for property loss is claimed for goods held for sale, the fair market value shall be based on the cost of the goods to the business, not the potential selling prices. [24.301(g)(14)(i)]

To apply this rule correctly to scenarios involving business equipment intended to be abandoned, the displacing agency will typically hire an appraiser specializing in valuation of machinery and equipment to determine the fair market value in place. In certain situations, such value can be determined by a qualified agent. Generally, the value in place reflects the purchase price plus delivery and installation costs, less depreciation. It is best to use the services of a qualified appraiser for determining the value, which also provides other advantages. The agency must carefully determine the cost of moving the item “as-is.” This is a critical requirement.

The rule is explained in the *Appendix* of the URA as follows:

If the piece of equipment is operational at the acquired site, the estimated cost to reconnect the equipment shall be based on the cost to install the equipment as it currently exists, and shall not include the cost of code-required betterments or upgrades that may apply at the replacement site. As prescribed in the regulation, the allowable in-place value estimate (§24.301(g)(14)(i)) and moving cost estimate (§24.301(g)(14)(ii)) must reflect only the “as is” condition and installation of the item at the displacement site. The in-place value estimate may not include costs that reflect code or other requirements that were not in effect at the displacement site; or include installation costs for machinery or equipment that is not operable or not installed at the displacement site. [Appendix to 24.301 (g)(14)(i) and (ii)]

In determining the estimated moving cost, the displacing agency should include all applicable costs: disconnecting, removing, packing, loading, transportation (based on the maximum of 50 miles, unless a closer site has already been purchased or leased), unloading, reinstalling, reconnecting, reassembly, including modifications to the personality. However, note the “as is” clause, which means the allowable moving cost estimate **may only include such reconnect costs that would be necessary to install the item as it is installed at the displacement site.** The conditions at the replacement site are irrelevant for the purposes of this calculation. Also, moving costs may not include any reconnect costs for equipment that is not operable (or items not connected or installed) at the displacement site. There is no allowance for storage costs.

One effective way to estimate the moving cost required by this rule is to request a commercial mover to provide two bids or estimates, one for all the personal property listed on the business's inventory and one for all the personal property excluding the items that will not be moved. The difference between the two serves as reasonable basis for item (ii) mentioned earlier—the estimated cost of moving the item.

Implementing these rules requires appropriate coordination, especially if outside consultants and contractors are involved. To ensure compliance with your federal funding source, your file should be thoroughly documented with supporting documentation and file notes, showing all the factors relevant to the benefit calculation. This includes the supporting documentation of the effort to sell and the outcome of the effort, and advertisements, offers to sell, bill of sale and other backup. The documentation should clearly identify the items offered for sale and/or sold, the price and terms of the sale and delivery. In the case of equipment or machinery, the supporting documentation should also include such specifics as year, make/model, serial number, condition, terms of sale and a photo of the item.

Key Calculation: The *proceeds* from the sale of the item, if any, are deducted from its fair market value in place, resulting in net value of the item for comparison with the *estimated cost of moving* the item, in order to determine the *lower of the two*.

The URA also provides for reimbursing the displacee for a “reasonable cost incurred in attempting to sell the item that is not to be relocated.” [24.301(g)(15)]

If the bona fide effort to sell was fruitless, the business is typically not required to remove the items from the displacement site. Most agencies will allow the items to be abandoned at the site.

It is important to note that this benefit applies only to items of *movable personal property* that don’t fall under the legal definition of realty or real property.

This rule can be effectively applied to a variety of non-residential relocation scenarios and will result not only in increased satisfaction of the displacee, but also in a timely and orderly relocation, as well as net savings to the displacing agency.

Relocation benefits available under “*Actual Direct Loss of Tangible Personal Property*” are effective problem-solving tools when a business elects to discontinue a part or even all of its operations. It is also important that business owners considering the Fixed Payment in Lieu are well aware of this benefit, as in certain cases their benefit may be greater than the \$40,000 cap allowed for the Fixed Payment.

URA Rule: Substitute Personal Property

Another challenge often encountered in business relocation is whether to *move* an item or replace it with a *substitute*. What some may see merely as “movable personal property,” the business owner typically sees as income producing assets that should avoid or minimize any downtime. Although relocating a business may entail a considerable amount of down time and disruption, the URA does not provide for compensation for loss of productivity or profits (URA section 24.301 (h)(4) specifically lists “loss of profits” as an ineligible expense). However, the URA provides an excellent tool known as “*Substitute Personal Property*” (SPP) §24.301(g) (16). If applied well, it can be very helpful in minimizing potential downtime and disruption.

The *Substitute Personal Property* rule allows a relocation payment for purchase of replacement personal property. The URA provides:

Purchase of substitute personal property. If an item of personal property, which is used as part of a business or farm operation is not moved but is promptly replaced with a substitute item that performs a comparable function at the replacement site, the displaced person is entitled to payment of the lesser of:

- (i) *The cost of the substitute item, including installation costs of the replacement site, minus any proceeds from the sale or trade-in of the replaced item; or*

- (ii) *The estimated cost of moving and reinstalling the replaced item but with no allowance for storage. At the Agency's discretion, the estimated cost for a low cost or uncomplicated move may be based on a single bid or estimate.* [24.301(g)(16)(i)]

This benefit is extremely helpful where businesses need to deploy critical equipment at the replacement site before turning off such equipment at the displacement site. The review of this rule will continue in the next article.

