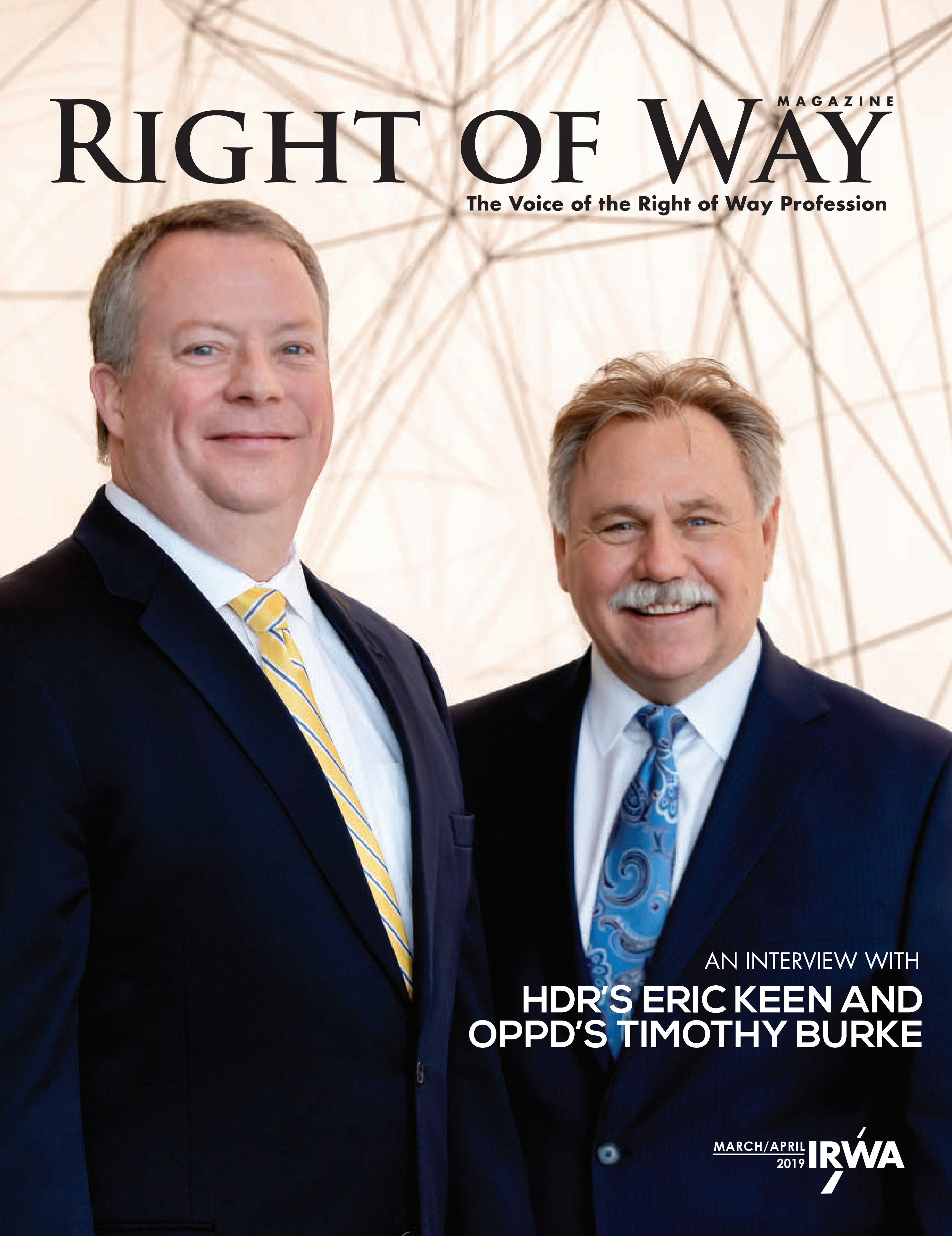
MAGAZINE
RIGHT OF WAY

The Voice of the Right of Way Profession



AN INTERVIEW WITH
HDR'S ERIC KEEN AND OPPD'S TIMOTHY BURKE

MARCH/APRIL 2019 IRWA

RIGHT OF WAY

The Voice of the Right of Way Profession

MARCH/APRIL 2019
Volume 66 Number 2

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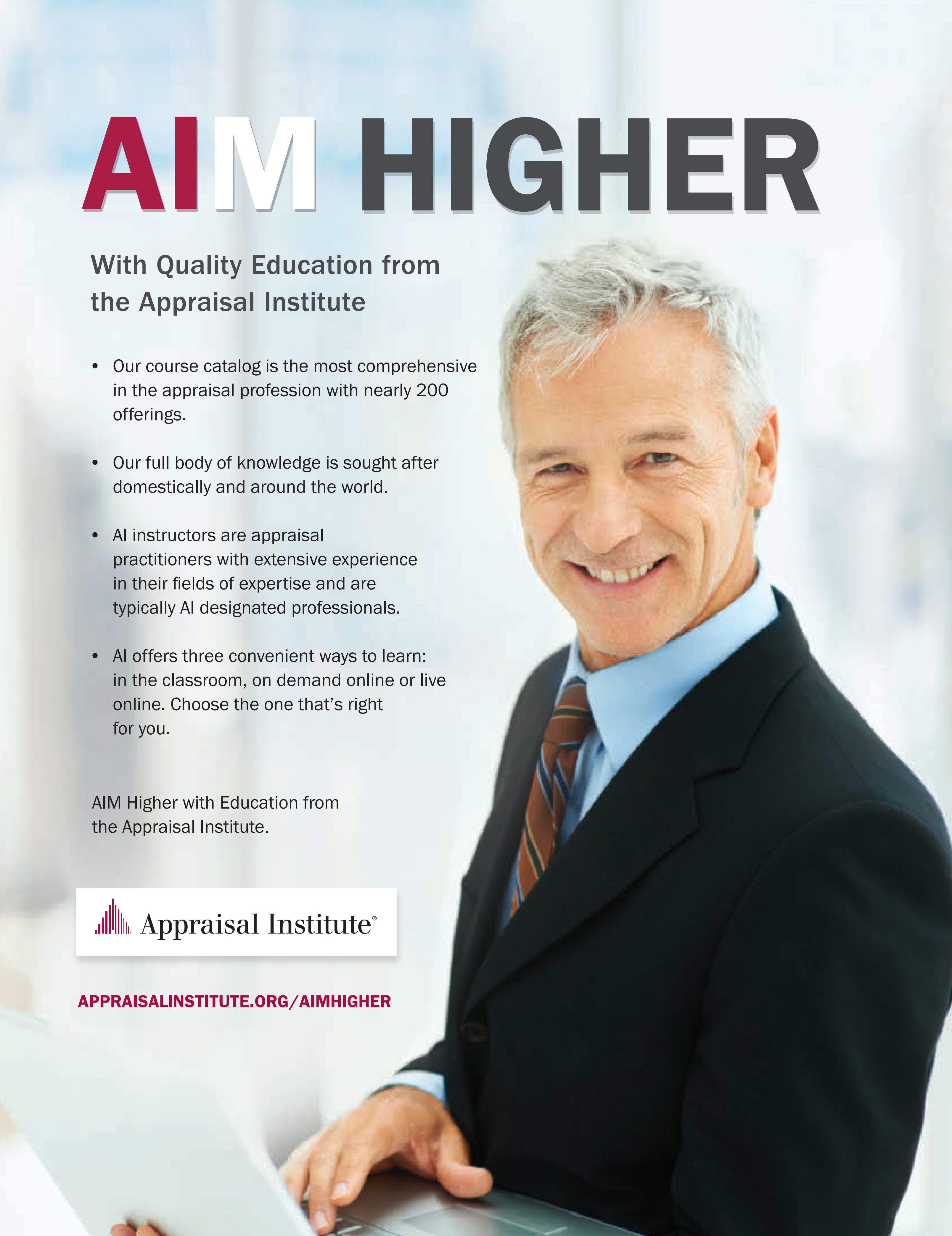
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Jeffrey L. Jones, SR/WA, R/W-NAC, R/W-RAC, R/W-URAC
Hubbell, Roth & Clark, Inc.
Tel: (248)227-0730
jljones.srwa@gmail.com

INTERNATIONAL PRESIDENT-ELECT
Aimie Mims, SR/WA, R/W-AMC, R/W-NAC
HDR, Inc.
Tel: (763) 591-5454
aimie.mims@hdrinc.com

INTERNATIONAL VICE PRESIDENT
Sharon Slauenwhite, SR/WA
Prince Edward Island Dept T.I.E.
Tel: (902) 394-3135
snslauenwhite@gov.pe.ca

INTERNATIONAL TREASURER
Jake Farrell, SR/WA
Omaha Public Power District
(402) 636-3649
jfarrell@oppd.com

INTERNATIONAL SECRETARY
James A. Olschewski, SR/WA
Utah Department of Transportation
(801) 965-4821
jolschewski@utah.gov

CHIEF EXECUTIVE OFFICER
Mark A. Rieck
IRWA
Tel: (310) 538-0233, ext. 140
rieck@irwaonline.org

GENERAL COUNSEL
Bradford Kuhn, Esq.
Nossaman LLP
Tel: (949) 833-7800
bkuhn@nossaman.com

INTERNATIONAL REGION CHAIRS

REGION 1 – CHAIR
Yoli Matranga, SR/WA
Bender Rosenthal, Inc.
(916) 978-4900 ext. 232
y.matranga@benderrosenthal.com

REGION 2 – CHAIR
Teri J. Morgan, SR/WA, R/W-RAC, R/W-NAC
HDR, Inc.
Tel: (512) 431-2742
tmorgan@hdrinc.com

REGION 3 – CHAIR
Penny Rolf, SR/WA
WSB & Associates
(612) 360-1314
prolf@wsbeng.com

REGION 4 – CHAIR
Craig J. Curtis, SR/WA
Diversified Property Services, Inc.
Tel: (410) 707-4622
dpscraig@aol.com

REGION 5 – CHAIR
Beth Smith, SR/WA
Milwaukee Metropolitan Sewerage District
(608) 220-7770
bsmith@mmsd.com

REGION 6 – CHAIR
Judy Jones, SR/WA, R/W-AC, R/W-NAC
Goodwyn, Mills & Cawood, Inc.
Tel: (334) 271-3200
judy.jones@gmcnetwork.com

REGION 7 – CHAIR
Delores J. Oakland, SR/WA
Phillips 66
(406) 531-9216
oaklandrwservices@gmail.com

REGION 8 – CHAIR
Rod Glaves, SR/WA
Niagara Region
(980) 980-6000 ext. 3259
rod.glaves@niagararegion.ca

REGION 9 – CHAIR
Fred L. Easton, Jr., SR/WA
Farnsworth Group, Inc.
(303) 947-9983
feaston@f-w.com

REGION 10 – CHAIR
Jenna Wood, SR/WA
Evolve Surface Strategies Inc.
(403) 960-6051
jenna.wood@evolveinc.ca

INTERNATIONAL REGION VICE-CHAIRS

REGION 1 – VICE CHAIR
Mike J. Flanagan, SR/WA
Clark Land Resources
(858)405-6559
mike.flanagan@clarklandresources.com

REGION 2 – VICE CHAIR
Denise Skinner, SR/WA
NuStar Energy LP
(210) 918-2119
denise.skinner@nustarenergy.com

REGION 3 – VICE CHAIR
Dan Lesher, SR/WA
Great River Energy
(763)445-5975
dlesher@grenergy.com

REGION 4 – VICE CHAIR
Ida Parrett, SR/WA
Delaware Dept. of Transp.
(302) 420-8764
ida.parrett@state.de.us

REGION 5 – VICE CHAIR
Daniel K. Bucan, SR/WA
(412)952-0800
bucandk@mac.com

REGION 6 – VICE CHAIR
D. Wade Brown, SR/WA
American Acquisition Group, LLC
(813)287-8191
wade@americanacquisition.com

REGION 7 – VICE CHAIR
Jim Lingeman, SR/WA
Lingeman Valuation & Consulting/Universal Field Services, Inc.
(360)909-0855
jim.lingeman@gmail.com
(360)909-0855

REGION 8 – VICE CHAIR
James Hardy, SR/WA
Government of Nova Scotia
902-424-2363
james.hardy@novascotia.ca

REGION 9 – VICE CHAIR
Tony Pollack, SR/WA
Percheron
(720)490-4663
tony.pollack@percheronllc.com

REGION 10 – VICE CHAIR
Koby T. Godwin, SR/WA
Alberta Infrastructure
(780)422-0197
Koby.Godwin@gov.ab.ca

INTERNATIONAL INDUSTRY COMMITTEE CHAIRS

ELECTRIC & UTILITIES
Janella Cordova
Overland Pacific & Cutler, Inc.
Tel: (562)304-2017
jcordova@opcservices.com

PUBLIC AGENCIES
Conner McDonald, SR/WA
Bender Rosenthal, Inc.
(916)978-4900
c.mcdonald@benderrosenthal.com

OIL & GAS PIPELINE
Coleen R. Magness, SR/WA
Flairsoft
(405)708-1896
coleen.magness@flairdocs.com

TRANSPORTATION
Sheila Mills, SR/WA, R/W-NAC
LOCHNER
Tel: (254) 715-8864
sheila.mills88@yahoo.com

INTERNATIONAL SERVICE COMMITTEE CHAIRS

ETHICS
Matthew Hansen
Miller Nash Graham & Dunn LLP
(206)777-7502
matthew.hansen@millernash.com

NOMINATIONS & ELECTIONS
Randall Kopfer, SR/WA
Lower Colorado River Authority
Tel: (512) 578-4402
rkopfer@lcra.org

DISCIPLINE COMMUNITIES OF PRACTICE

ASSET MANAGEMENT
Robin A. Upchurch, SR/WA
HDR Engineering, Inc.
(773)867-7278
robin.upchurch@hdrinc.com

ENVIRONMENT
Dhugal M. Hanton, SR/WA
Vertex Resource Services Inc.
(832)588-0674
DHanton@vertex.ca

RELOCATION ASSISTANCE
Leslie Beaird, SR/WA, R/W-RAC
Tierra Right of Way
Tel: (360) 870-0190
lbeaird@tierra-row.com

SURVEYING & ENGINEERING
Todd E. Rakstad, SR/WA
Salt River Project
Tel: (360)870-0190
teraksta@srpnet.com

VALUATION
Gregory Lee
Greg Lee & Associates, LLC
Tel: (704) 957-9575
greghlee@yahoo.com

COUNCIL ON INTERNATIONAL RELATIONS

Mary Anne Marr, SR/WA
Consumers Energy, Co.
Tel: (517) 788-1363
mlandqueen@gmail.com

YOUNG PROFESSIONALS GROUP

Nikkiy R Bestgen
Contract Land Staff, LLC
(619)244-3615
nikkiy.bestgen@contractlandstaff.com

EDUCATION AND CREDENTIALING

PARTNERSHIP FOR INFRASTRUCTURE PROFESSIONAL EDUCATION
Tamara Benson, SR/WA, R/W-URAC, R/W-RAC
Universal Field Services, Inc.
Tel: (918) 494-7600
tbenson@ufsrw.com

CREDENTIALING COMMITTEE
Trevor Martens, SR/WA
Evolve Surface Strategies Inc.
Tel: (403)912-0305
trevor.martens@evolveinc.ca

RIGHT OF WAY INTERNATIONAL EDUCATION FOUNDATION

PRESIDENT
Carol A. Croft, SR/WA
Carol A. Croft & Associates
Tel: (615) 834-2667
cacroft@aol.com

VICE PRESIDENT
Craig R. Poorker, SR/WA, R/W-NAC
Great River Energy
Tel: (763) 445-5980
cpoorker@grenergy.com

TREASURER
Clyde B. Johnson, SR/WA, R/W-URAC, R/W-RAC
Tel: (678) 350-3675
clydebjohnson@comcast.net

SECRETARY
Leslie Finnigan, SR/WA
Universal Field Services, Inc.
Tel: (503)399-8002
lfinnigan@ufsrw.com

CANADIAN RIGHT OF WAY EDUCATION FOUNDATION

PRESIDENT
William D. Giese, SR/WA
Synergy Land Services Ltd.
Tel: (403) 283-4400
billgiese@synergyland.ca

VICE PRESIDENT
Shannon Favaro, SR/WA
FortisBC
Tel: (604) 576-7001
shannon.favaro@fortisbc.com

SECRETARY/TREASURER
Nancy Sinclair, SR/WA
Ministry of Transportation
Tel: (613)-545-4739
nancy.sinclair@ontario.ca

APPRAISAL AFFILIATES

TRUSTEE TO THE APPRAISAL FOUNDATION
Phyllis Lilly, SR/WA
Tel: (804) 721-1274
phyllis.lilly1210@gmail.com

MEMBER, THE APPRAISAL FOUNDATION ADVISORY COUNCIL
Phyllis Lilly, SR/WA
Tel: (804) 721-1274
phyllis.lilly1210@gmail.com


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A GROWING FAMILY

The benefits of reaching out to others

BY JEFFREY JONES, SR/WA

I was working on my column for this edition of *Right of Way Magazine* when I received news of the passing of William (Bill) Reid, SR/WA, who served as International President in 1976-1977. This news brought on reflection and I found myself deleting everything I had already written to start over.

Bill was a long-time member of Michigan Chapter 7, Region 5. Although we developed IRWA's unified higher purpose to improve people's quality of life through infrastructure development, everyone has their own way to relate to and interpret it. I believe Bill carried out this purpose by focusing on providing IRWA members with a quality membership experience. Bill was a great leader, IRWA Instructor and mentor. For me, I will always remember Bill as a patriarch of the Michigan Chapter 7 family. I have many great memories with Bill—from my very first installation as a Chapter treasurer to my memory of Bill as the installing officer when I became President of Chapter 7. Needless to say, he will be missed by our IRWA family.

Through Thick and Thin

I have often heard our members referring to our Association as "our IRWA family," and this description is so true. We may only get together a few times a year and we may even be dysfunctional at times, but in the end, we still come together to be a family. We go about our work lives through the year and when something comes up and we need help, we often turn to our IRWA team members for guidance. This all starts in the Chapter level.

When I was a new member, I was lucky enough to have a boss that insisted on and funded attendance for Chapter events. As IRWA members, we all need to be mentors. We need to reach out and encourage attendance at Chapter events and also encourage participation in the Chapter Committees. Being part of a Committee or Community of Practice will broaden your awareness of the IRWA and provide insight into the Association. The Leadership page of this magazine will give you a list of International Committees and Communities of Practice. Also, check your Chapter newsletter or website for Chapter Committee opportunities.

Get Involved

The next step to growing in the IRWA family would be to get involved in the Chapter executive offices. Step up and become a leader in your Chapter. It is quite rewarding go through the Chapter offices and learn the ins and outs of the IRWA. As Chapter President and International Director, you are the voice of your Chapter at the Region and International level of the Association. You become an important part of the Association and a voting member of the International Board of Directors. Most importantly, you help in providing direction for the IRWA.

