

THE BLUEGRASS BULLETIN



State of the State General Membership Meeting Friday, August 7th Gheens Foundation Lodge The Parklands of Floyds Fork

Our annual visit with the Transportation Cabinet will be held at the Gheens Foundation Lodge, in Beckley Creek Park, the northern section of the Parklands of Floyds Fork. The Executive Board will convene at 10:30 AM, a catered lunch will be served beginning at noon, and the program will commence at 1:00 PM. The cost for members will be \$30.00 per person with advanced reservations, and \$40.00 per person at the door. The cost for nonmembers will be \$50.00 per person with advanced reservations, and \$60.00 per person at the door. Reservations may be made with the enclosed registration form, or on the Chapter 25 website at <http://www.irwa25.org>.

The Director of Right of Way and Utilities, Dean Loy, and his Central Office staff, will be our guest speakers.

In these uncertain financial times, good information is the best benefit that Chapter 25 can provide its members. So, please plan on attending this unique opportunity to plan your future.

R.S.V.P. enclosed form to:
Jessica Grivna
Qk4
1046 East Chestnut Street
Louisville, KY 40204

Or register on the web!

Directions: From either westbound or eastbound I-64, turn north on I-265, the Gene Snyder Freeway. Turn east onto Shelbyville Road (US60). Turn south (right) onto South Beckley Station Road. Turn east (left) onto Beckley Creek Parkway, then turn right to stay on Beckley Creek Parkway. Gheens Foundation Lodge is at 1421 Beckley Creek Parkway. Hope to see you all there!

Greetings Bluegrass Members and Friends!

As I start my year of service to you as the current Chapter 25 president, the first message has to be one of thanks to all who contributed to the past year's success. Leigh Karr, SRWA, was able to build stronger connections with the other chapters in our region which culminated in a very successful Region 5 Forum this past fall. He deserves our praise. Mike Penick, SRWA, has done an outstanding job heading up our education program. Mike has always gone way above and beyond to ensure offerings are of high quality and value to those that will commit to learning and professional growth. Of course, Bill Busch, SRWA, continues to bring us knowledge of our industry on a national and global scale that is invaluable. Bill sets a high bar of professionalism and wisdom and for that we should be grateful. Matt Chapman, MAI, and his staff took on the unsung but very tedious and time consuming job of keeping Chapter financial records. Thanks Matt. Finally, thanks to all who help in any way to support the Chapter. We have a great team to serve on the Board for this upcoming year. Their positive attitudes and willingness to jump in and help are uplifting.

The current snapshot of our Chapter is a strong one. We have gained membership and are in excellent financial condition. There could not be a better time for members to speak up regarding ways the Chapter could better serve them. We have regular Board meetings where we review and discuss every facet of Chapter business. These meetings are absolutely open to any and all members who would like to attend and provide input. It would be a blessing to see and hear from members who for reasons of distance or other obstacles cannot make it to our meetings.

Our next General Membership meeting is fast approaching. It will be on August 7th at the Parklands at Floyds Fork. This location has proven to be ideal in many ways, so we hope you'll make plans to attend. The topic is the State of the State from Kentucky Transportation Cabinet. Come join in on this opportunity for learning and fellowship. Looking further ahead, don't forget the Chapter Chili Cook Off on October 9th and the annual holiday banquet on December 4th.

Make this the year that you contribute that article, offer up that idea you've had for years, attend a meeting, and maybe even recruit a new member. The cliché that you only get out of something what you put into it is actually true. Hope to see or hear from you soon.

Wayne Kimbel



Our June General Membership Meeting was at Mammy's restaurant in Bardstown and included the installation of our 2015-2016 Chapter 25 Offices, shown above waving to the crowd. Our Region 5 Vice Chair Greg R. Mathias, SR/WA officiated. The Chapter 25 Officers are:

- | | |
|---------------------------------|----------------------|
| President: | Wayne Kimbel |
| Vice President: | Matt Chapman |
| Treasurer: | Jessica Grivna |
| Secretary: | Tim Wiley |
| International Director 1 Year: | Chad Cutsinger |
| International Director 2 Years: | Leigh A. Karr, SR/WA |

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As shown to the right, Greg Mathias presented Outgoing President Leigh Karr with a Past President's Plaque.



