

RIGHT OF WAY MAGAZINE

The Voice of the Right of Way Profession

THE SUNRISE POWERLINK

2012 PROJECT OF THE YEAR



NOVEMBER/DECEMBER
2012

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RIGHT OF WAY

The Voice of the Right of Way Profession

NOVEMBER/DECEMBER 2012

Volume 59 Number 6

Features

- 16 IRWA's Top 10 Projects of 2012**
Top rankings showcase a multi-disciplined profession

COVER STORY

- 18 The Sunrise Powerlink**
IRWA's 2012 Project of the Year
By Barbara Billitzer

- 24 Judges Cast their Votes**
Right of way professionals at their best

- 26 Honolulu Rail Project**
New hope for multi-generational families
By Ryan Ng

- 30 Taking on a Data Migration**
Overcoming fear of a technology upgrade
By Yogesh Khandelwal

- 34 Rails to Trails Property Rights**
Whose right of way is it?
By Kurt Kielisch, ASA, IFAS, SR/WA, R/W-AC

- 38 CTfastrak Brings Smart Growth**
Connecticut's innovative public transit system
By Bruce Cowdrey



Columns

- 5 Presidential Outlook**
Patricia Petitto, SR/WA, R/W-RAC
- 7 Straight Talk**
Mark Rieck
- 9 Choose to Lead**
Randy G. Pennington
- 11 Back to Basics**
Carol L. Brooks, SR/WA
- 13 Social Media**
Kate Shirley
- 45 Behind the Scenes**
Cynthia L. Gan, SR/WA
- 64 ROW Therapy**
Dr. Mazie Leftwich, Psy.D

Departments

- 3 Leadership Directory**
- 9 In the News**
- 42 Relocation**
- 46 IRWA Courses**
- 46 Curriculum Update**
- 47 Chapter Spotlight**
- 48 Just Compensation**
- 51 Industry Buzz**
- 60 Education Milestones**
- 63 Ad Index**

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On the cover:

The SDG&E Sunrise Powerlink Project Land Team. Front row (from left): Cecilia Echeverria, SR/WA, Lynn Trexel, SR/WA and Colleen Fino, SR/WA. Middle row: Don McGuire, Greg Mayo, SR/WA, Fred Clark, SR/WA, Keith Richards, SR/WA, Linda Bartz, Lisa Murphy, SR/WA and Jon Taylor, SR/WA. Back row: Mark Chomyn, George Kaelin, Pete McMorris, SR/WA, Larry Davis and Paul Nussbaum, SR/WA.

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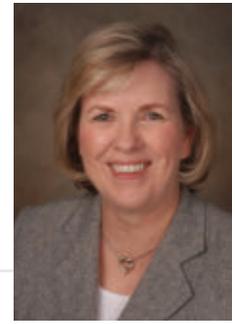
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It's More than a Tagline

Patricia A. Petitto, SR/WA, R/W-RAC



By now, I'm sure that most of you are familiar with IRWA's tagline: "Current. Credentialed. Connected." However, as an IRWA member, you may be wondering exactly how it applies to you.

Over the last few months, I have had the pleasure of visiting many different chapters and speaking at several meetings. I welcome the opportunity to meet members, and am curious to know what's happening in their careers and how they became involved with IRWA. In some of these conversations, I have been surprised by how many members have not taken full advantage of the membership opportunities available to them. Some are simply unaware of everything that's offered.

The Association provides many opportunities for us to invest in ourselves and our profession, and stay current, credentialed and connected.

To keep you current:

IRWA's website offers right of way news from around the world posted online and updated every day. An updated version of Principles of Right of Way textbook contains key industry principles and is searchable online and downloadable for future reference. The Annual International Education Conference is jam-packed with educational opportunities designed to keep you abreast of the most relevant industry trends and best practices. And for those whose work is impacted by government regulations, the annual Federal Agency Update brings all the key stakeholders together to address timely issues. Right of Way Magazine is another resource to help you stay current. Authored by industry practitioners, articles are searchable online, and the digital edition can be shared with other users of right of way services as a marketing tool. Members also have access to IRWA's Leadership Institute training videos, which are available on YouTube and are designed to enhance your job skills.

To help you become credentialed:

For those who want to be perceived as a consummate right of way professional, IRWA offers so many

opportunities to make that possible. One way to differentiate yourself in a competitive market is to have specialized knowledge and demonstrative skills in your particular field. Earning an IRWA certification or designation has proven to help boost career opportunities and salary potential.

The Right of Way Professional Career Path includes generalist and specialty certifications, all of which serve as a reflection of professional accomplishment in the right of way profession. Becoming credentialed not only increases your knowledge base, it enhances the value you bring to your employer and clients.

To keep you connected:

IRWA gives members access to a network of industry experts and peers through meetings, seminars and events at the local, regional and international levels. An online directory of right of way professionals is searchable by name, location, designation or discipline. IRWA's Career Center offers exclusive access to up-to-date jobs available and projects requiring specialized right of way services. IRWA recently launched its Member Network, a social networking tool that enables members to connect, share information, post resources and schedule events within any chapter, committee or regional group. You can also friend us on Facebook, connect with us on LinkedIn, or follow the IEC and Headquarters staff on Twitter.

Members who are actively connected tell us that they have gained personal and professional rewards that far exceeded their expectations. So if you are looking for opportunities, I encourage you to get involved. Start by taking a class or volunteering to serve on a committee. Offer to write an article for your chapter newsletter or Right of Way Magazine. Take the plunge and start working on a certification or designation. Offer to sponsor an event or be a speaker at a meeting or seminar.

And if you're already taking advantage of the benefits of IRWA membership, I hope you'll share the rewards by inviting someone else to become a member.



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Does Media Matter?

MARK RIECK, IRWA EXECUTIVE VICE PRESIDENT

Over the last several years, more and more IRWA members have asked that we reach out to a broader range of external audiences and build awareness of right of way professionals and their role in overseeing today's major infrastructure projects.

The fact is, so many policy-makers and users of right of way services are unaware of the specialized skills and knowledge that our members bring to a project. In addition, they are likely unaware of the significant savings in time and money that result from involving right of way professionals early on in the project.

However, creating a business advantage for members and influencing the direction of the profession is a tall order to achieve with individual contacts and group meetings. That's where the media comes in.

This October, IRWA launched its annual media campaign designed to publicize our Top 10 Infrastructure Projects of the Year and acknowledge the important role that right of way professionals play in the success of those vital projects in the United States,

Canada and South Africa. As in previous years, we capitalized on electronic placements with business publications and news agencies, positioning IRWA as front and center with a strong internet presence. In addition to major news sources, we also targeted the utilities industry and policy-makers for maximum impact, given that this year's project winner was submitted by an electric company.

Yes, media does matter. It has become essential if we are to properly serve the profession, informing policy-makers and users of right of way services of the role IRWA members play in getting major infrastructure projects started on time, implemented without delays and completed on budget, all very critical issues in today's economy.

So while IRWA is keenly focused on enhancing our educational course offerings and maintaining the highest quality services, we are also listening to the evolving needs of our members. IRWA is your professional association, and we work hard every day to make sure members are recognized for making a difference with the audiences who matter most.

MEDIA COVERAGE

Here is a sampling of the more than 300 electronic media outlets that published the IRWA news release, as well as some of the specialty sectors and governmental representatives that were targeted.



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About the IRWA

Since its inception as a not-for-profit association in 1934, IRWA has united the efforts of its members toward professional development, strong ethics and improved service to employers and the public, along with advancements within the right of way profession. IRWA is the unsurpassed source of right of way educational programs and professional services worldwide.

Our Vision: The IRWA creates awareness of and trust and confidence in right of way professionals, who contribute to building a better world.

Our Mission: The IRWA is the central authority of the right of way profession, serving our members, the users of our services and the general public.

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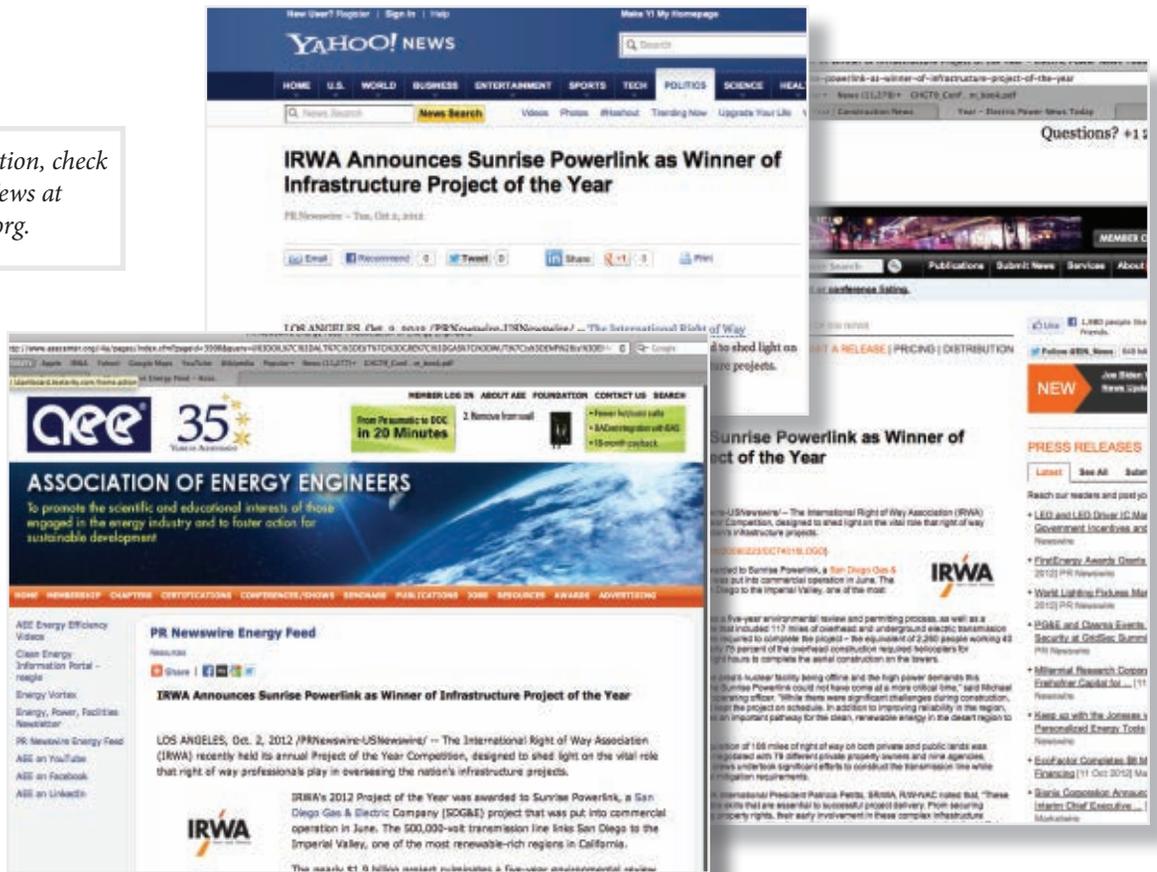
Elevating the Role of Right of Way Professionals

In early October, IRWA launched a publicity campaign to boost awareness of the Association and shed light on the vital role that right of way professionals play in overseeing the nation's infrastructure projects. The news release, which unveiled IRWA's 2012 Project of the Year winner and Top 10 Projects, and was picked up by hundreds of media outlets, generating over 100 million online impressions.

As quoted by IRWA International President Patricia Petitto, SR/WA, R/W-NAC in the media coverage, "Right of way professionals have invaluable skills that are essential to successful project delivery. From securing environmental clearances to negotiating property rights, their early involvement in these complex infrastructure projects can ensure substantial cost savings while making it possible to achieve an aggressive schedule."

According to IRWA Executive Vice President Mark Rieck, "We recognize that the right of way profession is virtually unknown to the general public. That's why the Project of the Year Competition is so essential to our external media efforts. By showcasing the scope and complexities involved with these monumental infrastructure projects, we are able to articulate what our members do in a tangible way. This level of exposure is having a powerful effect and quickly elevating the reputation of right of way professionals everywhere."

For more information, check out Association News at www.irwaonline.org.



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IRWA Launches Collaborative Online Community

BY KATE SHIRLEY

Social media is everywhere these days. We rely on Facebook, Twitter, blog, and LinkedIn accounts to stay informed and to update others about our lives, our careers, or to share interesting articles and photos. The IRWA Member Network is a new membership benefit which combines the benefits of all these sites into one place. With this new online community, we here at IRWA Headquarters are taking steps to ensure that our members have the best and most current tools at their disposal to stay at the top of their profession.

IRWA's Member Network is a customizable tool that enables you to communicate easily with other members in a private, professional setting. You can view a community calendar of all upcoming association events, post messages, photos or other resources, and participate in specific group discussions based on your areas of interest or involvement. It also gives you full access to the IRWA Member Database, and with the "Member Match" feature, the system will automatically recommend other members considered professionally compatible with you according to your interests, allowing you to build a strong network and make more valuable connections.

Our new online community is very easy to use. In fact, as a member, you are already signed up! All you have to do is visit the Member Network homepage and log in using your IRWA website username and password. Once you are

on your landing page, you can add a profile picture, edit your information, add contacts, link to your other social networking sites, post and view messages, join discussions and access all your groups. Since the network is linked with our member database, your landing page will automatically update your events and group affiliations! It couldn't be more convenient.

Have a question about a local regulation you can't quite wrap your head around? Post a question in your Chapter group to target other professionals in your area. Not sure what the best appraisal method might be for a certain type of property? Ask the folks participating in the Valuation Committee group and start an interactive discussion on best practices in your situation. Taking a course and have a question about some of the material covered? Soon you will be able to post a message in the dedicated course group to contact other members taking the same course. The possibilities are truly endless.

IRWA is making big moves this year to turn our Association into an industry leader, and taking advantage of all the latest technology at our disposal is a big part of this goal. We anticipate that the Member Network will yield a rich online community of professionals working together to enhance their careers and will make IRWA an even better resource for everyone involved in the right of way profession.

Access the Member Network at <http://irwa.ep.memberfuse.com>

The screenshot displays the IRWA Member Network dashboard. At the top, the IRWA logo and "MEMBER NETWORK" are visible on the left, and a navigation bar on the right includes "Mark Rieck's profile | Report Feedback | Logout" and a search box labeled "Search IRWA". Below this is a main navigation menu with "My", "Members", "Groups", "Resources", "Events", and "FAQs". The central "Dashboard" area is divided into several sections: a "Hello, Mark!" greeting with a profile picture and links to "View my profile" and "Edit my settings"; a "My Dashboard" section with links to "Administration Home" and "Reporting Home"; a "What are you doing?" status update area with a "Share" button and "280 Characters Left" remaining, showing a recent update by Mark Rieck; a "Latest Community Updates" section with a red header, displaying a connection notification between Vivian Howell and Mary Anne Marr; a "My Contacts" section with a grid of member profile pictures and names (Neil Adams, Brooke Allen, Eric Pitt, Wayne Goss, Lee Harris) and a "View all contacts" button; and a "My Groups' Events" section at the bottom right.

WE ALL KNOW SOMEONE WHOSE CONTRIBUTION TO IRWA DESERVES SOME SPECIAL RECOGNITION



Why not nominate them for one of IRWA's Annual Awards?

Each year, IRWA recognizes outstanding members, chapters and companies for their valuable contributions to the Association and right of way profession. The International Nominations and Elections Committee (INEC) is soliciting nominations for all of the award fields.

As we continue to promote excellence in our chosen fields, we encourage you to nominate those who have challenged the standards and raised the bar in exceeding expectations.

The INEC is currently accepting nominations for ALL award categories, which include:

Frank C. Balfour Professional of the Year
W. Howard Armstrong Instructor of the Year
Young Professional of the Year (NEW)
Government Employer of Year
Employer of the Year

Chapter of the Year
Chapter Website of the Year
Newsletter of the Year
SARPA Scholarship
CRWEF Scholarship

Submission Information

All forms are available on the IRWA website and submissions will be accepted by email only (hardcopies no longer required). Newsletter and Website of the Year forms should be submitted to INEC Vice Chair Kevin Paul at kevin_paul@cpr.ca. All other submissions should be sent to INEC Chair Nancy Halvorson at mnhalvors@msn.com.

For more information, please contact Nancy directly, or visit the Awards Forms link under the About Us tab at www.irwaonline.org.

Nominations must be submitted by February 4, 2013



Confrontations: The Toughest Part

BY RANDY G. PENNINGTON



The challenge of confronting poor performance is described by most leaders as the toughest part of managing employees. Now imagine the challenge of having to confront a customer, colleague, competitor or even a supervisor when the individual involved is a volunteer.

Yet, at some point, every volunteer leader will likely face the need to address performance or behavior that is holding an organization back.

WHY CONFRONTING PERFORMANCE IS DIFFICULT

The mere thought of discussing a problem is unpleasant for many people. We don't want to hurt anyone's feelings. We tend to be uncomfortable with conflict and are oftentimes not even sure how to pick the right words. We also don't want to be perceived as using our managerial roles to look superior.

Another layer of complexity is added when the other person is a volunteer. What happens if they become angry and leave the organization? What if their departure is disruptive or their responsibilities fall on someone else? If the individual we need to confront is a customer, colleague, competitor or boss, there are other challenges to face. Will we lose business or strain an existing working relationship? What happens if the other person points out our shortcomings in defense of their own? Will a competitor retaliate by saying uncomplimentary things about us in the marketplace?

All of these concerns are real and they share one common factor. It is this worry or concern about the personal impact that deters us from acting. Our worries aside, there are three consequences of failure

to talk to others about their problem performance or behavior. First, we place the other person in a situation where they will be viewed as less than effective. Second, our leadership compatibilities, reputation, and credibility can be questioned. And third, the organization may fail to achieve its goals.

FIVE KEY STRATEGIES

Here are five strategies for holding effective discussions about performance or behavior that is not meeting your expectations.

Change your purpose. Most people equate discussing a performance or behavior problem with punishment or criticism. But what if you reframed your purpose? The reason for bringing it to their attention is because you want them to succeed. You never want others to believe that you chose not to say something that could have helped them become more effective.

Acknowledge the obvious. It is natural to feel uncomfortable. Acknowledging the awkwardness of the situation humanizes you and decreases the odds of the other person becoming defensive. For example say, "Joe, this is a little uncomfortable since you are a customer, but I know that you would want me to mention it if I saw an opportunity to help you succeed."

Focus on positive results and performance - not the person. There is always a chance that your comments will be taken personally. You can minimize that possibility by stressing your desire to help the person achieve positive results. Avoid words like bad attitude or disruptive. Instead, focus on specific examples of the performance or behavior and the impact it is having on the team or organization's performance.

Ask, don't tell. Ask individuals for their input and perspective, ideas on the best way to resolve the issue and how you can best help them. Dictating a specific course of action can work when you are dealing with an employee. Conversely, it is an excellent way to ruin a relationship and engender resistance with a volunteer.

