



North Texas News



International Right-of-Way Association

Dallas-Fort Worth, Texas

Chapter 36 September 2008

Volume 2008, Issue 8

Be sure to check the Job Opportunities area on our website for our newest posting!

Municipal Regulation of Urban Natural Gas Pipelines



Roger E. Beecham is a partner in Shannon, Gracey, Ratliff and Miller, L.L.P.

Mr. Beecham began his career working for a major oil and gas company. He is experienced in dealing with acquisitions, exploration and production of non-producing and producing oil and gas properties including fee lands, Indian lands, and state and federal lands.

Mr. Beecham has been involved with all aspects of mineral titles, leases, leasing, seismic agreements, exploration agreements, drilling contracts, joint operating agreements, participation agreements, farmouts and farmins, gas balancing agreements, oil and gas purchase and sales contracts, natural

gas transportation agreements, gas processing agreements, pooling and unitization. Recently, he participated in defeating publicly issued bonds issued in 1998 by the Texas Municipal Gas Corporation to secure releases of oil and gas properties collateralizing these bonds that were purchased by his client.

Mr. Beecham has represented both borrowers and lenders in oil and gas lending transactions including asset-based and corporate loans; and non-conventional lending and financing based on production payments, net profits interests, back-ins, and carried interests. He is a member of the American Association of Petroleum Landmen and the Dallas Association of Petroleum Landmen.

He also practices Water, Oil and Gas Litigation, Securities and Real Estate Law.

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September Chapter Meeting

Fall

Date: September 9th

Place: Billy Bob's Texas (Texas Room)
2520 Rodeo Plaza, Stockyards Station
Fort Worth, Texas 76106
www.billybobstexas.com

Board Meeting: 10:30am-11:30am

Program & Lunch: 11:30am-1:00 pm

Menu: BBQ Brisket, Seasoned Pinto Beans, Potato Salad, Cole Slaw, BBQ Sauce, Relish Tray, Dinner Rolls, Iced Tea & Peach Cobbler.

Cost: \$15 per person (tax & gratuity included)

Everyone Welcome !

Please be kind to your program Committee and RSVP to Fonda Reynolds 214.342.9842 no later than NOON Friday, September 5th.

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PRESIDENT'S MESSAGE

By **DIANE BURKHARDT**



Great things have been happening this summer and so many of you can say that you have “been there, done that.”

One thing you did: Participate in the Spring Seminar Golf tournament as a golfer and as a sponsor which allowed Chapter 36 to donate again this year to two very worthy causes – Hospice of East Texas and to Phillip Barnes, a former TXU employee who is terminally ill with leukemia.

The highest mountains are conquered one step at a time. Your generosity with donating your time and money have supported Hospice and allowed them to help so many families in need who need to be able to face their family's crisis one day at a time.

Greg, The Chapter donation to this very worthy organization should make us all feel humble. The work they do and the services provided are just amazing. I hope we can increase this next year! Way to go. - Cheryl Bennett

Last year, our chapter learned of a TXU employee, Phil Barnes, who had been diagnosed with leukemia and needed some help. Our donation to him last year was such a powerful positive as it let him know that a whole bunch of people were thinking of him and wanting only the best for him. This year, we wanted to continue to support Phil as his body is not accepting the transplants and his illness has taken a turn for the worse. Our prayers are with Phil and his family during this very difficult time.

Another thing you did: Chapter members took full advantage of the Annual International Seminar being held in their home state of Texas. As we Texas love to brag about how things are bigger and better in Texas, well this year we were able to live up to our word. Austin set records in attendance and registration! I heard some story of how in the 70's there was a higher enrollment, but according to the story teller that was during the days when the IRWA counted everyone - members, their spouse, their children and probably the family pet. Putting the sarcasm aside, the Austin chapter put on a great show and your Chapter 36 fulfilled its responsibilities by volunteering with registration, moderating presentations, contributing to the education foundation, having SR/WA recipients at the awards breakfast and Donny Sherwood put on a great auction to raise more money for the education foundation.



Many thanks to Donny Sherwood and his band of volunteers for coordinating, contacting the various chapters, requesting a donated gift, following up to make sure they send the gift and transporting all of the donated items to the seminar. Donny, you put on a great show. I really liked how quickly it started and ended with a tremendous amount of money being raised to support what the IRWA is truly all about – education. More people will stay for the auction if it can continue to be run as smoothly as it was this year. Thanks for all of your time and efforts, it was a great success.

Chapter 36 is very proud of our members who have taken on the challenge of earning a designation. Every designation only comes after numerous hours of classroom time and complete dedication to your goal of obtaining a certification. Every member who has earned a designation is very proud of their accomplishment and absolutely deserve the recognition and privilege of having their designation after their name. The most accomplished certification is the SR/WA designation. IRWA gives a special SR/WA recognition breakfast for the past year of SR/WA recipients who are attending. Once again, a record was set for the most recipients earning the SR/WA who attended the breakfast. Congratulations to all who earned their designation! Great job!