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Then, we all went over to the Barton's Distillery complex for a tour and a tasting.

IRWA Chapter 25 Education Update....Mike Penick, SR/WA, Education Chair

Hi all! First off, I'd like to thank all of you who are current members and are supporters of IRWA. We are the only professional organization that is unique into our line of work that allows our members access to a vast network of others who also do work in our field. As I look into the future for what is to come, I'd also like to ask everyone to contact Francis Vicente' at IRWA Headquarters (310) 538-0233 and request an updated listing of all courses that they've taken or need to take towards a designation. Remember, INVEST IN YOURSELF. Tomorrow is not promised, but expect tomorrow to come anyway.

Here is the list of courses that our chapter (Kentucky Bluegrass #25) has put on over the past two years (from newest to oldest):

Course 213, Conflict Resolution, May 14th, 2015, Frankfort, KY
Course 103, Ethics and Right of Way, May 13th, 2015, Frankfort, KY
Course 400, Principles of Real Estate Appraisal, February 25th-26th, 2015 Frankfort, KY
Course 100, Principles of ROW Land Acquisition, October 21-24th, 2014, Louisville, KY
Course 606, Environmental Issues in ROW, October 15th 2014, Hebron, KY
Course 603, Environmental Contamination, October 14th 2014, Hebron, KY
Course 803, Eminent Domain Law for ROW, June 17-18th 2014, Lexington, KY
Course 501, Residential Relocation Assistance, June 10-11th 2014, Lexington, KY
Course 100, Principles of ROW Land Acquisition, August 20-23rd 2014, Jeffersontown, KY
Course 506, Advanced Business relocation, June 6-7th 2013, Jeffersontown, KY
Course 502, Business Relocation, June 4-5th 2013, Jeffersontown, KY

Our chapter has been busy, and that's a good thing. I'd like to give many thanks to KYTC and LG&E for their support for classes and investment for their people; without their support, our chapter would be in a lot of trouble. It's all about the training and adding growth to your career, and expansion of that resume'. IRWA Courses are generalized and not state-specific, but they still provide a wealth of information from a federal perspective that can be applied on the state level. So again, if you haven't taken any classes, want to take classes, or are decided to pursue a professional designation, then let's work on it together! Let me know your wish list; remember, if our chapter is offering a course, come and take it! While the online offerings are also good, they do not provide a networking and discussion capability that the classroom does. The chapter also depends upon these courses that provide a financial stipend to our chapter from IRWA Headquarters. This stipend allows us to have our general meetings, hospitality suites, and provide other benefits to our members on a localized level that allows us to have benefits.

Remember: INVEST IN YOURSELF. Think about your future, add value to your company, and prepare for your retirement. LEARN ALL YOU CAN, WHILE YOU CAN.

-Professor Mike P

It's a Duct, Not a Duck

by Timothy Wiley, Chapter Secretary - IRWA Bluegrass Chapter 25

Getting your feet wet as a new right of way agent is a lot like catching a cold while on vacation. It's the last thing you want to experience while doing one thing you truly enjoy. While you ponder this and ask yourself what it has to do with the title of this article, more on that in a moment.

Being a right of way agent may encompass a myriad of roles from relocation services, property acquisition and/or easement acquisition, to name a few. Yet, it primarily involves finding the road less traveled and helping others, those involved in your project, see why taking that road is important. That means you act as a guide for others to see how performing the right of way task may lead to less project-related headaches. To truly perform this job, it has to become more than a job, it needs to be a passion. While I became a right of way agent in the latter part of 2007 and found a new world of customer service, my road to this position was rather lengthy. I had long desired to serve in the field of right of way while working in the utility industry for almost 20 years. After completing my bachelor and master degrees I pursued another passion of mine by working in the training and development field for ten years. My first few months as an agent involved learning a new language, that of right of wayese...*easement, right of entry, acquisition, prescriptive, eminent domain*, etc. Besides passion, an agent needs to develop patience, active listening, and life-long learning. All of these skills will aid the agent in being more innovative, creative and a problem-solver with regard to each right of way project handled.