Leverage the strength of your relationship. These communication techniques are linked to the strength of your relationship with the person you are confronting. If your previous interactions worked to build their trust and confidence, then they will likely perceive your feedback as your way of helping them succeed. Put simply, you will have earned the right to be heard and accepted as a credible source of feedback based on the respect you have earned in previous encounters.

Confronting and correcting poor performance is one of the most difficult aspects of being a leader. However, this does not mean you should avoid it. Most people want to do a good job. When you approach someone with openness, honesty and respect, you are likely to receive an appreciative response.

Randy Pennington is author of Results Rule! Build a Culture that Blows the Competition Away and On My Honor, I Will... He helps leaders build cultures committed to results, relationships and accountability. Send your ideas to Randy@penningtongroup.com. Follow his blog at www.penningtongroup.com.

The Process of Compensating Condemnees

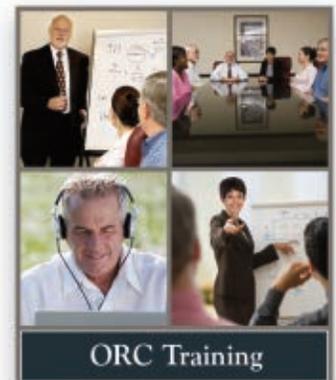
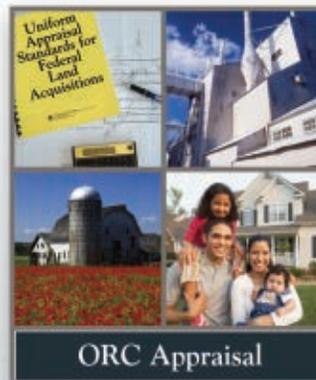
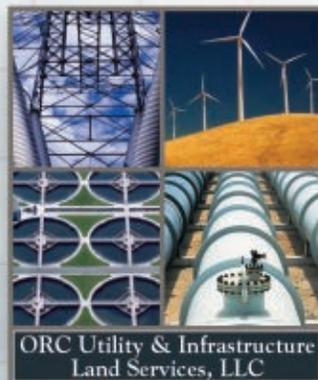
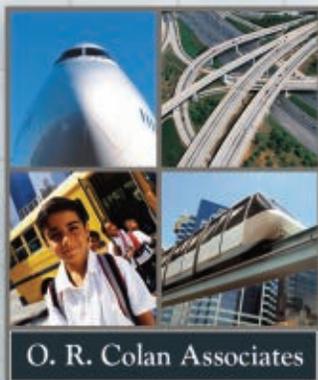
I always appreciate Gideon Kanner's articles in Just Compensation, finding them educational and informative. However, his editorial comments regarding the California Redevelopment Association v. Matosantos in the September/October 2012 issue are inappropriate. He is correct that there have been abuses in the redevelopment process, as there has been in many condemnation actions nationwide. However, I and others have not found it to be an "inherently abusive" process, with many positive results. If in fact there are "under-compensated condemnees," we should look to the various laws that control the compensation as the Feds recently did with Map-21.



David J. Richman, R/W-RAC
Auto Temp, Mammoth Lakes, CA



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SIGNAL YOUR TURNS

"There's a gap sometimes between what I think I'm indicating to the world and what is really being put out there by me."

-Patti Digh

BY CAROL L. BROOKS, SR/WA

Do you recall your first driving lesson? I remember mine. It began with my mom announcing her extraordinary skills as a driving instructor. What a nightmare that was.

As we got into the front seat of Mom's boat-sized Ford station wagon, she rattled off a list of do's and don'ts faster than I could assimilate them. I twisted the key in the ignition while she leaned inches from my ear with a furrowed brow and the stiff jaw of a drill sergeant. With my heart in my throat, I backed out of the driveway, crept down the long winding lane and eased my foot on the brake as we approached an intersection. With a sideward glance, I noticed Mom was smiling. Perhaps I had remembered more of what she told me than I had thought. When the traffic cleared, I looked both ways and turned onto the four-lane road. Suddenly Mom yelled, "Signal your turns! Always signal your turns!"

At the time, I was frustrated by all the things I had to remember while driving. But like so many other things we do repetitively, over time it all becomes second nature. Now let's apply a similar concept to our negotiations with property owners. Much like changing our route while driving, often times negotiations can quickly change direction. But are we properly signaling the other party?

For example, imagine a property owner in this situation. After the agent carefully explains the project and answers a few

questions in a thoughtful and methodical way, the agent checks his watch. He suddenly realizes that he's running late and needs to wrap up the meeting. Without explanation or warning, he abruptly pulls out the agreement and points to the signature line. The owner is surprised by the sudden shift from the well-paced meeting and wonders whether they can (or should) trust this agent. The negotiations stall.

What could the agent have said to signal his change in direction? There are a variety of ways to bring closure to a meeting without an abrupt stop or a lengthy excuse. He could have simply explained that time had passed quickly, and he just realized he would need to wrap up the meeting. Then he could have asked if there were any final concerns or questions before things were finalized.

By using a verbal signal, the agent shows respect for the owner and their concerns. Here are a few suggestions for concluding a meeting:

"Thank you for working with me to come up with solutions that benefit both yourself and my company. If you don't have any further questions, the last item of business is to sign the agreement."

"If you're satisfied with our decisions, are you ready to sign the agreement?"

"Now that we've agreed to a, b and c (itemize the solutions), I believe we're ready to have the agreement signed."

We need to understand that we're all interconnected. What the agent says and does affects the owner. Conversely, what the owner says and does affects the agent. Even the slightest nod or furrowed brow can signal a breakdown in communication. Without a verbal signal, the other party is forced to arrive at their own conclusion. And that's when problems can arise.

As with driving, human beings change lanes all the time. We shift our direction, slow and accelerate, take detours and make turns. It helps if the people around us are aware of our intentions so they can shift accordingly. If they don't receive the signal, a gap is created between what we intended and what was received. It is imperative that we signal our turn, let the other party know we're changing our course and provide a reason why.

Signal. Communicate. That's how we get things done.

Carol L. Brooks, SR/WA

Owner of Cornerstone Management Skills, Carol is an internationally-recognized author and lecturer on conflict management, interpersonal skills and success strategies. She has nearly 20 years experience in the right of way profession and is a Master Instructor for IRWA courses. ©2012 Carol L. Brooks All Rights Reserved. For more information, visit www.cornerstonemanagementskills.com



Top 10 Projects Showcase a Multi-Disciplined Profession

IRWA's 2012 Project of the Year Competition generated a diverse array of project entries from across the United States, Canada and South Africa. Ranging from high-speed rail and highway expansions to land conservation and relocation programs, this competition showcases the monumental role that right of way professionals play in bringing these quality of life projects to fruition. IRWA's salutes these top ten winners and thanks all the dedicated right of way professionals who entered this year's competition.

The Sunrise Powerlink

At a cost of roughly \$1.9 billion, the 117-mile electric transmission line links San Diego to California's Imperial Valley. The project is projected to deliver enough clean, reliable energy to power 650,000 homes and businesses. Submitted by Lynn Trexel, SR/WA and Pete McMorris, SR/WA, R/W-NAC, San Diego Gas & Electric Company. (See article on page 18).



CTfastrak

Connecticut's innovative public transit solution combines the accessibility of a bus with the high speed of a train. With a \$567 million budget, it offers a high-capacity solution for urban cities facing increasing traffic congestion. Submitted by Bruce Cowdrey, Connecticut Department of Transportation. (See article on page 38).

Mountain View Corridor

Utah's 15-mile freeway expansion project will benefit 13 municipalities and is projected to carry more than 100,000 cars per day. The \$322 million right of way budget involved the acquisition of 418 parcels and is expected to spur economic development. Submitted by Teri Newell, Utah Department of Transportation.



City of Virginia Beach's BRAC Response Program

Response program prevented the realignment of Naval Air Station Oceana and addressed land use concerns that saved 15,000 jobs paying \$1.2 billion annually. With sweeping land use measures, the City created a property acquisition and disposition program and developed an incentive program to attract conforming uses to the area. Submitted by Robin Brandenburg, SR/WA, R/W-RAC, Department of Public Works, City of Virginia Beach, VA.



University Light Link Rail

The Washington State project added 3.15 miles to the region's existing light rail system. A cooperative effort among multiple jurisdictions and agencies, it required the acquisition of 241 parcels and 140 business and residential relocations at a right of way cost of \$101 million. Submitted by Kent Melton, SR/WA, Central Puget Sound Regional Transit Authority.

Relocation for South Africa Transmission Line

To increase supply of electricity to Eastern Cape Province, construction of a 400kV transmission line needed to span across steep, hilly and mountainous terrain. The project required relocating 650 houses and associated assets, including 234 graves in compliance with local traditions and government legislation. Submitted by Muzi Shange, Eskom Group Capital Land Development.



Honolulu Rail Transit

Deemed the largest public works project in the State of Hawaii, the \$5.3 billion 20-mile project required the relocation of 25 residential households, one non-profit and 66 businesses. Over \$200 million was budgeted for acquisition and relocation. Submitted by Ryan Ng, Honolulu Authority for Rapid Transportation and Parsons Brinckerhoff, Inc. (See article on page 26).

CapX2020 High-Voltage Transmission System

To support the expansion of a high-voltage transmission grid, the 700-mile project required regulatory compliance and route development in Minnesota. An overall investment of \$1.9 billion was needed to ensure reliability for the region's electric infrastructure. Submitted by Craig Poorker, SR/WA R/W-NAC and Randy Fordice, CapX2020, a joint initiative of 11 Midwest Utilities.



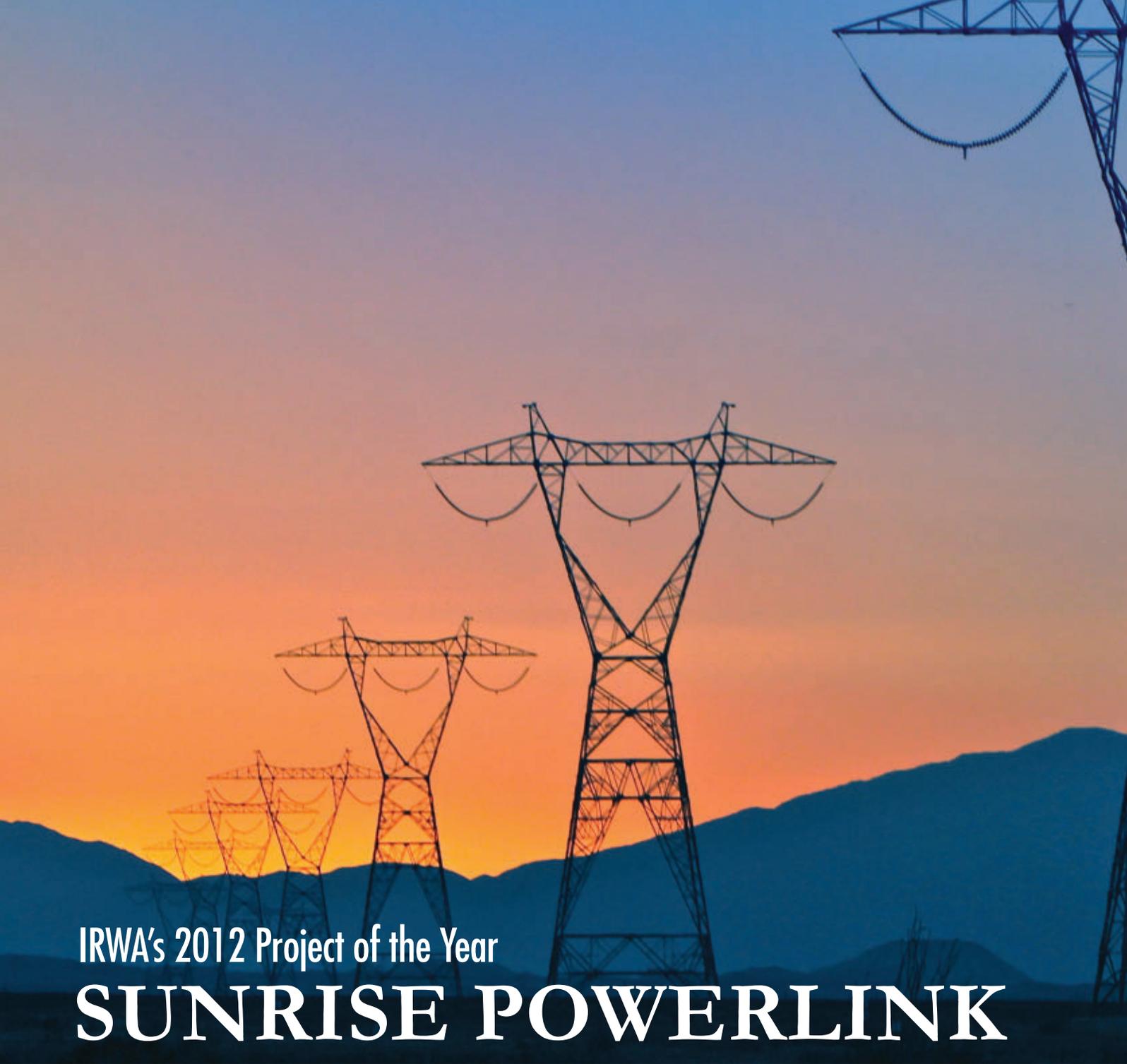
Tyrone Land Management Project

A nuclear plant in Wisconsin was transformed into 4,400 acres of restored natural habitat with prairies, savannas and wildlife. After three decades of public use and 230 unauthorized uses, this public natural space now gives back to the community. Submitted by Aimie Mims, Xcel Energy.

DFW Connector Project

A \$1.2 billion expansion of state highways in Ft. Worth, Texas and the addition of new toll lanes will reduce congestion and promote long-term economic development. The 8.4 mile project included 55 parcels and required acquisition of 146 acres of right of way. Submitted by Elizabeth Norris, Texas Department of Transportation and Atkins Global.





IRWA's 2012 Project of the Year

SUNRISE POWERLINK

California's New Superhighway of Electricity

BY BARBARA BILLITZER

This past June, San Diego Gas & Electric Company (SDG&E) put into service the Sunrise Powerlink, a 500,000-volt transmission line linking San Diego to California's Imperial Valley, one of the most renewable-rich regions in the state. The 117-mile electric transmission line will deliver 1,000 megawatts of clean, reliable energy, enough to power 650,000 homes and businesses in San Diego.

The completion of the Sunrise Powerlink project couldn't have come at a more critical time. With the San Onofre Nuclear Generating Station offline for repairs since the beginning of the year, Southern California's transmission grid was facing serious reliability issues. A prolonged shutdown of the San Onofre Station had the potential to cause customer outages during the lingering heat waves expected over the summer months.



Experts had identified the Imperial Valley/Northern Baja California regions as having huge renewable energy potential, and studies conducted by California's Renewable Energy Transmission Initiative validated the region's ability to produce solar, geothermal and wind power. Sunrise was specifically designed to import these vast sources of renewable energy to accommodate peak demands and ensure reliability benefits for the region.

The construction of Sunrise was also crucial to SDG&E's ability to satisfy a 2002 California mandate that at least 20 percent of the company's power come from renewable sources. In 2008, SDG&E voluntarily agreed to acquire 33 percent of its power from renewable energy, and over time, this amount became state law.

Although the project is officially in operation, it was initially considered to be one of the most controversial projects in California. The nearly \$1.9 billion project endured a rigorous, five-year environmental review and permitting process and more than 75 public hearings. SDG&E adhered to more than 320 environmental mitigation and conservation measures and permit conditions that were ultimately required as a result of an 11,000 page Environmental Impact Report/Statement.

Comprehensive Study and Regulatory Reviews

When the Sunrise Powerlink was first conceived, it underwent what is considered to be the most comprehensive study of a proposed transmission power line in state history. Because SDG&E is an investor-owned utility in California, it is regulated by the California Public Utilities Commission (CPUC), the state agency authorized to issue the final license for public utility transmission projects and the lead agency for California Environmental Quality Act compliance. Since the bulk of the project alignment would ultimately cross lands under the control of the U.S. Bureau of Land Management (BLM) and the U.S. Forest Service, the BLM served as the federal lead agency under the National Environmental Policy Act. Because the project necessitated a collaborative effort between SDG&E and a number of state and federal agencies, it was subject to an extensive regulatory review.

SDG&E initially proposed to build the Sunrise Powerlink along a northern alignment and focused its efforts on this route for the first several years of the project. This alignment was located in the more northern portion of Imperial and San Diego counties, as opposed to the final southern route that was ultimately approved by the CPUC and then constructed. Additionally, through the environmental review process, the CPUC considered approximately 100 alternative route or route segments. This significant change in the location of the route and the timing of this shift contributed to the resulting compressed project schedule.

The land team supported the project from its inception and ensured property access for the initial studies of the various route alternatives. Lynn Trexel, Principal Right of Way Agent for the Sunrise Powerlink, was part of the initial core project team



At the dedication ceremony at SDG&E's new Suncrest Substation in July, California Governor Jerry Brown praised the project for its creation of clean energy and new jobs.

that was formed in 2005 and tasked with obtaining project approvals. During the land rights acquisition phase, her team acquired land rights from nine various federal, state and local agencies. “Throughout the project we were reminded of just how important relationships are to the success of any project,” said Lynn. “We worked hard to develop our agency and property owner relationships based on open communications and a foundation of trust.”

Building the Team

“A core team needs to be assembled at the very beginning stage of a major project and remain with the project until it’s finished,” noted Gerry Akin, Sunrise Powerlink’s Project Manager for the overhead segment that spanned 111 miles. “We recognized that the project would require expertise in permitting, project management, land rights acquisition, construction and environmental compliance.”

A representative from each key area was assigned to the team, including land, environmental, engineering, construction, legal, regulatory and public affairs, with support from various contractors. Over time, the team evolved in structure and composition to meet the needs of each stage of the project. During the most active phases of the project, there were three different sub-project teams, including one for the overhead sections, one for the underground section and one for the substation. With the sheer size and composition of the various teams, a tremendous amount of coordination and communication was needed, particularly during construction.

Prior to the acquisition phase, an in-house team of land agents was assembled, augmented by right of way contractors, most of whom were former SDG&E employees. Of the company’s twelve staff right of way agents, seven were assigned full-time



Roughly six miles had to be built beneath Alpine Boulevard, the main county road, so SDG&E constructed streetscape improvements to mitigate the inconvenience to the community.

to Sunrise, and four seasoned contract agents were brought on board. Since the utility would be a long-term fixture in the community, it was vital that SDG&E establish good relationships with property owners early in the process.

SDG&E used the land surveying services from five separate contractors. Two of the firms supported the land rights acquisition process, while the other three focused on project engineering and construction. SDG&E’s in-house survey contract administrator, also a licensed surveyor, provided invaluable assistance in interpreting drawings and legal descriptions, as well as coordinating with the various contractors.

Looking back, Gerry noted, “The project succeeded because everyone on the team eagerly stepped up and took responsibility to get things done. If the initial efforts were stalled or blocked by events or factors outside our control, the team quickly identified and pursued alternatives.”