Most of us were not born into the right of way profession, but we all adopted the profession and the IRWA. I encourage those of you reading this to participate in your local Chapter meetings, education programs and classes, as well as social events. Through our networking, we develop many professional contacts that we can reach out to for guidance and advice. This is our IRWA family. And if I wasn't already convinced of this, as I was scrolling through social media in the midst of writing this article, I came across a post with the line: "Thanks to my IRWA fam." Take a chance, spend some time at your Chapter's events and become a part of our family. ✪

IRWA HEADQUARTERS

19210 S. Vermont Ave.
Building A, Suite 100
Gardena, CA 90248

Telephone: (310) 538-0233
Fax: (310) 538-1471
Office Hours : Monday through Friday
6 a.m. to 4 p.m. PST

ACCOUNTING

Chief Financial Officer
Fred Nasri ext. 139
nasri@irwaonline.org

Controller and Personnel Manager
Rakhshan Mazarei ext. 131
rmazarei@irwaonline.org

Assistant to the CFO
Emory Peters ext. 137
peters@irwaonline.org

Assistant Controller, Accounts Receivable
Cokie Ganacias ext. 125
ganacias@irwaonline.org

Assistant Controller, Accounts Payable
Courtney Piscitelli ext. 144
piscitelli@irwaonline.org

CREDENTIALING

Credentialing Manager
Francis Vicente ext. 123
vicente@irwaonline.org

EDUCATION

Course Program Coordinator
Nathan Cruzado ext. 124
cruzado@irwaonline.org

Administrative Support
Linna Sok, ext. 147
sok@irwaonline.org

EXECUTIVE STAFF

Chief Executive Officer
Mark Rieck, ext. 140
rieck@irwaonline.org

FIELD OPERATIONS

Director of Field Operations
Tim Drennan (310) 433-9672
drennan@irwaonline.org

Manager Field Operations
Jaime Rose Mathews (613) 809-4070
mathews@irwaonline.org

MEETINGS & EVENTS

Director of Events
Jade Meador ext. 146
meador@irwaonline.org

MEMBER SERVICES

SVP, International Relations
Daniel Stekol ext. 126
stekol@irwaonline.org

Accreditation Program Coordinator
DeOnna Koonce ext. 138
koonce@irwaonline.org

Membership Coordinator
Mariah Carrillo ext. 134
carrillo@irwaonline.org

Assistant to the Controller, Member Services
Sylvia Smith ext. 120
smith@irwaonline.org

PROFESSIONAL DEVELOPMENT

Chief Learning Officer
Deidre Alves ext. 143
alves@irwaonline.org

Education and Instructional Development Manager
Amir Vafamanesh, ext. 142
vafamanesh@irwaonline.org

WEBSITE & TECHNOLOGY

Computer Services Senior Manager
Sergey Yushkevich ext. 127
yushkevich@irwaonline.org

Web and Database Manager
Carlos Gonzalez ext. 136
gonzalez@irwaonline.org

Membership:
Mariah Carrillo ext. 134
carrillo@irwaonline.org

Education:
Nathan Cruzado ext. 124
cruzado@irwaonline.org

Advertising/ Subscription/ Publishing/Editorial::
Ethel Navales, ext. 128
navales@irwaonline.org

RIGHT OF WAY MAGAZINE

EDITORIAL STAFF

Editor
Ethel Navales, ext. 128
navales@irwaonline.org

Creative Manager
Joseph Roman, ext. 145
jroman@irwaonline.org

GENERAL INFORMATION:
info@irwaonline.org
U.S. 310-538-0233
Canada 888-340-4792

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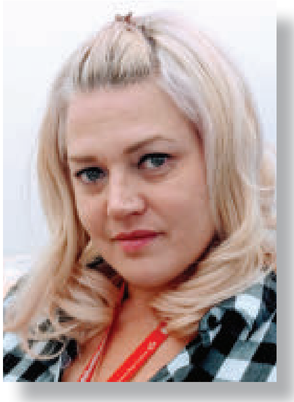
We are excited to announce that **Member Spotlight** is now published in *Right of Way Magazine*, IRWA's official publication. Previously published every month in our Leader's Edge eblast, this column recognizes the dedicated individuals who make up the IRWA by showcasing the talent and expertise they bring to the Association. This is a wonderful place to introduce yourself or to celebrate a fellow member's contributions to our purpose of improving the quality of life through infrastructure development. For more information or to submit a member for consideration, please contact Ethel Navales at **navales@irwaonline.org.**

This month, we spotlight IRWA's Chapter 6 Education Chair, Kirsten Muncy.

Kirsten began her career acquiring rights of way in renewable energy—specifically the wind industry—and quickly realized she wanted to experience as many industries as she could. She went on to work in transportation, natural gas distribution & transmission, and surface oil & gas. She is now gaining experience buying right of way for the electrical distribution industry. She enjoys mentoring new agents and advocating education for all IRWA members (and non- members).

Kirsten is currently working as a Senior Right of Way Agent at United Power, a rural electric cooperative headquartered in Brighton, Colorado. Although she is a new employee, she is already providing valuable insight for process improvement within the land department. Kirsten brings with her the experience she has gained through various companies and industries, and she is able to utilize those skills to advance not only her career, but the land departments she works for.

Kirsten has been involved in the IRWA since 2015 and is currently the Chapter 6 Education Chair. In this role, she plans and supports the Chapter's educational offerings. Kirsten encourages others to participate in education and pursue credentialing opportunities to advance their career and knowledge base. During her first year as a member, she was awarded Chapter 6's coveted Peck /Reisbeck Memorial Award for her commitment to excellence. She is currently working toward her SR/WA and R/W-NAC credentials.



Kirsten is not only interested in supporting the right of way community, she also supports her local community. She volunteers by fostering dogs and cats in her home until they are ready for adoption through Bounce Animal Rescue based in Fort Collins, Colorado. Kirsten also plays roller derby with Boulder County Bombers based in Longmont, Colorado. Kirsten plays under the name Kahn Damnation and her jersey number is 811.

THE IRWA LEARNER SPOTLIGHT SERIES

Get to know the learners from the IRWA professional education community

BY DEIDRE ALVES, M.ED.

Because we highly value the right of way/infrastructure community that makes up our organization, it is critical that we provide a comprehensive learning experience that is second to none. We recognize the hard-earned dollars spent toward advancing your professional development, and for those dollars we have a responsibility to provide you—our right of way/ infrastructure professional learners—with learning that matters, learning that sticks and learning that makes a positive difference to your professional career and the industry you serve.

A mantra of our work with IRWA is, "Everything we do… *everything*…we do for our learner." Together with IRWA member leadership approval, subject matter experts and collaborators, we grow our educational program, design and curate our materials, create memorable learning experiences and train our instructors to see things as the right of way/ infrastructure learner sees them—through the actual eyes of the infrastructure learner.

Learning involves work, discipline and engagement. IRWA Education is about sustained application, enduring impact and knowledge that is housed in long-term memory and not a mere short-lived fascination. Our infrastructure professional learners are at the core of all we do.

Did You Know?

IRWA **U** is your one stop shop for all your IRWA right of way/ infrastructure education needs.

Visit **irwau.org** today.

IN THIS SERIES, WE WILL HAVE THE OPPORTUNITY TO MEET SOME OF THE INFRASTRUCTURE LEARNERS FROM OUR COMMUNITY AND HEAR THEIR PERSPECTIVES ON THE IMPACT IRWA EDUCATION HAS IN THEIR LIVES.

Let's meet **Eeden Lee, RWP, RW-NAC**, the first learner featured in this spotlight series. Eeden is a Right of Way Agent with Bender Rosenthal, Inc. In this role, he acts as a liaison between utility companies and property owners throughout Northern California. Eeden has worked on projects with various utility companies, performing tasks ranging from budgeting and cost analysis to acquiring easement and property rights through negotiation with both public agency and private property owners. Eeden has 16 years of experience in management and analysis, with a successful record of negotiating solutions and communicating concepts in complex fields including land, finance and supply chain. His diverse experience in the areas of team management, marketing, partnership building, project management and training enables him to successfully negotiate in a variety of complex situations. Eeden joined the IRWA in 2016 and was the winner of the 2017 IRWA 40 for 40 Scholarship Award. Recently achieving this RWP designation and RW-NAC certification, Eeden is currently pursuing his SR/WA. In addition to his duties as Assistant Secretary/Treasurer for Chapter 27, Eeden also serves as the Education Chair.

1. The collective purpose of our Association is to improve the quality of life through infrastructure development. How does learning through IRWA classes enable you to fulfill this purpose?

The IRWA classes have brought about a refinement to my communication with my clients, peers and the customers and general public I interact with over the course of my work. The role of the right of way agent is to smooth the communication between the engineers, the agencies and the general public and property owners. The idea of quality of life according to the agency looking to perform the work may differ from the idea of quality of life for the property owners. The role of the land agent is to facilitate the communication between the different parties, reaching a consensus, or more often than not, a begrudging agreement, on what that quality of life ultimately will look like. The courses with the IRWA give me the tools I need to continue to refine my approach with clients and customers.

2. What has been your most engaging and influential class so far and why?

It is very hard to pick the most engaging and influential class. Being able to interact with a live instructor and classroom of peers is invaluable. The right of way industry is a group of professions built on relationships and the classes help create those relationships when students from various chapters come together. For me, it's hard to pick just one class that stands out above the rest. I have enjoyed both the veteran instructors and the instructors new to the IRWA teaching family. The veterans in such classes as law, negotiation and appraisal act like the foundation that the IRWA education is built on. The fresh faces to the teaching ranks such as in the engineering classes and the Social Ecology classes bring new perspectives, new energy and a refreshing take on the industry and where we are heading. All of the classes have great nuggets of information, but the instructors are the real stars of the program. There have been a lot of good ones I've met already and I look forward to meeting more as my education continues.

3. What is the impact of IRWA classes and/or credentialing on your professional life?

The education I have received through the IRWA has helped open doors and make lasting connections throughout the industry. While the certification and credentials may mean very little by themselves to the public, the confidence and knowledge from the coursework have helped immensely from introductions to tense conversations. The classes I took while finishing my RW-NAC have allowed me to identify and navigate issues that a negotiating party may have, helping to break open communication so we can come up with a resolution. Among my peers and colleagues, we have taken our experiences and learnings to create a dynamic dialog amongst ourselves, working to find ways to help each other overcome obstacles and become more effective right of way agents as we continue to grow. ✪

We wish to thank Eeden Lee for sharing his thoughtful reflections on his IRWA learning experience. Our learning program thrives when we share and strengthen the IRWA purpose of improving the quality of life through infrastructure development. If you would like to be featured in our next IRWA Learner Spotlight Series, contact education@irwaonline.org. If you would like to become part of the IRWA professional learner community or continue advancing your own professional development, visit www.irwau.org today.

Deidre Alves is IRWA's Chief Learning Officer.

GREAT LEADERSHIP COMES FROM THE HEART

Connecting to the emotional needs of your people

BY CAROL BROOKS, SR/WA

Great instructors inspire curiosity in their students and create a memorable learning experience. These leaders inspire their team to discover their talents and empower them to aspire to unlimited success. Most importantly, they are great because they lead from their heart. They understand that the heart has eyes the mind doesn't have. The heart sees beyond their team's weaknesses to their strengths.

BECOMING HEART-CENTERED

Those who genuinely lead with their heart—not just their head—are more equipped to connect with the emotional needs of employees. They understand that people have the need to be valued, respected, listened to and involved. By acknowledging and honoring the human element, heart-centered leaders possess the wisdom and capacity to positively transform any organization and run extremely successful and profitable businesses.

Remember that honoring the heart does not signify weakness. True power means listening with the heart and having the commitment and humility to clear all that stands in the way of that heart connection. As Yoda once said, "Do or do not. There is no try." Stay true to a commitment to lead from the heart and you are sure to reap the rewards.

PITFALLS TO AVOID

In our business culture, and society in general, the image or metaphor of the heart is often associated with yielding and kindness—or perhaps even weakness. But the heart is also strong and powerful. It is the driving force of life.

Your ability to lead well is hindered when there is an unbalanced connection with your heart. Embracing a heart-centered approach to business lies in your ability to stop, go inward and reflect on the course of action that you know is the right one, rather than succumbing to external pressures. When leaders fall prey to politics in the workplace, they are letting their egos lead the team. The sad news is that their team can see right through the egocentric strategy. What's the fix?

PRACTICE WHAT YOU PREACH

Leaders must learn to trust their heart. Start with a virtue you admire in a boss, such as the ability to be understanding, giving and caring. Perhaps you admire their positive attitude or desire to make a difference. Do you see that all of these characteristics are products of the heart? Challenge yourself to wear your heart on your sleeve. Be someone who practices what they preach, in all areas of life. Here are a few tips to consider:

Give your people a structure they can lean on.

People like structure and knowing what's expected of them. Since we all spend more time on the job than at home, the team's quality of their work experience, which influences the quality of their lives, is directly tied to the quality of the structure their leader provides. Big-Hearted Leaders will be the lighthouse in the midst of tumultuous corporate storms.

Be approachable.

Big-Hearted Leaders succeed by paying personal attention to their people. They aren't feared or unapproachable. A way to achieve this is by simply smiling. A smile is a form of body language that speaks volumes without saying a word. It demonstrates that as a leader, you are present and committed.

Be generous in your genuineness.

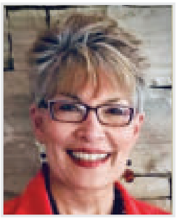
Sometimes, being a leader means being vulnerable. Being open to criticism and willing to acknowledge mistakes is a powerful trait of a leader. And communicating with honesty and integrity, even when it's not easy to do, is a trait of a Big-Hearted Leader. People want and need respect, and they will work hard to earn mutual respect from a leader who is genuine. Create a mantra that will guide you to genuineness, such as "stay real."

Possess (and pass on) enduring enthusiasm.

You've heard the old expression that enthusiasm is contagious. Big-Hearted Leaders possess a consistent, infectious enthusiasm that positively impacts others. Enthusiasm is the fuel that will keep employees' metaphorical gas tanks from reaching empty.

IN SUMMARY

It's the heart that carries the team, helping members realize their purpose and potential. Will you consider growing into a Big-Hearted Leader by providing structure to your team? By staying real? Greeting individuals with a smile? By transforming your team with enthusiasm? When things get tough, exceptional leaders put their full weight on the things of the heart. ✪



Carol Brooks, SR/WA, is owner of Cornerstone Management Skills and a well-known author and lecturer. With 20 years experience in right of way, she is an IRWA CLIMB Certified Lead Instructor and the recipient of the prestigious Lum Award by the R/W International Education Foundation. ©2019 Carol Brooks. Visit www.CornerstoneManagementSkills.com

THE BUSINESS ETHICS FIELD GUIDE

Challenge 2: Made A Promise

BY BRAD YARBROUGH

This series features 13 articles from Brad Agle, Aaron Miller and Bill O'Rourke, co-authors of The Business Ethics Field Guide. *Each article focuses on a common work dilemma, provides real life examples and insightful solutions. For more information, please refer to the cover story in the November/December 2018 issue.*

This article addresses the oft-faced ethical challenge of keeping promises. Indeed, establishing expectations and keeping our word is at the heart of the right of way profession. Many difficulties arise when the bonds of trust between parties are broken. I vividly remember when I assigned an agent to a client's maintenance project involving a short pipeline and a handful of landowners. The agent faced unexpected resistance from owners who recounted the numerous promises broken years earlier during the initial pipeline construction. Though eventually successful in regaining their trust, the outcome could have been reached more quickly and less costly if the pipeline operator had been better about managing obligations in the past. Had they listened to the following advice, I believe they would have succeeded.

We all make lots of promises. Some are small and casual, while others are formal. Some are even long term, personal commitments such as the promise to love, honor and respect a spouse for a lifetime. No matter what the promise is, many involve a degree of uncertainty.

Think about a small commitment like promising to take someone to the ball game, but then it rains. At the time the promise was made, there was little known of the future, yet the commitment was made anyway.

A basic moral principle is that we will live up to our promises. We like to think that our word is our bond. However, in a world of uncertainty, conflicts are sure to arise. Keep in mind that:

- Breaking some promises will be necessary to live a moral life.
- People remember when promises are kept or broken.

Unrelenting Circumstances

Sometimes the choice is straightforward. You had promised to mow your neighbor's lawn, but then you receive a phone call that your spouse was in a traffic accident. Most people will agree that the unforeseen event warrants breaking the promise to satisfy a higher priority. Most of the time, however, the choice is not so clear.

In business, we can oftentime predict changes and plan for them. For instance, if there is a possibility that the price of a commodity can fluctuate, then the contract to supply that commodity should provide for price fluctuations.

13 ETHICAL DILEMMAS

Upcoming articles in this series will take a closer look at each dilemma.

1 **STANDING UP TO POWER**
Someone in power is asking you to do something unethical.

2 **MADE A PROMISE**
Conflicting commitments force you to choose.

3 **INTERVENTION**
You see something wrong. How do you proceed?

4 **CONFLICTS OF INTEREST**
Multiple roles put you at cross purposes.

5 **SUSPICIONS WITHOUT ENOUGH EVIDENCE**
You believe something is going on, but you're not sure.

6 **PLAYING DIRTY**
Achieving justice but by doing something unethical.

7 **SKIRTING THE RULES**
Bending a rule for a better outcome.

8 **DISSEMBLANCE**
Misrepresenting the truth for better outcome.

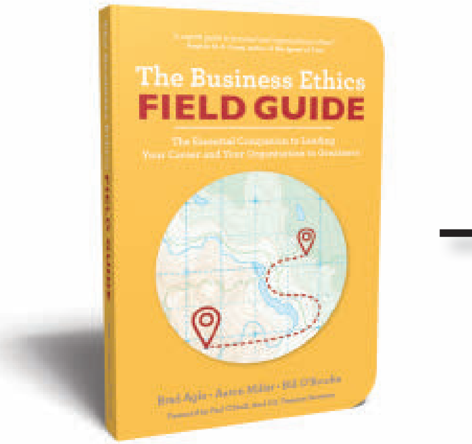
9 **LOYALTY**
Giving up ethical stance to protect valued relationship.

10 **SACRIFICING PERSONAL VALUES**
Living ethically might put burden on others.

11 **UNFAIR ADVANTAGE**
When opportunity exists to wield an unfair upper hand.

12 **REPAIR**
When you are responsible for a mistake.

13 **SHOWING MERCY**
You could grant forgiveness, but you don't know if you should.



Communication helps establish new expectations when the world changes.

Alternate Solutions

Perhaps the other party may not even want you to keep the promise. If an economic panic makes it impossible for you to fulfill an order, then perhaps a customer who is facing the same circumstances no longer wants the product. Communication helps establish new expectations when the world changes.

There may be an alternative course of action that would fulfill the original intent of the promise. You promised to provide financial support for a local youth group and the group is forced to disband because of a crisis at the group's national level. Perhaps giving to another organization will achieve helping the community.