Previously, I mentioned the importance of listening. This was evident the day a customer called a contractor to clean his duct system. Instead of actively listening to the phone number he was provided by a friend, he hurriedly jotted a number down and called later. Upon calling the number, he scheduled an appointment and later that day the contractor stopped by to perform the service. As the contractor and customer spoke face-to-face they immediately found a disconnect. The customer thought he had called a local HVAC contractor to clean his "ducts" but instead found he was speaking with pet cleaning contractor who thought he was there to clean "ducks". The moral of the story is, to be an effective listener an agent needs to listen twice as much as one speaks...*there really is a reason why we have two ears and one mouth.*



Reviewers Corner - Fee Simple Acquisitions

Right of way is usually acquired in fee simple, which means that all of the rights to the property are being acquired. The purchase is generally at market value, which means the current price being paid for similar properties. Basic stuff. So, let's slide on down the slippery slope.

Market value is very often not fee simple value. Investment properties are bought and sold based on the strength, length, and durability of their income stream. That income stream is generated most often from rents. The durability and strength of those future earnings depend upon strong and durable leases in place, preferably for a long term.

Leases divide fee simple interests into leased fee and leasehold interests. The leased fee portion belongs to the owner or landlord, while the leasehold interest is that of the tenant. Leased Fee + Leasehold = Fee Simple.

A shopping center is a good example of an investment grade property. It is the income streams from the leases that are traded in the marketplace under the guise of the real estate. The value of the leased fee interest is the market value. The price paid is the value of the right to collect the future rents. The position of the tenants' interests, the collective leasehold, is invisible on the surface.

Tenants may have a large advantage in the leasehold if their lease terms are long and below market rent so the landlord is locked into collecting low rents for a while. This condition would be reflected in the price paid for the shopping center by an investor, but it would still be the market value of the leased fee interest.

If the project plans call for the acquisition of a particular tenant's bay, then the tenant is due compensation for the loss of the leasehold advantage. Compensation is usually paid to the landlord in a fee simple lump sum amount and it is up to the landlord to compensate the tenant. However, the lump sum amount should include both the leased fee and leasehold compensation. The specific leasehold advantage for a specific tenant can only be calculated from the terms of the lease as measured against current market rent.

A shortcut to a fee simple value for the entire property would be to assume there are no leases and everyone pays market rent on a month-to-month basis. Using a direct capitalization technique, market derived vacancy and credit losses, as well as typical operating expenses must be deducted from the gross income and a market derived capitalization rate applied to the net operating income to produce an indication of value without any leasehold interests being present. This value should be higher than a value derived from sales of other shopping centers since they will contain leasehold interests thereby reducing the prices paid for the leased fee interests.

This discussion may be applied to any income property with long term leases in place, such as office buildings with multiple leases or even single tenant ground leases such as many national chain fast food restaurants or pharmacies. To get to fee simple value, you have to include all interests.

I recently had the misfortune to take an online course, for continuing education credits, dealing with the valuation of fast food restaurants that was full of misinformation and errors. Instead of a 7 hour course, it took me 2 days to get through the course.

One of the more glaringly incorrect postulations was that the fee simple value of a national brand fast food restaurant was as unoccupied and sold to a second generation user, "as a vanilla box". There was no accounting for a fee simple value as occupied by the primary user with a ground lease in place.

Following that logic, the fee simple value of a fully leased shopping center would be as if sitting there empty. Not a very good theory for right of way work!!

Try telling McDonald's that their property is worth the same as if it were an empty Mexican restaurant. That's gonna work!!

Read the lease. Figure out the leased fee and leasehold interests. Maybe it's a vanilla box at the end of the lease, but that could be 15 or 20 years from now. Okay, moving right along.

A different division of interests occurs with properties that have common area property rights such as condominiums or patio homes. Typically the owners of the individual units own from paint to paint on interior perimeter walls with the remainder of the building and all exterior improvements and land being owned jointly by all residents. A Master Agreement is of record in the county court clerk's office that states exactly what percentage interest each owner has in these common areas.

In this case, if a single unit is being acquired by a project, some portion of the common areas is also being acquired. So, both the single owner's interest from paint to paint and the combined interests of all of the owners in the common areas must be calculated in order to acquire the combined fee simple estate.

Yet another example of separate interests that must be combined in order to acquire a fee simple interest is that of severed mineral rights. Here, the surface rights and mineral rights must be calculated separately. The amount of underground gas, oil, coal, or other elements must be estimated and their value determined. In this instance there are two owners who are compensated separately, unlike tenants and landlords.