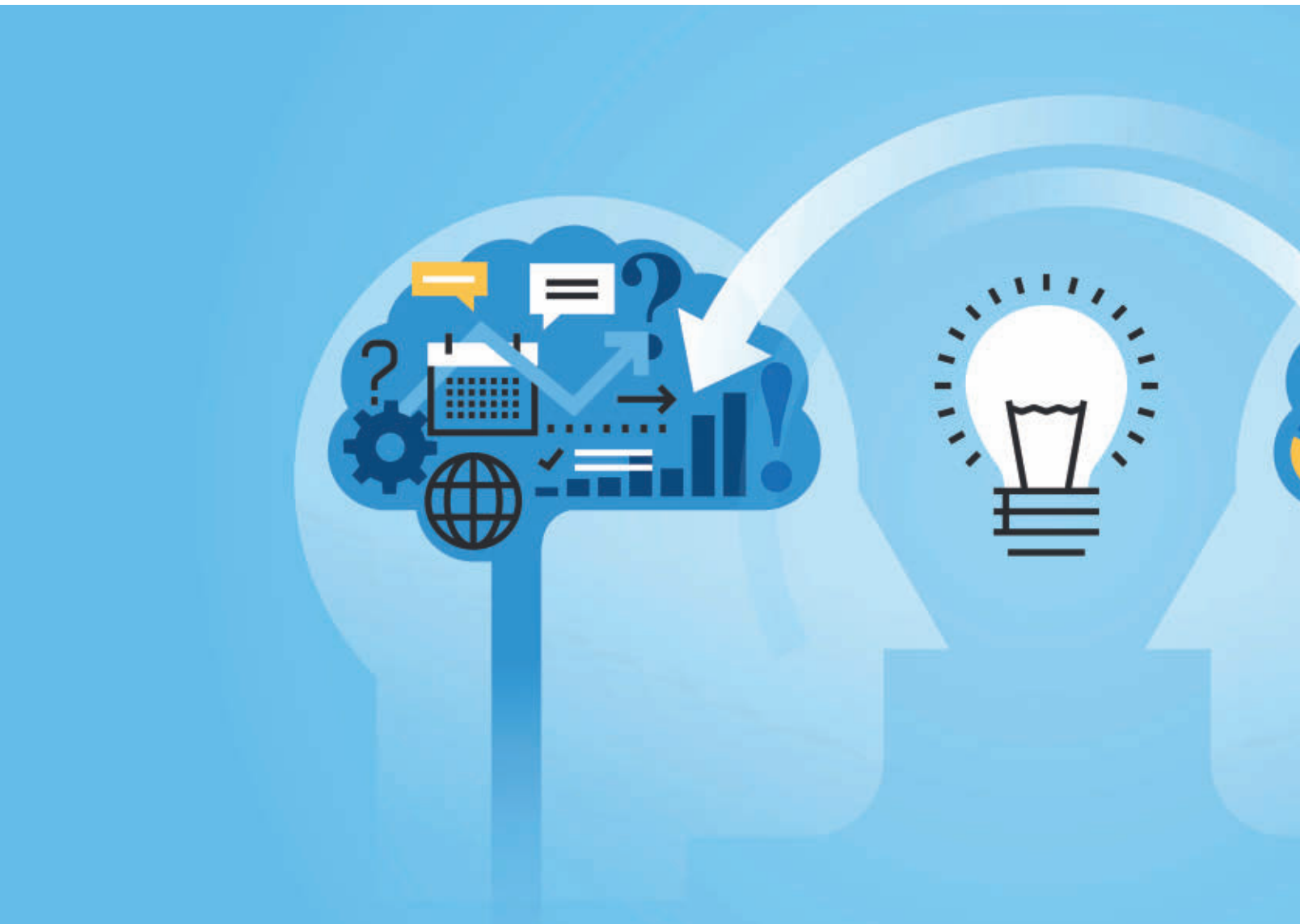
Conclusion

Although most agencies’ *General Information* brochures and *Notices of Relocation Eligibility* include brief descriptions of these and other relocation benefits, an agent should be prepared to thoroughly discuss these benefits with business owners, regardless of the size or nature of their business operations. Experience shows, the more the displacee learns about these benefits in the early stages of the project *from the agent*, the better the agent’s rapport and working relationship with the displacee. This usually leads to more productive case management and more efficient parcel delivery.

As always in Relocation, keep in mind that every relocation case has unique facts while agencies’ policies vary. This article is published for educational purposes only and does not constitute technical or legal advice. If you have specific concerns or technical questions, contact the appropriate funding agency, technical advisor or your legal counsel. ☺



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SHARING BEST PRACTICES

The Utah Department of Transportation hosts Chinese affiliates

BY JAMES A. OLSCHESKI, SR/WA



engineer for the department, he could easily translate some of the more complex terms and use his expertise to help explain the processes we use in design and right of way acquisition.

On-Site Visits

The delegation had specifically requested a visit to UDOT construction sites where we had acquired the property. After donning safety vests and hard hats, it was on to the bus for the site visits. As we toured each site, we indicated which locations previously had commercial and residential structures, but had since been acquired and then demolished for the new projects. We were also able to show where current cut slopes were literally up against homes, demonstrating how close construction sites can be in relationship to property rights.

The delegates asked many questions during the ride from one construction site to the next. What did land cost? What were the damages? How did the appraiser calculate the partial acquisition? Did the value really seem fair? Did the appraiser calculate the relocation benefits? Who moved the owners? What about tenants? It quickly became obvious that while we both use similar methods to acquire property, the cost of land is significantly higher in China due to their population.

Comparing Our Similarities

The delegates requested an opportunity to meet with UDOT appraisers, so we arranged to bring in two of our valuation specialists for an extended question and answer session. They had many questions about our processes, and they asked for input on some specific project issues that they were facing. The UDOT appraisers were able to answer many of their questions, however with some of the complex issues, the infamous response of “it depends” was used. As is often the case, some issues still require a unique approach and no one solution fits all.

In November, IRWA representatives played host to a delegation of appraisers from the People’s Republic of China. The primary purpose of their trip was to gain a better understanding of how eminent domain is used in the United States.

Following a brief stop at IRWA Headquarters in California, the group assembled at the Utah Department of Transportation (UDOT) in Salt Lake City for an up-close view of how projects are planned and implemented. The delegation was most interested in learning how UDOT uses eminent domain to acquire property needed for construction projects and how that property is valued.

Given our slight language barrier, UDOT Traffic and Safety Engineer Eric Cheng, PE, graciously provided translating services that helped facilitate the dialogue. Eric was born in Taiwan before moving to Utah and speaks Mandarin Chinese fluently. As an



For three days, IRWA representatives from Chapter 38 Salt Lake City and UDOT hosted a delegation of Chinese affiliates.



During the second day in Salt Lake City, the delegates took part in an active discussion moderated by James A. Olchewski, SR/WA, and Eric Cheng, PE.



The delegates were driven directly onto construction sites to see the effects of UDOT's acquisition.

During our discussions, we were able to establish many similarities in property ownership. For example, in our country, the U.S. Constitution guarantees property rights, and those are upheld by state and local statutes. In China, the government grants property rights, but in many cases, the property can only be held privately for 70 years, at which point the government can renegotiate the terms.

In the U.S., appraisals must follow the Uniform Standards of Professional Appraisal Practice (USPAP), and state and local entities are required to comply with these standards. In China, we learned that they use similar regulatory appraisal standards, however the appraisers are highly scrutinized. If they believe that an appraisal or appraiser has been improperly influenced, they take immediate action. In some cases, this has led to jail time.

Examining Our Differences

Our discussions uncovered a major difference in the process used to acquire property in our respective countries. In Utah, we must first validate the need and necessity of a particular roadway project and complete all the approval processes and environmental clearances before we can begin the acquisition phase. In China, the government will typically decide when they need or want a certain property. They acquire the property first, and then determine how they may want to use or develop it afterward.

Another difference is the use of eminent domain. In Utah, eminent domain is used as a last resort when the owner and the condemning agency cannot reach an agreement. In China, eminent domain can be used as needed. The delegates were surprised by the constraints that

UDOT faces in their acquisition programs, but also impressed by the way in which property owners are treated, especially when they are deemed to be displacees.

Value of Building Relationships

For additional perspective, the delegates also met with UDOT's Executive Director Carlos Bracerros, and Deputy Director Shane Marshall, who gave an overview of the UDOT organization and its structure. Carlos shared his views on the importance of building relationships with those impacted by the agency's projects. He believes that UDOT's project successes can be directly attributed to the trust it has built up over the years. This starts with a right of way team that is focused on treating each of the affected owners in an honest and fair manner.

Both groups were greatly impressed with the information that was shared and the similarities among our agencies, the appraisal profession and the benefits that the IRWA provides when bringing vastly different cultures together. Their hope is for a second round of visits in the future. 🌐



James A. Olchewski, SR/WA, is the Deputy Director of Right of Way for the Utah Department of Transportation. He currently serves as the IRWA Chapter 38 President and is Vice Chair of IRWA's International Transportation Committee.



WHEN THE PAST HALTS THE PRESENT

The impact of cultural resources management on right of way scoping

BY RYAN J. HOWELL, RPA

A few years ago, a state agency and large engineering contractor were working on a relatively small-scale right of way project in my service area. Having been in development for six years, the project had a healthy budget of \$5 million. All the real estate, permitting and design work had been completed without any issues and the project had wide public and community support.

But then, just three days into construction, the project's bulldozers began to unearth human skulls.

The project was stopped in an instant. The agency chief and the engineering company CEO appeared before a public meeting with Native American tribal leaders and community members to offer a heartfelt apology. The city immediately halted all area infrastructure construction projects for review.



How the public perceives these cultural and historical resources is what makes the difference between a positive and negative response to a project.



The project was ultimately delayed for six months. The trust and goodwill that the agency and engineering firm had built with the city government and local communities evaporated overnight. The company faced multiple liability lawsuits and paid nearly \$500,000 for a burial salvage project. Perhaps more costly, the issue lingered in the local press and social media for more than a month. And yet, all of this could have been prevented for \$20,000 or less.

A cultural resources study by a qualified professional would have noted the trail of historical documents referencing the cemetery going back to the late 1600's. This study would have likely led to a consultation with local tribal historians and elders who knew the area intimately. Such a study would have certainly noted the roadside historical marker located blocks away from the project area, describing the location's dense tribal, cultural and historical village use.