Community Opposition

Early on, SDG&E partnered with the community and openly communicated information about the route selection and alternatives analysis. However, the landowners who would be impacted initially saw no near-term benefit from a line connecting the desert with the greater San Diego region. They voiced their concerns about the line’s effect on property values and appraisals being conducted in a down market, fearing that lower payments for property rights would result.

In response, the land agents participated in many public outreach meetings in those communities most affected by the project. Handouts that outlined owners’ rights and the property acquisition process were disseminated, and the agents took time to listen and respond to the owners’ specific concerns. The agents also made sure to explain the legal mandate to disregard project influence in valuations, even if it required analyzing market data and sales in areas distant from the project. In some instances, agents were able to facilitate adjustments in the alignment that lessened the impact to certain properties.

Despite conducting extensive outreach efforts, the project was still opposed by many in San Diego County. As with other newly proposed infrastructure, the opponents objected to the potential direct and indirect impacts on back-country wildlife, vistas and tribal cultural sites. Several intervenor and volunteer grassroots groups were formed to try and stop the project. The anti-project sentiment was further heightened by the publicity generated by the U.S. Supreme Court’s Kelo decision, which spawned more owner-friendly eminent domain legislation and restrictions on condemning agencies.

Evolving the Design

However, it is not unusual for a route that spans 117 miles and passes through two counties to be plagued by design changes. Some of the environmental mitigation measures required for the project were not clearly understood up-front, making it difficult to identify the best way to implement them. This caused a significant number of design changes along the way, which ultimately triggered various right of way and appraisal revisions. In turn, the land team needed more time to explain the changes to the property owners.

The agents worked collaboratively with design and environmental personnel to minimize or eliminate changes, stressing the economic consequence and the negative impact to the project schedule in having to make right of way and appraisal revisions. However, many of the design changes were unavoidable. For those owners where negotiations reached an impasse, the design changes further hampered the ability to commence eminent domain proceedings in a timely manner.

A portion of the segment needed to pass through the downtown business district of Alpine, CA, a town just east of San Diego. Roughly six miles had to be built beneath Alpine Boulevard, the main county road, and construction was estimated to take about 15 months. In mitigating the inconvenience to the community, SDG&E agreed to construct streetscape improvements in the form of curbs, gutters, sidewalks and a rubberized asphalt curb-to-curb surface, in addition to undergrounding the overhead electric distribution facilities in much of the area.

Environmental Impacts

The environmental impact statement/report was by far the largest in California history. SDG&E implemented more than 320 environmental-mitigation and conservation measures and permit conditions, which required almost 1,000 separate tasks, including protections for ten special-status species. Some of the requirements created unprecedented challenges for the construction team, such as vegetation clearing limitations, bird nests impacting construction and no-fly zones, narrow flight corridors and extensive storm water pollution prevention plans.

For example, construction within an eagle nesting area was required to be scheduled with pinpoint precision. Safeguarded by the Bald and Golden Eagle Protection Act, the golden eagle faces threats ranging from loss of foraging and nesting areas to pesticide poisoning and collisions with manmade structures. To protect the golden eagles, a 4,000-foot land and air buffer zone was instituted around the eagle nesting areas for the six-month period that roughly coincides with eagle reproduction.



For environmental reasons, nearly 75 percent of the construction was performed by helicopters, and the project logged more than 30,000 flight hours.

All work within the eagle buffer zones needed to be completed before a mandated cutoff date, forcing construction and helicopter crews to work at breakneck speed to complete four key sections before the onset of the eagle nesting season.

In preparation for the Sunrise project, SDG&E trained more than 400 environmental professionals from eleven different companies to monitor air quality, fire safety, and biological, cultural and visual impacts. Pam Fair, SDG&E's Vice President of Environmental and Support Services explained, "For major construction projects, we recognize that effective management of land rights and environmental requirements is critical, especially since the laws impacting these areas have become increasingly complex over time. Our land, environmental and legal teams were instrumental in achieving successful outcomes, and their ability to work with property owners and other key stakeholders demonstrated an outstanding team effort."



Two of the company's eight renewable contracts under construction are Pattern's Ocotillo Wind project and Tenaska's CSolar South solar project, both located in California's Imperial County.

Landowner Relations

During the initial project scoping phase, it was estimated that condemnation would likely be unavoidable for a significant number of private property ownerships, primarily due to project opposition, chronic nimbysism and what the land agents thought was a very optimistic schedule. The agents understood that their primary objective was to acquire property rights in a timely manner, preferably without using their statutory right of eminent domain.

Of the total project alignment, roughly 69 miles are located on federal lands, seven miles on state and local agency lands and 30 miles on private property. SDG&E was only able to utilize its existing right of way and a franchise agreement for 11 miles. The acquisition of land rights from 79 private land owners and nine agencies on a compressed project schedule complicated the acquisition timeline and approval process.

According to Jon Taylor, SR/WA, the project's Land Services Manager, "We began our negotiations making offers based on independent appraisals, and we listened to the landowners' concerns. Yet, because so many of the landowners felt there was no direct benefit from the project, many of them opposed our efforts. We were often rebuffed or faced with unreasonable demands, leaving us no alternative but to file condemnation. In working closely with our legal team, we were able to resolve, through negotiations and mediation, all but one of the cases filed."

SDG&E's in-house legal team and outside counsel were key contributors to the project's success. "As in-house counsel, it was my responsibility to provide legal direction on right of way and property acquisition issues," said C. Larry Davis, SDG&E's Assistant General Counsel. "This began during the CPUC licensing phase, continued with obtaining pre-condemnation access through the courts for conducting environmental review for California Environmental Quality Act compliance, to ultimately overseeing the acquisitions through condemnation. With a project of this magnitude, our team's biggest challenge was in coordinating the filing of eminent domain cases and obtaining orders for possession

with the construction schedule." Landowner negotiations resulted in the condemnation of half of the number of cases originally projected and many filings occurred for reasons other than compensation.

According to Peter McMorris, SR/WA, R/W-NAC, Principal Right of Way Agent for the Sunrise Powerlink, "Winning the trust of property owners was one of the land team's greatest challenges. It required overcoming project resentment, doubts about fairness of compensation and cynicism regarding the company's objectives and motives." All in all, a familiar challenge facing many of today's right of way professionals.

"The team's ability to manage those factors over which they had little or no control really made a difference," said Peter. "From design changes to mitigation requirements to issues raised by owners and their legal counsel, I commend the project team for their thorough preparation, follow-up and empathy, all of which helped them to effectively work through a range of diverse acquisition and valuation challenges."



By reviewing land survey data, project mapping and property ownership, the land team was able to confirm the most feasible routes and land rights required. From left, Land Surveyor Pete Tkachuk, PLS and Right of Way Agents Fred Clark, SR/WA, Lisa Murphy, SR/WA and Paul Nussbaum, SR/WA.

Although the negotiations were ever-challenging, Sunrise's land acquisition efforts resulted in the development of many positive relationships with property owners and agencies. One example of poignant relationship-building involved a property owner in El Centro, CA. Greg Mayo, SR/WA, one of the project's right of way agents, not only acquired an easement but through the process acquired a new "mom."

The landowner's husband had bought their desert property decades ago before they were married, and she had only been there one time many years ago. Greg went above and beyond what was normally required to make sure she clearly understood all of the detailed information. He even picked her up from her home and drove her to the property, stopping for lunch along the way. She was thrilled to see it again. They developed quite a rapport that day and in the months that followed, she got to know Greg even better. As a result, she began treating Greg like her own son, sending him and his family cards for their birthdays. In one card she wrote, "My dear son Greg, I thank the Lord so much for giving me another son. God bless you and your whole family always."

Renewable Energy Potential

Upon its completion, the Sunrise Powerlink was turned over to the California Independent System Operator, the state's transmission grid operator. Now providing increased reliability to the region, the line will soon deliver a significant amount of wind and solar power.

Over the past three years, SDG&E has signed eight renewable contracts for more than 1,000 megawatts of solar and wind energy in Imperial County to be transmitted across the transmission line. While the eight projects all have different permitting and construction timelines, two projects, Pattern Energy's Ocotillo Express Wind project and Tenaska's CSolar South solar project, are currently under construction in Imperial County. SDG&E has also signed other renewable contracts for projects in eastern San Diego County, which are made possible by the additional capacity created by the Sunrise Powerlink.

The area of east San Diego County, along with neighboring Imperial County and Northern Baja California, has a potential aggregate generating capacity of roughly 6,870 megawatts for solar energy, 3,495 megawatts for wind power and 2,000 megawatts for geothermal energy. Together, these renewable resources could potentially produce enough electricity to power eight million homes. This will help meet several state and federal policies and mandates for the increased use of green energy, including President Obama's New Energy for America Plan, which seeks to ensure that 25 percent of the country's electricity comes from renewable sources by 2025. Roughly \$6.5 billion included in the American Recovery and Reinvestment Act is intended to provide tax relief and other incentives to develop the infrastructure necessary to move renewable energy from rural production areas to urban markets.



SDG&E's President and COO Michael Niggli and Pam Fair, SDG&E's Vice President of Environmental and Support Services.

A Sense of Pride

Constructing the 117-mile transmission line took 18 months of construction and more than 4.7 million work hours. To put things into perspective, this is the equivalent of 2,260 people working 40 hours a week for an entire year. During construction, the project team endured months of overhead and underground construction through rough, remote terrain.

"As we compressed the construction timeline from 24 months to just 18 months, completing the project on budget and on schedule is a true testament to our employees," said Patrick Lee, Sunrise Powerlink's Vice President of Design and Construction. "The land agents worked proactively to match the priorities of project construction with appraisal assignments, acquisition and commencement of eminent domain proceedings. I am proud of their diligence, dedication and commitment to safety, while at the same time complying with hundreds of environmental mitigation measures that were required."

During the dedication ceremony, Michael R. Niggli, President and Chief Operating Officer of SDG&E said, "We faced significant challenges in constructing this project which will enable clean, renewable energy to be transported from the desert to urban coastal communities of southern California. Due to the team's outstanding efforts, we were able to ensure that the Sunrise Powerlink was put into service just in time to meet energy shortfalls due to San Onofre Nuclear Generating Station being offline and the summertime's high power demands. Our employees came through when it was critical to the community, and everyone who worked on the project feels a sense of pride and accomplishment in its completion."

The Judges Cast their Votes



IRWA's Annual Project of the Year Competition has grown in popularity and stature since its inception in 2010. With entries ranging from roads and railways to relocations and utility construction, judging is a complex task requiring subject matter expertise in a variety of fields. As in previous competitions, each International Committee selected one judge, ensuring representation from each of the core disciplines, including asset management, environment, local public agency, pipeline, relocation, surveying and engineering, transportation, utilities and valuation.

The Association would like to thank this year's esteemed panel of judges for their time and commitment. In acknowledging their efforts, we asked them to share some perspective about the experience.

“The projects demonstrated a diversity of scope, as well as the quantity and quality of the efforts undertaken by companies, agencies and individual employees who support the values of the IRWA. While selecting the best project was a challenging effort, it does not compare with the amount of implementation required by the project teams involved.”

Brent G. Arnold, SR/WA
HDR Engineering, Inc.



“The competition clearly demonstrates the many complexities of the industry.

These were outstanding projects, with each representing the profession and IRWA in the best possible light.”

Mike Hart, LS, CFedS
Bowman Consulting



“Each of the projects was a winner in its own right. With such a varied scope of projects, it was interesting to see how all the different aspects were tackled with diligence and professionalism.”

Sue Findley, SR/WA, R/W-AMC, R/W-NAC
Percheron Acquisitions, LLC



“We have exceptional professionals and tremendous expertise in our organization, and it came through in the submissions that were presented. I am impressed with the caliber of projects and the solutions that each team generated. It was a privilege to serve as a judge.

Leslie Finnigan, SR/WA
Universal Field Services, Inc.



“The contrast in both types and scope of projects illustrated the diverse composition of members and firms within the IRWA. All of the entries dealt with unique challenges, and it was interesting to learn how team efforts lead to creative problem solving for successful project completion. It was a pleasure to participate and gain a better understanding of some of the major projects our associates are completing for the improvement of our nation’s infrastructure. The entries were all deserving of recognition.

Connie W. Williford, MAI
Allen, Williford & Seale, Inc.



“It’s great to see right of way professionals at their best. IRWA’s Project of the Year Competition reflected a wide range of complex projects. It was difficult to select one winner from the submissions, as each represented unique situations and innovative solutions.”

**Clyde B. Johnson, SR/WA, R/W-URAC,
R/W-RAC**
Clyde B. Johnson, Consultant Services, Inc.



“I’m always impressed at how our right of way colleagues are able to find and execute solutions to the challenges they are faced with. Thank you for the opportunity to participate. This was another great learning experience that I will share with my Chapter.”

David Whitlock, SR/WA
Mission Valley Power



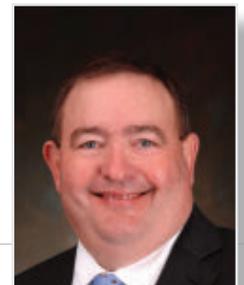
“The majority of the team leaders for the projects submitted had an SR/WA designation, which emphasized to me the importance of the education provided by IRWA. Each project had its own unique challenges, and the team leaders used their knowledge and abilities to establish new acquisition and relocation processes.”

Penny Rolf
WSB & Associates, Inc.



“Reading about the ways our right of way professionals are being challenged and how our multi-disciplines interact is always enlightening. The human interest aspect was brought forward in many of these projects. This really emphasized the importance of our work and why we strive to treat all parties with fairness and dignity.”

Donald J. Sherwood, MAI, SR/WA, FRICS
Integra Realty Resources - DFW





WORKING TOGETHER FOR PROGRESS

Honolulu Rail Project brings new hope to multi-generational families

BY RYAN NG

In 2008, the citizens of Honolulu approved a new high-capacity rail line along the city's scenic coastline between Kapolei and Ala Moana Center. With a promise of quick public transportation along what is among the most congested corridors in the nation, the project would benefit Oahu's nearly one million residents as well as its many visitors.

Deemed the largest public works project ever to be undertaken in the state of Hawaii, the \$5.2 billion, 20-mile project broke ground in 2011. Backed by a steady source of local revenues, including a dedicated 0.5 percent surcharge on the state general excise tax, roughly one-third of the cost is expected to be covered by a federal capital grant.

The project received a Federal Transit Authority (FTA) Record of Decision in early 2010, giving the project team authorization to acquire more than 200 properties. The project required the relocation of 25

residential households, one non-profit and 66 business establishments along the alignment. More than \$200 million was budgeted for the acquisition and relocation.

Nearly all of the residential relocations were located in an area known locally as the Banana Patch, a name that stemmed from its agricultural use during Hawaii's sugar plantation era. While still zoned for agriculture, the community was sandwiched between several major highways and shrouded in dense riparian vegetation. A fair number of the residents grew vegetables and fruits on small garden plots, and it was not uncommon to see goats, pigs and chickens roaming the lands.

Prior to forming the Honolulu Authority for Rapid Transportation (HART), the City's Rapid Transit Division was tasked with acquiring the right of way needed, with assistance from other departments.

CHALLENGES OF RELOCATION

The living arrangements in the Banana Patch were often difficult to ascertain, as many family members lived together under one dwelling. In one instance, there were as many as five separate households living under one roof. To understand the lifestyle of multi-generational living, one must understand the Hawaiian notion of *ohana*, or family.

Dating back to the days of old Hawaii, the *ohana* is the nucleus of Hawaiian culture that refers to one's extended family that goes beyond blood relatives. In the spirit of *ohana*, resources were pooled to help augment the overall finances of the families living under one roof. It has filtered down to modern day living on the islands where the younger generations rely on the older generations for financial and moral support. And as family members age, it is the duty of the younger generation to care for them. This practice has manifested itself in the Banana Patch, where the younger generations may live rent free, but in turn participate in paying for utilities, food and caring for elderly parents.

REPLACING SUBSTANDARD DWELLINGS

Many of the existing dwellings within the Banana Patch were modest at best, and it

was not uncommon to see a commercial storage container or an abandoned bus being used as living quarters.

The area is also located in a floodplain, and the residents did not receive basic public services, such as water and sewer. Instead, they relied on artesian wells and cesspools. Nevertheless, the residents understandably had an innate attachment to their homes. Many were reluctant to move because their families had lived there for several generations. When interviewed by HART relocation agents, many of the residents preferred to stick together as an *ohana* rather than move away on their own. Given the number of family members living under one roof in many of these situations, the residents required larger, more expensive replacement dwellings, which in most cases, were beyond their financial reach.

INTERVIEWING THE RESIDENTS

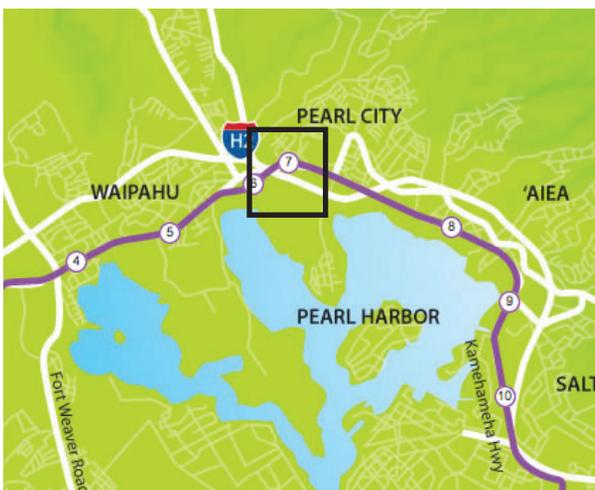
For the project to be delivered on time and with the right cultural sensitivity reflective of Oahu's island community, the Banana Patch was viewed as critical to the team's success. Formal relocation interviews were conducted with the residents to identify their needs, and their socio-economic concerns were apparent from the outset. Many of the residents lacked sufficient

employment opportunities and would be unable to afford replacement dwellings that fit their needs. Since real estate prices in Hawaii are some of the highest in the nation, the relocation team needed to conduct a very broad search to find comparable replacement properties that were affordable.

The project team understood from the beginning that simply relocating a family to a new home was not enough. They also wanted to ensure that the residents could sustain their lifestyle and eventually become financially self-sufficient. The notion of *kokua* guided the team as it progressed through the relocation process. The Hawaiian word *kokua* means to provide help and assistance. But more importantly, it embodies the local culture of wanting to genuinely help others with sensitivity and compassion.

"This was really a lifestyle change for the residents," said Karen Lee, Relocation Agent. "Many of them were not self-sufficient up until this point, but the relocation process forced them evaluate their lifestyle from jobs, finances and health, which ended up being a positive change agent."