Since right of way appraisers are required to value project parcels in fee simple, it is critical that they recognize the difference between a fee simple value and a market value when leases are in place, master agreements are recorded, or minerals are severed.

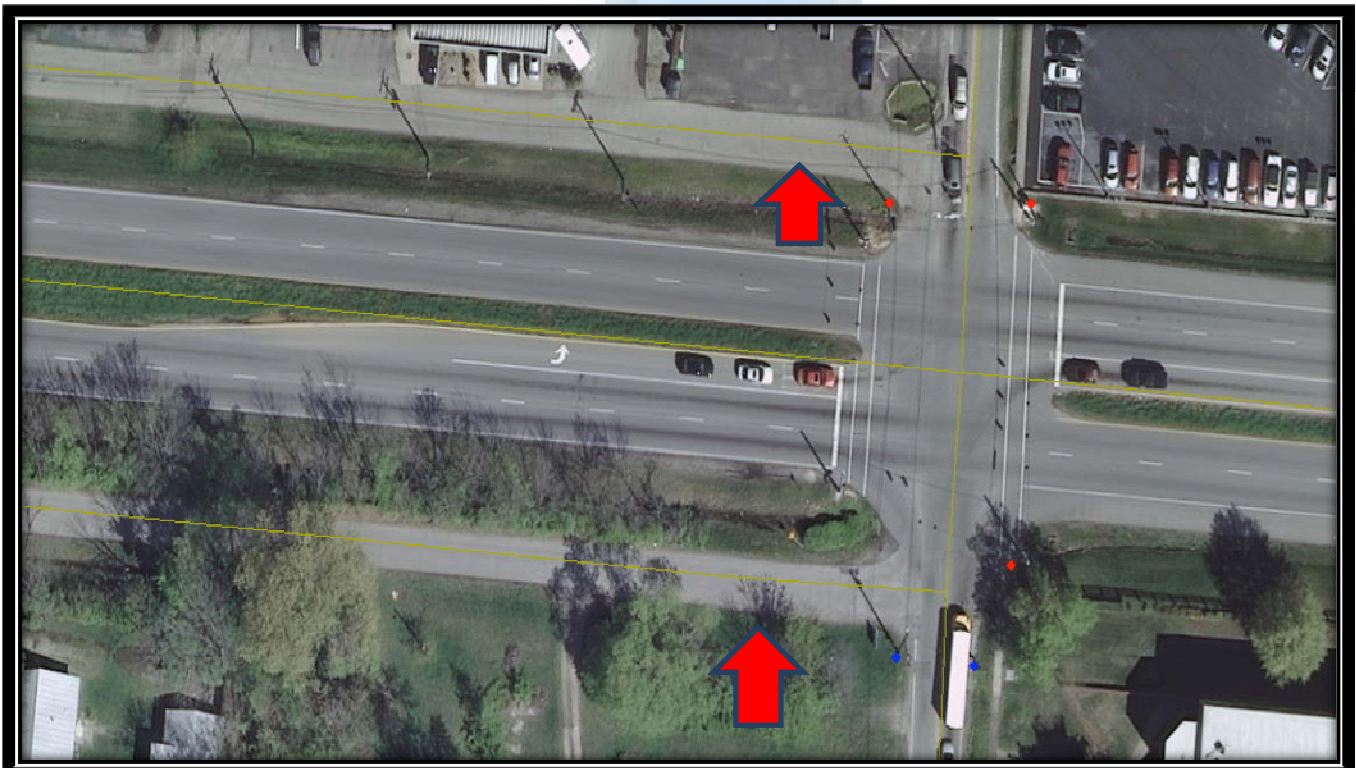
-William R. Cox, SR/WA

Right of Way 901: Project Changes from the Original Recipe

By: Mike Penick, SR/WA, Education Chair & Facilitator

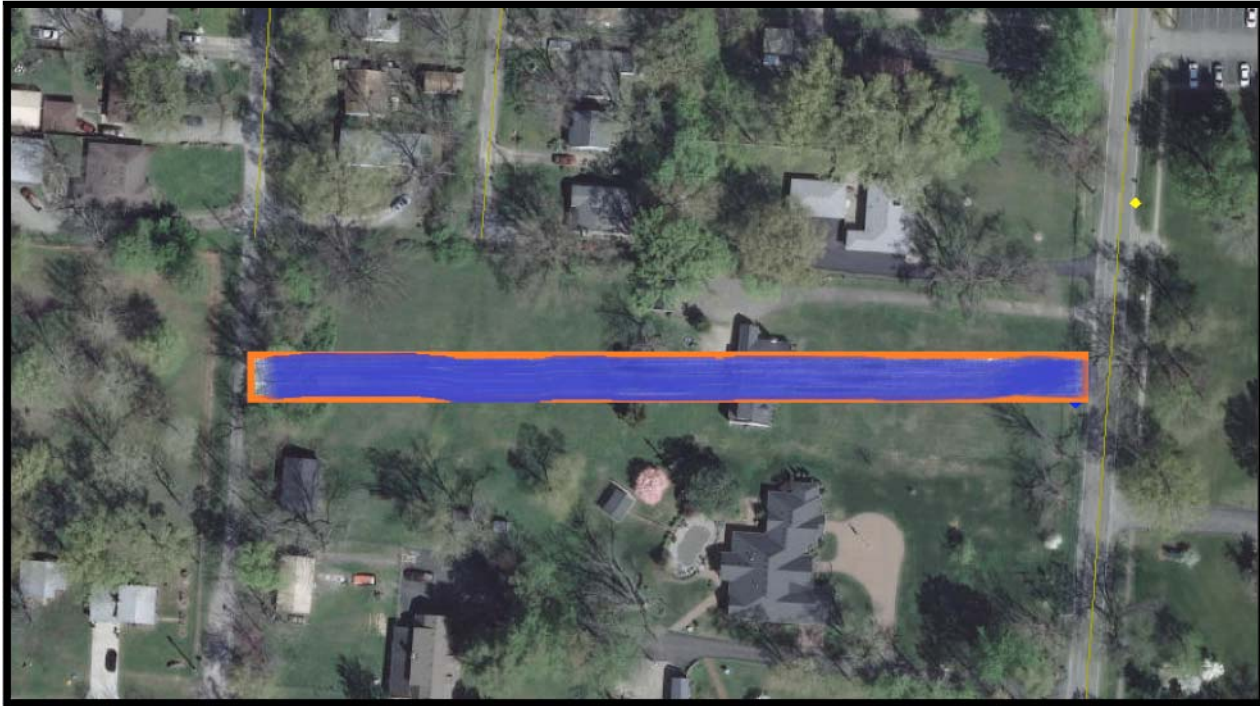
I was recently handed a project that had been on the shelf for about 10 years because originally there was no funding or budget available for the roadway. As I updated the plans based on current parcel and title information, it was absolutely amazing to see that more than 40% of my project plans had the correct owners. There were a number of sales and acquisitions that were made over the decade. Thus, it also occurred to me that very few, if any, of the remaining property owners even remembered the community meeting to discuss the proposed project. Well, this probably means that I should call another community meeting to talk to those who may not have attended the first meeting. Although this wasn't really necessary, I did so just to exude transparency and take additional comments, with the understanding that the project is still going to move forward.

The widening of this roadway comes with the planned relocation of a local side street. Both FHWA and KYTC Design Engineering rules state that local roads cannot run parallel to congested intersections, and thus must be relocated if an intersecting road is to be widened. the relocation of a side street that runs parallel to a major highway, but is also too close to the intersection where that street meets the major highway. See map below; the two red arrows identified the problem side streets that must be relocated.



There are a few exceptions are those roads, most of which are located near railroad lines. In those cases, traffic signals can be installed and updated to prevent possible backups and collisions at those intersections. This is also very costly, but easier than relocating railroad lines.

The plans for this project cause for one of the roads to be shifted into the following proposed alignment below, which institutes residential relocation:



At the community meeting, I was approached by a married couple who owned this property on the project. This couple had recently acquired this parcel six months ago, and (allegedly) it was never disclosed to these owners that this particular road project will be going right through their living room (that’s a previous property owner issue, NOT a project issue). Long story short (in my opinion) they or their attorney did not do their due diligence to ensure that this proposed project has minimal impact on the owners. Needless to say, they were unhappy about this project and were placing calls to their state rep, mayor, governor, and so on.