Communication is Key

Don't decide alone. The foreman of a plant shipped a large product order on the day it was promised. The order specified that the shipment be inspected. However, the inspection equipment was broken. The foreman decided to ship the items on the promised date, rationalizing that no product defects had been found in the previous five years.

When his supervisor learned of this, he insisted on calling the customer and explaining what happened. The boss gave the customer the option of shipping the product back or accepting it. If something happened with the product later, the boss promised to fix it. The customer accepted the product, but the foreman should have contacted the customer before unilaterally deciding on the action. Communication is valuable.

In Summary

Here's some guidelines for avoiding or mitigating these issues:

- **Be careful of the promises you make.**

  Try to predict and plan for potential changes. The majority of contract discussions don't merely deal with the straightforward aspects of the contract (quality, delivery and price), but also the impact of potential future changes. It's critical to address where responsibility will fall in the event those changes happen.

- **Don't overbook yourself.**

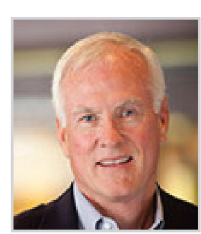
  It's difficult to estimate the time required to meet promises. Ensure there is time for unpredictable developments. Being too busy is seldom accepted as an excuse for breaking a promise.

- **Build good relationships.**

  By honoring your commitments as a matter of course and often going above and beyond the expectations, you will build social capital. That social capital will serve you well when you are faced with breaking or modifying a promise.

- **Moral Imagination.**

  Moral decisions must not consist of just two alternatives. Instead, using your imagination can result in developing a creative solution that satisfies the moral obligations of all the involved parties. While moral imagination doesn't always produce such solutions, you might be surprised at how often thinking through alternatives will lead you to a creative solution. ✪



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

REACHING A NEW MILESTONE

Big things ahead for IRWA's YPG

BY NIKKIY BESTGEN

Contributions by Noelle Hoelsken and Matthew Eckmann

The hardest part of writing an article is the start. Funny that seems to be the hardest part of *anything*. Where to begin? What's next? I know where I want to go, but how do I get involved? These are some of the most common questions I receive regarding the Young Professionals Group (YPG). Similarly, I have been writing this article in my head for weeks, fine-tuning every sentence and replaying it over and over. But even now as I sit with pen to paper, it still feels overwhelming.

A New Horizon

We are fast approaching the 2019 International Education Conference and a new milestone for the YPG. In Portland, we are pushing forward with our desire to become an official Service Committee of the IRWA as we have taken several measures to evolve from the "Group" classification. Following initial discussion regarding this evolution with numerous IRWA members and leaders, we have been met with approval and support. With a leap of faith and a giant step forward, our hope is that YPG will have a solidified place in the IRWA organization.

However, with every great progression comes the necessity of reflection. It is not only important that the YPG reminds our members of how far we have come, but also of our roots and how we came to be.

A Look Back

The origin of the current group has many stories, much like urban legends that you tell around a fire. It was a group in the 90's that saw the need for a youthful voice. Although the group was formed, momentum eventually fizzled out. Some say it was due to a lack of support for the movement. Another version of this story comes from our YP folks in Texas. It is said they adopted the models and methods that they used at the International Conference to create and implement a symposium. That symposium then grew into an organized group for all the Regions before morphing into the international group we have today. Yet another version of the story has humble beginnings in Region 3, where YP's from that Region combined forces with Regions 2, 7 and 8 to cultivate members throughout the Association. They brought the Saturday symposium into the National Forum, established a Saturday night event and created speaking opportunities in designated YP sessions. Since there are some of us from Region 3 and others from Texas, we will let you guess which legend we like to believe.

Whatever our beginning, one thing is for certain: we have learned from our historical challenges and have overcome our faults. The YPG continues to strive for improvement each year by adding more YP benefits, pushing the growth of the group and engaging more YPs in Region leadership and committees. We have enormous support from Chapter and Region leaders, IEC, IGC and vast support from employers throughout all the Regions. It truly is our time to give back, step up to the table, provide ideas, communicate opportunities and contribute to the future of the IRWA.

Opportunities to Support

We have created several amazing opportunities for our group. Last year we established a purposeful sponsor opportunity and CBRE answered the calling. They stepped up and did an astounding job with their sponsorship. They have set the bar high. They were an integral part of our process in the planning and execution of the Saturday night event. They also provided materials for our YPG booth in the Exhibit Hall. They were a trail blazer and we are forever grateful for their support. We have luckily secured our Purposeful Sponsor for the 2019 Conference, Contract Land Staff (CLS). We cannot wait to see what they have in store! Please plan to join in the fun and attend our Saturday night event, which is always open to all conference attendees. Details on time and location to follow soon.

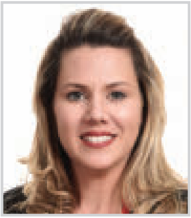
The Saturday event is open for additional sponsorships and we have attached the sponsorship form for your review. Please submit it by April 30th so we can capture your logo(s) early. Your support makes this event possible and we appreciate all our supporters from previous years. We hope to add many more to for 2019!

At the 2018 International Education Conference, we had a drawing at the YPG Exhibit Hall Booth for a full 2019 Conference registration and credit towards an education course. We were so happy with the level of support and excitement for the YPG, as well as all the individuals that stopped by the booth to say hi. We recently announced the winners and we would like to congratulate them again. The 2019 Conference registration was awarded to Derek Lilleberg, a Land Agent with Phillips 66, while the education credit was awarded to David Hall Clark, a Right of Way Agent with Clark Land Resources. We hope to do this again in Portland so please stop by the booth, drop off a business card, get some ribbon swag and start a conversation about YPG.

The Start of Something Great

We believe that this is the year to start YPG involvement at every Chapter level. It is Vice Chair Matthew Eckmann's goal to bring the voice of YPG to every Chapter by then end of his term as Chair in 2020. Specifically, his goal is to have at least one person in every Chapter (yes, I said *every* Chapter) identify as YP and be the voice of their Chapter. Secretary Noelle Hoelsken has taken on the college challenge that targets college students with amazing incentives and discounts for membership. We believe that educating young professionals about the IRWA at an early stage will not only benefit the YPG, but the Association as a whole. Matt and Noelle have taken on some substantial goals, which will not only bring additional voices to the table, but create a starting point for the future YPs by showcasing our industry at the college level. We can become a first-choice career and not a second thought for this next generation of working professionals.

2019 is an exciting time for us. We look forward to the opportunities and are ready for the challenges. We are exploring different uses of technology and different ways to reach more members with our message and purpose. We are becoming more involved in leadership roles on every level of IRWA. We appreciate all who have helped guide our path, all who have mentored and supported us, and all who have truly helped to shape the group we are today. Thank you to our supporters, our believers, our advocates and of course, our Purposeful Sponsors. ✪



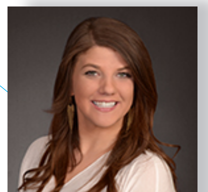
Nikkiy represents CLS in the role of Sales Manager for the Mid-West Region based in St. Louis, MO. Nikkiy plays an active role in the IRWA at the local, regional and national level through her continued role in YPG International Committee, Region 3 and Chapter 37 representation.

Due April 30, 2019

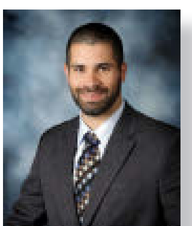
IRWA's 7th Annual Young Professionals Symposium

IRWA's Young Professionals Group brings together right of way professionals who are passionate about the industry and eager to become more actively involved in the Association. As a sponsor of IRWA's Young Professionals Symposium, you will gain unique access to these high-energy practitioners while demonstrating your support of tomorrow's leaders. This year YPG is especially honored to work toward supporting our newly established Purpose! Come join us!

June 8-12, 2019
Hilton Portland Downtown
Portland, Oregon



Noelle's Warm Welcoming Smile!



Derrick's your 2017 YP of the Year!

Matt Is Ready to Help!

The YPG has come so far this past few years. We are hosting unique and invovative speaking sessions. We are grateful for our humble roots and excited for our next steps. Become a part of this movement! Get your company involved! Be a part of our new purpose! Sponsor today!

SPONSORSHIP OPPORTUNITIES

Purposeful Sponsor - $5,000 - CLAIMED!!

Your Exclusive sponsorship includes these benefits:

- Your logo in the 2019 Annual International Education Conference Program
- Your logo in Right of Way Magazine in the September/October issue
- Your logo on YP eblast promotions
- Your logo on signage at all YP Education Sessions
- Your logo featured on YP Information in Conference Bags
- Your logo exclusively featured on all bar signage at YPG Networking Saturday Reception at the Punch Bowl Social
- This sponsor receives first access to YPG events and information. Our booth, all our communications and all our media campaigns will reference appreciation to this sponsor. This sponsorship is from June 1, 2019-May 31, 2020 and will receive an application reference in conference 2020.
- This sponsorship is a unique opportunity to be a primary purposeful participant in the growth of the YPG. Your company will be first and center! Your logo and name is at the front! Your marketing individuals can participate in our videos if they choose! You will be more of a partner in our growth than just a sponsor!

Advocates - $700

Your sponsorship includes these benefits:

- Your logo in the 2019 Annual International Education Conference Program
- Your logo in Right of Way Magazine in the September/October issue
- Your logo on YP eblast promotions
- Your logo on signage at two YP Education Sessions
- Your logo featured on YP Information in Conference Bags
- Your logo featured on signage at YPG Networking Saturday Reception at the Punch Bowl Social
- Certificate and Media recognition during Conference on Facebook/Twitter/Instagram etc.

Believers - $450

Your sponsorship includes these benefits:

- Your logo in the 2019 Annual International Education Conference Program
- Your logo in Right of Way Magazine in the September/October issue
- Your logo on YP eblast promotions
- Your logo on signage at one YP Education Session
- Your logo featured on YP Information in Conference Bags
- Certificate and Media recognition during Conference on Facebook/Twitter/Instagram etc.

Supporters - $300

Your sponsorship includes these benefits:

- Your logo in the 2019 Annual International Education Conference Program
- Your logo in Right of Way Magazine in the September/October issue
- Your logo on YP eblast promotions
- Your logo featured on YP Information in Conference Bags
- Certificate and Media recognition during Conference on Facebook/Twitter/Instagram etc.

MAKE CHECK PAYABLE TO IRWA

PLEASE MAIL CHECK TO:

Matthew Eckmann
City of New Braunfels
550 Landa Street
New Braunfels, TX 78130
meckmann@nbtexas.org

THERE CAN ONLY BE ONE! **BE THAT ONE!**

Contract Land Staff North America

IRWA Young Professionals

IRWA'S PARTNERSHIP WITH LIA

BY MARK RIECK
IRWA Chief Executive Officer

In July 2017, IRWA began officially endorsing LIA Administrators & Insurance Services. This partnership offered IRWA members a portfolio of insurance services and LIA was able to offer Chapter workshops on Risk Avoidance, all at no cost to the Chapter. Of course, the benefits of this collaboration didn't stop there.

Many IRWA members have attended meetings where Peter Christensen, LIA's General Counsel, addressed liability prevention for real estate valuation professionals. Peter has also contributed a number of insightful articles to *Right of Way Magazine*.

And what about LIA's experience throughout this partnership? After nearly two years of activity, I thought I would ask Bob Wiley, President of LIA Administrators & Insurance Services, about our membership's response to LIA's insurance plans.

Mark Rieck: What was our members' initial reaction to your endorsement?

Bob Wiley: We were gratified at how quickly many of your members contacted us after your initial mention of the endorsement. For an Association of almost 10,000 members, the response we received exceeded our expectations. Obviously, your membership is quite in tune with their Association.

Mark: That's great to know. Were you able to quickly address their insurance questions and were you surprised by any of their requests?

Bob: We learned very early on that many of them have been looking for professional liability coverage and were struggling to find available insurance markets. Having been involved in the professional liability insurance marketplace for over 40 years, I was surprised to hear of their problems. Of course, E&O coverage has always been available, but what it comes down to is finding the appropriate coverage at a fair price.

Mark: Why would our members have such difficulty finding liability insurance protection for their services?

Bob: Your members are involved in services that appear to have a greater liability exposure to the insurance layman (such as relocation services, takings and oil & gas projects). However, when you consider the Federal, State and/or municipal guidelines they work under and must adhere to, their actual liability exposure can be properly addressed and at a fair premium.

Mark: So are the premiums very expensive?

Bob: Rates vary depending on the type of work the member does, but for the majority the premiums are very reasonable. The problem is that most members have never had to purchase this type of insurance before, so it can be intimidating for first time buyers without proper guidance from a knowledgeable agent.

Mark: Are there certain IRWA services that are uninsurable?

Bob: In talking to your members we were led to believe professional liability for relocation services were uninsurable. But we didn't find that to be the case and have been able to offer the coverage under our standard program.

Mark: Where have you been able to make the biggest impact in premium savings for our members?

Bob: Many of your members are required by their clients to secure general liability insurance (which is different than professional liability) and/or bonds for a certain projects and assignments. Quite rightly, the member went to their local insurance agent who did their best job and placed the risk. However, the advantage of the program is our familiarity with the right of way risk and having a partnered insurance carrier who also understands the niche. Just like the specialized services your members provide, we are able to provide customized coverage for the benefit of our right of way client.

Mark: Beyond E&O, general liability and bonds, what other insurance coverage can LIA assist our members in obtaining?

Bob: Like nearly all self-employed professionals, many of your members must buy health insurance for themselves and their families. They tell us that it is becoming more and more difficult to obtain comprehensive coverage at an affordable price. We have an excellent website (www.liahealthplans.com) that IRWA members can utilize. By answering a few questions, they can obtain rates and benefits for the plans that are offered in their area. As a result, we have been able to save many clients quite a bit on their premiums while still providing them excellent protection.

Mark: That sounds great, but as we all know, some online experiences can be confusing to navigate and understand. What kind of additional assistance is available for members if needed?

Bob: The site also has a live chat feature and a toll-free number if the member needs more information. One thing for sure is that we will never rely on automated phone and menu driven answering systems. A real, live person will always answer our phones and connect the caller to someone who can answer their questions and provide the help that they need.

Mark: I am very happy to hear you received such a positive response from our membership. We at headquarters have not received any complaints and look forward to building on the excellent beginning you have described. ✪

4 WAYS TO ATTRACT A DIVERSE WORKFORCE

BY JEREMY ESKENAZI

Is your team diverse? Do you invest to ensure your team reflects the needs and attitudes of your customers and clients? Does your workforce mirror the communities your employees live, work in and provide services to?

When a lot of people think about diversity, they focus on gender, ethnicity and age. These are important to keep focused on, but there is another kind of diversity that is often overlooked. This is diversity of thoughts, backgrounds and experiences. If elements of the latter are missing in your organization, it's likely that everyone thinks the same way. As such, new ideas, new ways to problem solve and innovation may be stunted. When you have employees who *only* follow the boss, then the only ideas you have are from that one boss alone.

MIXING IT UP

While there is no "one size fits all" playbook for attracting diversity, you will want to make your organization attractive for diverse talent. In order to effectively attract diverse candidates, here are four success practices that have been effective:

1

REFERRAL PROGRAMS.

If you have great talent on your team who are highly engaged and doing a great job, they likely have similar friends. Consider offering incentives with shorter payout times and grant immediate impact to ensure your team is helping to attract people who are a good fit. You can also have them act as ambassadors in alumni groups, associations or clubs they are a part of.

2

EARLY CAREERS/ UNIVERSITY STRATEGY.

Attracting talent right out of school is often a strategy for helping shape the career of generally younger people, but is also a great place to find diversity. A strong university recruiting strategy is a terrific way to help create a diverse team because you can more easily target diversity on a university campus through student clubs and organizations. Setting up early career development programs and considering those in majors that are not what you'd traditionally look for are also good for your employer brand, and ensures your talent can develop with your business.

3

CULTURAL AWARENESS TRAINING FOR HIRING MANAGERS.

We know that this group often needs help to build relationships. While it's unwise to *force* training on managers (and that often backfires), integrating training that helps them identify unconscious bias is an area of learning and development that has taken off in recent years and has been effective in many organizations.

4

WORKPLACE PREPAREDNESS.

It is one thing to say you want diversity, but actually setting up your physical space and your benefits program to accommodate it is another. Does your office have things like nursing stations? Do you offer extended Maternity/Paternity Leave and are your Human Resources policies inclusive for Gay, Lesbian, Transgender, etc. individuals? Do you have prayer rooms facing the correct direction and do your gyms have areas that are exclusive for women? How is your pay equity based on gender? These are things that can help attract top talent and show you will welcome them as equal employees without singling them out or making them feel that they won't find a sense of belonging at your company.

THE RIGHT FIRST IMPRESSION

In addition to finding the right candidates, diversity brings several important things to your organization. Imagine if the people who applied for your job postings came in for an interview and didn't see anyone who looked like them, or if all the people who interviewed them asked the same questions in the same way. They would likely not be very interested in continuing the discussion.

Your employer brand is only as good as what employees and candidates will say about you when you're not in the room. Taking the opportunity to show you are a progressive company that is investing visibly in many areas of diversity will be obvious from their first encounter with you.

APPEALING TO A YOUNGER GENERATION

While it is generally true that almost everyone values diversity, you may have noticed that many in younger generations are very vocal about their values. Moreover, many of them expect diversity and can be very outspoken about how much it matters to them in a workplace.

By bringing in a diverse group of people to your organization, you will have access to broader networks which will spur further diversity opportunities and all the benefits it brings. Think of how much more likely it is that diverse people who enjoy working at your company will introduce you and advocate for you in their circles.

THE BENEFITS OF DIVERSITY

While the business reasons for diversity are compelling on their own, many jurisdictions also have regulatory requirements that you have to consider as well. It's not just laws for the jurisdiction you operate in; it could be laws necessary to sell to your customers. For example, if you sell to the United States government, you are required to submit an affirmative action plan to improve diversity at the organization and provide updates during the term of the contract. There is also an audit process that ensures that organizations are keeping to their plans.

Most importantly, your organization should invest in diversity because it's not only the right thing to do, but you will get much better business results! Don't let regulations drive your diversity efforts. The best way to improve diversity is to be truthful.