Seeing first-hand how the relocation would impact an existing family structure



The relocation of the Banana Patch families has made way for the Pearl Highlands Station portion of the new rail project. Initial sections of the project are slated to open in 2015, and be fully operational by 2019.



and agricultural lifestyle, the team was able to use the FTA Programmatic Agreement to ensure each resident's unique lifestyle was recognized and respected. Through an executive order, the FTA designated the Banana Patch as an Environmental Justice Community. As such, the project would include special relocation considerations beyond the requirements of the Uniform Act. To that end, the project team was able to carefully balance the needs of the residents, while keeping a close eye on the budget.

Taking advantage of the outreach programs available, the team also employed the services of Helping Hands Hawaii, a local non-profit agency whose mission is to improve the quality of people's lives through the delivery of goods and services to those in need. Some of the services they provide include financial counseling, employment assistance, as well as loan programs and basic health services. The agency's services proved to be a vital resource for these families, providing a safety net of additional support.

"After reviewing the results of the relocation interviews with the residents, we felt it necessary to go above and beyond and engage the services of Helping Hands Hawaii, to provide the residents with much needed assistance," said Laura Ray, Right of Way Manager for the project.

A GROUP EFFORT

The agency's relocation solution involved a two-pronged approach. Rather than work in a vacuum and try to negotiate the acquisition of the property alone, the acquisition agents teamed up with relocation agents to talk to the residents together, so that residents would feel comfortable that their needs were being met sufficiently, and would be more willing to sell their property. Moreover, having the relocation agents involved early on allowed them to better ascertain the situation and determine how best to assist the residents.

Initially, residents sought new rentals, but found they had a hard time qualifying for the financial resources needed. HART took the lead by

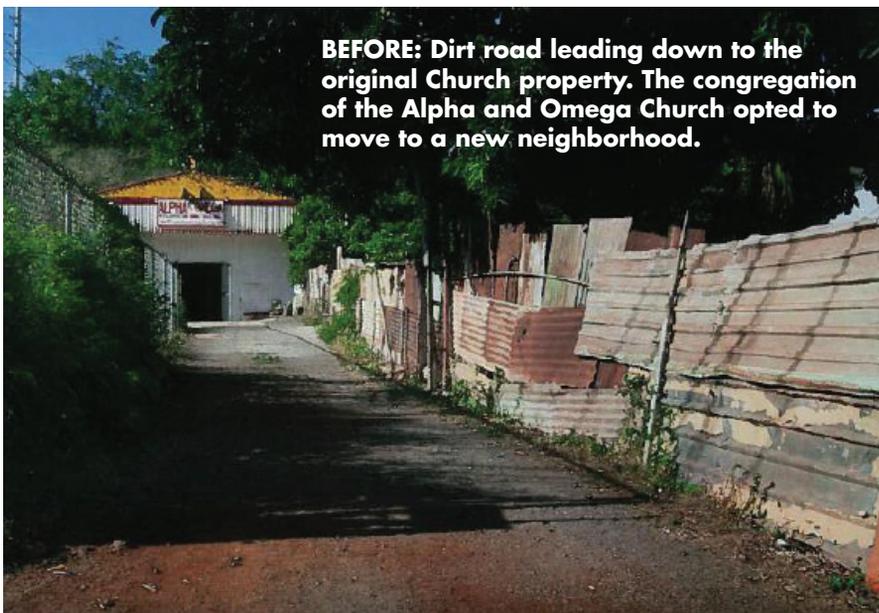
guaranteeing their rental payments for a year, and paying for it in advance so that the residents could establish the credit history needed to qualify on their own. HART also provided social services to assist residents in getting vocational education and finding jobs. Some residents who were previously unemployed are now working in new careers and are saving up to eventually purchase a home.

Twenty-two households have since been successfully relocated. Those families who previously lived in makeshift storage containers without windows, now live in decent, safe and sanitary rental properties. The other residents were also able to find replacement housing while keeping their households intact. Many of them have continued working with Helping Hands Hawaii to get the assistance and tools to help them succeed in life.

MOVING THE CHURCH

With an overall lack of available comparable replacement properties in the area, relocating the local church posed an especially complex issue. In general, churches are difficult to relocate given their unique zoning restrictions. There are strict parking requirements imposed by local zoning, and density conditions stipulate distances between churches. When you combine the Alpha and Omega Church's lack of financial resources with an island that has limited land, the list of options becomes very narrow.

The church had been in existence since the 1970s and had historical ties to the Banana Patch neighborhood. The pastor and his family received most of their income through the church. They lived and worked directly on the property, which included the church and their living quarters, and they wanted to continue living on the same property where they could worship. They



BEFORE: Dirt road leading down to the original Church property. The congregation of the Alpha and Omega Church opted to move to a new neighborhood.



The team conducted weekly staff meetings to discuss the status of acquisition and relocations.

The Alipio family, one of 25 separate families who lived in the Banana Patch, is now successfully relocated.



needed a mixed-use property that could accommodate both uses.

An initial search of suitable replacement properties in their desired neighborhood was unsuccessful. Given the small size of the church and lack of financial resources of the congregation, the relocation seemed impossible. HART began to look at other options, including even building a new church and living quarters on vacant land. Unfortunately, given the amount of time required to permit and build, this was not a viable option.

Another option was to relocate the church to another neighborhood. The team found a replacement property that met the pastor's needs and fulfilled all the zoning requirements. However, the church leadership had significant reservations about moving so far away from the congregation's membership. With some persuasion and encouragement, the pastor and the church were able to see the potential for expanding their congregation. Being able to reach out to a new, untapped demographic made the decision easier for them.

The team was able to apply Last Resort Housing standards to relocate the pastor's family and church. They also assisted through the lengthy escrow process,

obtained the proper permits, and worked with the contractor to rehabilitate the property so that it would meet the requirements. The pastor and his family have settled in nicely at their new location, residing upstairs and presiding over their newly-minted worship facility.

"We are grateful to have been relocated to Wahiawa successfully," said Reverend Nemesio T. Arizabal, pastor of the Alpha and Omega International Christian Ministries. "Our congregation is very satisfied with their new place of worship. We would like to thank the City for its efforts in assisting us."

THE SCHEDULE PROGRESSES

The project has undergone extensive scrutiny, particularly surrounding its cost. The public sentiment over whether the City and County of Honolulu should build the rail system continues to be split, and in the current political climate, rail has become a defining issue in the U.S. presidential election. Another hot-button issue involves the real estate acquisition of the properties needed for the rail, due to limited, densely-populated land along the corridor.

Recognizing the unique needs of the residents and tenants early on during the interview process helped HART to

determine the most appropriate course of action. Upon encountering some fairly unusual living situations, the team's methodical approach to problem solving led to a successful relocation project. Another contributing factor to the project's success stemmed from partnering with the community and a non-profit organization to assist the residents with basic services.

Despite the challenging circumstances, the HART right of way team was able to assist residents and surrounding community, using unique, non-traditional methods to successfully relocate an entire community. The Honolulu Rail Transit Project seems to be starting off on the right track.

Ryan Ng

As a Right of Way Agent on the Honolulu Rail Project, Ryan works for Parsons Brinckerhoff Inc., he coordinated the property acquisition and was intricately involved with the Banana Patch relocation. Ryan authored the project's Real Estate Acquisition Management Plan (RAMP) and was instrumental in its creation. He is a member of IRWA and is a real estate broker in the State of Hawaii.



TAKING ON A DATA MIGRATION

Overcoming the fear of a technology upgrade



BY YOGESH KHANDELWAL

Most organizations understand that their information is as critical to their success as personnel and equipment. This is especially true for those involved in right of way projects. With so many different pieces of data to rely on, ensuring your staff has immediate access to what's needed, when it's needed, only makes good business sense.

Just think how many ways the information you have collected can influence your right of way activities. Project information is needed by field agents, the project team, internal management and the accounting department, among others, thereby making your company's information one of its most valuable assets. However, many organizations are still struggling with accessing their own information because it's housed in various formats and in different places. From paper files and scanned documents to PDFs and TIFFs, accessing this information when your staff needs it may be causing an unnecessary loss in productivity.

Creating Efficiencies with Technology

To keep your organization productive, you may need to upgrade your technology and move all your data into a centralized system. This means that sooner or later, you will likely need to consider a data migration. Data migration involves transferring information from various sources into a single software solution. It requires extracting data from its original source, correcting errors, reformatting it and loading it into one easily accessible location. Once it's centralized and ready for use, right of way agents and other staff can access reports quickly and enter new information easily. In turn, the updated data becomes immediately available to other users.

A data migration and technology upgrade is simply a part of staying competitive in today's business world.

Understandably, company representatives want assurance that the process will be completed seamlessly and without damage to the original data. While such concerns are justified, the need for a data migration need not serve as a roadblock for an organization that wants to upgrade its technology. With new techniques and proper planning, the efficient transfer of information offers a valuable opportunity for improving the bottom line.

Data Migration Challenges

The issues and challenges associated with data migrations will vary from one organization to another. For many, information is stored in different file formats, housed on multiple computers and subject to closely guarded proprietary techniques. The right technology can overcome these issues and make the necessary modifications so that the information is stored centrally and consistently within the organization's database.

For example, there are usually variations in how the staff has input information into a database or spreadsheet. Unless the data fields are specifically defined, as with many online forms, it's nearly impossible for a company to avoid inconsistencies caused by abbreviations and other format discrepancies. To demonstrate the kinds of challenges frequently associated with data migrations, the following examples may be helpful.

Example 1 - Abbreviations

During the process of identifying and acquiring right of way, an organization may find that multiple tracts are titled to the same individual. However, if the individual's contact information has been entered into the system in inconsistent ways, the system may view one person as multiple individuals.

In this first scenario, there is no way to verify if the same person owns all three properties.

Tract #1	John Doe
Tract #5	John Doe
Tract #7	John Doe

In this second scenario, it is easy to see that the first two John Does have the exact same address, and are therefore the same person. However, the abbreviations used for the street and state for Tract #7 might make it appear to be a different owner. In a data migration, a matching logic can alleviate this problem.

Tract #1	John Doe 2522 Johnson Street Houston, Texas
Tract #5	John Doe 2522 Johnson Street Houston, Texas
Tract #7	John Doe 2522 Johnson St Houston TX

Maintaining separate records for each tract can result in duplication of the data if appropriate precautions are not taken during the data migration process. However, using the right technology can cleanse the information, thereby ensuring accuracy and consistency without the need for manual intervention and scrubbing. By using an advanced approach, the system can produce a report that identifies potential duplications. With this kind of increased project efficiency, right of way agents and project planners do not have to search multiple files for information on tracts owned by the same individual.

Example 2 – Inconsistent Formats

Similar to the issue with street and state abbreviations, there might be other kinds of variations in the current system. Consider, for instance, the different ways a telephone number can be input:

(614) 555-1212
614-555-1212
614.555.1212
614 555 1212
6145551212

A data migration can convert all these variations into one standard format – whichever one you select – and ensure consistency in the data.

Example 3 – Condensing Files

Duplicate data on the same tracts stored in different formats can be condensed into one file in a single format. For instance, an organization could have a spreadsheet with information on multiple tracts, and also have file-sharing on its network for associated documents for those tracts.

Many organizations use a file-naming convention or folder structure to associate the scanned/electronic documents with the tabular/tract data. With proper planning, this data can be brought together. Through data migration, the information is extracted from the two sources and associations are created as data is loaded into the new system. Done correctly, this can streamline the process of accessing all the information for your projects and tracts, regardless of the original format.

However, small oversights can result in missing documents. If this happens, chaos and a sense of distrust in the new system might occur among the end users. Extra care must be taken for data validation and the treatment of orphan documents. These are documents that cannot be associated with the appropriate projects or tracts because the convention established may not work. Typically, this is the result of something as minor as a typo. In these cases, the information can be manually arbitrated, but building appropriate reports can ease the process of addressing these exceptions.

Example 4 – Ownership Percentage

Oftentimes, there can be a variation in how property ownership is entered into the system. For instance, consider a scenario where one tract is owned by three individuals and each person owns a different percentage. In this case, different spreadsheet formats were used to display what percentage of the tract was owned by each individual:

Owner A	15	Owner A	.15
Owner B	25	Owner B	.25
Owner C	60	Owner C	.60
	100		1.00

Such variability in data entry is common when clear guidelines have not been provided for entering the data. It can also occur when using an uncontrolled environment like a spreadsheet. Although each set of data is accurate, migrating from two spreadsheets into a single system may result in inaccuracies, depending on how the ownership is interpreted in the system. A data migration can extract information from the two spreadsheets and consistently assign ownership of the tract by percentages as follows:

Owner A	15%
Owner B	25%
Owner C	60%
	100%

Success Stories

It is a common misconception that information that exists in a variety of forms and files cannot be migrated without serious disruption to a company's workflow or that the information cannot be retained in its original format. However, with proper planning and leveraging the right set of technology, organizations can reach effective solutions to address these concerns.

One of our clients decided to improve the efficiency of its right of way project oversight through a data migration. The organization's existing spreadsheet system was difficult to use and lacked technical support. The information included parcel owner name, corporation, address and telephone number, but it was inconsistently stated in the various fields and columns of the spreadsheet. The existing files were comprised of a series of spreadsheets providing information on 14 projects and 5,697 tracts. This information was extracted from 14,575 scanned documents. Configuring the appropriate computer software, doing the necessary quality checks and providing the necessary technical support were critical to the successful migration. Once completed, the process successfully integrated the data into a consistent format that was easy to use. This particular data migration project was planned over a two-week period and executed overnight without any issues.

A second client posed a more complex challenge. This particular company sought migration of data for 1,148 projects. These projects included 49,633 tracts and 523,879 documents. Not only did the organization want the efficiency of having information stored centrally and presented consistently, it also wanted the information reconfigured back to the original format in which it had invested much time and resources. So, as the migration progressed, the software reconfigured the data in real time to preserve the original format while achieving centralization and consistency. The business continues to use the system, which has been a key part of its organizational strategy. The data migration was planned over a one-month period and executed overnight without issues.

Developing a Plan of Action

A data migration project should dedicate adequate time to specify, build and rigorously test the new system. Selecting a provider that starts planning for a data migration early and has an established approach will make a technology upgrade a smoother and quicker process. Also, if all the key issues and main concerns are identified and addressed up front, the right technological solution can be determined in the most cost-effective manner. Figure 1 shows an example of the stages involved.

Figure 1: Stages of Data Migration

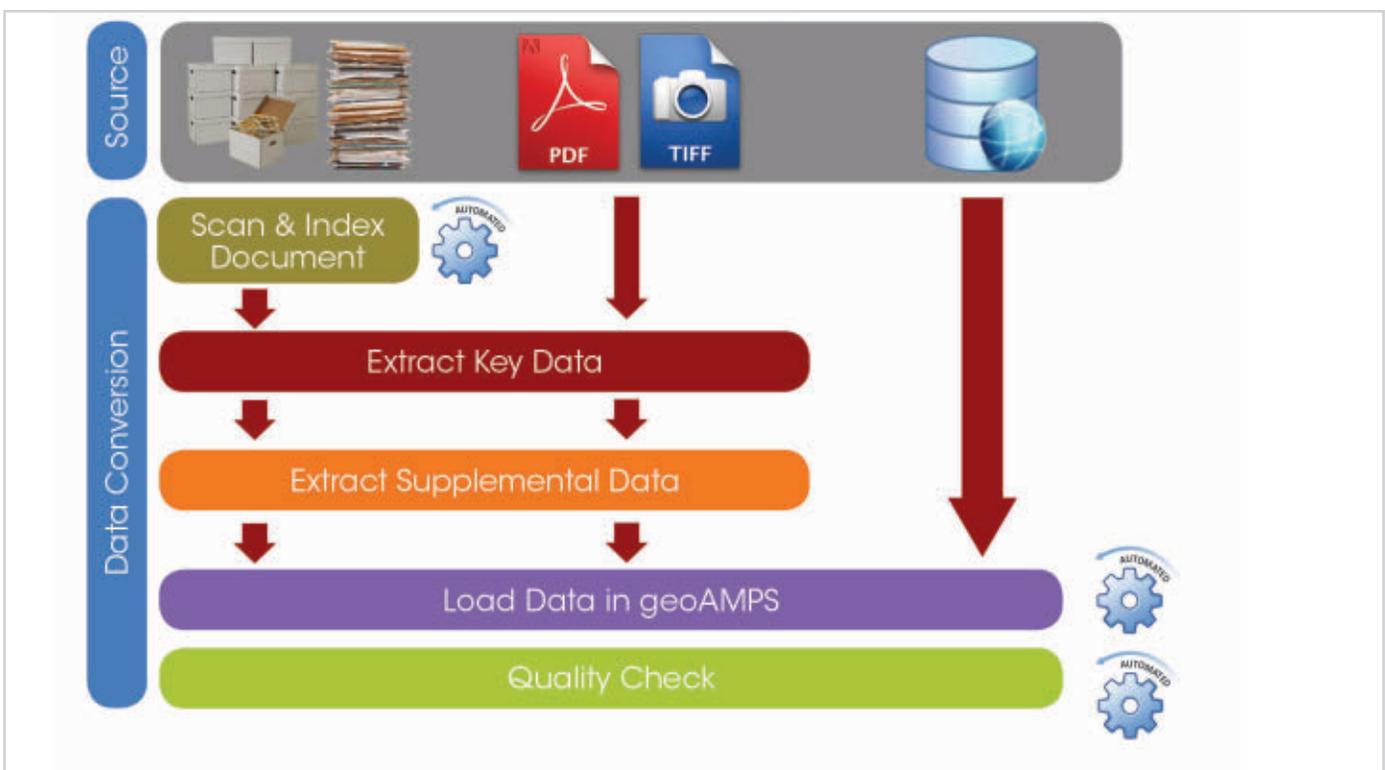
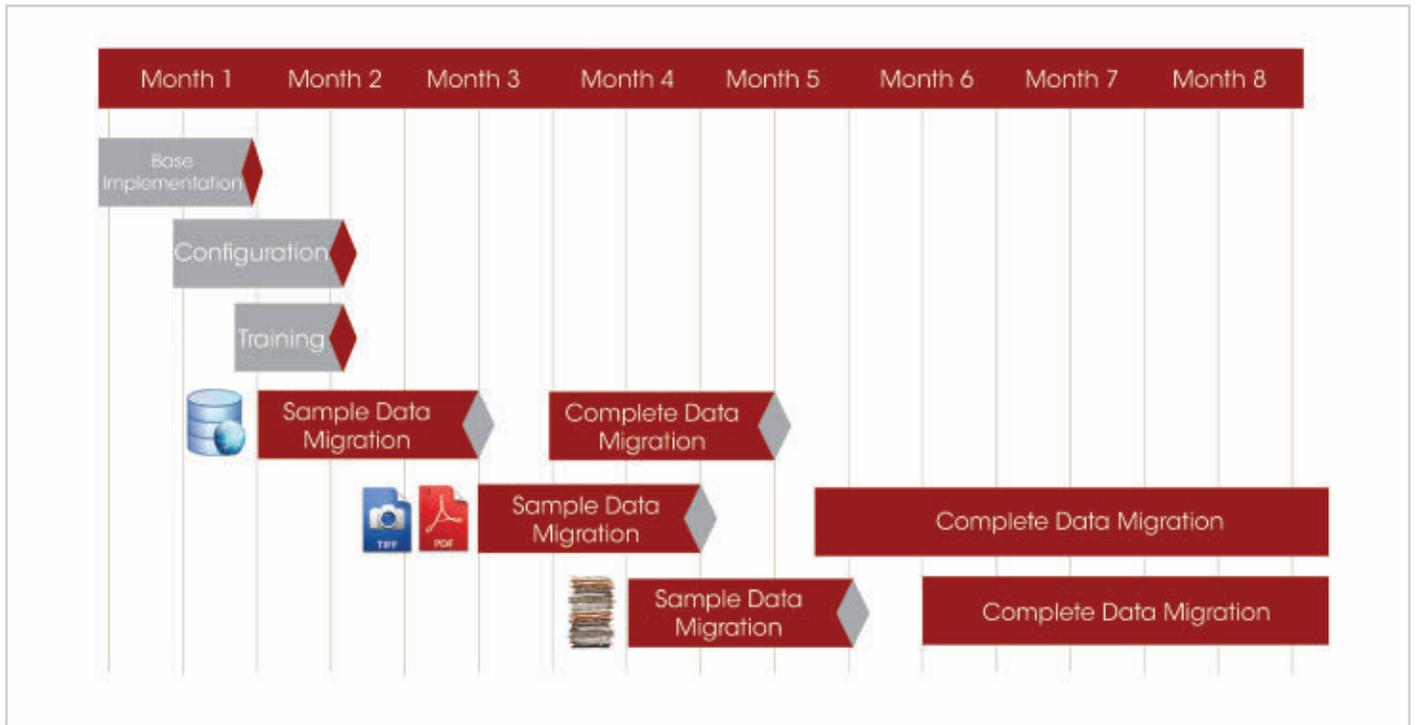


Figure 2: Estimated Timeline for Data Migration



There is no one-size-fits-all solution, and data migrations require close collaboration between business and technology teams. While each migration project can be somewhat unique, organizations can use a general framework to plan a successful project implementation. Figure 2 shows an estimated timeline of custom-tailored migration solution.

