



International Right of Way Association Chapter 67 Orange County, California



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BUNDLE of WRITES

November 2011

President's Message

Rick Rayl, Esq.

Members:

So here we are, deep into what we Californians refer to as "Fall." The fact that it's been 80 degrees around here doesn't matter; it's FALL. I've been busy carving pumpkins and getting ready for Halloween, all while starting to plan for Thanksgiving, knowing that the rest of the holiday season is just around the corner. Although now that I think about it, according to Costco, Christmas has actually moved to sometime in August, so maybe I've really missed it already. Maybe this weather is actually the first indications of Spring? In any event, I digress.

The business of the IRWA continues, fighting for our attention among all the other events on our calendars. We're gearing up for our November meeting, at which we'll be discussing our upcoming Chapter awards and next month's Tri-Chapter event in Los Angeles. The Chapter awards, in particular, are worthy of some discussion, with our new and improved plan to tailor our local awards so that we can present our recipients for consideration at Region 1 next spring.

We'll also be hearing from this month's speaker, Jamie Yoshida, Vice President, Engineering for the Irvine Community Development Company. Mr. Yoshida has worked on some of the area's most successful developments. He will be talking to us about the Irvine Company's history, along with its upcoming plans. As someone who grew up in Irvine, I'm particularly interested in the backward-looking, historical part of the presentation, though I'll concede that the forward-looking portions are probably more relevant professionally.

The meeting will take place on November 8, 2011, at the Santa Ana/OC Airport Holiday Inn, located at 2726 South Grand Boulevard, Santa Ana, CA 92705 (\$15 for those who RSVP to Joe Munsey at jmunsey@semprautilities.com, or \$20 at the door). Or RSVP online at [IRWA Luncheon RSVP](#). I hope to see you there.

Next Luncheon Meeting

Date: November 8, 2011

Luncheon Speaker:

Jamie Yoshida, P.E. P.L.S.
Vice President Engineering
Irvine Community Development
Company

Topic:

History of the Irvine Company and
Goal and Objectives of Develop-
ment

Mr. Yoshida currently serves as Vice President, Engineering at Irvine Community Development Company. Some key projects he has worked on include: Newport Coast, Crystal Cove, Turtle Ridge, Shady Canyon, Quail Hill, Northwood, Woodbury, Portola Springs, Orchard Hills, Santiago Hills II, and Mountain Park. He previously worked at Van Dell and Associates for seven years in positions ranging from Design Engineer to Executive Vice President. While at Van Dell and Associates he worked on several infrastructure, residential, retail, and industrial projects primarily in Southern California. Outside of work he likes to golf, travel, play tennis, and spend time with family and friends. He has MSCE and BSCE degrees from the University of California, Irvine. cockatiels and freshwater fish.

Special Thanks

IRWA Chapter 67 would like to send out a special thanks to all our sponsors for their continued support.

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Board Meeting

Date: November 8, 2011 - immediately after luncheon

Your Chapter's Executive Board continues its duties and obligations to chart the success of the premier IRWA Chapter. We encourage members to attend and see your Executive Board in action.

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Editor's Corner

Daniel Chuong, HDR Engineering

On a recent trip to China, I had the great fortune of visiting the site of the 2010 World Expo in Shanghai. The World Expo was 184 day event which provided the sights and sounds for 250 countries and organizations. By the end of the expo a total of 73 million people had visited, with a single day record of over 1.03 million visitors entering the exhibition that day.



For those of you wondering how this relates to the IRWA, one exhibit in particular highlighted to me the application of the Right of Way Process needed to accomplish this huge undertaking. The total area for the fair grounds spanned 5.28 kilometers or 2.6 square miles and bridged the two sides of the Huangpu River. Developing the site required the relocation of residences and factories needed for the Expo Grounds. The relocation process involved moving 18,000 families and 270 factories, including the Jiang Nan Shipyard, which employs 10,000 workers. Below is a picture of the area in before condition and the other picture of the Expo grounds after the development. Not only was the urban landscape changed but Shanghai invested \$45 billion to upgrade the City's infrastructure, creating the world's longest metro system, two new airport terminals and a \$700 million promenade on the historic Bund as well as new roads, parks and bridges. The Right of Way Profession as evidenced by the World Expo plays an important role in the transformation and growth of infrastructure improvement projects worldwide. Thank you for letting me share my story and I hope others share their own international right of way experiences.