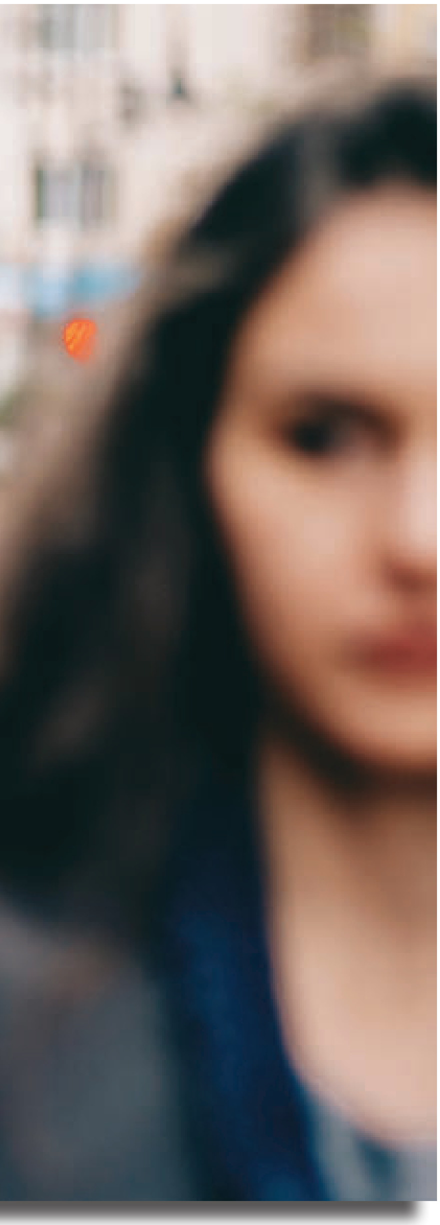
No matter how many smiling, ethnically diverse models you may hire to represent your brand, or false testimonials you may really want to post—it is so easy to spot a workplace that does not value diversity. The truth always comes out. Give your organization the best competitive advantage you can by welcoming diversity into your team, and celebrating it in real ways. All types of diversity bring something new to the table, and who doesn't need fresh ideas? ✪

Jeremy Eskenazi is an internationally recognized speaker, author of RecruitConsult! Leadership, and founder of Riviera Advisors, a boutique Recruitment/Talent Acquisition Management and Optimization Consulting Firm. For more information on Jeremy Eskenazi, please visit: www.RivieraAdvisors.com.

CITIZENS AWAKENING

The Paradigm Shift

BY JAMES A. KENT AND GLENN WINFREE, SR/WA



In August 2018, the Global Energy Institute of the U.S. Chamber of Commerce (USCC) published a report called, "Infrastructure Lost: Why America Cannot Afford to 'Keep it in the Ground,'" which is a well-designed study of one statewide ban on fracking and 15 energy infrastructure projects. These are projects that have been stopped, delayed, or canceled by a movement called *Keep It in The Ground* (KIITG). The report studied 15 of the hundreds of infrastructure and development projects that are under assault by well-organized and coordinated national opposition groups. It explains, "Furthermore, the projects that are part of this analysis represent only a snapshot of the countless energy activities under threat… the estimates set forth in this analysis should be considered a conservative snapshot of the potential economic harm posed."

The report goes on to list the financial losses for the 15 individual projects. The losses were calculated in the time period between January of 2010 and August 2018:

- Costs of Projects Lost: $57.9 billion
- Gross Domestic Product Lost: $91.9 billion
- Tax Revenue to Local and State Governments Lost: $20.3 billion

The data from this study should be a major concern to company CEOs, their boards of directors, shareholders and investors. Their concern should be especially focused on the costs of projects lost because of organized opposition to the 15 projects. While the losses reported are staggering, a serious and unexpected development was uncovered. In reading the study, it is now clear that the methods historically used for gaining project approval have not been working over the last 10 years. This is obviously a serious concern for infrastructure project owners and investors, and not just for today but for the future as well.

A Dated Method

Infrastructure and development projects have been relying on old paradigm methods to secure project approval in an environment that is changing to a citizen-empowered world. In the old paradigm, governments, courts and legislatures could be expected to favor resource development decisions simply as default decisions. This is an expectation that is embedded in the thinking and structure of most corporate approaches, despite its failings. Here is a common corporate path and why these tactics do not achieve their goals in our changing environment.

1. **Project uses public relations to convince the public that the project is necessary and good for them.**

   Why this no longer works: *This form of one-way communication has become ineffective.*

2. **They mobilize lawyers to interpret the laws in their favor and prepare for litigation.**

   Why this no longer works: *This sets up a non-productive "reaction and counter action" scenario.*

3. **Projects hire lobbyists to persuade governments that their corporate model is still what's best for everyone.**

   Why this no longer works: *Governments, especially state and local, are more and more focusing on concerns voiced by the people they serve.*

4. **They employ eminent domain whenever there are delays or challenges.**

   Why this no longer works: *A too-frequent use of this option is currently causing regulatory and legislative re-evaluation of this practice in some jurisdictions.*

5. **They expect the PUCs to favor project proponents as a final authority**.

   Why this no longer works: *This no longer is true in all cases.*

Prior modes of operating in today's environment are costly, as evidenced by the tens of billions of dollars forfeited as well as the loss of company effectiveness through over-reliance on these methods. Moreover, reliance on these methods leads to a loss of company goodwill, which has long-term consequences from the willingness of citizens to fight back.

The previous five items often create public reaction, and this type of reaction creates power shifts. A clear example of this power shift is evident by the 42 States which now have restrictions of some type on the use of eminent domain. (See the National Conference of State Legislature report here: http://www.ncsl.org/research/environment-and-natural-resources/eminent-domain-legislation-and-ballot-measures.aspx.) If eminent domain continues to be used *carte blanche* in place of collaboration, it is likely that we will see eminent domain use being diminished or even disappearing in some jurisdictions over the next decade. This alone is alarming.

Social Ecology

Society—and the communities within which these projects must succeed—are continuing to change. Our team has been writing about these changes for the past decade, having published 34 columns in *Right of Way Magazine* under the banner, **Social Ecology: The Science of Community.** The major paradigm shift we have been tracking and writing about has been the emergence of how people view and relate to their geographic place, not only in the United States but world-wide. This recent recognition of the strong relationship people have with their geographic place has been some 20 years in the making. It has revealed that power is the ability of the individual to directly participate in, predict and control their environment in a manner that maintains or improves their well-being and that of their neighbors.

This definition highlights how important place-based relationships are and that no solutions generated solely by a corporation will now reliably deliver projects. Economic arguments and project talking points fail in the face of local quality of life issues. The sense of national loyalty that drove the old paradigm, such as people recognizing that oil and its products are good for all of us, no longer works. Yet we still see this approach in ads for energy development and delivery.

By not understanding this power shift to the people in their local geographic communities, the necessity of understanding and working with the local issues goes unaddressed. This neglect has allowed issues to be taken away from local communities by opposition groups and then nationalized into anti-development movements. The USCC Report and prior *Right of Way Magazine* columns detail the results of this nationalization process. Formal opposition groups have quite effectively trained over 3,000 project opponents that can be fielded over night to any place in the country to oppose projects. This unified approach, which is very effective, puts the individual efforts of separate companies at a disadvantage. There does not appear to be any coordinated or unified effort for companies to pool their thinking, strategy and resources to address this nationalization movement. If not addressed, the $417 billion investment projected for energy infrastructure noted in the USCC Report will either be spent on disruption-related costs or will never be spent at all.

Shifting to Prevention

In order to combat this nationalization of local issues, several things must happen. Infrastructure companies must operate in a manner that maintains the project issues at the local level. Focus and activity need to be shifted from the national scene to local arenas. If people are locally engaged to produce benefits or to manage impacts to their benefit, it is very difficult for outside groups to get a foothold. It is when there is no local empowerment of individuals and their communities that outsiders can capture the issues, take them national and control the discourse. The reverse is true as well—issues kept at the local level through local engagement do not become disruptive, thereby saving time, money and the project itself.

The new paradigm for infrastructure companies is to think "issue prevention." Social Ecology is fundamentally an issue prevention process that is available to anyone that wants to work with people up front in their environment to produce positive results for both the project and the local citizens. Central to this approach is to avoid meeting formats, which are polarizing by their nature, and to enter into the routines of local people. Social Ecology provides that ability

Fortunately, some corporations are now recognizing and accepting that citizens and communities are true stakeholders with a critical role to play.

to keep issues local. It is interesting to note that the structure for operating preventively is already available to companies through right of way agents that function at the local level. The only other known organizational structure designed in this manner is the US Forest Service. It has the district ranger at the local level providing productive and extremely valuable community interface to prevent citizen issues from becoming disruptive.

Valuable Right of Way Agents

The right of way agent's function, if strategically organized in a more open and creative manner, can have startling effects on the bottom line for investors and companies via empowered community engagement. As mentioned above in the USCC's Report, $57.9 billion of corporate money has been lost to organized opposition. What if a minor percentage of that lost money was committed up front to the right of way teams who will work to resolve and prevent issues with communities of impact? For the projects of the USCC Report, keeping the projects out of disruption by committing $5 billion would have saved the project owners over $53 billion—effectively, a return of about 10 times the invested funds. The development money saved, as well as the overall profits from an operational project, would accrue to the project owners, shareholders and investors. And this would also be a huge win for the community, as well as the corporate stakeholders. In fact, the benefits would be even greater, as companies would enjoy the long-term gains associated with an improved reputation.

In addition to the potential for important cost savings, there is another significant benefit of the preventative or Social Ecology approach. It is effective in helping to avoid the multi-year delays that are project killers in many situations. The initial portion of the approach does require time to complete, but it can take place at the same time as other in-house early phase activities. In contrast, the extended delays frequently generated by opposition groups, can bring a total stop to the project for years. This is never a good option for a project owner or their investors.

The True Stakeholders

The old paradigm insists that spending money trying to save a project is always practical and successful. The facts no longer support that argument in today's project environments. However, one well-recognized fact is that it can be a difficult internal process for companies to justify spending money on prevention. If projects are to survive, the seemingly radical way of preventive thinking will have to rise within corporations to the level of new policy to address essential changes in management strategy and operations. And for the benefit of the project owners and their projects, it needs to happen sooner rather than later. Company goodwill—always tough to earn and easy to lose—will either benefit or suffer from how this is done. Either way, it is increasingly critical to lasting success and profitability when delivering infrastructure.

Fortunately, some corporations are now recognizing and accepting that citizens and communities are true stakeholders with a critical role to play. From the perspective of land agents, their understanding of the new paradigm has been rapidly developing in recent years. Over a decade ago, IRWA took its first steps on the path to recognizing Social Ecology as an important tool for members to utilize and further the Association's mission to improve people's quality of life through infrastructure development. That initial step began the transition into the preventive paradigm for project development and management. An important aspect of the transition is that IRWA's individual members are becoming, through their experience and training, the world's largest Social Ecology resource.

And now that project owners have this valuable resource available, they can facilitate *their* transition to the new paradigm and join citizens and communities in the brave new world of real collaboration and successful projects. ✪

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

Glenn Winfree, SR/WA is a Land Agent with Duke Energy with over 30 years of real estate experience. He is also the former Chair of the International Electric & Utilities Committee and an active member of the Carolinas Chapter 31.

BUILDING AN INNOVATIVE PARTNERSHIP

An interview with HDR's Eric Keen and OPPD's Timothy Burke

BY ETHEL NAVALES

As IRWA continues its higher purpose of improving the quality of people's lives through infrastructure development, we recognize that the heart and strength of this Association lies with our members and the companies who support them. Two such companies are **HDR**, an employee-owned firm specializing in engineering, architecture, environmental and construction services, as well as **Omaha Public Power District (OPPD)**, a public electric utility in the state of Nebraska.

With both companies headquartered in Omaha, it's no surprise that HDR and OPPD have been collaborating on projects since the 1950s. It's also no surprise that with such similar work ethic and goals, this partnership has only grown stronger over the years. By working together, OPPD and HDR have experienced success with a number of notable right of way projects, including the Midwest Transmission Project.

We were given the opportunity to speak with HDR's Chairman and CEO, **Eric L. Keen**, as well as OPPD's President and CEO, **Timothy J. Burke**. Together, these inspiring leaders open up about their industry expertise and the importance of healthy partnerships. Their experience working with one another shows us how a strong collaboration can truly work to help any company reach its end goals.

Tell us about your professional career and how you ended up as CEO of your company.

Timothy Burke: I first got involved in right of way work at OPPD in the siting of transmission lines and substations. I was involved in redefining the OPPD stakeholder process, where we utilized the expertise of HDR in finding the best practices in right of way acquisition and stakeholder processes. I had been a vice president with OPPD for approximately 18 years before I became the President and CEO.

My role changed over those first 18 years by having accountability over customer service, transmission and distribution, regulatory and governmental affairs, corporate communications and human resources. I believe that my experiences in these areas of the organization prepared me for the role of President and CEO.

Eric Keen: I started my career as a bridge engineer and eventually managed complex projects for our clients. My career progressed from managing projects, to offices, to many other parts of our business. This provided me with the experience to become CEO.

Throughout my career, I've learned the importance of building talented teams of professionals who are aligned with our clients and our communities–such teams provide impactful projects. The importance of teams and partnering with clients to deliver great work is what our business is all about.

Describe what your company does, as well as your company's goals.

Eric: HDR provides world-class consulting services that have a profound impact on people's lives. While we are most well-known for adding beauty and structure to communities through high-performance buildings and smart infrastructure, we provide much more than that. We create an unshakable foundation for progress because our multidisciplinary teams also include scientists, economists, builders, analysts and artists.

We are entering our second century of business, serving clients from more than 225 offices around the world, with active projects in more than 40 countries. HDR's Real Estate and Right of Way group has grown to nearly 200 real estate and right of way professionals throughout North America who specialize in infrastructure, renewable and energy corridor projects.

Our vision for the future is to continue our philosophy as an employee-owned company: to bring talent into the HDR family around the world. In the past 20 years, we have acquired more than 60 companies and with it, unrivaled talent in transportation, architecture, power and energy, water, federal, construction engineering and inspection staff, as well as scientists tackling whatever challenges lie before us.

Timothy: Nebraska is the only state in the nation served solely by publicly owned utilities, such as municipal utilities, electric cooperatives and public power districts. As a public electric utility operating since 1946, OPPD has undergone transformation in recent years. This includes adding renewable energy resources, creating a strong environment for economic development, spurring innovation and implementing cost-saving practices.

For over 100 years, OPPD has provided benefits such as local control (Nebraska utilities are overseen by publically elected boards, appointed utility boards, rural cooperatives and city councils), reliability and affordability.

OPPD's vision is to lead the way we power the future, and to do that through our mission of providing affordable, reliable and environmentally sensitive energy services to our customer-owners. OPPD is currently providing 40 percent of its retail energy from renewable resources and that will be increasing in future years. OPPD also has electric rates that are below the regional and national averages with top quartile reliability.

What are your priorities as CEO and what are some key reasons you wanted to take on this responsibility?

Eric: My focus is on helping our employees deliver great services to our clients that impact our communities, and to continue to build the foundation for our employee-owned company. I took on the role of CEO because I knew it meant working with great people as part of a very unique employee-owned company. My aim is to help pass on this opportunity to our next generation of employee-owners.

Timothy: I took on the role of CEO because I really wanted to make a difference in changing the manner in which our company provided and delivered our electric service to our customer-owners and elevate our role in

the communities we serve. As for our priorities, the OPPD Board of Directors and Senior Management have developed 15 Strategic Directives that drive OPPD's priorities and focus.

What is it about this work that you feel passionate about?

Timothy: My passion lives in OPPD's core values, which focus on our desire to serve, our honor for our communities and the mindset to care for each other. I know that we have a job to do to make sure that our power is as reliable as it can be, but we also want to make sure that we treat our customer-owners as partners in the process. We must continue to provide education, get their input and find "win wins" for everyone involved.

Eric: Similar to Tim, my passion also aligns with my company's core values. Right of way acquisition and utility relocations are two of the most challenging aspects affecting project delivery for our clients. We are able to provide early consulting services that help clients deliver their projects more cost effectively and often in shorter timeframes.

When and how did the partnership between OPPD and HDR begin?

Eric: HDR was involved in a partnership with Gibbs-Hill (GHDR) for the design of large OPPD generating plants in the 1950s and 1970s (North Omaha Station, Fort Calhoun Nuclear Station and Nebraska City Station Unit 1). After those large projects, HDR continued to serve OPPD on small project assignments through the 1970s and 1980s. Starting in the early 1990s, HDR's involvement with OPPD really started to grow. HDR began serving as OPPD's Owner's Engineer on its large power generation projects, specifically OPPD's last six generating units (Sarpy County Station Unit 3, Sarpy County Station Units 4 and 5, Cass County Station Units 1 and 2, and Nebraska City Station Unit 2). Recently, HDR has served OPPD on large power delivery projects like the Midwest Transmission Project and Elkhorn River Valley. Over the last 25 years, HDR has served OPPD on all types of projects in all types of market conditions.

Timothy: As you can see from those examples, OPPD and HDR have had a long tenure of relationship and partnership and have worked on projects ranging from generation, transmission and distribution to environmental projects, as well as recreating our stakeholder outreach process. Since we are headquartered locally, our collaboration benefits the local communities we serve.

Can you recall a particularly memorable project that HDR and OPPD collaborated on? Please describe.

Timothy: There are a couple of projects that stand out for me. The first is the transmission line from OPPD's Nebraska City plant to the City of Lincoln, Nebraska. It was the largest transmission project OPPD has undertaken in over 10 years.

The other project that comes to mind was a substation siting and respective transmission modification and siting to support increasing load in our growing Sarpy County region.

Both projects were very successful and finished within budget and on time. Most importantly, these projects utilized our newly recreated stakeholder process which resulted in few, if any, condemnations or customer concerns.

Eric: For me, the Midwest Transmission Project stands out. HDR provided several easement acquisition services for 157 parcels and a host of other right of way services related to this project. The 44.6 mile, 345 kV transmission line runs between Sibley, Missouri and Nebraska City, Nebraska. The project began as a partnership between Kansas City Power and Light in 2010. The line is an important part of the region's electrical system. It helps relieve congestion on the electric grid, enhances security and advances renewable energy in the region.

Following the routing and siting process, OPPD selected HDR to provide engineering, environmental, stakeholder and public engagement, right of way and construction services. The project energized on Dec. 13, 2016.

How has the partnership between HDR and OPPD helped your company in reaching its goals?

Eric: As employees, we understand that our responsibility is to provide great service to our clients. OPPD is a client that has helped us build a strong power practice over the years, and we are fortunate to continue to support them as their business needs change, as well. We understand we must support them to deliver reliable services for customers.

Timothy: Through this partnership, OPPD was provided with the best practices around the world in stakeholder engagement. In addition to assisting us on projects, HDR enlightened us on new ways of engaging customers and communities. Ultimately, they have assisted us in carrying out our vison, mission and core values.

What do you think are some of the biggest benefits of partnerships in general?

Eric: Collaboration and innovation are what defines the HDR culture, and we believe we are poised to make some of the most significant, positive changes our clients have ever experienced, both on a local scale and a large scale-basis. We work together to collaborate, to challenge the status quo and to challenge one another to improve and innovate on how to provide electrical services to our communities.

Timothy: The biggest benefit to me is that as we create project successes. We learn from each other, and each of us can improve in our own specific way. That is a sign of a great partnership.