A personalized solution can be created using these basic steps:

- 1) Identify the current storage environment, including known issues.
- 2) Create a data migration plan and timeline, including success criteria that helps identify the end of the project.
- 3) Develop and design requirements for moving the data.
- 4) Create the migration architecture for the data migration, addressing any security concerns surrounding protecting the data during the migration process.
- 5) Develop and test extensively, ensuring accuracy and reliability.
- 6) Implement the data migration through a pilot phase with an eventual roll-out into a complete migration.

A Strategic Approach

Data migrations are challenging and can lead to problems if not completed properly. However, the choice of not doing a data migration can leave an organization with information wrought with errors and inconsistencies, leading to decreased productivity.

When your right of way organization decides to implement a new technology solution that is both user-friendly and easy to manage, ask questions, do the research and learn as much as you can about the plan your technology provider is creating. With the different types of software currently available, moving from one format to another is a low risk if the migration is handled by competent individuals who are familiar with the needs of right of way professionals. By carefully selecting a provider that uses a strategic and methodical approach, your technology upgrade can be quick, efficient and make a positive difference in your business.

Yogesh Khandelwal

As Chief Executive Officer of geoAMPS, LLC, Yogesh is an engineer with a diverse background in technology across various industries. With more than 15 years experience in database customization and implementation, his organization helps energy companies implement standardized processes, bringing efficiency and optimization within project and asset management. Visit www.geoamps.com.



Rails-to-Trails Property Rights

So whose right of way is it, anyway?



BY KURT C. KIELISCH, ASA, IFAS, SR/WA, R/W-AC

One crisp day last fall, my wife and I decided to take in the season's colors while biking down the Wiouwash recreational trail in Winnebago County, Wisconsin. We were not alone – dozens of bikers, dog walkers, couples walking hand-in-hand and small family groups had the same idea. The air was fresh, the colors were popping and the ride was invigorating. What a great idea, this rails-to-trails program. However, as right of way professional, I had another thought. I wondered what rights were utilized to create this trail. As it turns out, this is the very question many courts are wrestling with today.

Abandonment Issues

The National Trails System Act was enacted in 1968, opening the door to federal involvement in trails of all types, from city centers to remote backcountry. In 1983,

Congress passed the Rails-to-Trails Act Amendment, which was designed to preserve unused railroad rights of way by converting them into recreational trails. Since then, thousands of miles of unused right of way corridors have been converted into multiuse trails, thus providing recreational opportunities for walkers, bikers, snowmobilers and equestrians.

The trails are perceived as beneficial to the community because they turn corridors that had once been laid to waste into more practical uses. However, these conversions have caused an underlying Fifth Amendment issue to surface. When a railroad no longer has need for its rail right of way, it typically abandons the easement. When an easement is abandoned, it can revert back to the underlying fee holder of the estate, such as the neighboring property owner. Recent legal victories among property owners in

Kansas, Michigan and other states have opened the door for just compensation relief due to takings of the property owners' reversionary rights after abandonment of a railroad easement for recreational trail purposes.

In the halls of the United States Congress, there was great concern that such wholesale abandonment of rail corridors could be a disservice to the interests of the country should there be a need for the rail system to return. As a result, Congress sought to protect these corridors by use of a "railbanking" provision in the Trails Act. The basic concept behind railbanking is that a right of way can be banked until such a time the railroad service is restored. This provision attempts to hold intact the rail line corridors that once linked the country together in the event a need for them arises in the future.

Declaration of Intent

In most cases, the path from rails to trails follows a two-step approach. The first step is for the railroad to declare its intent to abandon the rail line right of way. The railroad informs the Surface Transportation Board (STB) of its intent, which sets in motion the process for any interested parties (state, municipality or private group) to pursue the conversion of the rail right of way into a trail. Then, if the railroad and proposed trail operator show a willingness to negotiate a trail use agreement, the STB "stays" the abandonment process until such an agreement is finalized. Of course, this is a simplistic version, which may be misleading because multiple timelines must be adhered to, bureaucratic red tape must be dealt with, and legal interests must be conveyed before a trail can be built.

Yet it is through this process that a trail will be granted to the operators with the railbanking caveat. In legalese, the trail is an "interim use" with the provision of re-establishing rail use in the future. This change of use from a rail to a trail will typically involve ownership rights issues. In instances where the right of way being transferred has been under easement ownership, several abutting property owners have sued that this is a taking, seeking just compensation as defined in the takings clause of the Fifth Amendment of the U.S. Constitution. These challenges are being heard in the U.S. Court of Federal Claims due to the associated government's authorization of railbanking and trail use under the Trails Act.

If the original right of way is considered an easement, then the courts need to decide whether a taking has occurred. Therefore, these kinds of cases may rely on the scope of the railroad easement. If the court determines

that the scope of the easement does not provide for a recreational trail use and the property owner was prevented from their reversionary rights, then the court may determine that a taking has occurred and a valuation of the taking will follow. So, what is required to appraise a rails-to-trails easement?

Before and After

To proceed with an appraisal, understanding what has legally taken place is important. The recommended appraisal methodology in these situations is the before and after approach, where the property is valued in the before condition by ignoring any future easement, and then in the after condition with full consideration given to the impact of the easement on the whole property. The difference between the two values is the loss and damage due to the taking.

In the before taking condition, the appraiser needs to view the transaction as follows: the railroad right of way was abandoned and the reversionary rights of the property owner were exercised, leaving the property under full fee ownership with no easement in place. In the after taking condition, the appraiser will value the property with the new easement in place, which includes the public's use of the recreational trail and railbanking rights. For additional consideration, these easements typically do not allow for the abutting property owner to access this trail from their land or use it as a means to link their property if divided.



Built on a former rail corridor, the Wiouwash State Trail in northeastern Wisconsin is maintained and operated by the counties of Winnebago, Outagamie, Waupaca and Shawano.

Since the Rails to Trails Act is a federal program, the Uniform Standards of Professional Appraisal Practice (USPAP) applies, as well as adherence to the Uniform Appraisal Standards for Federal Land Acquisitions, commonly referred to as the Yellow Book. The Yellow Book specifies that federally-owned property is to be valued at its highest and best use, regardless of its current use. For instance, you may have a property that is currently being farmed, but market analysis shows that it is better suited to be a development parcel. The point is, just because the property is currently being farmed does not mean that farming is its highest and best use.

One of the trickier elements of such a valuation involves what to do with the old rail bed in the before condition. Oftentimes, this rail bed is elevated or bisects the property, a problem that can be cured by the property owner, if they are in fact, the owners of the rail easement. The cost-to-cure could be provided by the mineral extraction of the old bed, which typically has an abundance of crushed stone that can be utilized elsewhere. In those cases where the beds are not elevated, with a little effort, they can be incorporated back into the property.

The key point to remember is that the old bed is part of the whole property now and can be traversed and utilized as the owner sees fit.



Missouri's Ruby Jack Trail, located in the southwestern part of the state, runs 16 miles from the town of Carthage, Missouri to the Kansas state line.

Finding Comps

While various appraisal methodologies can be used, one of the best ways to value real estate is with comparable sales, and this is especially true with land valuation. Finding comparable sales in the before condition is rarely a problem; it's the after condition that poses the biggest challenges.

The ideal comparable sale in this situation is one that was sold previously without an easement, and then resold in a reasonable period of time encumbered with a rails-to-trails easement. However, the likelihood of finding such a sale is slim, so the next step involves looking for sales of comparable properties that are already encumbered with a rails-to-trails easement. In this scenario, use caution to make certain the easement is comparable, especially in comparing the railbanking option. Additionally, you'll need to do some sleuthing to find out if the railbanking option was fully disclosed to the buyer, which can make all the difference. Unfortunately, the chances of finding such a sale is slim usually because the very neighborhood where you're searching for comparable sales has only one rail line going through it – the one you are working on.

The next question is what to do if you come up empty-handed and there are no rails-to-trails comparable sales.

In that case, you would pursue a comparable after use. This would be a property that currently has one of the following: a recreational trail only with no railbanking option, a property with an inactive rail line but not abandoned, or one that has an active rail line. If you find a property sale with a recreational trail easement without the railbanking option, it would be useful to analyze whether the perception of trail use is positive, negative or neutral to property value. Remember, that is only part of the equation because your subject property has an additional element to consider – railbanking.

The inactive rail line property would be useful for measuring the market's response to a railroad right of way encumbering the property which currently has no train traffic, but may in the future. Again, that is only one element of your easement, for such a property does not measure the impact of public trail use. The last option involves the use of an active rail right of way which measures the impact, such a line has when active, which of course is the ultimate potential of the easement with the

railbanking provision. However, recognize that such a sale does not measure the impact of the interim recreational trail use.

When Studies Can Support Impact

If you are unable to find any sales that are not encumbered with a railroad or recreational trail easement, then your next source for determining how such trails impact property value is literature published on the subject. This could begin with a broad sweep of everything published on the topic of recreational trails and property value, as this gives you a measure of whether the public perceives such trails as contributors or detractors to property value. The internet provides an accessible and inexpensive way to gather this information.

Following this collection process, it becomes easier to narrow the field by focusing on studies or opinion surveys completed. A word of caution here, you need to know who sponsored these studies, as well as their structure and intent. For instance, say the Foundation of Recreational Trail Advancement funded a study that concluded all trails increase property value. But, further digging reveals that this study was an opinion survey taken by its members who interviewed recreational trail users with the intent to bolster their funding request. Or perhaps the study gave a biased conclusion, but you wouldn't know this because they didn't publish the actual data collected.

To make sure the published data is useful and applicable, it's critical to look for the specific details. Does it report on properties with the same highest and best use? Does it report on rail-banked properties with the same likelihood of return to rail use and within the same time frame? Does the market that it studied have similar value dynamics as the subject market? Be thorough and sure that all of their data is available to review, not just the aspects that support the author's goal.

The Bottom Line

If a railroad right of way is transferred to a recreational trail operator in lieu of abandonment, and the courts rule that such an action has interfered with the underlying property owner's right to reversion, then a taking has occurred and falls under the takings clause of the Fifth Amendment.



A popular rails-to-trails project is Missouri's Katy Trail, a 237-mile bike path stretching across river bluffs, through farmland and small communities.

The valuation of a rails-to-trails easement requires a before and after valuation format. In the before condition, the property is valued as having exercised its reversionary rights of the old railroad right of way and has no such easement burdening the property. In the after condition, the property is valued as being encumbered by the rails-to-trails easement on the property with full consideration given to the railbanking provision of the easement. All this information is crucial for the courts when concluding just compensation for these multi-purpose properties.

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CTfastrak

Brings Smart Growth to Connecticut



Innovative transit concept combines speed and convenience

BY BRUCE C. COWDREY

Imagine a mass transit system that offers the frequency and accessibility of a bus along with the speed and traffic-free advantages of a train. Connecticut's new CTfastrak is considered the latest innovation for attracting more people onto public transit. This inventive concept of bus rapid transit is a convenient high-capacity solution that overcomes nearly every conceivable objection to using public transit.

There are three major advantages to the idea behind bus rapid transit. First, it uses a dedicated transit roadway to avoid traffic, so travel times are significantly shortened, especially when travelling through heavily-congested areas. Second, by operating in a permanent, dedicated guideway that allows buses to enter and depart the line, CTfastrak offers the frequency and accessibility of a typical bus schedule. And third, the flexibility to use express and feeder routes and a new dedicated roadway, gives passengers unparalleled point-to-point service with a no-transfer ride.

The nine-mile, \$567-million busway started construction earlier in 2012 and will be available for passengers in summer 2015.

Smart Growth Initiatives

Much like other large urban cities, the highway system that services the metropolitan Hartford, Connecticut area was experiencing increasingly heavy traffic congestion. In response to the growing issue, the Capitol Region Council of Governments developed a long-range plan in the 1990s and conducted a corridor study to identify the best way to address mobility needs in the region. The findings of the study recommended bus rapid transit as the locally preferred alternative to highway travel and described it as the most cost-effective means for addressing congestion.

In addition to alleviating traffic congestion, the busway was designed to serve as a seed project for accelerating economic redevelopment by enabling the state to pursue their smart growth initiatives, while increasing property values in old industrial corridors. In recent years, the concept of smart growth has gained popularity, primarily because it creates a unique sense of community and place, while expanding the range of transportation, employment and housing choices. The idea is to concentrate growth

in compact walkable, bicycle-friendly urban centers, giving people the option to leave their cars at home.

With stations in many older neighborhoods, CTfastrak is expected to serve as an anchor for encouraging smart growth and walkable communities in urban areas. Its primary focus is on long-range, regional considerations of sustainability over the short-term. As a result, it equitably distributes the costs and benefits of development over time while preserving natural and cultural resources and promoting public health. This helps to support a national trend where young professionals, students and empty nesters are spearheading a back-to-the-city movement. Living close to a functional transit system also typically leads to an increased presence for retail shops, schools, entertainment venues and restaurants.

There are eleven transit stations planned, all of which will serve passengers as drop-off points and busway access. Similar to conventional rail rapid transit, the stations will offer important amenities to improve transit travel times and service quality. The project will also offer park and ride connections to Bristol, Cheshire, Plainville, Southington, Waterbury, Central Connecticut State University, UCONN Health Center, the Westfarms Mall area and potentially other points south and west of Hartford. Buses will primarily be clean-fuel hybrids that will have bike racks or on-board storage.

Funding with New Starts

The busway design and construction is funded through a combination of state and federal sources. The Federal Transit Administration (FTA) New Starts Program is the primary federal funding source. It's a discretionary program that funds capital investments such as new construction or extensions to existing fixed guideway transit systems. This includes commuter rail, light rail, heavy rail, bus rapid transit, streetcars and ferries. The FTA evaluates projects annually and at key points throughout the development phase.

Federal funds will represent 80 percent of the total cost, and of that amount, \$275 million is funded through the New Starts Program. The remaining \$180 million will come from other FTA and Federal Highway Administration (FHWA) funding sources. Local match funding of \$112 million was committed by the State Bond Commission in the spring of 2011. A full Funding Grant Agreement was awarded to ConnDOT in November 2011 by the FTA based on the project's estimated cost of roughly \$567 million.

Getting Up to Speed

As a federally-funded program that had not previously been used in the state, a coordinated effort between the key stakeholders was essential. ConnDOT worked closely with the FTA, FHWA and regional partners like the Capitol Region Council of Government and Central Connecticut Regional Planning Agency.

The project team included numerous consulting firms and required significant coordination with the Connecticut Department of Energy and Environmental Protection and the U.S. Army Corps of Engineers. However, as a state department of transportation, ConnDOT was more accustomed to building and maintaining highway infrastructure and facilities. The department was functioning as an operating transit agency, something no other DOT in the nation can claim. In this role, the department staff had a significant level of experience building and designing transit infrastructure and operating transit services, but they had never embarked on a new transit construction project of this magnitude.

While many of the engineering team members were intimately familiar with federal highway rules, none of them had ever built a guideway from scratch, not even those who had built maintenance facilities in the past. Building a transit project from the ground up would require an entirely new level of collaboration and cooperation. The department would also need to become familiar with the FTA's New Starts Program and its various requirements. The early phases were dependent on the federal approval process for the funding, and the schedule was developed based on achieving certain milestones.

To ensure the key milestones would be met, dedicated ConnDOT staff members were assigned to the more technical aspects required, such as travel modeling, vehicle design, Intelligent Transportation Systems design and new methods of fare collection. A cost-benefit analysis and new annual reporting systems were also required. To expedite some of the older processes, ConnDOT Office of Rights of Way created a new way of estimating compensation when appraising smaller acquisitions valued at less than \$10,000. Nearly half of the 142 acquired properties were closed using this new accelerated process. A new transportation easement process was also created to encompass all transportation uses (and valued at up to 99% of fee) to simplify the acquisition process. As a result, hold-ups for variances and zoning applications were not an issue.



Connecticut Department of Transportation staff and government representatives take part in the groundbreaking ceremony at Parkville Station in May.

Sharing the Right of Way

In addition to requiring federal approval, obtaining the right of way and ensuring that it would be clear when construction needed it was necessary from the very beginning of the project. This took coordination with landowners, municipal leaders, operating railroads, utilities and all members of the design team to achieve a workable design that would minimize the potential impact on the community.

There were a number of complications associated with being in a shared right of way with an active railroad that crosses several major arterials. ConnDOT realized that various utility and Amtrak easements were required. A large number of stakeholders were involved, including four municipalities, two regional planning agencies, three branches of the U.S. Departments of Transportation, business owners, residents, transit customers, multiple transit providers and numerous advocates of quality of life issues for their constituents. A significant amount of collaboration was required.