So, guess what happens? Yep, you probably already guessed it; about a couple weeks later, I receive a phone call from the area state representative in this area (who is pushing this project to go forward and already unhappy with the delays) telling me to initiate a plan change to shift this alignment somewhere else. When you hear the words “somewhere else”, you have to be thinking to yourself “Where else”??? Where can we move this road to where it doesn’t take anyone’s home and/or into a vacant lot? In this particular area, the previous alignment was preferred because it was the least invasive to all of the other property owners in the area and only required one relocation. I told the state rep that requesting to move the road is not enough, as we could be trading one problem for another one, or two on that matter. The state rep was gruff in his response: “you all figure it out, and do it.”

The point I’m trying to make is quite simple: requesting a change to plans is not only costly to the change itself, but it can also create more dollars for the construction project. As I previously stated, we had just one parcel requiring relocation; now shifting this alignment “somewhere else” can (and possibly will) increase the design, utility relocation, and construction costs to this project. When alignments for projects are selected, they are done so without intent of malice, harm, or just cutting corners. Alignments selected are (usually) the most sensible and least detrimental to a project. When people ask for changes to a project, they don’t realize that there are many other factors to consider, listed a few listed below:

- Will any changes to the original design require additional traffic studies, utility impacts, and environmental assessments? More than likely!
- Will these requested changes cost the project more money? In some way shape or form, yes!
- Will these changes delay the project? More than likely! Any work and planning that was done on selecting the previous alignment will have to be done on a plan change!
- Is the change request sensible? Sometimes it is, but most times it isn't!

In our line of work as right-of-way agents, we have to expect plan change requests or change orders. But those making the requests for change should know ALL of the factors and impacts to our plans. They should expect more delays, more meetings, potential increases in all costs, utility involvement, etc.

In closing, as right-of-way agents, be clear and direct with all those requesting plan changes. If the request for a change makes sense based on what you can see or know, then by all means proceed. But if the change does NOT make sense, be prepared to explain all of the issues that will occur by proceeding with the request. Talk to the project engineers, designers, and those that understand why the design was done a certain way. And finally, think of the costs; remember, it's more likely than not that a plan change will cause your project to incur additional costs.

Until next time, CLASS IS DISMISSED.

-Professor Mike P



Professor Mike P and Chad at the San Diego Conference



IRWA Leadership for 2015 - 2016

IRWA's leadership for fiscal year 2015-2016 was announced at the 61st Annual International Education Conference held in San Diego, California this past June.

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IRWA Congratulates 2014-2015 Award Winners

At IRWA's 61st Annual International Education Conference held in San Diego, California in June, the 2014-2015 award winners were announced by the International Nominations and Elections Committee. Congratulations to the following winners!

Frank C. Balfour Professional of the Year

A tribute to the member who has demonstrated exemplary support to the Association during the past year.

Cynde Barker, SR/WA, R/W-NAC
Chapter 10, Region 5

Employer of the Year

For strong employee support and commitment to the Association.

Company with 20 or more employees
Consumers Energy
Chapter 7, Region 5

Company with less than 20 employees
Basin Electric Power Cooperative
Chapter 72, Region 3

Government Employer
City of Aurora
Chapter 6, Region 9

Gene L. Land Award

Chapters with significant membership growth over the calendar year.

Highest Numerical Gain
Chapter 8, Houston, Texas
Region 2

Highest Percentage Gain
Chapter 13, Ohio
Region 5

Student Scholarships

Awarded to active students majoring in studies related to the right of way profession and/or public works administration.

SARPA (State Association of Real Property Agents)
S. Spencer Burgoyne, SR/WA

Canadian Right of Way Education Foundation
Calvin Giese

Lifetime Achievement Award

Bestowed by the International Executive Committee for an individual's extraordinary contributions to the right of way profession and Association during their lifetime.

Clyde Johnson, SR/WA, R/W-URAC, R/W-RAC
Chapter 22, Region 6

W. Howard Armstrong Instructor of the Year

For an instructor's exceptional passion and commitment in sharing their expertise and enhancing educational opportunities for participants.

David Burgoyne, SR/WA
Chapter 7, Region 5

Young Professional of the Year

For innovative ideas, commitment to professional development and active participation at the chapter level.