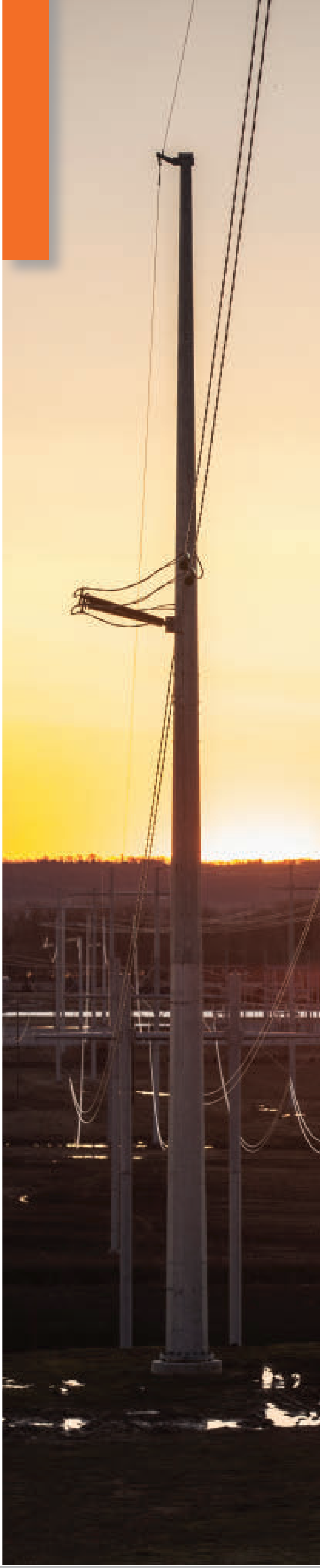
What can be done to improve these collaborations?

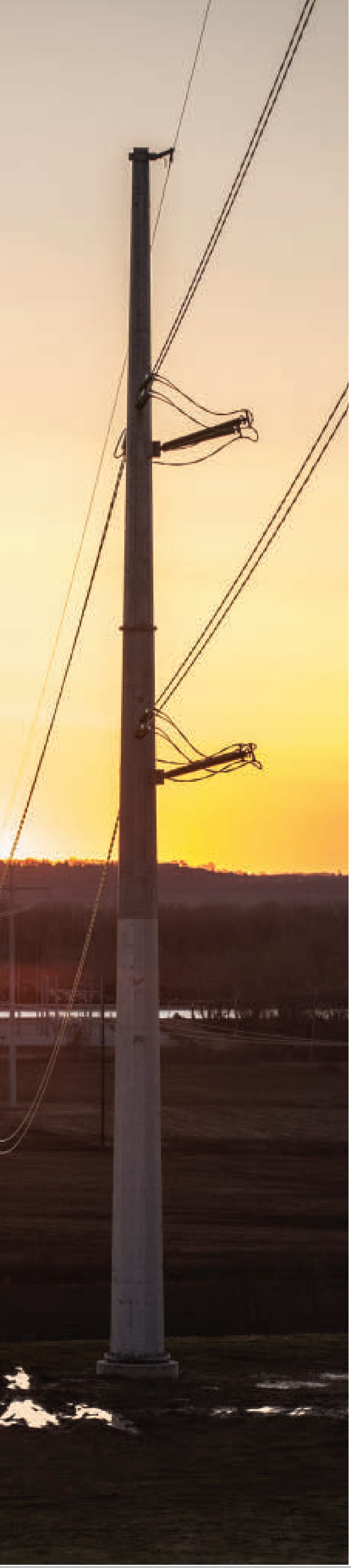
Timothy: I believe that both parties need to be open to learning and willing to change their status quo. We need to be committed to improve our strategic agility.

Eric: Additionally, technology continues to evolve both in how we generate power and also in how we deliver services. We see opportunities to bring experts to the table with different perspectives and expertise, all to improve our power grid to be more efficient and resilient.

What is your company's involvement with the IRWA?

Eric: HDR has been a longtime supporter of the IRWA. We were honored to be the host sponsor for the 2017 International Education





Conference in Anchorage, Alaska, and to be named the 2018 Employer of the Year for Companies with 20 or More Employees by the IRWA.

Our real estate and right of way professionals are proud members of the IRWA, many of which have obtained certifications and designations through IRWA's education and credentialing program. Our employees hold IRWA leadership positions at the local, regional and international levels and as technical experts regularly present on the latest right of way trends, tools and innovations affecting the industry today. In fact, one of our employees, Aimie Mims, currently serves as the IRWA's International President-Elect.

Timothy: OPPD has also been a longtime supporter of the IRWA. In fact, members of OPPD have been involved with the Association since nearly the inception of our company. We are a small group, but all of our employees are IRWA members.

Our staff members have been Chapter Presidents, Region Chairs and recipients of various IRWA awards. Jake Farrell is our company's first member who has been part of IRWA's International Executive Committee as the International Treasurer.

How has the IRWA helped your company reach its goals?

Eric: We believe the IRWA's purpose of improving people's lives through infrastructure development aligns well with HDR's guiding purpose of doing things right to make great things possible. Together we are enhancing community engagement to deepen our impact and better understand the people and places we serve.

The IRWA also supports our real estate and right of way professionals in mastering their craft through technical training and leadership development. This helps HDR to continue to develop subject matter experts and build high-performing project teams that thrive amid complexity in today's marketplace.

Timothy: We greatly value the education and credentialing opportunities that have been available to us thanks to IRWA. The Annual International Education Conference—as well as the different Chapter and Region events—present networking opportunities and a chance for OPPD to find reputable contractors and vendors.

Most importantly, IRWA gives OPPD the chance to stay updated with ethical standards and serves as a place for our staff to improve their leadership development.

Where would you like to see yourself in 10 years? What about your company?

Eric: I hope to be reading about the continued success of HDR and OPPD as they continue to build on the partnership and discover new ways to deliver power to our communities.

Timothy: In 10 years, I still want to be challenging my strategic agility, shaping the direction of our company, building partnerships and delivering our commitment to our vision, mission and core values. Organizationally, leading the way means consistently changing and performing on new mindsets and ideals of our customer-owners. OPPD will deliver on that promise.

What advice do you have for someone entering the right of way profession?

Timothy: Always think about the customer or owner of the property, but be clear in sharing why, what and how. Connect with the property owners personally. Finally, show empathy and demonstrate care to and for the individual and property impacted.

Eric: It is a great profession. Continue to be inquisitive about how technology is changing our business, and how you can embrace it to be a leader and not a follower. ✪

THE REASONABLY PROBABLE STANDARD IN HIGHEST AND BEST USE ANALYSIS

Implications for eminent domain

BY ROBERT M. GREENE, CRE, MAI, SRA, Ph. D

An easily overlooked portion of the definition of highest and best use is the three-word phrase, "reasonably probable use." The most recent edition of *The Dictionary of Real Estate Appraisal* defines highest and best use as "The reasonably probable use of property that results in the highest value." This standard became common during the late 1970s and early 1980s, and its adoption paralleled the change of market value definitions from "highest price" to "most probable price." Since then the phrase has been widely adopted in the literature of real estate valuation and eminent domain case law. (For a complete history, see *Nichols on Eminent Domain*, the legal profession's basic compendium on eminent domain.)

In the valuation of properties in relatively stable markets, reasonably probable use is easily ascertainable. However, in markets that are undergoing transformation, the estimation of reasonably probable use presents a unique challenge to the appraiser, who must expand his or her investigations and make judgments—based on market evidence—beyond the scope of work of the everyday assignment. The following provides some background and suggests a possible protocol for assignments where the reasonably probable standard requires special care, research and judgment.

A Countermeasure

The reasonably probable standard, when properly applied, is an effective countermeasure against valuation based upon speculative uses that unreasonably inflate the estimate of market value. For example, a hayfield located on the edge of town might legally be developed with a high-rise office tower or a regional shopping center with correspondingly high land values, but is either of those uses reasonably probable?

Less understood but equally important is that the reasonably probable standard is also a countermeasure against *undervaluing* that same hayfield based upon its current or previous use as a hayfield. The reasonably probable standard protects equally against the speculation of excess optimism and the speculation of excess pessimism. Speculation itself is not bad; it is the very nature of real estate investment. However, if the appraiser relies on evidence of reasonably probable use provided by market participants, the appraiser is not speculating at all. Instead, the appraiser is evaluating the credibility and the creditability of the market indicators.

Reviewing Definitions

The Uniform Appraisal Standards for Federal Land Acquisition (UASFLA or "Yellow Book") is sometimes thought to be antagonistic toward the concept of speculation, but that is not actually the case. Although the current edition acknowledges that "a property's highest and best use is ordinarily its existing use on the date of value," it goes on to say that "courts describe this precept as a *presumption* in favor of a property's existing use; others simply regard an existing use as 'compelling evidence of highest and best use when a different proposed use is asserted.'" Yellow Book concludes, however, that "any reasonably probable use should be considered to the extent a property's potential for such use affects its market value."

The Appraisal Institute defines highest and best use as the reasonably probable and legal use of vacant land or an improved property that is physically possible, appropriately supported, financially feasible and that results in the highest value. In practice, reconciliation of the Appraisal Institute definition with the Yellow Book guideline is best accomplished through thoughtful consideration of what the market is advising concerning the reasonably probable use.

A Protocol for Evaluation

Challenges in applying the reasonably probable standard arise in the case of properties undergoing transition. Examples include transitional properties that lie immediately outside an existing boundary (such as city limits or an urban growth boundary) or properties in evolving neighborhoods that have retained an outdated zoning. This includes industrial zoning in an area where surrounding zoning and development (often redevelopment) are commercial or mixed-use commercial and residential. Because the evaluation of highest and best use that is different from a property's previous or existing use falls upon the appraiser, the following provides some guidelines and procedures for consideration of reasonably probable use.

Organizing a clear and logical analysis of reasonably probable use can benefit from grouping the issues into categories: physical factors, legal factors and feasibility issues. In the normal order of highest and best use analysis, physical and legal factors precede feasibility analysis. But in the case of transitional properties, feasibility issues

> In my experience, the most common failure in the analysis of reasonably probable use arises when an appraiser fails to carefully consider the likelihood of change.

(changes in demand and the profitability of alternative uses) are the driving factors that create changes in reasonably probable use.

- **Feasibility**
  It should be remembered that feasibility is the true engine of reasonably probable use. It is the motivation of possible profit that puts pressure on the market to change a neighborhood or a property from one kind of use to another. There is a spectrum of levels of feasibility analysis. *Inferred analysis*, which relies on extrapolating trends from general market data, is more common and is often adequate in stable markets. However, *fundamental analysis*—which quantifies demand and supply in light of projected and quantified data for market trends such as population growth, household and per-capita income, and other economic and demographic factors—is the most persuasive kind of feasibility analysis. Fundamental analysis is best explained in Stephen F. Fanning's classic text, *Market Analysis for Real Estate: Concepts and Application in Valuation and Highest and Best Use.*

  In stable markets, most appraisers rely on inferred analysis. The appraiser surveys surrounding properties and makes an inference that the kind of use available for the subject property will be consistent with nearby and surrounding uses.

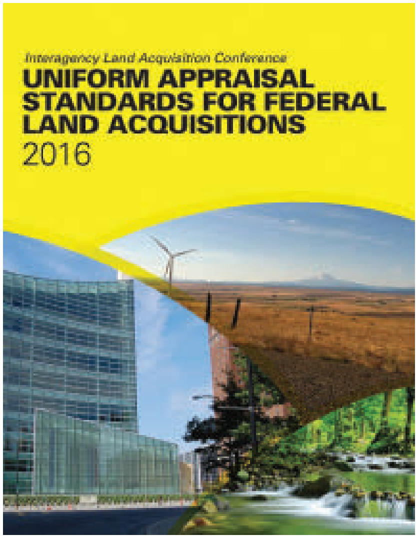
  In areas of transition, however, the uses of surrounding properties are in the process of becoming obsolete. Therefore, a fundamental demand analysis will provide sound support for reasonably probable use.

- **Physical Factors**
  A reasonably probable use must meet all the criteria of what is physically possible, including size, shape, topography, availability of utilities and location. If a proposed use will require utilities or other amenities not presently available on site, the costs and feasibility of providing them—including their cost, the length of time required to make them available and any other obstacles to their development—need to be considered in the valuation. If a deduction is to be made in the valuation or in the feasibility analysis, it needs to include hard costs, soft costs and appropriate recognition of risk in accounting for delays.

- **Legal Factors**
  Legal factors include any legal requirements that may be impediments or enablements to a proposed use. This analysis, however, is not strictly a legal criterion. Attorneys and government bureaucrats may adopt the most pessimistic outlook in analyzing legal issues. In times of transition, however, a strong motivation for change is revealed by good fundamental market analysis. “This is the way we've always done it” is not a valid argument.

  An analysis of reasonably probable use should also consider the experience and testimony of typical purchasers for the property type and use in question. This may include developers, brokers and investors, who should be interviewed and whose observations should be scrupulously transcribed, accurately recorded and cited in an appraisal report. To repeat, buyers and sellers—typical buyers and typical sellers for the type of property in question—are the ones who determine what use is reasonably probable.

  In my experience, the most common failure in the analysis of reasonably probable use arises when an appraiser fails to carefully consider the likelihood of change. The appraiser assumes that because the change has not yet happened, he or she must treat it as though it *cannot* happen. It is the responsibility of the appraiser, however, to make an informed and educated estimate of that likelihood. The source of that judgment—and the research it requires—is the subject of the next section of this article.



For more information, please visit
www.appraisalfoundation.org

Finally, the last step in estimating reasonably probable highest and best use is to analyze which one or more of the possible uses that have passed the tests of physical possibility, legally permissibility, and feasibility is the most profitable use. In transitional areas, this requires fundamental supply and demand analysis.

Who Decides?

How does the appraiser assess what is reasonably probable and, more importantly, who determines what is reasonably probable? Because feasibility in a changing market is driven by its participants—buyers, sellers, developers and investors—*they* are the ones the appraiser should consult. They should be interviewed (with their interviews transcribed) and their experience, opinions and judgments should be included, considered and evaluated in the appraiser's analysis and conclusions. Those sorts of interviews are not always conducted by appraisers in the ordinary course of business, but they are essential to establishing reasonably probable use for properties undergoing transition.

Because the reasonably probable standard is frequently associated with issues of speculation, it is useful to consider a court case that is approvingly cited in the *Uniform Appraisal Standards for Federal Land Acquisition*. "While market participants may speculate, appraisers cannot. The finder of fact must not, itself, speculate, i.e., guess, about potential end uses or markets when the speculation is so remote or improbable that one would not invest his money in it." (*Fla. Rock Indus., Inc. v. United States)*

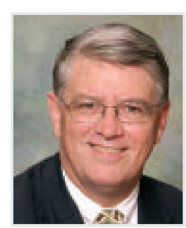
The important point here is that market participants are the ones who determine what is reasonably probable. The appraiser's responsibility is to evaluate the market evidence. A rigorous application of a thoughtful protocol for estimating reasonably probable use, including research into the thinking of the relevant market participants, can provide an efficacious framework for insulating the appraiser from charges of inappropriate speculation.

In Summary

Eminent domain requires special attention to the reasonably probable standard because condemnation short-circuits some of the protections for the property owner that are inherent in an otherwise free and open market.

- If a property owner has an unreasonably high estimate of the value of his or her property, he or she can offer it on the market on that belief. If there are no offers or if the offers are unacceptably low, the property owner has three choices: 1) lower the asking price; 2) decline the offer and wait for a better one; or 3) take it off the market. In no case—except for duress, which is excluded in estimates of market value—is a property owner compelled to sell.
- On the demand side, a typical purchaser has similar options. The would-be buyer can make a lower offer and if the seller declines, the buyer can: 1) withdraw the offer; or 2) raise the offer. In no case is a purchaser obligated to purchase.

However, in eminent domain cases, the self-correcting mechanisms of the market place are suspended. The appraiser's assessment of reasonably probable use—and the value appropriate to that use—is an important safeguard available to the property owner and also serves as protection for the condemnor. In short, the appraiser's proper observance of the reasonably probable standard is a protection for all parties participating in this effort to estimate market value for just compensation. ✪



Robert M. Greene is the Chief Appraiser for the State of Washington Department of Natural Resources, which oversees more than five million acres. Prior to his present position, he was the President of G&A Valuation, Inc.,Director of Litigation Support Services for Integra Realty Resources—Portland, Director of the Real Estate Advisory Group for the Chicago office of Stout, Risius, Ross, Inc., and an appraiser in the offices of MaRous and Company. From 1983 to 1996, he owned and operated Robert M. Greene and Associates, a real estate appraisal firm in Kalamazoo, Michigan.

WORKING SMARTER

The history behind Surface Land 101

BY RANDENE SEEMAN

Growing up in small-town Saskatchewan gave me the mindset that you work hard and reap the rewards. So I spent many years working on the farm, going to school, working part-time jobs and spending time with friends. Despite this lifestyle, I always felt that a small town was not where I belonged. Even as a young girl, I imagined a life in the big city working amidst skyscrapers, becoming a successful business woman and having a respected seat at the table. I pushed and pushed, and over time I found myself "living the dream."

I have always pushed boundaries in the right direction. My natural default setting is to work as hard as I can with the understanding that this is what takes to be the best. The position I was in didn't matter; if I worked hard, I just *knew* I would continue to be successful. Everything was in my control.

I worked for some of the largest Oil & Gas producers and took any opportunity to understand the full process of the industry. I deliberately educated myself in understanding the flow and expertise required, while remaining regulatory compliant. I then applied that knowledge when working for small producers. As they grew, I applied the skills learned and honed my craft. I also had the opportunity to wear numerous "hats" in these smaller-scale operations, which grew the breadth of my knowledge. Of course, this work life didn't go without stresses, push backs and struggles. However, I was persistent in my need to understand and accomplish what needed to be done. I was proud of myself.

Even looking back, I find it hard to believe that I would ever "break."

The Unexpected Downfall

In 2016, I found myself working extensive hours and dealing with personal and professional stress. I started to lose sleep and my body eventually got so exhausted that when I closed my eyes to rest, it felt like I was having out of body experiences—standing over my body watching myself sleep. Much to my relief, a doctor assured me that I wasn't crazy. Apparently, this was simply a mechanism produced by my body so as to disassociate from the issues I was encountering in my life in order to avoid something much worse, such as a heart attack or stroke.

Needless to say, I was shocked. I was young and in the prime of my life. I had always believed that the harder I worked, the further I would go. Being a strong, independent, working professional was who I was, so to be advised that something was wrong with my way of thinking was disheartening and confusing.

Confronting My Illness

My situation escalated and one day, I just knew I was sick. But having a disease that was not easy to detect medically or physically was very difficult. Soon, self-doubt started to kick-in. What did I do wrong? How could I have allowed this to happen to me? What were the signs?

I found myself justifying my illness—even when I ended up in the hospital from stress-induced vertigo or explosive diarrhea from shingles (I was 36 at this point–not something you want to have to deal with). Now looking back, there were signs that I just didn't see, couldn't see or simply wouldn't see. And not one person asked about my changing behaviors. I felt like I was on an island alone.