One of the project's greatest challenges was to design a 9.4 mile fixed guideway into a narrow corridor that included a long-dormant rail right of way, as well as an active Amtrak rail right of way. The existing transportation corridor abutted many homes, businesses, two cemeteries and spanned four municipalities. During the design

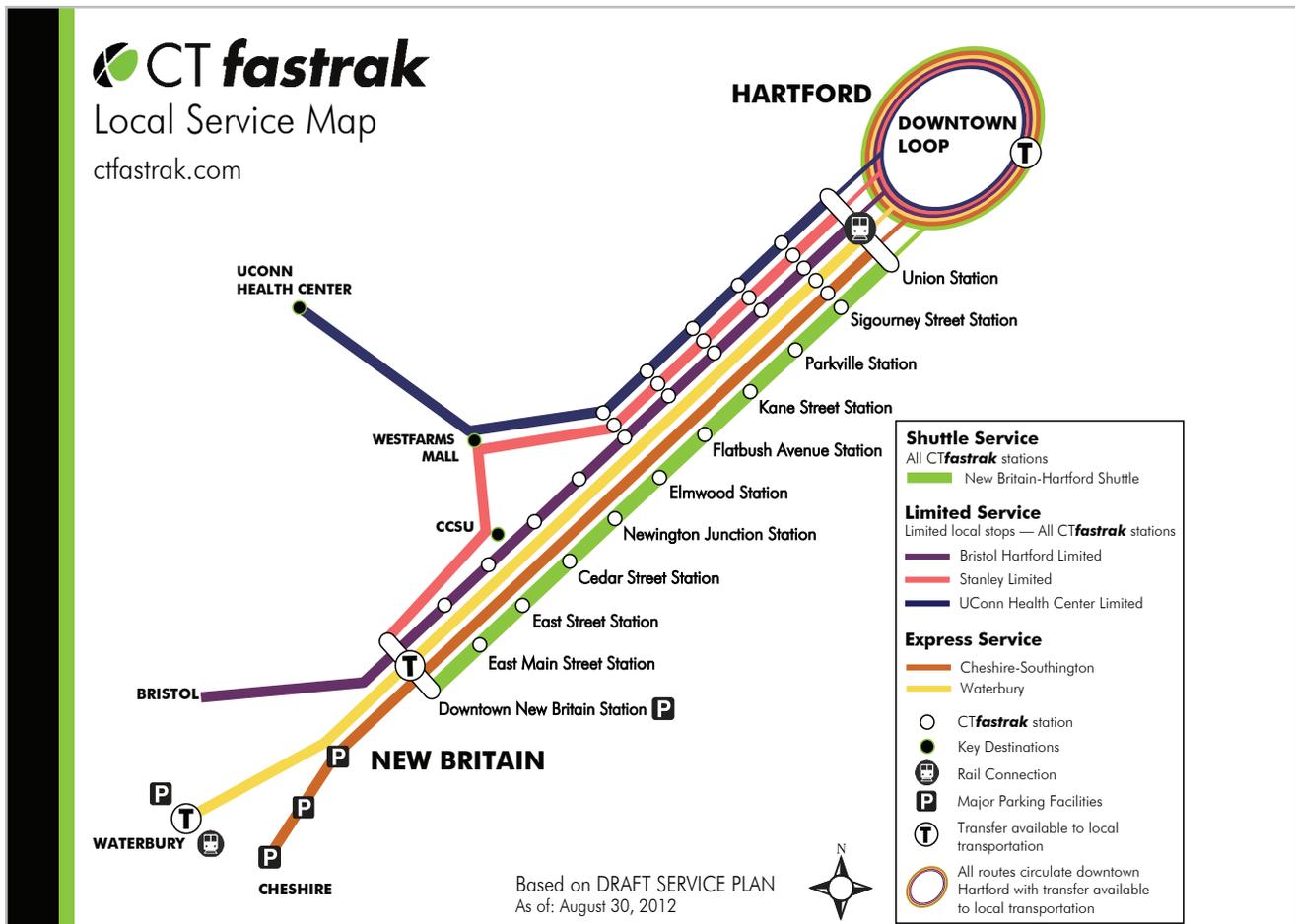
phase, many different options were considered, including the reuse of abandoned rail corridors and structures, easements for operating adjacent to the existing active rail lines and bus access to the guideway from various locations.

There were five crucial miles of railroad right of way connecting downtown Hartford that were needed, all of which were owned by Amtrak. Also, a number of valuable billboards situated along Interstate 84 in Amtrak's railroad right of way could not be relocated due to recent changes in state statutes. These billboards represented a significant long-term source of revenue for the company, and this would require a thorough evaluation and compensation. Through a collaborate effort, ConnDOT was able to negotiate with Amtrak and the goal of having a dedicated corridor was achieved.

Abandoned Rail Stations

Design adjustments were made to accommodate changes in the land use around the eleven proposed station locations in support of local economic redevelopment that was important to each municipality.

An abandoned rail right of way in New Britain and Newington had been land banked for a future transportation purpose and was owned by the state. But it had been unused



With eleven new stations planned, design adjustments were made to accommodate land use changes in support of local economic development.



CTfastrak will utilize an abandoned railroad right of way with a corridor built in an easement alongside an active Amtrak railroad right of way.

for many years and abutters had grown comfortable with using it as their own. To ensure a seamless process, dedicated attorneys from the Attorney General's Office were assigned to prepare and negotiate agreements with Amtrak for utilizing their right of way and for litigating condemnation appeals and independent construction contractors to build.

The state worked closely with the City of New Britain to design the downtown New Britain terminal within a parcel so as to leave enough area for the city to pursue a development opportunity where the station property fronts Main Street. They also worked with the Town of Newington and a private developer who each owned land surrounding a proposed station, to coordinate the projects and share an access drive so the combined development would warrant a traffic signal that would benefit all three. The team also held negotiations with an area university to trade the state-owned land abutting their campus for land abutting the project right of way that could be used for a station.

Construction officially began in June 2012. Although there are still some design details and even a few lingering right of way issues to be finalized, the newly implemented negotiations and acquisition processes have proven effective, ensuring that all pieces of the corridor will be available when they are needed.

Improving Access

Reducing peak-hour congestion is a major objective for many of today's metropolitan areas. CTfastrak will increase peak-hour travel speeds on Interstate 84 and some major arterials, as well as improve the air quality. Both short and long term job growth is projected. In fact, from its earliest stages, the CTfastrak project contributed directly to the local economy through its 4,000 temporary construction jobs and another 100 permanent jobs.

The flexibility of CTfastrak operations will allow the transit system to more effectively respond to changing ridership demands and future development within the corridor. It is also anticipated that towns most directly impacted by the project will be encouraged to pursue more smart-growth initiatives, which in turn will result in increased property values.

Buses using this corridor are expected to have faster travel times than cars since they will bypass congested traffic areas. The service plan includes commuter express, shuttle, connecting feeder bus services and circulators, the bus routes that circle a community on a set schedule and enable people to get around at all hours without the hassle or cost of driving. The attraction of a one-seat ride, combined with newly-built connections, will significantly improve access from outlying communities to the downtown area. Ultimately, it will connect to more than 110 miles of local and express transit routes and the interstate rail system.

CTfastrak is designed to attract new passengers who wouldn't otherwise use mass transit, and ConnDOT predicts that it will service 16,000 riders daily by 2030, doubling the number of riders using bus service along that corridor. As more and more commuters benefit from the convenience and speed offered by systems like CTfastrak, the state hopes to spur a new generation of passengers who elect to leave their cars at home.

Bruce Cowdrey

For 26 years, Bruce has been employed by the State of Connecticut Department of Transportation within the Office of Rights of Way, serving as the senior appraiser and reviewer on several high-profile eminent domain projects. He was responsible for clearing state properties on CTfastrak following the acquisition and preparing the properties for construction contractors. Bruce joined IRWA in 1988, and as a member Connecticut Chapter 23, has held Chapter President and other board/committee roles.



PUTTING A PRICE ON BEAUTY

Sometimes the challenges associated with determining benefits for barbershops, hair salons and beauty parlors can make a relocation agent want to pull out their hair. Oftentimes, these challenges center on whether the hair stylists and barbers are considered employees of the salon or independent contractors, and if they are deemed to be independent contractors, how many businesses are actually being relocated? We will provide some helpful hints on how to resolve these issues and how to apply fixed non-residential (in lieu of), searching and reestablishment benefits correctly under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (and as amended) (URA).



Q: So how do we determine whether the hair stylists are independent contractors or employees?

A: When a displacing entity needs to relocate a hair salon, it is important to determine whether the individual cosmetologists are independent contractors, who may be eligible for relocation benefits as a displaced business or employees who are obviously not considered individual displaced businesses. It is important to remember that while there may be only one sign on the outside of the building, there may still be multiple businesses inside.

For this example, let's say the State Department of Transportation (DOT) is using federal funding and displacing the Hair Today, Gone Tomorrow beauty salon. The salon has six stations and six stylists. Each of the stylists leases their station, pays "chair rent" to the manager of Hair Today and files separate tax returns. All furniture, large equipment (like hooded dryers), sinks, shampoos, etc. is provided by the owner of Hair Today. The stylists do not receive any vacation time, sick time or other benefits from Hair Today, nor does the manager directly supervise their activities. Under these facts, the stylists appear to be independent contractors.

Q: If the stylists are considered independent contractors, how many businesses are really being relocated?

A: Because Hair Today meets the definition of a small business and is operating legally at its current location, it may qualify for moving, searching and reestablishment payments. It may also choose to receive a fixed moving payment or in-lieu payment.

But what relocation benefits will its six independent stylists be eligible for? For this example, assume all six stylists share the same wash bowls and back bar of shampoos, colors, etc. The salon has one receptionist that books appointments for all stylists and collects payments. All checks are made payable to either Hair Today or to the individual stylist. They have identical or interrelated business functions, but their financial affairs are not commingled. The stylists are held out to the public as one salon, and the customers think it is one business. (See Figure 1)

In this example, the stylists all use the same premises and equipment; they have substantially identical or interrelated business functions, however their financial affairs are not commingled and the stylists are held out to the public as one business. Therefore, in this example, the weight of the factors point to the six stylists as constituting a single business.

Q: If the stylists are not eligible for an in-lieu payment as independent contractors, could they be eligible for searching and/or reestablishment payments?

A: The answer is “it depends.” If any one of the stylists relocates to a replacement site found and chosen by Hair Today, that stylist would not incur any searching expenses. As for reestablishment payments, these must be “reasonable and necessary.”

If the stylists relocate along with Hair Today, it seems unlikely they would incur expenses for any of the items listed in § 24.304. (See Figure 2)

If any of the stylists go to other salons after Hair Today relocates, an advertisement letting the public know he or she is now with another salon may be considered reasonable. An increase in booth or space rent at a new salon for 24 months may also be reasonable. A separate searching expense for time spent looking for a new salon to rent space from may also be eligible.

FIGURE 1

Under these facts, the individual stylists would not be eligible for separate fixed nonresidential move payments under §24.305.

§ 24.305 Fixed payment for moving expenses—nonresidential moves.

“(b) Determining the number of businesses. In determining whether two or more displaced legal entities constitute a single business, which is entitled to only one fixed payment, all pertinent factors shall be considered, including the extent to which:

- (1) The same premises and equipment are shared;
- (2) Substantially identical or interrelated business functions are carried out and business and financial affairs are commingled;
- (3) The entities are held out to the public, and to those customarily dealing with them, as one business; and
- (4) The same person or closely related persons own, control or manage the affairs of the entities.”

FIGURE 2

§ 24.304 Reestablishment expenses—nonresidential moves

(a) Eligible expenses. Reestablishment expenses must be reasonable and necessary, as determined by the Agency. They include, but are not limited to, the following:

- (1) Repairs or improvements to the replacement real property as required by federal, state or local law, code or ordinance.
- (2) Modifications to the replacement property to accommodate the business operation or make replacement structures suitable for conducting the business.
- (3) Construction and installation costs for exterior signing to advertise the business.

- (4) Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling or carpeting.
- (5) Advertisement of replacement location.
- (6) Estimated increased costs of operation during the first 2 years at the replacement site for such items as:
 - (i) Lease or rental charges;
 - (ii) Personal or real property taxes;
 - (iii) Insurance premiums; and
 - (iv) Utility charges, excluding impact fees.
- (7) Other items that the Agency considers essential to the reestablishment of the business.

Message from the Education Foundations

BY CRAIG POORKER, SR/WA, R/W-NAC, RWIEF VICE PRESIDENT

Ever since the Right of Way International Education Foundation (RWIEF) was established in 1978, followed by the Canadian Right of Way Education Foundation (CRWEF) in 1979, the foundation trustees have worked hard to fund the educational opportunities that make IRWA such a vital organization for all of us involved in the right of way profession. And we wouldn't be able to do that without the generous support of the IRWA membership.

The trustees of the RWIEF and CRWEF appreciate all the support you've given us in the past year. We would like to extend a big thank you for your generous contributions through benefit auctions, conference events, our website, your Chapter or Region, and very importantly through your membership renewal!

The check-off box on your dues renewal is a major funding source for the foundations. Not only do we ask that you not "uncheck the box," but it's also your opportunity to increase your contribution. You indeed have the option to manually increase your generosity when you fill out your dues renewal, both online and by mail.

Because of your donations, the RWIEF and CRWEF can help support new course development, regularly update existing courses and add more web-based training programs. The foundations are the holders of your education savings account. Thank you again for your support in keeping education affordable and relevant for all right of way professionals.

Please visit us at www.rwief.org and www.irwaonline.org



Your Donations Matter

WE COULDN'T DO IT WITHOUT YOU!

Find more information about who we are and what we do at

www.rwief.org
www.irwaonline.org

The Education Foundations' sole purpose is to generate funds to further the education initiatives of the right of way profession.

Your support allows us to develop new courses, update existing ones and provide leadership training.

We really wouldn't be able to do it without you!

RWIEF
RIGHT OF WAY INTERNATIONAL
EDUCATION FOUNDATION





BY CYNTHIA GAN, SR/WA

The Variables Impacting New Course Development

Education and professional development is a major part of why all of us are involved with IRWA. That's why it is so imperative that a lot of care goes in to developing and planning our educational offerings. Our goal is to ensure that the professional educational needs of all our diverse members are met and even exceeded. So you might be wondering, who is it that determines when a new course needs to be developed, and what is the process used to approve and develop it.

Each year, the International Professional Development Committee works with IRWA Headquarters staff in conducting an annual course assessment. There is a great deal of information to evaluate, some of which includes course statistics, evaluation reports, instructor and course material analyses, as well as the course proposal applications received throughout the year.

The findings from the annual assessment help us identify which courses are most needed. The IPDC prioritizes the courses based on the selected developer's availability, financial constraints and what's required for developing the course materials. The IPDC then projects the number of courses to be developed, revised and reviewed and develops an annual budget projection as well as a prioritized list of courses to submit to the International Executive Committee for consideration.

The need for a new course can stem from a variety of reasons. There may be an emerging topic that requires some specialized skills and training or a need for a more advanced course on a topic. In some cases, changing technology has created new opportunities that should be explored in course format. In addition to the standard method involving a response to a Request for Proposal, we receive unsolicited applications for new courses as well as recommendations from various Task Forces or International Committees.

Another method by which a new course will come about is when a seminar, presentation or workshop put on by a Chapter, Region or individual is determined to have enough content to garner member interest, to be financially viable and meet a current or future educational need that fills a gap in the existing IRWA

curriculum. If the IPDC determines it should be added to the IRWA curriculum, then IRWA HQ staff will coordinate the initial development and the pilot delivery of the new IRWA course.

The Standard Course Proposal Application Process is a six-step process:

1. A new course Request for Proposal is disseminated to interested stakeholders.
2. Qualified applicants submit an application to the IPDC.
3. IPDC and appropriate International Committee review the proposal.
4. IPDC selects qualified course developer.
5. Funds are requested and secured from the Education Foundations.
6. IRWA Headquarters staff coordinates and executes the contract and issues a letter of decision to the selected developer.

As far as timing is concerned, the variables involved with new course selection and prioritization make it difficult to establish a typical timeframe. While the IPDC and IRWA staff make every effort to expedite the process, it can easily take a year or more until a new course is piloted and offered to members.

For more information, the most recent IPDC Policies and Procedures Manual from August 2012, can be found on the IRWA website on the IPDC resources page. Included in the manual are appendices and tables that outline the application and review/approval process involved in developing new courses.

Following a 30-year career working for the U.S. Army Corps of Engineers in the Real Estate Division of the St. Louis District, Cynthia retired in 2012. She has experience in property management, disposal, acquisition and relocation assistance, and assisted with acquiring easements for the levee rehabilitation project in New Orleans, LA. Serving in her third year on the IPDC, Cynthia is also a member and former Chair of the International Asset Management Committee.

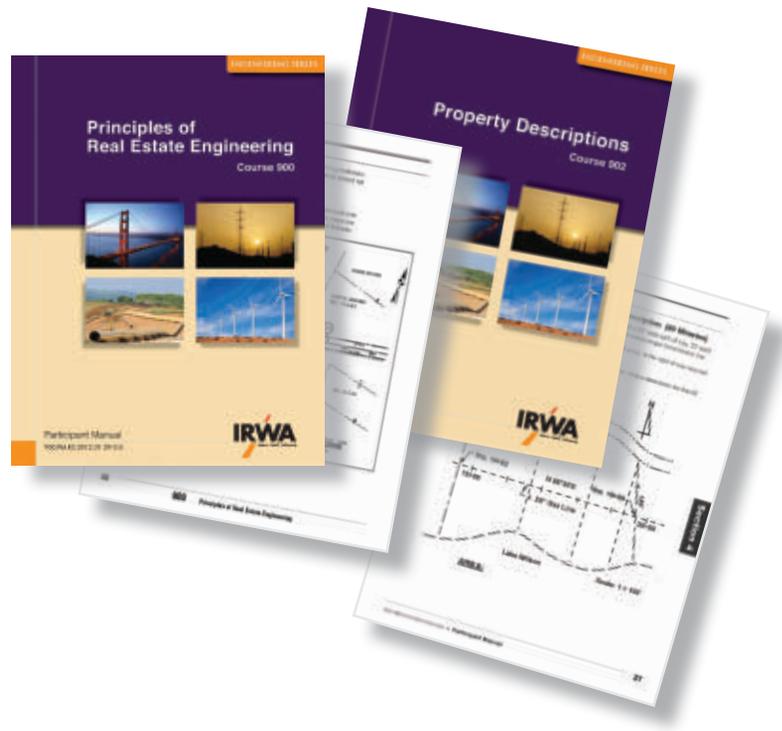


IRWA UNVEILS NEWLY REVISED 900 SERIES COURSES

In October, IRWA launched the newly-revised versions of the 900 Series of engineering courses.

IRWA subject matter experts Ronald L. Williams, SR/WA, Gary Kent, Alan Morganfield, SR/WA, and William Kyle Ray collaborated to update, revise, redraw and reconstruct Course 900: Principles of Real Estate Engineering, Course 901: Engineering Plan Development and Application and Course 902: Property Descriptions.