James Hardy, R/W-AC
Chapter 65, Region 8

Chapter of the Year

Recognizing success in membership growth, professional development, educational courses offered and achieving chapter goals.

Chapter 3, Portland, Oregon
Region 7

Newsletter of the Year

Acknowledging outstanding communication of chapter, regional and international news through the chapter newsletter.

Chapter 10, "Indiana Crossroads"
Indiana, Region 5

Website of the Year

For communicating local chapter news, events and information online.

Chapter 41, Iowa
Region 3

One Member's Personal Story

I became a member of the Buckeye Chapter 10 of the American Right of Way Association (yes, that was our original name) November 6, 1971, because I was located in Cincinnati, Ohio, and was with the Penn Central Railroad Real Estate Department. I attended the meetings, seminars, outings, etc. and worked my way up through the ranks. So by 1986 I was elected Vice President and was scheduled to be the President of Buckeye Chapter 10 for the 1987 year. My company (Conrail) had other ideas, so effective May 1, 1987 I was in Indianapolis as Regional Manager of Real Estate.

I quickly found the people who were involved in Crossroads of America Chapter 13 so that once again I was going to meetings, seminars, and fun outings with another group of fine people. When they were told of my situation when I left Chapter 10, it was not long before I started through the ranks again. So with the coming of the 1994 year, I was enjoying the privilege of being President of Chapter 13 with my Hoosier friends.

Once again my company decided to make some changes. This time it really had an effect. They asked if I was over 55 years of age, if I had more than 30 years with the railroad. The answer to all the above was yes, so on April 1, 1994 I joined the ranks of the newly early retired.

This time I found myself applying for membership in Bluegrass Chapter 25 with people I had worked with before but only knew casually. Why? Well, after being a member for 40 years, it just did not feel right not to be. So, I am the retired former President that most of you don't know. But I read the newsletter and the information from California, so I feel as if I belong to and am a part of Chapter 25. I found the association important for its educational value, its networking facility, and the opportunity to break bread with some mighty fine people. So, if you have someone who you think may be interested in the association you might show them this.

You never know I just might walk in on a general membership meeting one day. I'll be the guy with the ancient president lapel pen. Well, I will have to wear a sport coat to do that. - Cliff Wartman

The Bluegrass Chapter 25 Welcomes the following new members:

Timothy Flynn (Palmer Engineering)
Danny Mineer (Palmer Engineering)

Zachary Colston (Columbia Gas Transmission)
Travis D. Rogers (Columbia Pipeline)

Amanda Isom (Boardwalk Pipeline)

Christopher D. Music (Emerald Energy)

Jayson Gardner (O.R. Colan)

Delana Wade (LG&E)
Misty R. McCubbins (LG&E)
Nicholas Judah (LG&E)

Richard Adkins (Adkins Associates)

Charles Hellman (HMB)

Ray Shear (GRW)

Steve Damron (KYTC)
Kelly Divine (KYTC)
Robert Greenwell (KYTC)
Rex Alexander (KYTC)
Scott Clarke (KYTC)
Neal Terry (KYTC)
Ron Terry (KYTC)
Forrest Rankin (KYTC)
Joseph Walthen (KYTC)



Int'l Right of Way Assoc, Chapter 25

IRWA General Membership Meeting The State of the State

Speakers: Dean Loy & Staff, Division of Right of Way & Utilities
Kentucky Transportation Cabinet

Location: Beckley Creek Park, Gheens Foundation Lodge

1421 Beckley Creek Parkway, Eastwood, KY

Date & Time: Friday, August 7th, Lunch at Noon, Program at 1:00 PM

***Use one form if more than one attends from same company please.**

1) Name _____ Title _____
 2) Name _____ Title _____
 3) Name _____ Title _____
 4) Name _____ Title _____
 Company _____ Address _____
 City _____ State _____ Zip Code _____
 Phone _____ Fax _____ E-mail _____

Member Course Cost: \$30.00 per person (\$40.00 at the door)
Nonmember Course Cost: \$50.00 per person (\$60.00 at the door)

Fill in

Total Enclosed \$ _____

Registration Deadline: **make check/money order payable to:**

None

IRWA Kentucky Chapter 25

And mail to:

**Jessica Grivna
Qk4
1046 East Chestnut Street
Louisville, KY 40204**