Cultural Resources Management

When people think of cultural resources, they often think of archaeological sites. However, cultural resources management (CRM) is much more. It represents the management of

physical historical buildings, properties and places in a right of way project. It also requires an understanding of less tangible cultural aspects of the land and its use. For a CRM survey to be a valuable tool, historical preservation, archaeology, tribal consultations and community/client relationship efforts must all be considered.

The CRM process began to take shape more than 50 years ago during the general environmental movement. It was first codified under the National Historic Preservation Act (NHPA) of 1966 and later heavily strengthened by the National Environmental Policy Act (NEPA) of 1970. Tribal relationship issues joined the suite of regulations following the adoption of the American Indian Religious Freedom Act in 1978 and the Native American Graves and Repatriation Act (NAGPRA) in 1990.

These early federal laws—combined with subsequent executive orders, federal agency directives and protocols, as well as state and local county and municipal historic preservation regulations—make up the compliance and permitting portions of what we have today. Individual state CRM laws vary greatly from extremely regulatory to those with more passive and semi-voluntary compliance laws. Burial protection laws vary in strength and

protocol, but the most stringent burial avoidance laws are found at the state level.

The majority of right of way projects encounter CRM issues in one of two ways. The first is through agency permitting and regulations, and the second is project-related federal funding or oversight sources that activate the NHPA's operational code Section 106. Most federal and state agencies combine cultural resources into the general environmental compliance portion of project review, environmental impact statement (EIS) or environmental assessment (EA) development or as a standalone Section 106 requirement for an archaeological and cultural study.

Archaeological sites and historic buildings may need to be avoided by redesign, mitigated by surrounding them in project green-space or removed by archaeologists. However, a project may not have a strict legal compliance mandate that requires you to survey and consider the impacts of your projects on these historic sites. In that case, do you disregard them altogether or conduct voluntary cultural and historical site measures as part of your project?

Managing the CRM Liability

Timing in discovery is the critical aspect of a cultural resource's impact on a right of way project. In general, the earlier a cultural site or area is identified in the project's lifecycle, the easier it is to deal with from a cost and public relations perspective. The potential financial losses, project delays and bad publicity will steadily increase in scope and severity the later they are encountered in the project's schedule.

Cultural resource issues are usually faced during one of three general phases, with each riskier and potentially more damaging to the project. The first and best-case scenario is when cultural resources are anticipated or screened for in the

pre-planning phase. This is the most risk-adverse strategy, as issues can be recognized and identified early enough for project designers and managers to account for their possible effects and take all stakeholders into account. This is by far the best practice when doing CRM work.

Secondly, and sadly more frequently, is when a project does not anticipate cultural resources until well into design, and only after the project signals a compliance CRM trigger involving agency permitting, regulatory authorities or land access needs. If a major archaeological site is encountered or a significant tribal cultural/sacred site has the potential to be disturbed, the project can face a significant setback. At this point, the project team can only react to cultural resource finds in the right of way corridor. There is little flexibility because previous project alternatives may have been eliminated, and the costs of redesign and additional real estate acquisition will only serve to increase costs and delays. Negative press will surely follow.

The last and worst-case scenario is when cultural resources are not considered whatsoever during the project planning or design phases, and construction may have already started. Either the project manager did not know about the potential for issues, was never told by regulatory agencies or perhaps simply tried to do the bare minimum of cultural screening to cut costs. Regardless, the impact is felt when the project is in full swing, at final design or even has materials and crew on site.

A cultural resources encounter at this point in the project is referred to as an “inadvertent discovery.” This makes clear that the project did not intentionally seek to destroy a cultural site. Inadvertent discoveries are most often the result of a lack of planning or simply ignoring something that was anticipated to have had a low chance of occurring. Yet, when

issues arise this late in the project, the results can be catastrophic. If a project impacts a tribal sacred area, the response may include injunction lawsuits, public protests and agency hearings. If it is a burial disturbance, it may mean extensive project stoppages, cemetery salvage costs and the associated negative tribal or local community reactions.

A cultural consultant can inform you of any other potential tribal, cultural or historical impacts your project may encounter, whether real or perceived. This would include any potential conflicts that may ensue with landowners, local communities, or local units of government based on historical or local cultural sites or areas of concern. If your cultural consultant is particularly skilled, they should be able to offer you solutions and mechanisms to address these issues before your project ever starts.

Avoid, Mitigate or Disregard?

Regardless of how or when a cultural resource surfaces, a project proponent has three basic options: avoid,

mitigate or disregard. Legally, you may or may not be bound by federal, state, or agency regulations or permits to deal with the site/area in a compliance mode. This is definitely the case with human burials or potential burial grounds like earthen mounds, all of which are protected under federal and state criminal statutes.

CRM surveys primarily focus on archaeology and historic buildings. As something tangible, delineated and avoidable, archaeological sites and old buildings can be mapped and addressed during design and right of way layout.

What about a culturally-significant spring that is sacred to a local Native American community? Or the battleground of a small skirmish from the Civil War important to local historical re-enactors? How about a street corner in Springfield where Lincoln gave a famous speech? These sites may have cultural, historical and even religious importance to the local communities but may not be “concrete” archaeological or historical sites that can be readily delineated.



Enhanced cultural resource surveys can often spot trouble zones early in the process. When issues arise during construction, the results can be catastrophic.

As such, these more vague forms of cultural areas become much more difficult to deal with from a project perspective, but they may still influence public or agency perceptions of the project impact on the surrounding community's history and culture.

Enhanced CRM and Its Rewards

Why not simply do the minimum the law or a permit requires? From a timing and budget perspective, this seems to be the easiest option and the reason why so many right of way companies take this approach. However, the overall cost of most cultural resources work is minimal compared to the cost of even small delays or slowdowns in the schedule. Perhaps the best way to look at enhanced cultural resource project surveys is as a project insurance policy, and a cheap one at that. As one of my clients is fond of reminding me, "Cultural work is generally a cheaper line item on my budget than coffee or donuts."

Enhanced cultural resource surveys can often spot project trouble zones early in the process. They lessen the chances for the most detrimental of cultural encounters: the inadvertent discovery during construction. From a real estate perspective, they may identify areas of tribal or community owned lands that have historical or cultural significance and will likely become right of way acquisition issues. If there is a high probability of burial encounters during construction, they might suggest the usefulness of maintaining late-stage design alternate routes.

Consulting with tribal groups and other special communities—like the Amish and Mennonite—also fall under the category of enhanced CRM. Project-driven interactions with these special communities can range from mutually satisfying and cooperative to outright hostile and

confrontational. The reality is, taking time to research the cultural factors and history of the land is crucial to understanding the views and perspective of these minority groups in relation to the project and the project area.

The Community Culture

All places and communities of people have a "Community Culture," something that defines them and the relationship to the area in which they live. From an abandoned community church that grandparents were married in to historic forts and battles that provide a sense of local heritage and tourism income, these historical, cultural and sacred places are a core part of the community culture. How the public perceives these cultural and historical resources is what makes the difference between a positive and negative response to a project.

Any project that appears to callously threaten these places is inherently seen as a threat to the community and can expect negative public sentiment, as well as potential regional and local political opposition. In contrast, with minimum expense and effort, a right of way project and its proponent can almost always publicly demonstrate an interest in protecting the history and culture of a project area, with a resulting reward of local and community goodwill.

An Enhanced Integrated Approach

The two keys to effective cultural resources management on a project are early pre-planning and flexible and responsive coordination. This involves asking key questions and continuing to ask until answers are provided. Is the corridor

going to change? If cultural sites are encountered, can they be avoided by alternatives? Can they be mitigated or removed from project impacts?