These courses are now available for online registration. Visit www.irwaonline.org for more information and to register.



IRWA COURSES

For detailed descriptions and to find a class near you, please visit www.irwaonline.org

* Asterisked courses are available online.

BASIC RIGHT OF WAY DISCIPLINES

100*, 100C	Principles of Land Acquisition	4 days
103*	Ethics and the Right of Way Profession	1 day
104*	Standards of Practice for the Right of Way Professional	1 day
105*	The Uniform Act Executive Summary	1 day

COMMUNICATION/NEGOTIATIONS

200*	Principles of Real Estate Negotiation	2 days
201	Communications in Real Estate Acquisition	3 days
203*	Alternative Dispute Resolution	2 days
205*	Bargaining Negotiations	2 days
207:	Practical Negotiations for U.S. Federal Funded Land Acq.	2 days
209:	Negotiating Effectively with a Diverse Clientele	2 days
213*	Conflict Management	1 day
215:	Right of Way Agent's Development Programs	2 days
219:	Introduction to Presentation, Facilitation, and Instruction	2 days

MANAGEMENT

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

APPRAISAL

400*, 400C	Principles of Real Estate Appraisal	2 days
402*	Introduction to the Income Capitalization Approach	1 day
403*	Easement Valuation	1 day
406A Online:	15-Hour National USPAP Course Uniform Standards of Professional Appraisal Practice	2 days
406B Online:	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

RELOCATION ASSISTANCE

501:	Residential Relocation Assistance	2 days
502:	Business Relocation	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*	Environmental Awareness	1 day
603,603C	Understanding Environmental Contamination in Real Estate	1 day
604:	Environmental Due Diligence and Liability	1 day
606*, 606C*	The Environmental Process	1 day

PROPERTY/ASSET MANAGEMENT

700*	Introduction to Property/Asset 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*, 801C	Land Titles	2 days
802*, 802C	Legal Aspects of Easements	1 day
803, 803C	Eminent Domain 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



CHAPTER 2 TAKES A LOOK BACK AS A HISTORIC MILESTONE APPROACHES

BY TARA PETERSON, SR/WA

In conjunction with its Diamond Anniversary, Chapter 2 is proud to announce its upcoming 75th anniversary event planned for Friday, April 19, 2013 at the Lafayette Events Center in Lafayette, California. All IRWA members and guests are invited to attend as we take some time to honor the past, recognize the accomplishments of the present, and look forward to our future.

In 1935, John De Vere, a Right of Way Agent with Pacific Telephone, heard about the new American Right of Way Association, which had been formed the previous year in Los Angeles. After discussions with Chapter 1, Chapter 2 started to take form, and was established as the fledgling Association's Northern California Chapter. On April 19, 1938, the first meeting was held at the Palace Hotel in San Francisco. A special delegation from Chapter 1, including Frank Balfour, the Association's founder, attended the meeting and outlined plans for nationalizing the association.

Chapter 2's founding members came from all across Northern California, including Sacramento, Stockton, Eureka and the Greater Bay Area. They represented a diverse range of organizations such as the California Division of Highways (later known as Caltrans), Bank of America, Standard Oil, Pacific Telephone, the State Board of Equalization, East Bay Municipal Utility District, A. T. & S. F. Railway, Pacific Gas and Electric Company, as well as many title companies.

Due to the tremendous growth and large size of Northern California, over the years, a few areas have branched off to form their own chapters. Sacramento Chapter 27 was established in 1959, and the San Jose Chapter 42 was established in 1963. Still, our San Francisco chapter has remained strong, with about 200 members to date.

Membership in Chapter 2 has fluctuated over the years. The lowest point came during World War II, but after the war, membership increased steadily in the years following in response

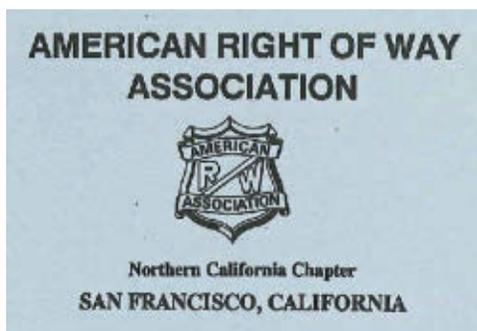
to major post-war projects, including the Interstate Highway System, the Bay Area Rapid Transit (BART) rail system, and the California Aqueduct. As with most chapters, our members represent a variety of disciplines in the right of way field.

Our current members are focused on leaving a legacy of providing quality public projects while protecting the rights of private property owners. Some of the exciting projects our members are currently involved with include the California High Speed Rail, Bay Bridge Retrofit, San Francisco Central Subway and BART extensions.

Our Chapter has had some truly notable members over the years. One was Sophie Yore, who served as secretary to the Chief Right of Way Agent at the Department of Highways. From Chapter 2's inception until she passed away in 1990, Sophie kept all of the Chapter records. At our 50th Anniversary Celebration, Sophie was named an honorary Chapter member. After her passing, we established an annual award in her honor intended to reward similarly generous acts to the Chapter and Association.

Another remarkable member was Donna Dawkins, who is considered by many to be a pioneer for women in the right of way profession. Donna was a Chapter President and also received the International Newsletter of the Year Award. When she passed away in 2001, her husband Steve established the Donna Dawkins Memorial Scholarship fund. This generosity has provided many college scholarships to Chapter 2 members and their families over the years. Last but not least Chapter 2 has also been proud to count Jim Finnegan, SR/WA, as a member. He is a Past International President and the founder of the Finnegan Fun Run, a favorite activity at International Education Conferences. Jim is retired now, but attends our events when he can.

For more details about the anniversary celebration and for registration information, visit the Chapter 2 website at www.irwachapter2.org.



Old logo from the early days of the Association



Donna Dawkins with her husband Steve



Proposed Bay Area Rapid Transit (BART) system circa 1966

JUST COMPENSATION

As published in Just Compensation By Gideon Kanner

(2-3-10) Light, Air and View

Utah DOT v. Admiral Beverage Corp.
(Utah 2012) 275 P.3d 208

When DOT took a part of the subject property for the reconstruction of the I-15 freeway, it invoked an earlier Utah case (*Ivers v. Utah DOT* (2007) 154 P.3d 802) holding that evidence of decrease in the market value of the remainder, caused by the owner's loss of visibility was non-compensable. The trial court agreed and granted DOT's motion in limine excluding such evidence. The Court of Appeals affirmed (198 P.3d 1003). On appeal, the Utah Supreme Court *Held*: reversed, and the *Ivers* case overruled.

The court recognized that adherence to precedent is desirable but that does not mean that erroneous earlier decisions should not be overruled when they are judicially recognized as having been wrongly decided. The measure of severance damages has always been diminution in fair market value, so to meet that standard it is necessary for courts to consider fair market value as the market would.

The court rejected DOT's argument that owners of land have no constitutionally protected interest in visibility of their land, so its loss should be non-compensable. The court adhered to its long-standing principle that owners are to be made whole when their property is taken or damaged for public use. The proper measure of severance damages is the difference in market value of the subject property before and after the taking, and this requires that all factors that would be considered by the market be considered by the judicial valuation process (except "an enhancement or decrease in value attributable to the purpose for which the property is being condemned."). Thus, the *Ivers* case prevented the owner from having all detriments caused by the taking to the remainder of his land fairly considered.

"More good than harm will come from overruling *Ivers* because *Ivers* rule is unworkable in practice and using market value to measure damages comports with common sense notions of property value." The difficulty comes from requiring "an appraiser to segregate and apportion market value based on artificial distinctions between protectable and non-protectable property rights." Appraisers have to look at comparable market sales, but in such sales buyers and sellers value the property in question as a whole; sales of comparables with some valuable elements left out (even though they are included in the sale) are simply not available, and this illustrates the unworkability of the *Ivers* rule. People whose land is taken for public use should be able to expect that they will be compensated for any reduction in market value if the state takes a part of their property.

(2-1-7) Measure of Damages to Remainder

City of Livermore v. Baca
(Cal. App. 2012) 141 Cal.Rptr.3d 271

When the city filed a condemnation action and the case went to trial, the condemnor made a series of motions in limine, to exclude various claims for damages sought by the owner. The trial court ruled that the owner had to establish a substantial impairment of access to establish a claim for permanent severance damages, and that various items of damage were speculative. By the time the trial court was done there was no admissible evidence of damages left. After judgment was entered, the owners appealed. *Held*: reversed.

The court agreed with the owner that by using motions in limine to exclude all evidence of damages, considering the trial court misused that device whose purpose is to manage difficult

evidentiary problems, not to effect the equivalent of a nonsuit of a demurrer to the evidence.

The court ruled seriatim that the trial court's exclusion of all evidence of the owner, going to permanent severance damages, considering the property's curb appeal in its after condition, the installation of a reverse slope and its effect on drainage, the changed depth of the utility lines, particularly where, as here, the new utility easement would violate the city's commercial driveway drainage standards, would result in increased traffic hazards, temporary severance damages such as loss of driveway access and removal of landscaping, and detour of traffic. All these factors were things that a reasonable buyer of the subject property in its after condition would consider in deciding on the price he would be willing to pay, and there was nothing speculative about them. Concluded the court: "We also emphasize that use of in limine motions as a nonsuit not only has no statutory basis, but also denies parties their right to a jury trial."

Finally, the trial court also improperly considered the influence on the evidence by three separate construction contracts, when only one was relevant, and another did not even involve the city but was a project of the State of California.

{G. Kanner Note: What is remarkable about this opinion is that only five years ago the California Supreme Court considered a similar case (*Metropolitan Water Dist. V. Campus Crusade for Christ*, 62 Cal.Rptr.3d 623) in which another trial judge ran amok and granted all of the condemnor's motion in limine, thereby denying the owner the opportunity to present evidence of its damages. The California Supreme Court upheld the reversal of that judicial performance and remanded the matter for a proper trial on the merits. Why this trial judge would not follow that precedent is a mystery.}

Just Compensation is a monthly report on condemnation cases.
To subscribe, see ad on page 63.

(1-1-9) Persons Entitled to Compensation

(4-6-1) Litigation Expenses

Miller v. EW Commercial Properties, LLC
(Kan 2012) 272 P.3d 596

Kansas State DOT sued in eminent domain and originally offered \$7,000 to the parties who consisted of an owner and two others claiming title by adverse possession. The appraisers (commissioners awarded \$18,000, but eventually DOT settled with the owner for \$25,000. Later, a jury found against the adverse possessors. In the meantime, DOT deposited the \$25,000 and the adverse possession claimants requested a distribution of \$2,750 to their attorney on a *quantum meruit* basis, with the

balance payable to the owner. The trial court agreed. The owner appealed. *Held:* reversed and remanded with directions to distribute the entire deposit to the owners.

Under Kansas law, a trial court may distribute the appraisers' award of just compensation only where there is a "dispute among the parties in interest." (K.S.A. 26-517). Here, however, there was really no such dispute because it turned out that the adverse possession claimants had no interest in the subject property, and neither did their attorney who was hired after the appraisers made their award, and owned no interest in or lien on the subject property. Thus, when the trial court made its distribution order to the attorney, it lacked authority to do so because there was no longer

a dispute among the parties in interest that required resolution – the owner was the only person with a proper claim on the award. Accordingly, the case was reversed with directions to the trial court to order disbursement of the entire deposit to the owner.

Gideon Kanner is a Professor of Law Emeritus at the Loyola Law School in Los Angeles, and holds degrees in engineering and law. He is Editor of Just Compensation, a monthly periodical on the law of eminent domain, and has been active as a practicing appellate lawyer in the field of eminent domain and inverse condemnation for more than 40 years.



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INDUSTRY BUZZ

IRWA Representative Meets with Congressional Aide



IRWA International Utilities Committee Chair Glenn Winfree, SR/WA, R/W-EC recently met with Dean Meyers, the State Director for North Carolina's Senator Richard Burr, in order to introduce IRWA, its projects and its members, as well as the valuable resources and assistance IRWA can provide the Senator's staff in the future.

Glenn provided Dean with an overview of IRWA's mission and goals, and presented him with copies of Right of Way Magazine and the Principles of Right of Way textbook for future reference.

"I feel that IRWA's membership possesses such a unique knowledge base that could be of great assistance to many of our political leaders," said Glenn. "For example, I had heard that the Senator's office had dealt with a lot of local issues regarding tree cutting along power lines, and I provided Dean with contacts within my company [Duke Energy] who I thought could help with this issue."

IRWA Presents Courses for the U.S. Navy



In September, IRWA held courses on negotiations and acquisitions for the U.S. Navy. The training was organized for 27 members of the Naval Facilities Engineering Command (NAVFAC) who interface with real estate asset management. Traveling from Florida, Virginia and Illinois, the group took two courses back-to-back, which included Principles of Real Estate Negotiation and Communications in Real Estate Acquisition.

The courses were presented by Carol Brooks, SR/WA (pictured front and center), who has more than 20 years of experience in the right of way profession and is an author/lecturer on conflict management and interpersonal skills. "It was an honor to serve the IRWA and instruct these two important communication courses for the Real Estate Asset Management, NAVFAC SE in Jacksonville, Florida," said Carol.

Westwood Places on List of Hot Firms

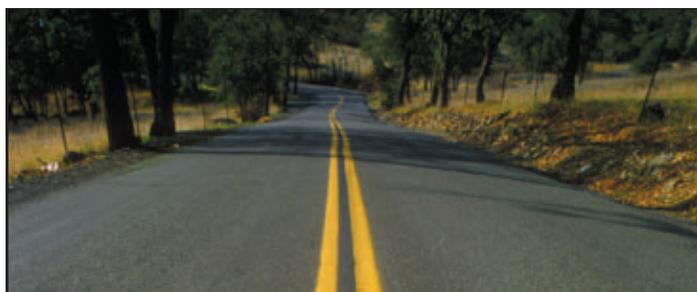


Westwood Professional Services, Inc. was named one of the 100 fastest-growing architecture, engineering, planning and

environmental firms in the United States on The Zweig Letter Hot Firm List for 2012. This prestigious award recognizes firms that have become leaders in their respective industries and have outperformed the economy. A company's equally weighted growth and percentage growth is assessed to determine eligibility and rank, allowing for firms of nearly any size to be considered.

Westwood is a 230-person firm headquartered in Minneapolis, Minnesota, and serves land and energy development clients from multiple U.S. offices. The company more than doubled its gross revenues between 2009 and 2011 and expects a strong finish for 2012. Having recently completed a strategic alignment process, Westwood is gearing up for growth in each of its three sectors - land, renewables, and corridor - which support commercial and residential, wind and solar energy, and electric transmission and oil, gas, and pipeline development markets.

Westwood CEO/President, Paul Greenhagen, credits the company's people for driving its success, "We could not be as successful as we are without employing people who excel at what they do. As a service-oriented business, we have to be passionate about delivering only the best solutions."



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Phoenix Sky Harbor International Airport Receives \$16 Million FAA Grant

U.S. Transportation Secretary Ray LaHood recently announced that Phoenix Sky Harbor International Airport will receive a Federal Aviation Administration grant to fund a rehabilitation project near its busiest terminal. The \$16 million FAA Airport Improvement Program (AIP) grant will allow the airport to begin the first phase of a multi-year project to replace 25 year-old pavement outside of Terminal 4. The work will begin this fall and take about four years to complete.

“This funding will help improve Sky Harbor’s infrastructure and will help keep aircraft moving safely and efficiently through Arizona,” Secretary LaHood said. “Making important investments in our aviation system promotes safety and economic growth in communities across the country.”

The work will take place in the ramp area where aircraft taxi to and from the gates. Phoenix Sky Harbor has

previous taken measures to slow pavement deterioration in the area. This grant will enable a permanent repair.

“We appreciate the support of the Federal Aviation Administration,” said Phoenix Aviation Director Danny Murphy. “As one of the ten busiest airports in the United States, improvements like this are vital to us and our airline partners.”



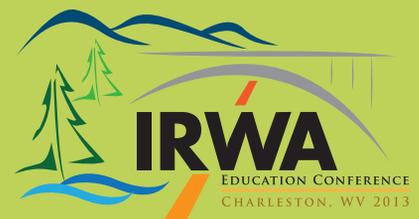
IRWA's 59th Annual INTERNATIONAL EDUCATION CONFERENCE

Charleston, West Virginia
JUNE 23 - 26, 2013



In 2013, IRWA's Conference will be the premier place to learn about the latest trends in right of way, get continuing education credits for a certification or designation and network with other professionals in the industry.

WWW.IRWACHARLESTON2013.ORG



IRWA Represented at United Nations Symposium on Real Estate



In October, FIABCI held a United Nations Symposium in New York focused on raising the standard of real estate development around the world. IRWA International Relations Group Chair, Randy Williams, SR/WA and International Executive Committee Liaison, Mary Anne Marr, SR/WA, MAI, FRICS, met with FIABCI President-Elect Flavio Nunes from Sao Paulo, Brazil to discuss the critical and often overlooked issues in the energy, transportation and utility sectors.

FIABCI is a non-profit professional organization and the only worldwide real estate association that represents all of the real estate professions: brokerage, property management, development, valuation and consulting. The organization has been a non-governmental consultant to the United Nations since 1954. Devoted to all real estate specialties and activities, they serve as a global advocate for property rights. With more than two million professional members worldwide, they have chapters in over 60 countries their membership is comprised of over 125 national real estate associations.

In 2011, IRWA became a member of FIABCI. According to IRWA Executive Vice President Mark Rieck, “FIABCI and IRWA both recognize that every developed country has innumerable real estate and property market issues from which we can all learn and benefit. Affiliating with other professionals will open doors, not only for new business and networking opportunities, but in giving IRWA members more opportunities to grow and learn. Professional development and lifelong learning—IRWA’s core mission—can be better realized through such affiliations.”

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BLM Director Re-Enters the Private Sector



After three years at the helm of the Bureau of Land Management, Bob Abbey has returned as a partner in the firm of Abbey, Stubbs, and Ford, LLC. As an established professional land, natural resources and energy consulting firm, Abbey, Stubbs, and Ford provides support and advice to municipal entities, utilities, mineral, agricultural, and renewable energy firms,

private landowners and major real estate developers in their interactions with federal and state land managing agencies. The firm's areas of focus include federal land policy and regulations, environmental and natural resource matters, strategic planning, and government affairs/liaison at all levels.

Bob's retirement from his position at the BLM culminated 34 years of public service. His tenure as Director was highlighted by leadership in the unprecedented growth of renewable energy development and major oil and gas reforms on public lands. Bob was an original partner in Abbey, Stubbs, and Ford beginning in 2005, following his previous retirement as BLM's Nevada State Director until 2009, when he was appointed by President Obama and confirmed by the U.S. Senate as Director of the BLM in Washington, D.C.

Abbey, Stubbs, and Ford is currently involved in projects throughout the western United States, including utility transmission, renewable energy, high speed rail, agri-business, wireless communications and other activities. Bob is a graduate of the University of Southern Mississippi.