Residential Homes formerly on the site of the Expo



World Expo during the opening ceremony

Editor's Corner, continued

Event Reminder

A reminder to all, this year's Tri-Chapter luncheon will be held at the Grammy Museum located at L.A. Live on December 8th, so please mark your calendars now and prepare to enjoy the sights and sounds of Los Angeles.

Board News

If you are interested in becoming more involved in the chapter, please consider joining the board. There are still positions available. See a board member for more details. The board meets immediately following the monthly lunch meeting. Everyone is welcome.

For those new to chapter, please find our website at <http://www.irwa67.org/> for more information about upcoming events, membership, and classes. I encourage all members to be involved with chapter activities and leadership so we can make this the best year yet!

Drawing Sponsors

If you'd like to donate to the drawing, please bring your donation to the lunch.

Attendance Raffle

Any member who comes to lunch is eligible to win cash!! Just show up for your chance! Our next lunch is Tuesday November 8, 2011. Hope to see you there.

Education Coupon

For those of you who missed it in the October newsletter, a coupon for valuable savings on Chapter 67 courses and seminars is at the end of this newsletter. Bring this coupon with you to lunch and ask Ben Rubin (our Treasurer) to sign your coupon and you will be one-third of the way to your \$100 off. A great way to keep money in your wallet before the holidays arrive.



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Case of the Month

Bradford B. Kuhn, Esq.

California Court of Appeal Confirms Valuation Method for Private Utilities in Public Rights-of-Way

A new published California court of appeal decision may be important for private utility companies with respect to the valuation of their possessory interests in public rights-of-way for property tax assessment purposes. The case, *Charter Communications Properties v. County of San Luis Obispo*, provides that when assessing the fair market value of a utility's possessory interest, the County tax assessor will likely be able to disregard the utility's agreed-upon remaining term of possession and instead assume a much longer anticipated term of possession to match reality. This, in turn, means private utility companies should expect to see higher property tax assessments.

Some background: Under article 13, section 1 of the California Constitution, property is generally assessed as a percentage of its fair market value. Private possessory uses of public property may also be assessed for property tax purposes. With respect to private utilities in public rights-of-way, such possessory rights are typically valued by capitalizing the annual rent. The annual rent is based on the franchise fee paid in exchange for the utility's possessory interest for (1) the *remaining term* or (2) the *anticipated term*.

The term of possession therefore becomes very important for valuation purposes, as the longer the term of possession, the greater the present value. In the past, the assessor typically relied on the franchise agreement between the public entity and the private utility company in determining the remaining term. As terms came closer to expiration, private utility companies were taxed less and less.

The Charter Decision: In *Charter*, the private utility company had between four and eight years remaining on its franchise agreements with the County for the placement of its television cables in public rights-of-way. Instead of using this remaining term for valuation purposes, the County assessor instead valued the private utility's possessory interest by assuming a much longer anticipated term of possession (15 years).

Charter challenged the assessor's valuation methodology, as it resulted in over half-a-million dollars of increased assessment. Charter claimed there was no basis to deviate from the agreed-upon remaining term and assume a longer anticipated term of possession. The trial court held that the assessor appropriately relied on an extended anticipated term as opposed to the parties' stated remaining term, concluding that the evidence demonstrated that these types of franchise agreements are routinely renewed indefinitely, and in fact Charter expected its cables to remain in-place indefinitely.

The Court of Appeal affirmed, also concluding it was appropriate for the County assessor to assume a much longer anticipated term for valuation purposes. Despite the stated length remaining for its franchise term, there was no question that the utility provider would have its franchise renewed and the utilities would remain in place well into the future.

Private utility companies will now need to seriously analyze their property tax bills and determine the valuation methodology employed by the assessor. If the assessor deviated from the stated remaining franchise term, the utility provider will need to decide whether the deviation is supported.



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News

No news to report.

Events

Upcoming Monthly Luncheons:

November 8, 2011

December 6, 2011 (Tri-Chapter Luncheon)

January 10, 2012

February 14, 2012

March 13, 2012

Board Meetings:

Board meetings are held immediately following the monthly luncheons.