Looking at the Facts

Statistically speaking, one in five Canadian adults will suffer a mental disorder in their lives. Furthermore, 90 percent of people who take their own lives have a diagnosable mental disorder. I am proud of myself for taking the right steps. I got diagnosed and then worked extremely hard with my doctors. I was lucky; I was able to cure my disease. Many are not as lucky and must live their entire lives with conditions like this.

Once I finally healed, I realized that my perspective and understanding had changed. I was now able to identify unrealistic expectations and I learned to work smarter, not harder. I felt like I was, once again, that young Saskatchewan girl with her dreams of being a business professional.

The Outcome

Having been through this experience and upon realizing that I was one of the lucky ones, I decided I needed to do something to push forward my new perspective on life. I needed to take what I learned and apply that life lesson in a way that would benefit others. And what better way to do that than to apply my new perspective to my work?

I gathered all my knowledge and all my experience to create a program that paralleled what I sought in life: simplicity, organization and reassurance. I call it ***Surface Land 101***. This program provides itemized tracking tasks from project idea all the way to production, while staying compliant. It breaks down every step of the full surface land process including templates for documentation, and provides live chat with a regulatory specialist.

In today's energy sector, operational efficiency and regulatory compliance are key. Surface Land 101 will help you and your team realize efficiencies by providing you with standardized forms that are updated to comply with the changing requirements laid out by regulators. Reporting capabilities keeps stakeholders up to date while allowing you the insight you need to identify and address delays and measure your improvements. The ability to live chat with a regulatory specialist will provide you and your team with the support you need to navigate the regulatory licensing process and the full detail of the surface land process.

In Summary

Success is all about learning from your experiences–both positive and negative ones. Surface Land 101 provides key industry information to ensure that the necessary knowledge is readily accessible, allowing for time and cost efficiencies, regulatory compliance, strategic organization and your ease of mind. Learn from my experience and work smart. ✪

For more information, contact 403-966-2601 or info@surfaceland101.com

A dedicated energy industry professional, Randene Seeman has 15 years Surface Land and 18 years Agriculture experience. As an expert in her field, Randene has represented large international owner/operators to small private owner/operators. Her broad history of experience includes; negotiations in sensitive areas, energy project management, project logistics, vendor and client management, and optimizing cost efficiency.

THE USPAP NATIONAL UPDATE COURSE

For the right of way appraiser

BY DAVID BURGOYNE, SR/WA, DAVID LAYNE, SR/WA, GREGORY LEE, SR/WA, JOHN ROLLING, SR/WA, AND CHRISTINA THORESON, SR/WA

All licensed/certified real estate appraisers in the United States are required to comply with the Uniform Standards of Professional Practice (USPAP). Furthermore, every member of IRWA is required to comply with USPAP when acting as an appraiser or when providing valuation services whether licensed/certified or not.

USPAP History

In the 1980s, leaders of the major U.S. professional appraisal organizations developed USPAP with the express purpose of promoting and preserving public trust in appraisal practice. Even though there are different asset types, USPAP establishes one set of standards for the appraisal profession. All appraisal disciplines (real property, mass appraisal, personal property, and business [intangible] property) are included.

The Appraisal Foundation sets the congressionally authorized standards through its independent board, the Appraisal Standards Board. Currently, the Foundation has three separate classroom update courses: one for personal property appraisals, one for mass appraisals (typically, ad valorem assessments) and the national course (offered by the IRWA).

USPAP Update Course

All licensed/certified real estate appraisers in the United States complete a 7-Hour Update Course on the Uniform Standards of Professional Appraisal Practice (USPAP) every two years. Participation in this continuing education course is a requirement for license renewal. Any IRWA member seeking R/W-AC recertification is also required to prove attendance at this course.

The 7-Hour USPAP Update Course aims to: 1) alert appraisers to changes in the rules and standards; and 2) stimulate thinking about how these standards bear on everyday practice. As USPAP has matured over the years, the second function has arguably become more important than the first. While most real estate appraisers have a basic understanding of the general do's and don'ts, they may periodically struggle with the application of the rules and standards to their specific branch of appraisal practice. For instance, a standard that is obvious when applied to an appraisal made to confirm sufficient collateral for a mortgage loan may be more difficult to meet in an appraisal made to allocate values of interests between beneficiaries of an estate or for one to be used in litigating an eminent domain case.

Relevance to Right of Way

Many USPAP issues are different for right of way appraisals and others are less relevant to our practice. Some of the USPAP issues that especially affect right of way appraisers are:

- When and How the Jurisdictional Exception Rule Applies
- Competency Rule—Especially Geographic Competency
- Scope of Work Rule—Role of Client and Appraiser in Determining
- Extraordinary Assumptions/Hypothetical Conditions – including some that apply to ALL right of way appraisals.
- Retrospective Effective Date of Valuation
- Project Influence
- Reliance on Other Experts
- Role of the Review Appraiser (Standard Rules 3 and 4)
- Report Format Adequacy
- The Uniform Act and Regulation 49 CFR 24
- UASFLA (The Yellow Book)

Many of these issues involve the relationship between USPAP and the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (or "Uniform Act") under which the vast majority of right of way appraisals are performed. Some requirements of The Uniform Standards for Federal Land Acquisitions (The Yellow Book) may also raise questions on USPAP topics.

IRWA Offerings

Currently IRWA offers two ways for appraiser members to meet their USPAP Update Course obligation. IRWA members can enroll in an online USPAP Update course supplied by a third-party private vendor (McKissock Learning) or they can participate in a classroom presentation of Course 406B—7 Hour National USPAP Course presented as an IRWA Chapter education event. So far, most IRWA-member appraisers have fulfilled their USPAP Update obligation through the online course offering that is designed for the broad mass of real estate appraisers. This is a general course that is not specific to right of way.

The authors of this article are USPAP instructors whose appraisal practices specialize in right of way. We have had many years of experience in reconciling/applying USPAP to our own work. We have taught the USPAP Update Course in the classroom setting for IRWA Chapters on numerous occasions. Several

Cover of course material presented in Course 406B

> **Our branch of the appraisal profession is fairly specialized. While we share the same basic concerns with all appraisers, some topics covered in the USPAP Update Course are more important to us than to those working in other fields...**

Chapters—including Michigan, Wisconsin and New York—routinely offer the in-classroom USPAP Update Course with robust attendance. We agree with most participants of these Chapter-sponsored classes who have found these face-to-face encounters involving right of way appraiser peers particularly valuable.

Our branch of the appraisal profession is fairly specialized. While we share the same basic concerns with all appraisers, some topics covered in the USPAP Update Course are more important to us than to those working in other fields, while some topics important to most appraisers are of less significance to us. One way we are able to tailor the USPAP Update Course to the issues that concern right of way appraisers is through discussion of relevant Advisory Opinions. Another is by focusing attention on "frequently asked questions" that have been raised by right of way appraisers across the country. We have enjoyed robust, meaningful debates about topics like performing a waiver valuation or whether the project influence rule of the Uniform Act conflicts with USPAP Standards Rule 1-4(f).

Classroom Sessions

Participants (both IRWA members and non-members) have overwhelmingly stated their preference for right of way-focused, in-class sessions over spending yet another seven hours taking quizzes at a computer. They have found that interaction with USPAP/IRWA instructors and participants who specialize in right of way is invaluable.

We hope that our experience with the in-classroom variant will move more right of way appraisers to seek out a classroom opportunity to meet with their peers. We encourage our IRWA Chapters to offer Course 406B as part of their regular education programs. To do so is not only a service to our members. These courses, which every appraiser is required to complete every two years, can also be a worthwhile source of Chapter income. Finally, offering these classes can provide excellent exposure for your Chapter to non-member appraisers who prefer a classroom setting to online learning. ✪

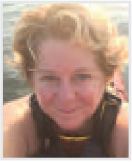
These five IRWA members are currently AQB-Certified USPAP Instructors and also CLIMB-Certified Instructors. Any and all of these IRWA CLIMB-Certified Instructors are available and happy to facilitate USPAP Course 406B anywhere in the United States.

David Burgoyne, SR/WA, ASA
David@BurgoyneAppraisal.com

David Layne, SR/WA, ASA
lcs360@roadrunner.com

Gregory Lee, SR/WA, MAI
greghlee@yahoo.com

John Rolling, SR/WA, ASA
john@rollingandco.com



Christina Thoreson, SR/WA, MAI
info@RealCounsel.net

TRANSITIONAL USE TCE

A more proper classification

BY DEAN G. CHAPMAN, MAI, SRA, SR/WA AND MICHELLE PATTON, MAI, SR/WA

A property owner told us that his 500-acre rice farm had just leased for $400 per acre/per year—the highest rent ever paid for rice ground in the region. We acknowledged his delight and thanked him for the information. As we drove away, levees were being repaired and ground-squirrel holes filled before rice checks could be flooded in the following weeks to grow rice.

His farm was within an impressive 5,000-acre specific plan destined someday for commercial and residential development. However, grading for this new development was still a few years away because the approval process for such a grand plan would take at least another four years. In the meantime, the owner's land could be farmed for rice as it had been for decades.

Background

We met the owner because we were hired to appraise his property for a proposed high-pressure natural gas transmission line project that would install a large gas line along the Subject's frontage on an adjacent road. Five acres would be acquired as a permanent easement for the pipeline, and 10 acres would be needed for a term of two years as a temporary construction easement (TCE). The term of the TCE was scheduled to start at the end of harvest in about six months from the day we met the owner.

Comparable sales were readily available. All were fairly recent and all were being cultivated for rice; many had recently been leased. The sale prices being paid for the comparables included the envisioned future change in use identified by a colorful specific plan zoning map. We were comfortable with our fee simple interest estimate of $50,000 per acre.

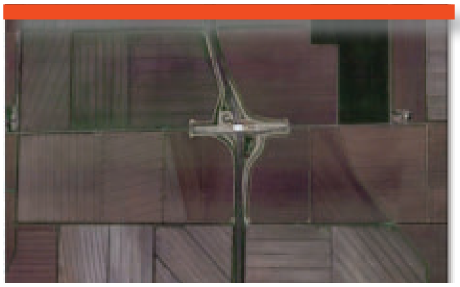
Valuing the permanent easement for the gas transmission line was textbook routine: a reasonable percentage of fee value for property rights being acquired, crop loss consideration and finally, confirmation that levees, irrigation and hard pans would be restored as part of construction contract work. Next came the valuation of the 10-acre, two-year temporary construction easement.

A Difference in Opinion

Let us digress by saying that our appraisal was the second appraisal of the Subject property. Though the first appraisal was done by a very reputable firm, the owner was unhappy with the total compensation offered to him.

We were called to provide a second opinion. Without asking, the owner told us he had been offered $100,000 for the TCE. We realized immediately that if the owner was correct, the deposit appraisal likely used 10 percent of the land's fair market value (FMV) to estimate the value of the TCE. It's the same formula routinely used by condemnation appraisers, except perhaps for the specific percentage. The percentage used by appraisers is, in theory, supposed to reflect a reasonable return on the property's value—a convenient substitute for relying on actual market rental data.

But compensation for the TCE estimated by the prior firm was equivalent to $5,000 per acre/per year—not the actual market land rent of $400 per acre/per year that was just negotiated between the owner and tenant farmer close to the effective date of value.



500-Acre Rice Farm.

Something was fundamentally wrong; Shouldn't the utility company pay fair market rent to prevent any loss to the owner? Why should the utility company pay $5,000 per acre/per year for the same type of ground for which the tenant farmer was only paying $400 per acre/per year? The simple answer is they should not.

Where Did They Go Wrong?

The apparent flaw in the prior appraisal's methodology was caused by assuming that the highest and best use of the property was consistent with the highest and best use of the property *at the time of occupancy* for the TCE by the condemnor. This method is not at all unusual because eminent domain (ED) appraisers routinely use the same FMV as a basis to estimate values for full takes, permanent easements and temporary construction easements. To be fair, that method is usually perfectly reasonable because the highest and best use of a property during occupancy is typically the same as in the future.

However, when a property is in transition from one use to another, the appraiser must now consider the possibility of two highest and best uses: one that includes anticipation of future benefits (FMV), and one that doesn't (FMV at the time of occupancy).

A New Term

Let's face it—a new appraisal term is needed to better identify this unique type of TCE. We recently started using the term *Transitional Use TCE* to better communicate to our clients that the

Levees were being repaired and ground-squirrel holes filled before rice checks could be flooded.

manner in which compensation is calculated for a TCE may not necessarily be what they have grown to expect. The term Transitional Use TCE is a reminder to us that the property's highest and best use *at the time of occupancy* is inconsistent with the property's actual highest and best use. As such, the value of a Transitional Use TCE should be based on the highest and best use of the property at the time the property will be occupied, not on a value based on a future use unrelated to the present use.

Incorporating this new term into your practice will increase awareness of this particular type of TCE and ensure that consistent methodology is used to calculate total compensation for eminent domain assignments that include TCEs.

The definition of a TCE is self-explanatory: an encumbrance on a parcel for a particular use during a specific time period. In most cases, a rate of return for the use of the land is based on a percentage of fair market value (FMV) of the land instead of using actual comparable market rental data. On the other hand, a Transitional Use TCE is an encumbrance on land transitioning from one use to another. Though the value of a partial fee acquisition is based on FMV, the value of a Transitional Use TCE must be based on FMV or fair market rent at the time of occupancy by the condemnor.

Support

According to *Real Estate Valuation in Litigation:*

> *Some courts have ruled as a matter of law, that the property's loss in market value is not the proper measure of value in the case of temporary easement acquisitions. It has been held that the proper measure of compensation is the value of the property for the period it is to be held by the condemnor or the diminution in the value of the property by reason of the owner's loss of its use and occupancy during possession by the condemnor. The most common measure of damages accepted by the courts is the rental value of the easement area for the period of occupancy by the condemnor.*

Therefore, the value of a Transitional Use TCE should be calculated either by using market rent data reflective of highest and best use at the time of occupancy or the rate of return based on the land's FMV at the time of occupancy. Either way, the time in which occupancy occurs is the foundation for compensation for a TCE.

No one, except perhaps the appraiser, truly benefits from a $5,000 appraisal for a TCE only worth $25. On a practical basis, it may make more sense to value the amount of compensation for a minor Transitional Use TCE by using a percentage of the land's FMV. But in those cases, I would simply include a hypothetical condition that informs the reader with the proper information.

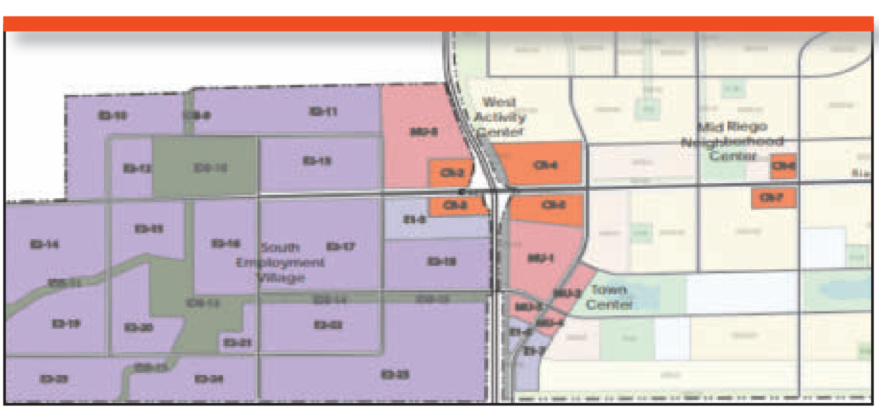
Significant Effects

In the case of the rice property, the need to value the *TCE as a Transitional Use TCE* was obvious. Market rent ($400 per acre/per year) for the Transitional Use TCE for two years totals $8,000, as opposed to a 10 percent rate of return based on the land's current FMV, which equals $100,000. That is a significant difference of $92,000.

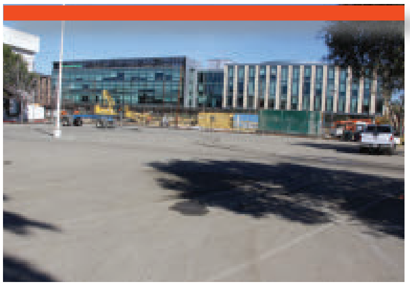
In fact, the rice farm property was only one of 15 similar properties along the proposed alignment for the natural gas transmission line project. Compensation that was estimated in the deposit appraisals for all of the TCEs for the entire project could have exceeded $1,500,000 based on FMV rather than $120,000 based on fair market rent at the time of occupancy. This flaw in methodology cost the utility company/condemnor $1,380,000 more than required.

When appraising property for ED purposes, we appropriately appraise that property in the before condition in a fictitious state that ignores what factually exists: the project. Likewise, we might choose to ignore what factually exists when appraising a Transitional Use TCE: the project that created a change in future use. If fee simple interest includes an increase in value caused by anticipation of a future use yet to be realized, then that value represents a future use that has nothing to do with current use. All TCEs should be based on the property's value at the time of occupancy.

For a while, we assumed that the only time a Transitional Use TCE would be relevant, at least financially, is when commercial/residential speculation inflates agricultural land value. But our assumption was short-lived when we appraised a commercial property in an urban location.



5,000-acre plan destined for commercial and residential development.



An older, urban lot.

Finding Opposite Results

A five-acre property on a primary commercial corridor in an urban area was on its last legs. One older building with a large parking lot had seen better days, similar to many nearby properties. The city realized demand for high density apartments far outweighed older commercial stores and wisely rezoned the immediate neighborhood to high density residential.

The 20-year lease for the Subject included an older retail building plus five acres of parking. The end of the 20-year lease coincided with the city's adoption of the new zoning ordinance. The property owner offered his tenant a shorter three-year lease extension at a reduced rent to entice the lessee to remain while he was considering redevelopment of the property. He had yet to submit any application for redevelopment, but he knew that the approval process in this particular urban city would take at least two years.

Six months after the three-year lease for the property was signed, a road widening project was approved that affected the subject property. It was confirmed that the road project did not affect negotiations for the lease. The owner of the property simply wanted to both redevelop the site and also receive income during the lengthy approval process.

High-density land along the same corridor as the subject was selling for $250 per square foot or about $11,000,000 per acre. It was agreed that the value of the fee take should be $250 per square foot. But not everyone was on the same page when it came to the value of the TCE, a Transitional Use TCE.

One side based the value of the one-acre TCE on the FMV of the land, a value that included anticipated benefits related to a high-density redevelopment. But the lease for a temporary use before approvals could be gained did not include value for any anticipation of that future use. And if a future use is the force driving values up, it is illogical to include that anticipated value as a basis for market rent during occupation for the TCE.