Ecosystem Management & Associates Joins HDR



HDR Engineering, Inc. has purchased the assets of Ecosystem Management & Associates, Inc. EM&A is a woman-owned firm based in Lusby, Maryland that provides a wide range of environmental services to

global clients, including coastal zone management, military range sustainability, pollution studies and management, environmental conflict resolution and environmental outreach. Going forward, EM&A staff will do business as part of HDR Engineering, Inc. and HDR Environmental, Operations and Construction, Inc.

"We got to know EM&A through working for our mutual clients, and were impressed enough to want them to join the HDR family," said Eric Keen, HDR Engineering, Inc. President. "They have a top-notch professional team and will make a great addition to HDR."

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Steele Acquires ENGlobal's Right of Way and Inspection Division



will begin operating the business through its subsidiary, Steele Land and Inspection, LLC.

David Sinclair, SR/WA, the Executive Vice President of the Field Solutions division, will become President of the newly-formed entity. David has over 32 years of right of way and land management experience in both domestic and international assignments for the pipeline industry. He has also served as Chair of IRWA's International Pipeline Committee and is currently a Trustee and former President of the Right of Way International Education Foundation.

In October, Steele and Company, LP, a Delaware limited partnership, acquired ENGlobal, Inc.'s Field Solutions Division, which includes the land and inspection segments. Steele and Company, LP

The Land and Inspection management team will also consist of Jay Shepard as Vice President - West Coast, Steve Grandon as Vice President - Central Region, Heather Boswell as Vice President - Gulf Coast Operations, Steve McDaniel as Director - Gulf Coast/Mid-West and Bon Roberson as Vice President - Inspection. The organization will operate from its headquarters in Broomfield, Colorado, with offices in Houston, Tulsa, San Diego and Kansas City. This team brings over 150 years of collective experience to land services, facility management, communications, electrical and natural gas distribution, right of way and project management.

“Together our team has built a legacy of success and a reputation for quality. Our mission is to exceed the expectations of all our clients, said David Sinclair. “We aim to achieve long-term business relationships and to partner with our clients by providing exceptional service, creative solutions, and adherence to budgets and schedules – always maintaining unyielding focus on the objectives entrusted to us.”

Learn. LEAD. Advance.

CANDIDATES FOR 2012-2013 INTERNATIONAL EXECUTIVE OFFICE

Strong leadership is essential to IRWA's growth, and we need your vision to help shape the future of the Association. As a member of IRWA's International Executive Committee, you can play a vital role in advancing the goals of the Association.

Any IRWA chapter or active member may nominate a qualified candidate for any of these IEC positions:

- President-Elect
- Treasurer
- Vice President
- Secretary

Minimum qualifications:

1. An IRWA member in good standing for at least six years;
2. Experience service as either an elected officer of an IRWA Chapter for at least one year or an IRWA International Committee member for at least two years;
3. Possess the SR/WA designation

Personal characteristics:

- Dedication to the Association's vision, goals and IRWA Code of Ethics
- Demonstrated professional leadership at the local, regional and international levels
- Record of service leading to the advancement of IRWA and the right of way profession

To nominate a candidate, send the nomination form, recommendations, resume, candidate statement and color headshot to Nancy Halvorson, INEC Chair at mnhalvors@msn.com. The form is available on the IRWA website at www.irwaonline.org.

Submission deadline is December 3, 2012



Percheron Hires Arlene Kaplan as Relocation Manager



Percheron Acquisitions recently announced the hiring of Arlene Kaplan as its new Relocation Manager. Arlene will be responsible for quality control and relocation project management oversight on Department of Transportation and Transit projects where relocation is required under the Uniform Relocation and Real Property Acquisition Act (URA).

Arlene comes to Percheron with over 25 years of right of way industry experience. Prior to Percheron, she worked on a light rail expansion project for Houston METRO, providing QA/QC Management and Relocation oversight on three corridors with more than 450 parcels comprising METRO Solutions Phase 2, a major design/build project with Federal Transit Authority oversight.

“We are very excited to have Arlene join our team. Her extensive experience and expertise in relocation will add tremendous value to our public sector projects to provide relocation oversight and insure quality control for our clients” said Ana Rausch, SR/WA, R/W-RAC, Senior Vice President of Percheron Acquisitions.

Arlene is an active member of IRWA's International Relocation Committee. While serving as Chair of the Relocation Committee's Education Sub-Committee, she worked with other members to write advanced relocation courses and update existing relocation courses.

Contract Land Staff Announces New Mobile App



Contract Land Staff, LLC (CLS) has unveiled ROWver, the firm's new Right of Way mobile

application for CLSLiNK®, a powerful web-based, GIS-enabled software for successfully managing land assets.

ROWver is an iPad application for subscribers to CLSLiNK, a solution for managing right of way projects, with success managing over 750,000 documents for energy industry clients over the last decade. ROWver users now have mobile access to the specialized tools needed to manage, examine and track their right of way projects. The app provides real-time graphical status reports and quick access to project and operations data like easement location, ownership, agreement documents, field notes and survey and construction provisions. Users can take their project maps, reports, and right of way data offline, and then synchronize changes when they return online.

“We continue our commitment to innovation and the development of advanced products to address the growing demands of the right of way industry,” said Brent Leftwich, President and CEO of Contract Land Staff. “We will continue to offer the best solutions for both today and tomorrow's right of way needs to make our app richer and more accessible for everyone.”

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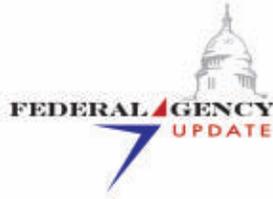
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March 12, 2013
Washington, D.C.

Save the date

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SRF Announces Management Transition



SRF Consulting Group, Inc. recently announced that Dave Montebello, PE, Vice President of Transportation, has been appointed as President of the firm. Long-time President and Chief Executive Officer Randy Geerdes will retain his position as CEO.

Dave has been with SRF since 1995 and is known for his strategic leadership of complex, multi-jurisdictional projects. He has directed the development of numerous statewide, regional and local transportation plans and infrastructure projects. As President, he will direct the day-to-day company operations, continue to be actively involved in transportation and planning projects, and uphold SRF's tradition of high-quality service.

The Appraisal Foundation Updates its Strategic Plan



The Appraisal Foundation is entering its second quarter

century as the congressionally authorized source of appraisal standards and appraiser qualifications. During that time, it has grown considerably, due in large part to the appraisal practitioners, educators, appraisal regulators, and users of appraisal services who have taken the time to contribute to the work of the Foundation. Recently, The Appraisal Foundation's Strategic Plan Task Force submitted several recommendations for new initiatives to the Foundation and its Board of Trustees.

The Task Force report clarified and simplified the Foundation's vision and mission statements and recommended an increase in the Foundation's overall outreach to its many constituencies, including state and federal regulators. It recommended that the organization pursue a partnership with foundation sponsors to develop a valuation education program, stay current with changing valuation services and products and find forums to engage young and new professionals. Organizationally, it offered changes to the Board of Trustees' structure, the creation of a Sponsor Council with Board representation, and expansion of the Foundation and its Advisory Council's relationship with academia. Finally, the Task Force recommended that the Foundation seek greater diversity in funding sources and consider a name change from The Appraisal Foundation to The Valuation Foundation.



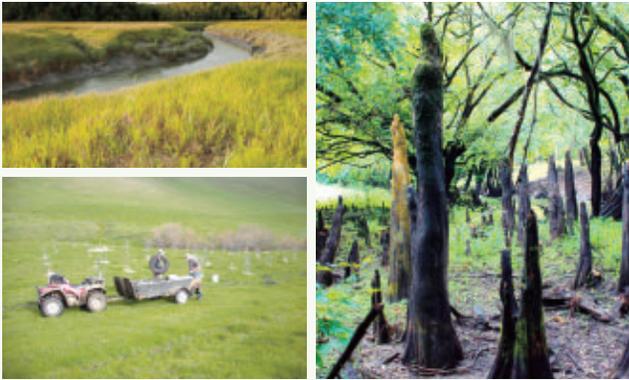
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New Wetland and Stream Mitigation Guide Will Benefit Land Trust Community



Approximately 45,000 acres of wetlands are restored, enhanced or established each year to offset the impacts associated with permits issued under the federal wetlands regulatory program. Across the country, land trusts are being asked to participate in wetland and stream mitigation projects. A handbook recently issued by the Environmental Law Institute and the Land Trust Alliance provides the land trust community and others with the

tools necessary to understand the opportunities and liabilities associated with taking on the long-term stewardship of a compensatory mitigation project.

The new handbook – *Wetland and Stream Mitigation: A Handbook for Land Trusts* – helps land trusts get up to speed on the requirements and nuances of the federal wetland and stream regulatory program and evaluate the potential liabilities associated with such a project.

“Land trusts have the know-how to do quality land conservation projects,” said Land Trust Alliance President Rand Wentworth, “and this new handbook is a valuable guide for those interested in expanding that work to include compensatory mitigation projects.”

The handbook identifies many of the questions that land trusts will need to ask before getting involved in a mitigation project and provides practical tips gleaned from interviews with over 20 land trusts from around the country that have engaged in mitigation projects.



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CenterPoint Energy's Greg Harper Elected INGAA Chairman



The Board of Directors of the Interstate Natural Gas Association of America announced the election of C. Gregory Harper as its Chairman for 2013. Greg is Senior Vice President and Group President of CenterPoint Energy's Pipelines and Field Services businesses.

"Greg is a strong leader, with real understanding about the enormous opportunities for natural gas and the natural gas pipeline industry," said INGAA President and CEO Don Santa. "Greg will be at the forefront of industry efforts to advance natural gas as a solution to the nation's energy, environmental, economic and employment challenges. He also intends to continue our efforts educating lawmakers, regulators and the public on the role pipelines play as the critical link in bringing much-needed natural gas supply to market."

INGAA's board also elected Gary L. Sypolt, Chief Executive Officer of Dominion Resources' Dominion Energy operating segment, as First Vice Chairman, and David Devine, President of Kinder Morgan's Natural Gas Pipe Line Company, as Second Vice Chair.

Dan Liggett Joins geoAMPS as Communications and PR Manager



In September, Dan Liggett joined geoAMPS, LLC as the company's Communications and Public Relations Manager. As a member of the geoAMPS marketing team, he will report on the array of products and services offered by the company to its customers and the public.

"I welcome Dan to the geoAMPS team," Yogesh Khandelwal, Chief Executive Officer, said. "He brings a passion for writing and diverse expertise in media and public relations to our organization."

Dan is an award-winning writer and editor with an extensive background in the newspaper industry. He has additional experience in public relations and media relations in public transportation and higher education. He holds a Bachelor of Science degree in Journalism from Ohio University in Athens.

IRWA Sheds Light on U.S. Infrastructure Challenges

At the Rotary Club of San Pedro, speakers typically address topics of interest at the local, national and even international levels. In this connection, IRWA Executive Vice President Mark Rieck's presentation on the importance of infrastructure projects certainly filled the bill. On September 27th, Mark spoke on the subjects of energy independence, renewable energy projects such as solar and wind, and shared statistics published by the American Society of Civil Engineers on the dire condition of the highways, bridges and pipelines in the United States. He also spoke about recent trends in public/private partnerships, toll road projects and other innovative sources of funding for these critical projects.



From left, Rotary member Val Hatley, SR/WA of Percheron Acquisitions, Right of Way Magazine Publisher and Editor-in-Chief Barbara Billitzer, IRWA Executive Vice President Mark Rieck, Port of Los Angeles Property Manager Rica Viola (Rotary President) and Port of Los Angeles Real Estate Division's Kenneth Stanberry, SR/WA, President-Elect of IRWA Los Angeles Chapter 1.

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Correction from September/October Issue



The International Transportation Committee's group photo was mistakenly omitted from the 2012 Seattle Conference wrap-up article published in the September/October issue. IRWA would like to thank all of the International Committees for their dedicated efforts on behalf of the Association.

In Appreciation

IRWA would like to thank the sponsors of the 2012 Annual International Education Conference in Seattle, WA for their generosity and support.

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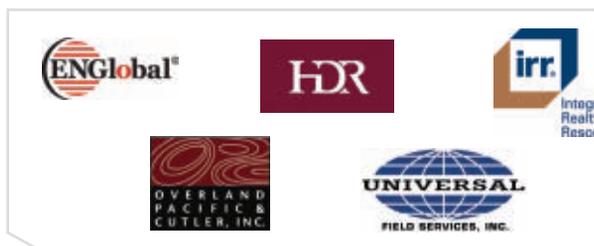
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IN REMEMBRANCE

CHARLENE ANN DERESH



Charlene Deresh died peacefully on Thursday, Aug. 23, 2012, in Wichita, Kansas at the age of 62. She was a long-time member of IRWA, serving as Education Chair of San Diego's Chapter 11 for many years.

A devoted animal lover, Charlene owned numerous dogs, cats, goats and even ostriches. She made a point to return to school later in life, graduating with a B.S. in Business Administration from Indiana-Purdue University at Fort Wayne, in 1978. She believed that education was paramount and was a proud member of the Daughters of the American Revolution. She also fondly remembered her time working for Dan Quayle in his campaign for United States Senate.

Charlene leaves behind her husband of 18 years, Robert Deresh; sons Stacy Alan Edgar and Timothy LeDavid Edgar; daughters-in-law Angela Michelle Edgar and Saundra Leigh Edgar; grandsons Zachary Alan Edgar and Darrin John Alan Edgar; granddaughter Juliet Evelyn Ann Edgar; great-grandson Conner LeDavid Edgar; brothers Charles Coble, Joseph Coble and Monty Coble; and numerous nephews and nieces.

SUSAN MAHOLLAND



Susan Maholland of Highlands Ranch, Colorado passed away Sept. 13, 2012 at the age of 94. She was an active member in IRWA, and in 1985 became the first woman to ever receive the Frank C. Balfour Professional of the

Year Award. She was a past-President of Denver's Chapter 6, where she served in all chapter offices and also on her chapter's Education Committee, Membership Committee and Environment Committee. She worked for many years as a Realty Specialist with the U.S. Forest Service.

Born in Dry Creek, Monte Vista, Colorado, Susan was raised in South Dakota on the Moreau River, where she graduated from Isabel High School in 1937. She moved to Denver in 1949, where she was active in the Order of the Eastern Star, Order of the White Shrine, Ladies' Oriental Shrine, Beaucient, Denver Toastmistress and as a member of God's Grace Community Church. Susan is survived by her husband, Stephen Nitschneider; her children, Nancy Sand of Iowa, Jennifer Pott of Arizona and Jack Reidhill, of Washington, DC; seven grandchildren; ten great-grandchildren; and six siblings.

STATEMENT OF OWNERSHIP, MANAGEMENT AND CIRCULATION

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Barbara Billitzer, Publisher & Editor-in-Chief



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Anderson Right of Way Group	8
Appraisal Institute	61
Associated Right of Way Services, Inc.	50
Coates Field Service, Inc.	57
Commercial Appraisal Associates	63
Contract Land Staff, Inc.	C3
Doyle Land Services, Inc.	52
H.C. Peck & Associates	55
Just Compensation	63
Landworks, Inc.	C4
National Field Service	55
O.R. Colan Associates	14
Overland, Pacific & Cutler, Inc.	53
Paragon Partners Ltd.	58
Percheron Acquisitons, LLC	6
Perches Land Services, Inc.	56
Salem Group	49
Steele Land and Inspection, LLC	2
Suncoast Land Services, Inc.	10
Universal Field Services, Inc.	C2
Wood Group Mustang	4

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Dear Dr. Mazie,

I'm working on a project that has faced a lot of opposition, and the landowners have been particularly angry and difficult to deal with. I'm not sure I've been handling it as well as I should. Do you have some techniques for helping me handle these situations more professionally?

Johnny in Indianapolis



Whether they are landowners, neighbors or coworkers, difficult people can test the patience of even the most highly-skilled professional. Most right of way agents accept the fact that some negotiations are just going to be difficult. This may be the result of a route selection that's inconvenient or the simple fact that many landowners just don't want an easement on their property. Let's face it, if a person is forced to give up their property and relocate, we should be able to empathize with them. After all, it's our project that is causing the disruption and is negatively impacting their life.

However, there are also times when a landowner becomes angry for no clear reason. Perhaps they have had a negative experience with another agent in the past. Or maybe they recently lost their job or have other personal problems. While it's not the agent's job to probe into a landowner's personal problems, knowing that their behavior is not associated with you or the project can certainly help you deal with their behavior more effectively.

Here are some suggestions for working through anger-fueled situations:

Never take it personally: Recognize that the right of way agent is often seen as an easy target. The landowner may be so distraught that they overreact without realizing that their behavior is inappropriate. If this happens, the agent may want to probe a bit. In a professional manner, ask if you have said or done something wrong. Just asking will likely get them to open up and explain their situation. They may admit that their

outburst has nothing to do with you and even apologize. Giving them a forum to express their feelings can go a long way in furthering your efforts.

Do not overreact: A right of way agent should have exceptional control over their emotions. Difficult people have been known to bait others into an argument with verbal attacks, personal affronts and other manipulative tricks. An agent's best strategy is to stay calm, handle the landowner with the utmost respect and not engage in a battle of words. Professionalism is always the key.

Ask questions: If a person is verbally attacking you, address the situation by saying something like, "I see you are upset, and I would like to get a better understanding of your concerns." Then ask them to explain exactly what they are upset about, and be sure to listen carefully. If an angry person is known for their outbursts, they may feel ignored by the people around them and just need some attention. If they believe you genuinely care about their needs and concerns, they are likely to feel more valued and become willing to work more collaboratively.

Confront false impressions and misunderstandings: In speaking with landowners, agents oftentimes hear misconceptions based on partial facts, rumors or misleading media coverage. Whatever the source, it's essential for the agent to use facts to clarify the situation. In this case, it helps to have documentation that verifies the facts. More importantly, the landowner must

be able to save face. This means the facts must be presented objectively and tactfully, and in no way should the landowner feel judged.

Deal with anger quickly: Anger can breed more anger, especially if ignored. Try using a professional and authoritative manner to set a boundary early on. Say something like, "Mr. Smith, I came here to work with you in good faith, but this is impossible when you are shouting at me. My goal is to get you a fair agreement that works for both of us, and I am willing to take as much time as needed to hear all your concerns." If this doesn't work and they continue yelling, tell them, "Mr. Smith, I'm leaving now and will give you a call in a couple of days so we can set up another appointment." Then leave quickly and without further conversation. By handling a bad situation swiftly, you are setting a firm boundary. Typically, this ensures a more productive discussion on your next visit.

Dealing with a difficult or angry person is challenging at best. Yet, by staying focused on your goal and maintaining a calm and professional demeanor, many a bad situation can be turned around.

A nationally recognized speaker, workshop leader and trainer, Dr. Mazie Leftwich, Psy.D has a clinical background in applied psychology with expertise in organizational and personal development. She is Senior Vice President of Contract Land Staff, LLC, where she oversees training and team excellence programs.



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