Cultural resources should be included in a project's general environmental and permitting screening as early in the project's development as possible. This is best accomplished with the use of an integrated environmental compliance team—one that brings experts in all sub-disciplines of environmental compliance to the table. This includes specialists in wetlands, endangered species, environmental remediation and cultural resources. Together, the team can coordinate the juggling of permit schedules, regulatory challenges, project needs and route changes as a cohesive work unit. This is vital for fast-tracking projects through the cultural resources and general environmental compliance process.

While it's impossible to anticipate every potential challenge that may arise on a project, having a disciplined team working collaboratively, communicating openly and considering alternatives can play a key role in effectively moving projects forward. ⚡



Ryan Howell, MA, RPA is an Archaeologist and Cultural Resource consultant for Cardno. He has over 20 years experience in conducting cultural resource surveys for large pipeline projects, highways, utility grids and renewable energy. He previously served as a tribal historic preservation officer for the Prairie Island Mdewaketon Dakota community in Minnesota and has expertise in mediating between local, state, and federal regulatory agencies and tribal communities.



A Little Good Fortune Goes a Long Way

The legal challenges of prospective change orders

BY MICHAEL F. YOSHIBA, ESQ.

The recently completed Agoura Road Widening Project was an ambitious undertaking by the City of Agoura Hills in California. The \$24.5 million project covered just over two miles and included the addition of two travel lanes, a roadway and pedestrian bridge widening, landscaped medians, improved lighting and traffic signalization, utility undergrounding, bicycles lanes and meandering sidewalks for weekend joggers and pedestrians. This project, as with all public works projects, encountered unexpected obstacles.

The Planning and Design Phase

The Agoura Road Widening Project was planned and designed over the course of several years. More than seven different utility services were identified as being

impacted by this project, including the storm drain system where water flows from public and private property into the County storm drain system.

The project included a small easement acquisition from an undeveloped private property. However, during the acquisition phase, no one was aware that property was in the initial stages of development. There were plans underway to construct a commercial building, along with associated amenities. Since a storm drain connection would be required for this property, and this was not included in the original contract, a contract change order would be needed.

This is where the issue arose. For the Agoura Widening Project, the City

insisted that all of the required tasks be performed under the construction contract. The contractor disagreed and was prepared to claim a work change order to increase their compensation for this unforeseen addition.

Acquisition of Property Rights

The partial piece of property needed was appraised and an offer of just compensation was made to the property owner, including the installation of a driveway at a location selected by the property owner. The City included this in the offer because the property owner had previously submitted a draft site plan for a pre-development review, which identified the location of a driveway access to the property and the locations where the property would seek utility connections.

The City and property owner eventually agreed to the following:

- (1) Monetary compensation.
- (2) The City would construct a driveway pad in an agreed location along the realigned Agoura Road.
- (3) The parties agreed that at a specific location, the City would allow for the property to connect their storm drain utility stub to the county's storm drain system.
- (4) The City agreed that they would notify the owner in advance of the installation of the new relocated storm drain pipes in the City's roadway.

Handling Potential Change Orders

Construction proceeded as planned until the City notified the property owner that they needed to provide a copy of the approved utility connection permit from the County. Storm drain connections to the County system are obtained through a permit application



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

process and generally require the submission of appropriate design and construction plans that clearly identify the proposed connections. To the City's surprise, the property owner had not even submitted a permit application. The owner incorrectly assumed that they could bypass the County's permit application process because it was a City project.

In the meantime, the contractor submitted their project schedule, which only allocated a few days for the completion of the private property utility. If the property did not have the appropriate connection permits, the contractor would either complete the project without the connection or submit a change order to get paid for project delays until the property could obtain the permit. Although the

property owner was not in the right, a lawsuit against the City was the likely result if this situation was not resolved.

In a stroke of luck, several weeks of inclement weather delayed the construction project. It just so happened that the City's contract included a provision for minimal compensation for project delays caused by weather conditions. The property owner (with an assist from the City) was able to expedite a permit application to the County, which was reviewed and issued, and the storm drain connection was made. In the end—and because of the bad weather contract clause—there was only a minor contract change order paid to the contractor. This is one of those instances where Mother Nature delivers a little good fortune. ☘

Locate Easements, Property Information and Recorded Documents

- Export property and ownership data within project borders using latitude and longitude geo-coordinates
- Integrated property and mapping tools to quickly identify and gather data on connected or adjacent parcels
- Discover leasehold information, easements, and more by searching billions of recorded documents
- Obtain full title chain and lien data with all associated documents in one report



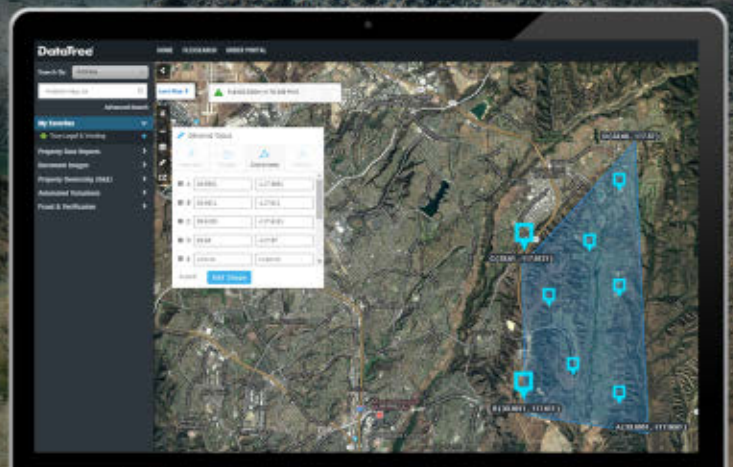
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16TH ANNUAL RIGHT OF WAY MAPPING COMPETITION

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 64th Annual International Education Conference on June 24, 2018 in Edmonton, Alberta, Canada.

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.

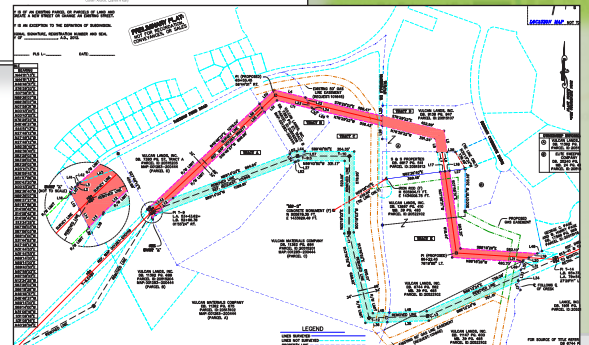
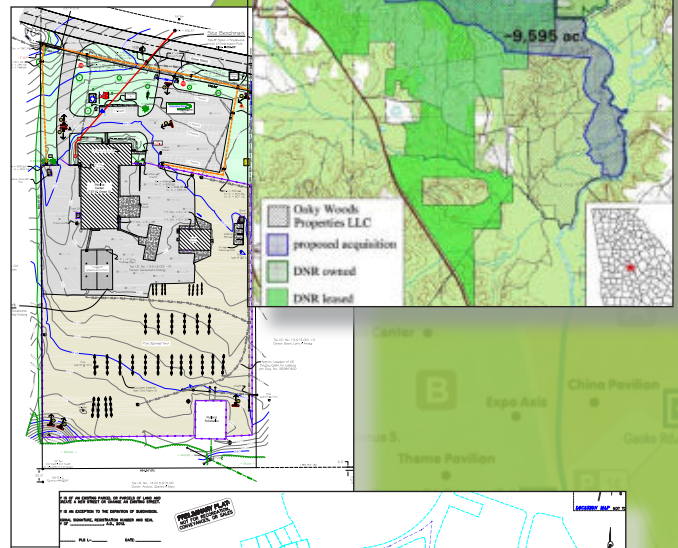
Eligibility: Anyone can enter, however, each entry must be sponsored by an IRWA member. Members may sponsor multiple entries. Maps must be associated with the right of way profession including related disciplines.