One appraiser used a 9 percent return on the FMV of the land to arrive at $22.50 per square foot/ per year compensation for the TCE. If actual market rent for the subject property was used, compensation would only be about $2.00 per square foot/per year. The difference between actual market rent and rent based on a percentage of FMV was around $20.50 per square foot/per year, which equaled over $1,790,000.

In this example, basing compensation for the TCE of anticipated future redevelopment and not on actual market rent during the time of occupancy caused the agency to pay $1,790,000 more than required.

In Summary

Similar to the rice ground example, the obvious question was asked: why should the agency pay far more than actual fair market rent being paid for the same property if rent being paid is fair market rent? If an agency is required to rent land at the going market rate and the going market rate has been proven with recent rent comps, why should there be a difference between the two methodologies?

Common sense says there should not be a difference. Market rent is the appropriate return on the value of the property during the period of occupancy, especially for transitional properties. If rents are not available, a percentage of fee value can certainly be used, but the fee value must represent the use at the time of occupancy by the condemnor, not the value that includes future benefits. Just compensation should not only be just to the property owner, but also just to the public.

When valuing TCEs that will encumber a property that has a different highest and best use than the existing use (or use during occupancy by the condemnor), the term Transitional Use TCE can help classify these acquisitions so that they are valued using a consistent and common-sense methodology. The examples in this article demonstrate the importance of spending the additional time and effort in order to produce a credible result when a Transitional Use TCE is being acquired. ✪

Dean Chapman has been appraising property for eminent domain purposes in California and Nevada for over 40 years. He and his associate Michelle Patton have offices in Danville and Oakdale, California. His last article published in Right of Way Magazine was given the Mark Green Award for Excellence in Journalism.

Michelle Patton has been appraising property for over 15 years, of which six have been from the Oakdale Office of Chapman and Patton. She served as the 2018 President of the Northern California Chapter of the Appraisal Institute's Board of Directors and has been in leadership with the chapter since 2011.

THE ROSE CITY GOLF TOURNAMENT *Classic*

In conjunction with the 65th Annual International Education Conference in Portland, Oregon, the Right of Way International Education Foundation (RWIEF) and the Canadian Right of Way Education Foundation (CRWEF) are hosting their 23rd Annual Golf Tournament. The Rose City Classic will be held at The Reserve Vineyards and Golf Club on June 11, 2019.

The tournament is limited to 144 participants, and all net proceeds are donated to the Education Foundations. Prizes will be given for closest to the pin on the par 3's, long drive for both men and women, as well as the top three places. A large raffle will also follow the event.

The Reserve Vineyards and Golf Club opened for play in 1997 and immediately distinguished itself as the region's premiere golf destination. From 1998 to 2002, The Reserve hosted Peter Jacobsen's Fred Meyer Challenge. A veritable "who's who" of golf icons—Arnold Palmer, Jack Nicklaus, Fred Couples, Phil Mickelson and Sergio Garcia—participated in the Pacific Northwest's marquee golf event. From 2003 to 2006, The Reserve hosted the PGA Champions Tour major, the JELD-WEN Tradition. Besides tournament winner Tom Watson, the field boasted golf greats Jack Nicklaus, Fuzzy Zoeller, Hale Irwin, Tom Kite, Jim Thorpe and Craig Stadler. In 2012, The Reserve again hosted a field of PGA Tour and Champions Tour All-Stars in the Umpqua Bank Challenge. Golf icon Lee Trevino and 2011 Fed-Ex Cup Champion Bill Haas were among those included in the field. More information about the course can be found on their website: www.reservegolf.com.

REGISTRATION

Registration for the general membership will open on March 1, 2019. Go to **www.rwief.org** to register online and pay by check or credit card. The fee to enter is $125 and includes green fees, golf cart, lunch, range balls, and transportation to and from the conference host hotel.

SPONSORSHIP

Sponsorships range from the Platinum level at $2,500, to sponsoring individual holes for $300. Sponsors will have the opportunity to preregister before general membership. All activities related to the tournament will be handled by the RWIEF.

Contact Mike Pattison for additional information at mike@pattisonappraisals.com

Breakout Sessions

Monday, June 10

A Citizen Issue Management Seminar	8:00 am - 9:30 am
Annual Utilities Roundtable	8:00 am - 9:30 am
Clear as Mud	8:00 am - 9:30 am
Are You Ready for the Mega Rule?	8:30 am - 9:30 am
Easement Valuation — an Oxymoron? Can Easements Actually be Valued, or Are We Throwing Darts?	8:30 am - 9:30 am
What is the Future of Design Build in Our Current Economy and What is the Risk?	8:30 am - 9:30 am
International: Building Pipelines in Mexico	10:00 am - 11:00 am
Three Cooks, One Kitchen: The Corridor Book	10:00 am - 11:00 am
Improving Stakeholder Engagement on Corridor Projects with 3D Scanning and a Digitized Reality	10:00 am - 11:00 am
Innovations in Right of Way Project Delivery	10:00 am - 11:00 am
Getting Along With Your Neighbors – Understanding the Relationship Between Property Rights and Sound Vegetation Management Practices	10:00 am - 11:00 am
Right Tree, Right Place - ITC's Vegetation Management Program From Conception through Litigation	10:00 am - 11:30 am
Issues of Transferability of Development Rights	1:30 pm - 2:00 pm
360 Degree View of Easement Valuation	1:30 pm - 3:00 pm
Generational Management	1:30 pm - 3:00 pm
A New Technique for Evaluating the Impact of a Permanent Easement Acquisition	1:30 pm - 3:00 pm
Trends and Best Practices in Asset Management	1:30 pm - 3:00 pm
Where are We Now With Infrastructure in America and How Do We Address the Future of Commuting? -- An Agency Panel Discussion	1:30 pm - 3:00 pm
FAA Airport Land Development and Valuation Standards	2:00 pm - 3:00 pm
An Update on Relocation Litigation. Wait...WHAT??!!	2:30 pm - 3:00 pm
Agents, Appraisers, and Waivers, Oh My!	3:30 pm - 5:00 pm
Doing Right of Way a New Way-Using Lean Management Techniques in Utility Right of Way Acquisition	3:30 pm - 5:00 pm
Eminent Domain for Right of Way Professionals	3:30 pm - 5:00 pm
Talk of the Town: Historic Portland Building…From Beginning to Now	3:30 pm - 5:00 pm
Valuation Case Studies and Problems, Solved and Unsolved	3:30 pm - 5:00 pm
Getting Started! The Do's and Don'ts for Starting Your Young Professionals Chapter or Region Level Group	3:30 pm - 5:00 pm
Another Peek Around the Bend: More Landowner Tactics to Maximize Just Compensation	4:00 pm - 5:00 pm

Tuesday, June 11

Farming 101: Understanding the Impacts of ROW on Agriculture	9:30 am - 10:30 am
How One State Uses Incentives, Resources and Tools for Project Progression	9:30 am - 10:30 am
Protection through Perfection – Efforts to Identify Deficiencies in Land Rights and Measures to Cure	9:30 am - 10:30 am
The Challenges of Managing Homeless Encampments on Utility ROW's	9:30 am - 10:30 am
Managing Your (Survey) Contractor	9:30 am - 11:30 am
URA Guidance for the Gray Areas in Relocation	9:30 am - 11:30 am
Practical Project Management for Right of Way Professionals	11:00 am - 11:30 am
Deep Tunnel Easements - Arriving at a Consensus of Valuation and Driving an Evolution in Legal Understanding	1:00 pm - 1:30 pm
How to Tell the Truth: Tips and Techniques to Succeed as an Expert Witness	1:00 pm - 2:00 pm
Alternative Dispute Resolution: The Whenever, Whatever, However Usage of ADR for the Right of Way Industry	1:00 pm - 2:30 pm
URA, The HUD Way, A Mystery No More	1:00 pm - 2:30 pm
Performing Project Postmortem Reviews: A Workshop	1:00 pm - 2:30 pm
Tales from the Trial Trenches: What Condemnors Should Know About Private Covenants and Use Restrictions	1:00 pm - 2:30 pm
International: Acquisition of Right of Way in Nigeria for a Power Infrastructure	2:00 pm - 2:30 pm
Understanding Land Descriptions and Land Survey Systems	2:30 pm - 4:30 pm
Protect Your Prime Asset - Field Staff Safety Procedures in The Modern Age	3:00 pm - 4:00 pm
International: Innovative Technologies in Delivering Fast, Efficient and Productive Rights of Way Solutions in the Survey Industry	3:00 pm - 4:00 pm
LA Metro "Trains" for the 2028 Olympics	3:00 pm - 4:00 pm
New and Extensive Federal and State Legislative and Regulatory Activity Affecting ROW Access for 5G Wireless, Smart Cities and Other Advanced Communications Services	3:00 pm - 4:00 pm
Expert Witness Consultation: Utilizing Experts in the Right of Way Industry, Understanding their Role and Responsibilities & What To Do When YOU are Called to Be an Expert Witness	3:00 pm - 4:30 pm

Wednesday, June 12

Business Ethics	8:00 am - 9:00 am
Developing the Next Generation of ROW Professionals	8:00 am - 9:00 am
International: Land Acquisition and Land Access Protocols in Australian Rail	8:00 am - 9:00 am
Opportunities and Challenges in the Energy Infrastructure Industry	8:00 am - 9:00 am
How to Ace a Relocation Audit	8:00 am - 9:30 am
Unbelievable Encroachments: How Do I get That Off My Right of Way?	9:30 am - 10:30 am
Interpreting Property Descriptions	9:30 am - 11:30 am
Relocation Talk Show	10:00 am - 12:00 pm
Leadership That's Out of This World	11:00 am - 12:00 pm

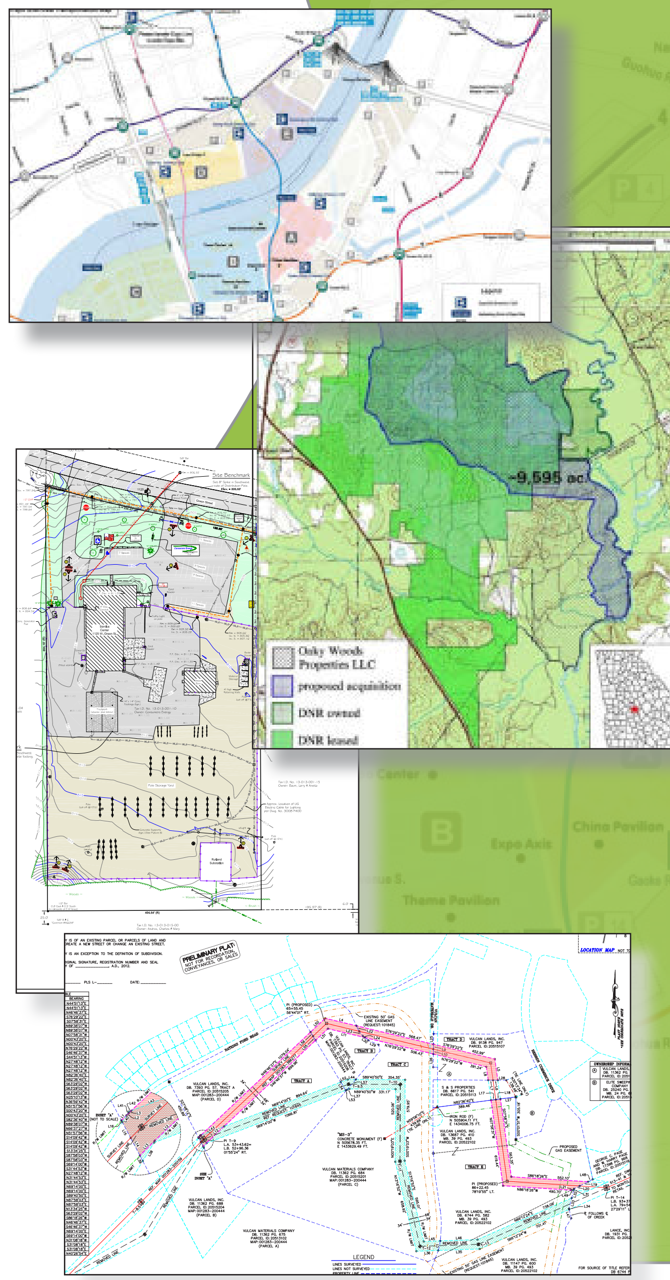
Note: Sessions are subject to change. For updated information, visit www.irwaportland2019.org.

17th Annual Right of Way Mapping Competition

Enter your map today!

Sponsored by IRWA's International Surveying & Engineering Community of Practice, this annual competition will be held in conjunction with IRWA's 65th Annual International Education Conference in June 2019 in Portland, Oregon.

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



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

Prizes: The Grand place winner will receive a complimentary registration for IRWA's 65th Annual International Education Conference. A cash prize of $250 will be given to the individual winners in the following categories: Transportation, Oil & Gas, Electric & Utility, GIS and Industry General.

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

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

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

17th Annual Right of Way Mapping Competition

Official Entry Form (please print or type)

Deadline: April 5, 2019

IRWA Sponsor ______________________________

Entrant's Name ______________________________

Company Name or Agency ______________________________

Address ____________________ City ____________ State/Province ________ Zip/Postal ________

Phone ____________________ Email ______________________________

Category

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

Email PDF entries to:
isecop@irwaonline.org

Top Three Attorney Observations About Right of Way Agents

Explaining the how and why

BY MICHAEL F. YOSHIBA, ESQ.

Over the several years that I've been an eminent domain attorney, I've spoken to many attorneys who have shared their stories concerning interactions with right of way agents. Being a former right of way agent myself, I typically spend most of my reply time explaining the "how and why" perspective of right of way agents. As such, I've assembled the top three attorney observations about right of way agents and my explanations.

1. Right of way agents don't seem to understand the eminent domain process from beginning to end.

Right of way agents are a broad category of professionals that operate as specialists within the eminent domain process. Right of way specialists focus on acquisition, appraisals, utility relocation, relocation assistance, property management, resolution of necessity hearings, etc. Larger public agencies can hire full-time right of way agents and offer more generalized training by periodic rotations through some or all the major right of way sections. In the past, agencies such as the California Department of Transportation (Caltrans) were fully staffed with in-house right of way training. For example, Caltrans provided a yearly stipend for right of way agents to supplement their on-the-job experiences with classes provided by the Appraisal Institute, the IRWA and Federal Highway Administration (FHWA), among many others. Additionally, Caltrans reimbursed the right of way agents for membership dues in professional organizations such as IRWA. (Unfortunately, changes in the number of projects and how the projects are now funded eliminated those reimbursements for right of way agent professional advancement.)

But most public agencies don't have enough projects to justify full-time right of way agents. Instead, they use consultant firms with a team of right of way specialists. Right of way specialists, by definition, focus on one area of the right of way process and are not cross-trained in other areas. More importantly, right of way agents are not subject to state or federal licensing and testing similar to real estate agents, and they are certainly not required to know all aspects of the eminent domain process. Right of way agents that are members of the IRWA have better resources and more opportunities to be appropriately trained in the right of way and eminent domain process.

2. Right of way agents underestimate the importance of documentation in eminent domain matters.

Documentation by right of way agents is essential for memorializing completed tasks and project billing. Diary entries and billings of completed tasks are used by attorneys for recreating past events to demonstrate compliance with the statutory eminent domain requirements. Additionally, what right of way agents say to property owners during the eminent domain process is also important. Statements made to and by right of way agents will be interpreted, recalled and then highly dissected during the condemnation case. All statements must be concise, precise and correct. Attorneys for property owners use the same documentation and statements to disprove compliance by the public agency with the eminent domain process. Accuracy of the reporting is key to avoid inconsistencies in recollections for depositions and trial testimony. Effective deposition and trial testimony present few or no opportunity for impeachment from errors and inconsistencies in documentation.

3. The right of way agent handling the file changes every few months.

The eminent domain process from beginning to end can extend from 24 to 36 months—or even more. There are certainly no guarantees that the same right of way agent will handle the case for the process duration. Because most projects involve the aforementioned assemblage of right of way specialists, the chances of eventual personnel changes increase dramatically. As with all professions, people leave for different reasons: promotional opportunity, compensation and innumerable other personal situations. In my experience, the shuffling of right of way agents is common and should be anticipated. An unfortunate consequence of the changing agents mid-project is that the new agent needs to familiarize themselves with the case details and reestablish the confidence of the process participants. Multiple right of way agents also means that there are additional persons that the attorney must prepare for deposition and trial testimony, and thus additional litigation time for document review and costs.

By contrast, attorneys do not often change during the eminent domain process. Attorneys are charged with the ultimate responsibility for preparing the condemnation case litigation. Strategy and litigation preparation are based upon the components that include the participants as witnesses, documentation of project details, and sometimes overlapping issues of relocation assistance, fixtures and equipment, loss of business goodwill and landlord-tenant claims.

Bonus Observation: Right of way agents hate negotiated global settlements.

The legal process for eminent domain includes select opportunities for settlement of condemnation litigation. Settlement opportunities typically involve the use of mediators or the trial court judge. Most judges and mediators do not oversee many condemnation cases and rely upon their judicial training in assisting the parties reach settlement. Parties to a mediation or settlement conference will be asked right from the start (in confidence) their bottom line settlement amounts. Where multiple damage claims are separated into categories, that increases the categories of potential dispute, and therefore tends to reduce the chances of pretrial settlement. There is a general preference towards global settlements that resolve all issues for one amount, but right of way agents dislike global settlements because eventually there is an ultimate accounting or project audit requiring documentation of how settlement funds were allocated and the compensation categories. Global settlements don't allocate payment categories thus the right of way department has the difficult task of trying to justify and categorize payments for auditing agency such as Caltrans or FHWA. ✪

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

IRWA COURSES

CLASSROOM BASED

BASIC RIGHT OF WAY DISCIPLINES

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

COMMUNICATION/NEGOTIATIONS

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

MANAGEMENT

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

APPRAISAL

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

RELOCATION ASSISTANCE

501	Residential Relocation Assistance	2 days
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503	Mobile Home Relocation	1 day
504	Computing Replacement Housing Payments	2 days
505	Advanced Residential Relocation Assistance	1 day
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ENVIRONMENT

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

PROPERTY/ASSET MANAGEMENT

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

REAL ESTATE LAW

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

ENGINEERING

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

SR/WA REVIEW STUDY SESSION

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

ONLINE

BASIC RIGHT OF WAY DISCIPLINES

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

COMMUNICATION/NEGOTIATIONS

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

MANAGEMENT

303	Managing the Consultant Process
304	When Public Agencies Collide

APPRAISAL

400	Principles of Real Estate Appraisal
402	Introduction to the Income Capitalization Approach
403	Easement Valuation
406A	15-Hour National USPAP Course Uniform Standards of Professional Appraisal Practice (*McKissock is the provider of The Appraisal Foundation's official online USPAP course*).
406B	7-Hour National USPAP Course Uniform Standards of Professional Appraisal Practice (*McKissock is the provider of The Appraisal Foundation's official online USPAP course*).
411	Appraisal Concepts for the Negotiatior

RELOCATION ASSISTANCE

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

ENVIRONMENT

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

PROPERTY/ASSET MANAGEMENT

700	Introduction to Property Management

REAL ESTATE LAW

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

ENGINEERING

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

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

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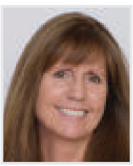
Wayne L. Goss, SR/WA	2015-2016
Mary Anne Marr, SR/WA	2016-2017
Jerry Colburn, SR/WA	2017-2018

* Deceased

Paul Jones Becomes Member of National Petroleum Council Subcommittee

Paul Jones has received an appointment as a member to the National Petroleum Council's **Oil & Gas Transportation Infrastructure Study Coordinating Subcommittee**. The committee was formed at the request of the U.S. Secretary of Energy to analyze the changing dynamics and future needs of U.S. oil and natural gas line transportation infrastructure, existing and future constraints, and technology and policy options to improve siting and permitting. Paul is a Principal within Cardno, where he serves as Program Manager for the company's Cultural Resources business. He has nearly 30 years of cultural resource management experience in the eastern United States, where his project management experience includes work with multiple federal departments and agencies and representatives of many Native American Tribal Organizations.