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California Governor Signs Five New Pipeline Safety Bills into Law

*Summary Provided by SempraNews©
September 16, 2011 & October 11, 2011
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The explosion killed eight people, injured dozens and destroyed 38 homes. It was the nation's deadliest gas explosion in a decade that sparked a blaze across 25 acres and left a 26-foot-wide crater that is still there today where the pipeline ran.

California lawmakers held a joint press conference last week to announce the anticipated passage of a package of bills aimed at natural gas pipeline safety.

Cindy Howell, director of State Government Affairs, Sempra Energy, provides the summary of the five bills which passed. "San Bruno was a wake-up call, and this legislation is the beginning of a sea change in the regulatory arena on the issue of safety," Howell said. "I expect more state legislation next year, and the federal government will act as well.

Summary of Bills

Natural Gas Pipeline Safety Plan [Senate Bill 705 (Mark Leno, San Francisco, D)]

This bill would require each gas corporation to develop a plan, for the safe and reliable operation of its commission-regulated gas pipeline facility, including activities the company routinely performs such as: identify and minimize hazards and systemic risks; identify the safety-related systems that will be deployed to minimize hazards; and provide for appropriate and effective system controls, with respect to both equipment and personnel procedures, among others.

Emergency Response [Senate Bill 44 (Ellen Corbett, San Leandro, D)]

This bill is about coordinated communication with local responders. More specifically, SB 44 requires the California Public Utilities Commission (CPUC) to establish compatible emergency response standards, that owners or operators of commission-regulated gas pipeline facilities would be required to follow. SB 44 also requires the owners of intrastate transmission lines to provide the State Fire Marshal and the chief fire official of the applicable local government with instructions on how to access and utilize the National Pipeline Mapping System developed by PHMSA to improve local response capabilities for pipeline emergencies.

Automatic and Remote Controlled Valves [Senate Bill 216 (Leland Yee, San Francisco, D)]

This bill provides that the commission shall require the installation of automatic shut-off or remote controlled sectionalized block valves on both of the following facilities, if it determines those valves are necessary for the protection of the public: (A) intrastate transmission lines that are located in a high consequence area. (B) intrastate transmission lines that traverse an active seismic earthquake fault. SB 216 also requires each owner or operator of a commission-regulated gas pipeline facility to provide a valve location plan, along with any recommendations for valve locations.

Natural Gas Pipeline Safety [Assembly Bill 56 (Jerry Hill, San Mateo, D)]

This bill implements numerous safety-related measures on the operation of natural gas pipeline facilities regulated by the CPUC. It requires better coordination with local responders, the installation of automatic and remote shut-off valves, and a comprehensive pressure testing plan among many other things.

Balancing Accounts for TIMP and Related Capital Expenditures [Senate Bill 879 (Alex Padilla, Van Nuys, D)]

SB 879 is a response to accusations that PG&E redirected funding for pipeline maintenance to other things. The legislature sought to prevent that with this bill. SB 879 requires the CPUC to establish a balancing account for recovery of expenditures related to the transmission integrity management program. The bill also increases the CPUC's statutory cap on penalties from \$20,000 to \$50,000 per violation.

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About the Facilitator:

Michael L. Heineke, SR/WA provides full Right of Way Services through his own company, the Heineke Consulting Group, Inc. He received his Bachelor of Science Degree in Petroleum Engineering from the University of Southern California, with postgraduate studies in Geological and Environmental Sciences at Colorado School of Mines and University of California – Irvine Campus. His experiences as a Senior Right of Way Agent for the County of San Bernardino and the City of Huntington Beach spanning nearly 20 years provides Mr. Heineke with a unique perspective in all aspects of appraisal and acquisition of real property, including residential, industrial, commercial, vacant land, oil, gas, and mineral resources. He is an expert witness in condemnation trials and holds lifetime teaching credentials in both Los Angeles County and Orange County Community College Districts.

William Larsen, Course Coordinator:

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\$100 Course Discount Coupon

Bring your coupon to the monthly luncheons and once you've obtained three months of initials from our Treasurer, the coupon can be redeemed for \$100 off of any Chapter 67 offered course. Coupons can be found on the last page of the "Bundle of Writes", our chapter's monthly newsletter.

Both of these incentive programs are great deals, so take advantage of them while they're available!

Upcoming Courses

Click on the course descriptions below to find out more information about specific courses and locations.

Course Number	Description
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500	Relocation Assistance
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Employment

There are no employment opportunities at this time.

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