Prizes: The 1st place winner will receive a complimentary registration for IRWA's 64th Annual International Education Conference. The 2nd and 3rd place winners will each receive a complimentary IRWA membership. A cash prize of \$250 will be given to the individual winners in the following categories: Transportation, Oil & Gas, Electric & Utility, GIS and Industry General.

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 GIS and industry general categories 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 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."



16th Annual Right of Way Mapping Competition

Official Entry Form (please print or type)

Deadline: April 1, 2018

IRWA Sponsor _____

Entrant's Name _____

Company Name or Agency _____

Address _____ City _____ State/Province _____ Zip/Postal _____

Phone _____ Email _____

Category

☐ Transportation ☐ Oil & Gas ☐ Electric & Utility ☐ GIS ☐ Industry General

Email PDF entries to:
isecop@irwaonline.org

IRWA COURSES

CLASSROOM BASED

BASIC RIGHT OF WAY DISCIPLINES

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

COMMUNICATION/NEGOTIATIONS

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

MANAGEMENT

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

APPRAISAL

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

RELOCATION ASSISTANCE

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

ENVIRONMENT

600, 600C	Environmental Awareness	1 day
603, 603C	Understanding Environmental Contamination in Real Estate	1 day
604	Environmental Due Diligence and Liability	1 day
606, 606C	Project Development and the Environmental Process	1 day

PROPERTY/ASSET MANAGEMENT

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

REAL ESTATE LAW

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

ENGINEERING

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

SR/WA REVIEW STUDY SESSION

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

ONLINE

BASIC RIGHT OF WAY DISCIPLINES

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

COMMUNICATION/NEGOTIATIONS

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

MANAGEMENT

303	Managing the Consultant Process
304	When Public Agencies Collide

APPRAISAL

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

RELOCATION ASSISTANCE

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

ENVIRONMENT

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

PROPERTY/ASSET MANAGEMENT

700	Introduction to Property Management
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REAL ESTATE LAW

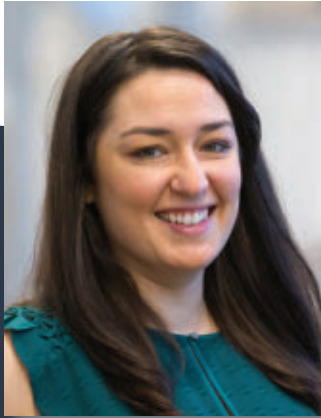
800	Principles of Real Estate Law
801	United States Land Titles
802	Legal Aspects of Easements

ENGINEERING

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

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





AIMIE MIMS, SR/WA, R/W-AMC, R/W-NAC

Candidate for IRWA International President-Elect

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.

Other

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

IRWA Activities

- International Vice-President, 2017 – Present
- International Treasurer, 2016 – 2017
- International Secretary, 2015 – 2016
- International Global Relations Group European Liaison, 2014-2015
- International Nominations and Elections Committee, 2014-2015
- Asset Management Community of Practice, 2012-2015
- Chapter 20 President-Elect, 2015
- IRWA Young Professionals Group, 2012-2017

It continues to be an exciting time to be involved in what we do as real estate infrastructure professionals and members of the Association. As we work to activate IRWA's higher purpose and bring 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 the growth of our Young Professionals group and hosting the second 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 Vice President this past year, working to activate 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 President-Elect.

Thank you.



SHARON N. SLAUENWHITE, SR/WA

Candidate for IRWA International Vice President

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 Treasurer, 2017-Present
- CLIMB Certified Instructor, 2017-Present
- International Secretary, 2016-2017
- 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, 2014-2016
- Region 8 Chair, 2014-2016; Vice Chair, 2012-2014
- Region 8 Professional of the Year, 2013
- Canadian Right of Way Education Foundation Director, 2013-2016
- 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

In case you haven't heard, the IRWA has adopted a new purpose statement: We improve people's quality of life through infrastructure development. This simple statement speaks volumes about who we are and what we do. Over the past few months, it has been gratifying to learn that our purpose statement is spreading throughout our Association. Our Chapter, Region and International leaders have embraced our purpose and are taking every opportunity they can to introduce and discuss it with our members and a broader audience of industry professionals.

It is exciting to know that this new perspective will spark conversations and encourage our members to share personal stories about making a difference in the lives of the public who benefit from improved infrastructure. Sometimes we need to be reminded that infrastructure development is not just about energy and transportation. Infrastructure development is ultimately about making people's lives better, safer and more productive. Without the contributions of IRWA members, there are people who would not have access to clean water, safe highways, energy to heat their homes or light to illuminate our classrooms.

I am grateful for the opportunity to serve on the International Executive Committee, working with caring professionals who truly want to build a better world and devote their time and energy to making our Association the best it can be. The IEC agenda for the coming months will continue to focus on working to ensure our Association continues to be relevant and progressive. We will continue to find ways to streamline our services, improve our education and support leadership development at all levels of the organization. We will seek input from all our membership on how our Association should adapt in this time of rapid technological change and globalization. Finally, we will continue to focus on ways of ensuring that all members have a voice in our Association.

Our perspectives and opinions may differ, but our purpose serves to remind us of what we have in common and why our success and progress is so important. I ask for your support as I submit my name for election to the position of International Vice President.



ANA RAUSCH, SR/WA, R/W-RAC

Candidate for IRWA International Treasurer

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

- International Secretary 2017 – Present
- Member, International Electric & Utilities Committee 2000 - Present
- Vice-Chair, International Electric & Utilities Committee, 2011-2012

- Served on International Finance Committee, 2012-2013
- Member, International Transportation Committee, 2005-2009
- Region 2 Chair, 2014-2016
- Chapter 8 President, 2005
- Chapter 8 Professional of the Year, 2007
- IRWA Certified CLIMB Instructor

Other

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

It has truly been an honor to have been elected to serve as your International Secretary this year. I am humbled by the level of commitment and dedication I have seen by the IEC members, the International Governing Council and the International staff as I worked with them throughout the year on our strategic plans and long-term goals for the Association. I was honored to be included as a member of the IRWA delegation assembled to meet with Federal Energy Regulatory Commission to start constructive dialogue to streamline new projects. I was able to witness the positive impact IRWA has had with our partners in South America by attending the Global Congress in Mexico City. I have enjoyed my year as Secretary and have learned so much more about the organization that I have been a member of for 25 years.

As I speak to our members across the U.S., Canada and Mexico, I am consistently reminded of how much we are alike in our goals and beliefs. We are a group of professionals who want to succeed in an ever-changing world. We have added Chapters all over the world, spreading our footprint and developing the industry to apply to our membership who are now coming from all generations, genders and ethnicities. As IRWA expands, we need to be innovative and look at better ways of doing business, we must keep an open mind and a fresh new perspective, while honoring the traditions that made IRWA a global association of talented professionals.

As our Association grows, we need to make sure that we are staying current on technology and use those efficiencies to help our Chapter and Region leadership with their reporting requirements. Technology can help our membership stay connected, get current information, attend webinars, take classes or attend monthly meetings virtually—and that is only just scratching the surface of what we can do as an association.

Education needs to be our top priority, and offering education in multiple forums is key. We need timely feedback from our members as to how they want their education delivered, and we need to be able to give them as many options as possible to achieve their education goals.

I am proud to be a member of an Association that improves people's quality of life by the work we do every day. I am honored to serve with a group of dedicated individuals who are open to new ideas, healthy debate, innovative thinking and collaboration to continue to grow IRWA and empower our members. I would like to continue to work with our leadership on the initiatives we have set in motion this year, therefore, I respectfully ask for your support as I submit my candidacy for International Treasurer this coming year.

Thank you for your support.



JAMES OLSCHESKI, SR/WA

Candidate for IRWA International Secretary

James has been a member of IRWA's Salt Lake City Chapter 38, Region 9 Since 2009.