Therese McCarthy-Watson Joins Cardno



Cardno, Inc., is pleased to announce that **Therese McCarthy-Watson** has joined the firm as Senior Project Manager in the company's Ventura, CA office. Therese has nearly 30 years of experience in conducting soil and groundwater assessments and remediation within the private sector and for the oil and gas industry throughout the United States. She performed specialized services with assessment and remediation, as well as environmental facility audits, regulatory permitting, stormwater and soil management, air and water quality audits, and risk management. Her expertise also includes hazardous material/waste management and minimization audits on military installations.

Mehrafarid Ghoreishi Becomes Senior Structures Engineer for Cardno

Mehrafarid Ghoreishi, PhD, PE, has joined **Cardno** as a Senior Structures Engineer in the company's Clearwater, FL office. Mehrafarid has more than 20 years of robust experience in structural and bridge engineering and transportation planning. His expertise includes steel/concrete structural design, bridge inspections, dynamic and nonlinear static analysis, seismic and wind engineering, computer-aided structural design and finite element analysis.

Stephan Wagner Becomes President of Appraisal Institute

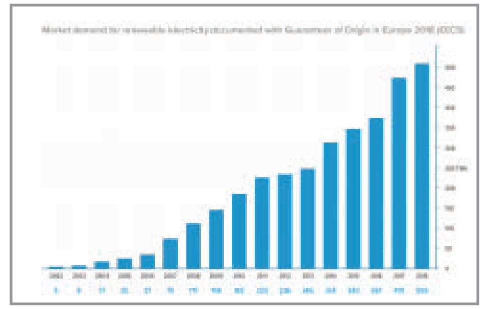
Stephen S. Wagner, MAI, SRA, AI-GRS, of West Lafayette, Indiana, began his one-year term as president of the **Appraisal Institute** on January 2019. He has served on the Appraisal Institute Board of Directors and as chair of the Finance Committee and vice chair of the Professional Standards and Guidance Committee. Stepehn is a past chair of the Demonstration Report Writing Panel, has served on the Admissions Designations and Qualifications Committee and has been involved in the development of the General Review courses and two Capstone case studies. He also teaches general qualifying education and advanced-level courses and seminars for the Appraisal Institute. Additionally, he has served in chapter roles, including as president, vice president, secretary and treasurer of the Hoosier State Chapter. In the coming year, the Appraisal Institute's officers and Board of Directors will focus on helping appraisers expand their business opportunities, seeking to modernize the appraisal regulatory structure, focusing on helping residential appraisers and expanding the organization's body of knowledge.

Paul Sullivan Elected Vice Chair of TACA

Paul Sullivan, Senior Vice President – International at Acrow Bridge, was recently elected Vice Chair of the **Trade Advisory Committee on Africa** (TACA), a committee of the Office of the United States Trade Representative (USTR). Sullivan was originally appointed to TACA in 2015. The USTR has primary responsibility for developing and coordinating U.S. international trade policy and overseeing negotiations with other countries. TACA is one of eight advisory committees providing advice to the USTR in developing U.S. trade policy, with TACA's focus being trade and investment in sub-Saharan Africa. Paul has enjoyed a long career working in Africa on bridging infrastructure projects, both large and small, including those requiring complex trade finance. Prior to joining Acrow in 2007, he practiced as a corporate attorney in the United States and Latin America, and served as a judicial clerk for the appellate court in the Commonwealth of Pennsylvania and for Honorable Justice Hugh O'Flaherty of the Supreme Court of Ireland.

GLOBAL

Demand for Renewable Energy Increases in Europe



"For the first time renewable energy demand in Europe surpasses 500 TWh—or half a billion Guarantees of Origin (GOs)," says Tom Lindberg, Managing Director in ECOHZ, on 2018 statistics from the Association of Issuing Bodies (AIB).

"If the growth trend from the last five years continues, the GO-market will soon surpass one billion Euro," Tom Lindberg adds, noting "that customers are willing to pay a premium on certain origins of energy."

The current reported volume is 499 TWh, but this is expected to increase by an additional 10 TWh, when unreported German figures are included. This will push the expected total demand for renewable electricity documented with Guarantees of Origin close to 510 TWh.

Households, organizations and businesses all contribute to the market growth. But the corporate sector is the main driver because more corporations see sustainability as necessary for future competitiveness. Several initiatives exist to support corporate sustainability ambitions. Two notable initiatives are WeMeanBusiness and RE100.

The RE100 initiative now has 161 corporate members that have all publicly pledged to consume 100 percent renewable energy. Global reporting initiatives like CDP and Greenhouse Gas Protocol are enabling this movement. Also, the EU recently approved a new Renewable Energy Directive (REDII), strengthening the GO system by further embedding it in European legislation. Although hydropower is still the greatest source of renewable electricity, preferences are gradually shifting towards alternative renewable sources. As 2018 figures are updated and reported later in 2019, these shifts will likely become more pronounced.

BRIDGES

Acrow Supplies Permanent Bridge in California

Acrow Bridge, a leading international bridge engineering and supply company, has announced one of its modular steel bridges was installed recently to restore passage on privately owned land in Santa Rosa, California after the destruction of a timber bridge during the Tubbs Fire.

The second most destructive wildfire in California history, the Tubbs Fire was part of the "Northern California Firestorm," a series of more than a dozen major fires that burned simultaneously across eight Northern California counties beginning in early October 2017. By the time the Tubbs Fire was contained, over three weeks after it began, it had destroyed more than 5,600 structures and burned an estimated 36,810 acres. At least 22 people in Sonoma County were killed. The city of Santa Rosa was particularly impacted by the disaster. Among the more than 2,800 homes destroyed, two were on the property owned by Lynn Garric, who, in addition to her homes, also lost the timber bridge that served as her link to the outside world.

When the rebuilding efforts began, California Office of Emergency Services sought out information from Acrow Bridge on available materials and services, which resulted in contractor Sukut Construction's rental of a temporary Acrow structure for use on Garric's property. The 80-foot-long steel bridge is 12 feet wide, with an anti-skid epoxy deck. Initially launched for temporary use, Garric was pleased with the performance of the bridge and decided to purchase the superstructure as a permanent replacement, which required revised engineering plans. The bridge was de-launched then replaced on-alignment with the burned timber bridge.

BLOCKCHAIN

IBM Uses Blockchain to Manage Groundwater

In February, IBM announced that California's Sacramento San Joaquin River Delta will be tracked in "real-time" through a combined effort between the Freshwater Trust, a U.S-based nonprofit working to preserve and restore freshwater ecosystems, and SweetSense, a provider of internet of things (IoT) sensors for the development sector.

The Sacramento-San Joaquin River Delta covers 1,100 square miles and provides water to the San Francisco Bay Area and coastal and southern California. The project is being jointly funded by the Water Foundation and the Gordon and Betty Moore Foundation. Additionally, the project will receive research support from the University of Colorado Boulder.

IBM will utilize blockchain and IoT to help manage groundwater usage in an "at-risk" Californian aquifer. IoT sensors will transmit water extraction data to satellites, after which it will be recorded on the IBM Blockchain Platform hosted in the IBM Cloud. It also uses smart contracts to automatically execute transactions when certain conditions are met.

"Through a web-based dashboard, water consumers, including farmers; financers and regulators will all be able to monitor and track the use of groundwater to demonstrate how sustainable pumping levels can be achieved through the trading of groundwater use shares in the State of California," IBM explained. For example, if a farmer was not planning on watering their land for a season, they could trade or sell water credits on the blockchain to another farmer.

COMPANY UPDATES

Keystone Consultants Added to CLS Platform

Founded in 1985, Contract Land Staff, LLC, is one of the largest independent providers of right of way consulting services and related services in North America. CLS's services include a combination of land management solutions such as right of way acquisition, training, staffing and land and real estate administration services. CLS serves pipeline, utility, electric transmission and distribution, rail, public infrastructure, solar and wind generation, and telecommunications clients.

Recently, Keystone Consultants, Inc. (Keystone) has been added to the CLS group of companies. Jim Joiner, President and Founder of Keystone, will take on a new role as Senior Vice President, providing leadership and oversight for the Keystone service line throughout the northeast and its expansion west.

According to Darin Hittle, President and CEO of CLS, "Keystone will be adding its talented project teams and best-of-class service offerings to CLS's platform in the northeast. The mutually shared corporate values of employee-focused cultures and highest quality of services, along with our complementary geographic presence, make this union a great fit." The addition of Keystone, based in the Carnegie, Pennsylvania area, supports CLS's continued growth across North America and expands its capacity to service its clients.

Jim Joiner states "We are looking forward to this natural growth step and all the opportunities it brings. My team has been serving the northeast for over twenty-five years, having built meaningful relationships throughout the region. My Staff is eager to expand our services with all the resources that CLS affords. It's a perfect match for both of us."

WATER & WASTEWATER

Brown and Caldwell Join SWAN Forum

Brown and Caldwell, a full-service environmental engineering and construction firm, has solidified its smart water sector standing by joining the Smart Water Networks Forum (SWAN), the leading global hub for the smart water and wastewater sectors.

Water and wastewater utilities increasingly face challenges associated with rising water demand and aging infrastructure, adding pressures to already burdened supply, treatment and distribution systems. Brown and Caldwell partners with utilities investing in new assets, technology, and infrastructure renewal to design and implement smart utility roadmaps for cost-effective, high-value outcomes.

"Joining the SWAN Forum reinforces our dedication to accelerating innovation across the industry to solve the most complex water-related issues," said Michael Karl, national smart utility technology lead at Brown and Caldwell. "We take pride in creating breakthroughs with our clients, hence we are excited to participate in the forum as a platform to collaborate and share knowledge for the betterment of the industry."

Amir Cahn, executive director of the SWAN Forum, added, "We are thrilled to have Brown and Caldwell, a recognized smart water leader, join the global smart water hub. Their wealth of expertise adds tremendous value to our rapidly growing community."

Brown and Caldwell is rapidly securing its position as a gatekeeper of utilities' digital transformation strategies. In October 2018, the firm announced the launch of BC Blue, a smart utility approach to efficiently manage and operate water, wastewater and stormwater utilities. The approach aligns operations and systems to better collect and understand data for long-term capital investment and innovation planning while reducing operator training time.

To engage with global smart water experts, Brown and Caldwell will participate in the SWAN 9th Annual Conference taking place May 15-16 at the Hyatt Regency Miami.

TECHNOLOGY

New Study Uses Smartphones to Monitor Infrastructure

According to futurity.org, new technology may be able to use smartphone sensors to analyze and keep an eye on deteriorating roads and bridges. These smartphone sensors can be used as a gyroscope, an accelerometer to measure speed or tiny external sensors such as an infrared sensor.

“People are looking for smart, cost effective, scalable, and user-centered approaches,“ says Amir Alavi, an assistant professor of civil and environmental engineering at the University of Missouri College of Engineering. “With current advances in technology, people can help monitor or detect problems using their own devices, and smartphone technology allows us to do that with civil infrastructure.”

“Assessing roads, bridges, and airfields with affordable sensors, such as those found in smartphones, really works,” says Bill Buttlar, Chair of Flexible Pavement Technology. “With a smartphone, we can stitch together many inexpensive measurements to accurately assess things like the roughness or deterioration of a road surface. In a recent project sponsored by the Missouri Department of Transportation, we also showed that it can accurately assess the condition of airport runways and taxiways.”

As futurity.org points out, scientists won’t be the ones collect the data. Once someone plugs the sensor into a smartphone, anyone can easily transmit the data wirelessly to a database while on a road. Researchers hope the large amount of crowdsourced data will allow for better informed decisions about the health of roads and bridges.

The full study includes a comprehensive review of smartphone research for infrastructure monitoring, a case study to show how smartphones can be used as cost-effective tools and further details on the challenges and limitations of this idea.

To view the full study, please visit https://www.sciencedirect.com/science/article/pii/S0167739X18315875?via%3Dihub

ACKNOWLEDGING EXCELLENCE

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

GENERALIST CERTIFICATION/DESIGNATION

Thomas Ball, RWA
Santacruz Land Acquisitions
Chapter 12 Northfield,IL

John P. Bennett, SR/WA
Teague Nall & Perkins
Chapter 36 Fort Worth, TX

Alyssa Britton, SR/WA
Dairyland Power Cooperative
Chapter 17 La Crosse, WI

Randy D. Brusven, SR/WA
HDR, Inc.
Chapter 3 Salem, OR

Jayson Carpenter, SR/WA
Salt River Project
Chapter 28 Tempe, AZ

Willette H. Chambliss, SR/WA
Alabama Power
Chapter 24 Gadsden, AL

Jackie Cook, RWA
County of El Dorado
Chapter 27 Placerville, CA

Adrian Cook, RWA
City of Fort Smith
Chapter 33 Fort Smith, AR

Cameron Crenshaw, RWA
Sarasota County Government
Chapter 26 Sarasota, FL

Clinton S. Dameron, SR/WA
City of Salem
Chapter 3 Salem, OR

Jeffrey K. Davis, RWP
Clark Land Resources, Inc.
Chapter 11 Oceanside, CA

Randy Gabbert, SR/WA
Columbia Gas of Ohio
Chapter 13 Columbus, OH

Jody L. Harness, RWA
Spire, Inc.
Chapter 37 St. Louis, MO

Lori Hathaway, SR/WA
Universal Field Services, Inc.
Chapter 3 Salem, OR

Gina B. Hobie, RWA
Eugene Water & Electric Board
Chapter 3 Eugene, OR

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

Lucie Jabour, RWA
Hatch
Chapter 29 Mississauga, ON

Jo Ellen Jarvis, SR/WA
Jarvis Appraisal Co.
Chapter 3 Washougal, WA

Deanna Kennedy, SR/WA
City of Ottawa
Chapter 63 Ottawa, ON

Mary D. Kimbrough, RWA
Ameren Missouri
Chapter 37 St. Louis, MO

William Kruger, RWA
NV Energy
Chapter 46 Reno, NV

Kevin T. Lynch, SR/WA
American Transmission Company LLC
Chapter 17 Waukesha, WI

Timothy Mathis, RWA
Ameren Illinois
Chapter 12 Decatur, IL

Kathleen A. Mensi, RWA
NiSource/Columbia Gas of Ohio
Chapter 13 Columbus, OH

Jane Mohling, RWA
Lincoln Electric System
Chapter 78 Lincoln, NE

Sarah A. Naqi, RWP
Saudi Aramco
Chapter 87 Saudi Arabia

Deborah Ann Ortega, SR/WA
City of Phoenix
Chapter 28 Phoenix, AZ

Pamela J. Parr, RWA
Clark Land Resources, Inc.
Chapter 50 San Diego, CA

Patricia Patterson, RWA
Universal Field Services, Inc.
Chapter 33 Tulsa, OK

Michael Ray, RWP
Kinder Morgan
Chapter 24 Birmingham, AL

Mandy M. Smith, RWA
Oncor Electric Delivery
Chapter 36 Fort Worth, TX

Jennifer Spurlock, RWA
Shawnee Professional Services
Chapter 12 Vienna, IL

Sunny Tong, SR/WA
County of San Mateo
Chapter 2 Redwood City, CA

Michael A. Turton, RWA
Williams
Chapter at large Pittsburgh, PA

Dawna Woytowich, RWP
Parkland County
Chapter 62 Parkland County, AB

Note: *Education milestones include only newly certified individuals.*

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

Generalist Certification/Designation

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

Specialty Certifications

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

SPECIALTY CERTIFICATION

Roberto J. Aguilar, R/W-AC
Chapter 43 Baton Rouge, LA

Thomas Bogdon, R/W-AC
Chapter 36 Dallas, TX

Carlos Herrera, R/W-NAC
Chapter 42 San Jose, CA

Lacie Jones, R/W-URAC
Chapter 33 Tulsa, OK

John P. Little, R/W-AC
Chapter 8 Houston, TX

Valorie Ohnesorge, R/W-RAC
Chapter 36 Fort Worth, TX

David Brent Pitts, R/W-AC
Chapter 36 Fort Worth, TX

Danny Rodriguez, R/W-RAC
Chapter 28 Phoenix, AZ

Karin B. Silverthorn, R/W-NAC
Chapter 31 Durham, NC

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

IRWA Member Farewell

WILLIAM L. REID

Born on August 7, 1924, William (Bill) L. Reid passed away peacefully on December 14, 2018.

He was a longtime engineer/manager at Consumers Power, as well as a dedicated member of the IRWA. Bill served as IRWA Michigan Chapter 7 President in 1966, and International President in 1976-1977. He was also Co-Chair of the 1989 International Education Conference held in Dearborn, Michigan, an IRWA Instructor, a member of numerous International and Chapter Committees and a great mentor to many Michigan Chapter 7 members. Additionally, he was a founding member of Westminster Presbyterian Church, serving as elder, lay preacher and choir director.

He is survived by his children Mike Pryjmak of Huntsville, AL, Sarah (Tommy) Thompson of Sylva, NC, and Carol (Robert) Jacot of Brighton. He is also survived by his late wife Jean's children, Karen Beemon of Baltimore, MD, David (Joan Stein) of Medford, MA, and Joanne Beemon (Carol Borgeson) of Ann Arbor, as well as nine grandchildren and five great grandchildren.

UPCOMING IRWA EVENTS

www.irwaonline.org

2019 Conference June 9 – June 12
Portland, Oregon

2020 Conference June 21 – June 24
Minneapolis, Minnesota

2021 Conference June 6 – June 9
San Antonio, Texas

2022 Conference June 12 – June 15
Cleveland, Ohio

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North American Partners

International Partners

If you are ready to take advantage of all the opportunities these joint partnerships offer, IRWA invites you to contact Mark Rieck at rieck@irwaonline.org.

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Michael.Welch@am.jll.com

DAVID DOMINY
David.Dominy@am.jll.com

JAMES PATTERSON
James.Patterson@am.jll.com

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