Education

Earned an Associate of Applied Science degree in Architectural Technology and an Associate of Applied Science degree in Surveying from the Salt Lake Community College. He is a Professional Land Surveyor (PLS) licensed in the State of Utah and is Certified Engineering Technician (CET) in Highway Design from the National Institute for Certification in Engineering Technologies (NICET). Has completed all the coursework through the IRWA, achieving his SR/WA and is currently an R/W-NAC candidate.

Employment

Deputy Director Right of Way at the Utah Department of Transportation 2009 -present. Previously served as VP-Transportation Manager for Bush & Gudgeon, Inc., 2008-2009 and the Network and CADD Administrator (Right of Way Designer and Surveyor) for ESI Engineering Inc., 1999-2008.

IRWA Activities

- Chapter 38 President 2017-2018
- Vice Chair International Transportation Committee (ITC) 2017-2018

- Chapter 38 Vice President 2017
- ITC Committee Member 2015-2017
- IRWA CLIMB Certified Instructor

Other

- Member of the Utah Council of Land Surveyors (UCLS) where he served on the Standard and Ethics Committee since 2000. He also served on several other committees, including the Education Committee from 2000-2004 where he served as the Secretary.
- Conference Committee Chair for the 2003 and 2008 UCLS Annual Conferences along with the UCLS Fall Forums for 2002 and 2007.
- Elected and served as the UCLS SLC Chapter President for the 2006 term.
- A volunteer member of the Boy Scouts of America since 1998 in various leadership positions.

Like so many others that fell into the right of way profession, this experience has been such a blessing for me. I grew up with dreams and aspirations of being the next Frank Lloyd Wright, but after earning my first degree in Architectural Technology, I was unable to find a job as an architect. However, my drafting skills were needed and highly sought after in the engineering sector, which led me to my first opportunity to learn and understand what right of way was all about. As a consultant, I helped design the right of way for the Sardine Canyon Project for the Utah Department of Transportation (UDOT) in the 1990's, and I have never looked back.

That was 28 years and many projects ago. My professional journey has taken many interesting turns, yet remaining close to right of way, surveying and civil engineering. I have had the opportunity to teach many DOT's and fortune 500 companies, which has instilled a passion and love for teaching and helping others learn. This made becoming both a member of the IRWA and a CLIMB Certified Instructor a natural fit.

I love the passion and commitment that our Association has for its members and everything that it has to offer if you are willing to reach out, accept the hands of friendship and reciprocate in helping others. I am very honored and grateful for those who have mentored, coached and prodded me to this point of my IRWA journey—especially those who have convinced me that I can help unite and promote our organization into new areas and new frontiers.

My goal is to continue to bring together the various disciplines and organizations that touch the real estate community in a united and cohesive manner. As a Professional Land Surveyor, my charge is to protect the public regardless of client or outcome of the project. The IRWA core values are directly in line with this objective and are needed in today's business world. They bring each of our respective professions together so that we can continue achieving IRWA's purpose of improving people's quality of life through infrastructure development. This is not a one-year goal but a lifetime commitment to helping each other improve. I believe that we can and must continue to improve our own learning and professionalism, as well as elevate our own ethics by applying the IRWA mission into our day-to-day activities. If given this opportunity, I will strive to continue my path toward self-improvement and help all whom I encounter to understand and apply these principles in their daily lives.

I humbly ask for your support in my candidacy to be your next IRWA International Secretary. Thank You.

Project Delivery Best Practices

Chapter 1 seminar tackles the industry's greatest challenges

BY RAY MEHLER, SR/WA, R/W-RAC, PMP



The founding Chapter continues to thrive. Los Angeles Chapter 1 has delivered excellent seminars over the years, routinely featuring prominent speakers of national and international caliber. The Chapter hosted its 2017 Fall Seminar on November 2nd with a trend-setting theme, “*Focus on Best Practices: Improving the Right of Way Delivery Process.*”

Panels and Presentations

Presenters focused on best practices to address challenges in right of way delivery. This was consistent with the Chapter's brand of high quality education and professional development, which it has built over the years. Truly impressive were the different presentation techniques that the speakers used to keep the audience engaged throughout the day, while also delivering valuable content.

Post-seminar survey results showed that 97 percent of respondents indicated the event met or exceeded their expectations. The most popular session was *Transportation Project Development and Right of Way*, presented by the Parsons Transportation Program Directors **Michael Boraks**, PE and **Jason Lemon**, PE. They revealed mysteries of the engineering perspective and emphasized the importance of involving real estate

professionals in the early stages of project development.

The second most popular topic was *Best Practices for Delivering Right of Way in a Design-Build World*, presented by two members of the California High-Speed Rail Authority from Sacramento. This was the first time the audience met the authority's recently-appointed Director of Real Estate, **Jeffrey Mathews**, who brings expertise from public and private sectors. His gracious announcement of the imminent retirement of Deputy Director **Don Grebe** prompted a spontaneous standing ovation.

Other presenters were **Mike Lahodny**, valuation expert at Bender Rosenthal, Inc., **Rick Rayl**, Partner at Nossaman LLC, **Jason Fries**, CEO and nationally known forensic expert of 3D-Forensic, **Andrew Nierenberg**, Deputy District Director of Right Way at Caltrans District 7, **Bradley Pierce**, of Pierce Law Firm, PC and **Chad Herrington**, of Burke, Williams & Sorensen, LLP.

The program also featured an expert panel addressing *Cross-Cutting Issues in Relocation and Valuation* moderated by **Uriel Jimenez**, Chief Real Estate Officer of the City of Los Angeles Bureau of Engineering. The panel included **Beth Finestone**, MAI, AI-GRS, FRICS,

CRE of Integra Realty Resources, **Darryl Root**, JD, R/W-RAC of Overland, Pacific & Cutler and **Rich Hodges**, ASA of Hodges Lacey & Associates.

Ending a Successful Event

William Busch, SR/WA, concluded the event using a dynamic approach to facilitate an active exchange among the participants. He shared valuable insights about project coordination and agency communication.

The seminar was fully accredited for recertification by IRWA, California Bureau of Real Estate Appraisers (CBREA), American Society of Appraisers (ASA) and California Legal Education (CLE). The 95 attendees enjoyed 15 presentations thanks to 11 generous corporate sponsorships, including the exclusive Diamond Sponsor Parsons. All sponsors are listed on the Chapter website.

The seminar's theme was developed by Program Chair **Konstantin Akhrem**, SR/WA, R/W-RAC, who put tremendous energy into recruiting speakers, sponsors and attendees to assemble and deliver a high-value education and networking event. Konstantin led a committee including **Natasa Lenic**, SR/WA, R/W-RAC, **Tom Hanley**, PE, **Julia Miranda**, **Amy Betonte** and **Diane Dominguez**, SR/WA.

Chapter 1 is planning its 26th Annual Valuation Seminar on February 13 and hopes to see you there! ★



Ray Mehler, SR/WA, R/W-RAC, PMP, provides right of way design and private litigation consulting through Right of Way Management Consulting. He is IRWA Chapter 1 President.

» PAST INTERNATIONAL PRESIDENTS

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

* Deceased



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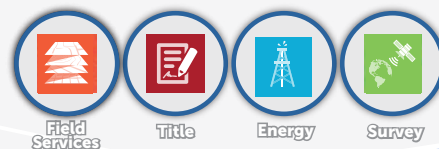
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Flairsoft Welcomes Coleen Magness as VP - Flairdocs Product Division



Flairsoft Ltd. is pleased to welcome **Coleen Magness** as Vice President of the Product Division where she will lead business development, solution delivery and product strategy. Since 2006, she has served in leadership positions in various sectors of the energy industry, establishing standard practices in the acquisition and management of land rights for pipeline projects. With nearly 20 years of industry experience, she is a member of IRWA Chapter 33 and currently serves as Vice-Chair of IRWA's International Pipeline Committee.

Environmental Specialist Ed Call Joins Cardno



Cardno, Inc., announced that **Ed Call** has joined the firm as a Senior Project Scientist in the company's Tampa, Florida office. Ed brings more than 15 years of experience in environmental permitting, including projects for wildlife agencies and water management districts. His previous work in the public sector included project management and consulting for the Southwest Florida Water Management District and the Florida Fish and Wildlife Conservation Commission. His expertise includes broad experience on surface water projects and policies, including springs restoration, seagrass surveys and living shorelines.



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Rebecca Massello to Oversee Cybersecurity Efforts for INGAA



The **Interstate Natural Gas Association of America** announced the hiring of **Rebecca Massello** as Director of Security, Reliability and Resilience. In her new position, Rebecca will lead INGAA's physical and cybersecurity efforts. She comes from the American Gas Association, where she was Manager of Security and Operations. Previously, she was with Energetics Inc., where she supported clients at the U.S. Department of Energy focused on energy sector cybersecurity research and development to enhance the reliability and resilience of the nation's energy infrastructure.

Terry Boss Retires from INGAA



INGAA announced the retirement of **Terry Boss**, Senior Vice president of Environment, Safety and Operations, as of December 31st following a distinguished 33-year career in the pipeline industry.

During Terry's 23 years with INGAA, he led the association's efforts on pipeline safety and operations as well as physical and cybersecurity. His crowning achievement at INGAA was spearheading the industry effort to develop its Integrity Management Continuous Improvement in 2011. IMCI is grounded in the goal of zero pipeline incidents and is founded on principles of safety management systems.



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AFFILIATES

Japan Compensation Consultants Association Celebrates 40th Anniversary

In November, a longtime affiliate of IRWA, The Japan Compensation Consultants Association (JCCA) celebrated its 40th anniversary. In honor of the major milestone, International President Jerry Colburn, SR/WA, sent a special anniversary gift to JCCA President Mr. Takashi Sakata, acknowledging the many benefits of exchanging information between our two organizations.

JCCA and IRWA have always shared a common purpose and the desire to improve the quality of education and training of those engaged in the right of way or compensation consultant process. The JCCA provides its members with important tools to promote the compensation consultant business in an effective and professional manner, while improving their skills and expanding their knowledge. Both IRWA and the JCCA organizations investigate and research the best practices within our profession and promote those practices through our publications, meetings and educational offerings. IRWA has also been pleased to welcome the JCCA to our Annual Education Conference for the past 20 years.



JCCA President Mr. Takashi Sakata accepted the gift saying, "We express gratitude to all IRWA members and look forward to our continued relationship."



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ETHICAL PRACTICES

Roundtable on Infrastructure Governance Focuses on Transparency

In November, the first Regional Roundtable on Infrastructure Governance was held in Cape Town, South Africa. Addressing the vital importance of openness and transparency for successful and sustainable infrastructure projects, the event capitalized on the momentum that has been building about the proper governance of infrastructure around the globe.

Dr. Peter Eigen founded the non-governmental organization Transparency International in 1993. During his 25 years with the World Bank, he became disgusted by the corruption. "It was not just common to see multi-national companies in developed countries pay bribes to secure lucrative projects in Africa, Latin America and Asia, this behavior was often encouraged by governments," he says.



Thanks in part to the activism of Transparency International and

other organizations, many countries that once encouraged bribes have signed international agreements committing themselves to avoiding such practices. Quite a few have enacted legislation outlawing corruption and encouraging transparency. But as several examples cited at the roundtable demonstrated, there's still much room for improvement. Projects in certain sectors, especially extractive industries like oil and gas, and mining, are highly attractive to corrupt players because of the enormous sums of money involved.

Transparency International has discovered that the most effective approach to tackling this scourge is a joint effort from government, the private sector and civil society. They refer to this as the Magic Triangle. Of course, the Magic Triangle is not without its limitations, the most significant being that it requires the goodwill and active participation of all three sectors.

On the positive side, many sentiments expressed at the roundtable indicate that attitudes are changing. There was a focus on enhanced standardization, with a number of impressive tools showcased aimed at assisting state, private sector and civil society organizations in promoting the transparency necessary for good infrastructure governance. Good governance, in turn, helps countries attract quality investors who are knowledgeable, ethical and have financial depth. Trust plays a big role. The private sector needs to trust that the bidding process is transparent and fair. Government and Civil Society need to trust the bidder to deliver good quality, sustainable infrastructure.

PIPELINES

Iroquois Pipeline President Jeff Bruner Elected as INGAA Chairman



In October, the Interstate Natural Gas Association of America (INGAA) elected Iroquois Pipeline Operating Company President Jeffrey Bruner as Chairman of the INGAA Board of Directors for a one-year term.

“As the chairman of INGAA, Jeff will lead our industry’s efforts to promote pipelines as the essential link in achieving natural gas’

potential as a solution to the nation’s energy, environmental and economic challenges,” said INGAA President and CEO Don Santa. “Jeff’s experience and expertise also will guide INGAA’s efforts to ensure safe operations and responsible construction.”

Jeff’s main priorities as chairman are to: 1) Educate Americans that natural gas is an essential part of a diverse mix of complementary resources that will meet our nation’s current and future energy needs; 2) Preserve the integrity of our federal interstate natural gas pipeline permitting process; and 3) Promote INGAA members’ commitment to safe and responsible pipeline construction and operation.

“As we attempt to redirect the increasingly contentious fuels debate in a more positive direction, interstate natural gas pipelines and others in the natural gas value chain must emphasize the multi-faceted benefits of natural gas throughout our economy, including its compatibility with renewable sources of energy,” Jeff said. “We must increase public awareness of the attributes of natural gas—a clean, reliable, affordable and domestically abundant fuel that has helped reduce greenhouse gas emissions by 11 percent over the past 12 years at the same time as domestic natural gas production increased 50 percent.”

Jeff also noted that, as Chairman, he would seek opportunities to work with the appropriate agencies to ensure a predictable and timely permitting process for new infrastructure that will be sustainable in the face of potential legal challenge and the shifting winds of political change. He also will lead the industry in the continued pursuit of its most important and overarching goals—safe and responsible pipeline construction and operations, as well as facility and cybersecurity.

As President of IPOC, Jeff is responsible for the 416-mile Iroquois interstate natural gas pipeline system that interconnects with TransCanada at the U.S.-Canada border. Prior to joining Iroquois in 1992, Jeff was with Transco Energy Company. He currently serves on the board of directors of the Northeast Gas Association and is a member of the Society of Gas Lighting.

INGAA’s board of directors also elected Bill Yardley, an Enbridge executive vice president and president of the company’s gas transmission and midstream group, as first vice chairman, and Stan Chapman, a TransCanada executive vice president and president of the company’s U.S. natural gas pipelines, as second vice chair.

Register by March 9th for early discounts!

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www.irwaedmonton2018.org

OUTREACH

Chapter 16 Promotes IRWA at Maine Transportation Conference

In December, the Maine Better Transportation Association (MBTA) held its 67th annual Maine Transportation Conference. The educational event attracts regional and national leaders in the transportation field for an intense educational experience, along with valuable networking opportunities. To showcase what IRWA has to offer to New England infrastructure professionals, members of IRWA Chapter 16 sponsored an exhibit booth.

Founded in 1939, the MBTA is a non-partisan voice for investment in a safe, efficient transportation network for Maine. With 700 members representing municipalities, businesses and individuals, the association advocates for funding of a multimodal transportation system—air, roads, rail, port, transit, bicycle and pedestrian facilities—to serve communities and citizens throughout the state



From New England Chapter 16, Betsy Bosiak, Derrick Roma, SR/WA, and Trish Morrison, SR/WA.



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Honolulu Rail Authority Studies Use of Public-Private Partnerships



In Honolulu, Hawaii, rail officials recently brought on Ernst & Young Infrastructure Advisors LLC to study the potential use of a public-

private partnership for the remainder of its 20-mile elevated rail project. The Honolulu Authority for Rapid Transportation (HART) said it received eight quality proposals in response to its request last month for a P3 consultant.

According to HART, the Ernst & Young team's proposal demonstrated an in-depth understanding of the Honolulu Rail Transit Project, proposed subcontractors who will help evaluate the potential for transit oriented development, and included a pricing that together was deemed best value. The plan is for Ernst & Young to conduct a feasibility study that will include orchestrating an industry day in Honolulu for interested potential participants in a future P3 procurement. Ernst & Young will then provide recommendations to HART and the city as to whether a market of potential interested parties is available specific to the Honolulu rail project.

"We look forward to getting right to work with the members of the Ernst & Young Infrastructure team," HART Executive Director and CEO Andrew Robbins said in a statement. "HART has an opportunity to bring global best practices to Hawaii by evaluating the potential for a P3 to help address the remaining challenges the project faces as we look to build the last segment in the City Center section."

Earlier this year, a study by Hawaii impact investment firm Ulupono Initiative concluded that public-private-partnerships would be the key to lowering costs and speeding up delivery of the project. The March report, titled P3 Viability Assessment for the Honolulu Rail Transit Project, concluded public-private partnerships could also provide better budget predictability for the completion of the downtown rail segment as well as the transit hub at Pearl Highlands.



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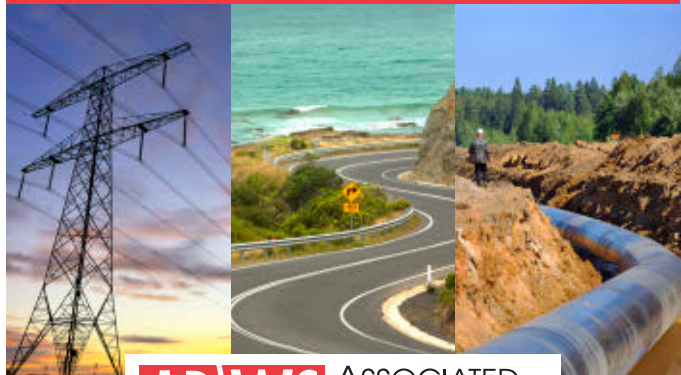
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CHAPTER EVENTS

Southern California's Tri-Chapter Event Generates Record Attendance



In December, more than 150 members from IRWA Los Angeles Chapter 1, Orange County Chapter 67 and San Bernardino/Riverside Chapter 57 gathered for their annual Tri-Chapter Holiday Luncheon. This year's event took place at the Petersen Auto Museum and featured a presentation from Therese McMillan, Chief Planning Officer at the Los Angeles Metropolitan Transportation Authority. Members enjoyed a great lunch, celebrated the lifetime achievement of Ralph C. Brown, SR/WA and took advantage of this important networking opportunity. IRWA's CEO Mark Rieck, Senior Vice President - International Relations Daniel Stekol, Field Operations Director Tim Drennan and Field Operations Manager Jaime Rose Mathews were also in attendance.



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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

Jason Andrews, SR/WA
Dokken Engineering
Chapter 27 Sacramento, CA

Crystal Gayle Boyd, RWA
City of Suffolk
Chapter 52 Suffolk, VA

Sunny S. Burlew, SR/WA
San Antonio Water System
Chapter 39 San Antonio, TX

Rasadi Cortes, SR/WA
BC Hydro & Power Authority
Chapter 54 Surrey, BC

Kenneth D. Dzogan, SR/WA
Terraforma Solutions
Chapter 66 Brandon, AB

Erika L. Eckert, RWA
Kaskaskia Engineering Group, LLC
Chapter 12 Belleville, IL

Kelly N. Esmeralda, SR/WA
Coachella Valley Water District
Chapter 57 Palm Desert, CA

Anthony Gigliotti, SR/WA
Pacific Gas & Electric Company
Chapter 2 San Ramon, CA

Jose D. Gutierrez, SR/WA
HNTB Corporation
Chapter 36 Rosenberg, TX

Laura J. Humphrey, SR/WA
Right of Way Professionals, Inc.
Chapter 17 Eau Claire, WI

Midge Kline, SR/WA
Andeavor - FKA Tesoro Companies, Inc.
Chapter 64 Boise, ID

Leesa T. Love, RWA
Houston ISD
Chapter 8 Houston, TX

Conner McDonald, SR/WA
Bender Rosenthal, Inc.
Chapter 27 Sacramento, CA

Carlton B. Osborne, RWA
City of Memphis
Chapter 32 Memphis, TN

Joanne Pascual, SR/WA
SMUD
Chapter 27 Sacramento, CA

Wesley D. Pekarek, RWA
Buckeye Partners, LP
Chapter 5 Sugar Creek, MO

Angie R. Robertson, RWA
City of Brandon
Chapter 66 Brandon, MB

Amy Robinson, SR/WA
Enbridge Pipelines, Inc.
Chapter 29 Sarnia, ON

David Schultz, SR/WA
Enbridge Energy Partnership
Chapter 17 Janesville, WI

Ashley Seibel, SR/WA
Right of Way Professionals, Inc.
Chapter 17 Eau Claire, WI

Jeremy A. Sherer, SR/WA
Lane County
Chapter 3 Eugene, OR

Kirk Van Heusen, RWA
Clark Land Resources, Inc.
Chapter 50 Vista, CA

Amanda Vande Voorde, RWA
City of Cedar Rapids
Chapter 41 Cedar Rapids, IA

Kristin A. Vandenberg, SR/WA
Semptra Infrastructure
Chapter 11 San Diego, CA

Note: Education milestones include only newly certified individuals.

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

Generalist Certification/Designation

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

Specialty Certifications

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

SPECIALTY CERTIFICATION

Alyssa Britton, R/W-AC
Chapter 17 La Crosse, WI

Brian Ebersold, R/W-AC
Chapter 36 Fort Worth, TX

Jose D Gutierrez, R/W-URAC
Chapter 36 Rosenberg, TX

Joe Zapata, R/W-NAC
Chapter 27 Sacramento, CA

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

IRWA Member Farewell

ROGERS CRAIG STEVENS, JR., SR/WA

Rogers Craig Stevens, Jr., Daytona Beach, FL and formerly of Lumberport, West Virginia, passed away on June 21, 2017 at the age of 76. He was born September 7, 1940 in Washington, DC, a son of the late Rogers C. Stevens Sr. and Frances Magruder Stevens.

Rogers was a long time member of member of IRWA Chapter 21, West Virginia Mountaineer Chapter. He was a retired District Right of Way Agent for the West Virginia Division of Highways, and a longtime Landman for Larosa Field Co. and Arco Oil and Gas of Dallas, Texas. He had served in the United States Air Force and was a Vietnam War veteran. He began his Air Force service as an ROTC graduate from the University of Maryland and received his pilot training in Enid, Oklahoma. Rogers also served as an Instructor Pilot for the T37 and academic instructor for AC 119 Gunships. He was a Stinger Pilot with the 18th SOS in Vietnam before being medically retired from military service with the rank of Captain.

Rogers was a faithful member of the Lumberport Baptist Church where he served the membership as Chairman of Trustees and as Chairman of the Stewardship Team. He was a graduate of Walter Johnson High School in Rockville, Maryland, a 1965 graduate of the University of Maryland, and 1971 graduate of Phillips University at Enid, Oklahoma with a Masters of Education in Guidance and Counseling.

Rogers is survived by his wife of 25 years, Catherine "Cathi" Welch Stevens; his daughters: Stephanie Dawn Stevens, Clarksburg and Christie Dawn Bunner, Lumberport; 2 half brothers: Robert "Craig" (Maria) Stevens, Helen, GA, Bruce (Faith) Stevens, Arvada, CO; and 6 grandchildren, several nieces and nephews and extended family members.

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