Another thing you did: was go for it! Chapter 36 made its first run at hosting the International Seminar in Fort Worth. The team did an amazing show and was very well received. It was a tough run as West Virginia has campaigned for three years in a row and had a huge sympathy factor with the directors. Your team representing you made us proud as everything from the booth to the early morning campaigns to the regions to the final show at the directors' voting meeting was a class act the whole way. You were head and shoulders above the competition and we are very pleased with your efforts. We are not, however, pleased with the outcome of the election as West Virginia was able to win over the troops for 2013.

The latest thing you did: was attend the great summer outing at the Lone Star Park in Grand Prairie. There was such a great turnout that the committee had to request a third suite for the attendees. The suites were lovely and were full of appetizers and a cash bar. Once again, Lily and Pris outdid themselves making sure that the members and their guests could have a great time. The attendees were nicely entertained in the plush air conditioned suites with a full food buffet that included freshly sautéed pasta dishes, prime rib and other fabulous choices. All of the attendees who won money...congratulations on all of your winnings. For the rest of us who did not win any money...I still had a fun time and was really glad that I was not outside in the heat and sun. Thank you, Lily and Pris, for a great time.

We are looking forward to our first Chapter meeting on the second Tuesday of September. See you then.

— Diane Burkhardt



2008 Education Schedule

Submit Questions to Charles Stearman by e-mail to Charles@pyleswhatley.com

Schedule is preliminary and subject to being finalized/changed.

Course	Date	Instructor	Location
200 Prin. Of Real Estate Negotiation	rescheduled		
900 Prin. Of Engineering	rescheduled		
800 Prin. Of Real Estate Law	September	Scott Moran	Dallas
504 Computing Replacement Housing Payments	September 22 & 23	Lisa Harrison	Dallas
214 Skills of Expert Testimony	September 26	Donnie Sherwood	Fort Worth
409 Integrating Appraisal Standards	October	Steve Kunkel	Fort Worth
TBA*	October 10	TBD	Waco

** In Cooperation with Houston Chapter 8*





Professional Development Committee



The July/August 2008 Magazine had the following PDC information on Page 57 that is important enough to be reiterated for those who might have missed it.

SRWA Expired Status:

This past July 1st 2008 was the cutoff date for members to respond to a lapse in their designation or those who submitted recertification applications but have not met the requirements yet. If you failed to respond to the notification sent in November 2007 your designation will be removed from your records.

You can file for an extension, but it must be submitted to IPDC for approval and it must include a valid reason for the lapse and a plan of action showing how the missing requirements will be completed and how long (specific date or number of months).

SRWA Exam Sunset Clause:

SRWA exams will now have a 5-year sunset clause from the date the pass notification was sent from IRWA. Candidates who did not complete all their requirements and did not submit their completion application on or before June 30, 2008 will be required to retake the SRWA exam(s).

Course Requirements Changes:

Effective July 1, 2008, Course 604 - Environmental Due Diligence and Liability becomes a course requirement for the R/W Environmental Certification. If you completed all your requirements and submitted your completion application prior to June 30 you are grandfathered from the new requirement.

R/W Certification Program Change:

Currently only the Appraisal and Relocation Assistance Certification require passing the individual SRWA discipline exams in order to receive your R/W Certification.

EFFECTIVE JULY 1, 2009, **ALL** R/W Certification Program Disciplines will have the new requirement that a R/W candidate must pass the respective individual SRWA discipline exam to receive the R/W Certification. This means that Asset-Management, Environmental, and Negotiation/Acquisition candidates will (after July 1, 2009) have to pass the individual SRWA discipline exam prior to submitting a completion application.

You have until June 30, 2009 to complete all your Certification requirements and submit your completion application to your Chapter PDC in order to be grandfathered from this new requirement!!!

Chapter 36 PDC Committee Members:

- Chair - Cheryl Bennett, SR/WA, 972-960-7121, cbennett@ufsrw.com
- 2 year (Temporary) - Stephanie Burkhardt 972-966-2809, stephanieb@usrightofway.com
- 3 year - David McCarthy, SR/WA, R/W-RAC 214-762-1415, dmcCarthy@pinnaclegroup.biz

**Mail All SR/WA and R/W Applications to Chapter 36 PDC Chair –
c/o Cheryl Bennett, Universal Field Services, 14677 Midway Rd., Suite 115,
Addison, Texas 75001**



ASK THE LAWYER

By

R. Scott Moran,

Scott Doggett,

John Baker

and

David Weaver

Attorneys at Law

Burford & Ryburn, L.L.P.

Submit Questions About
Right-of-Way Matters to
Chapter 36 Member,

R. Scott Moran*,

Burford & Ryburn, L.L.P.,

3100 Lincoln Plaza,

500 N. Akard,

Dallas, Tx 75201;

(214) 740-3117

(214)740-2822 (fax) or

by e-mail

to:

smoran@brlaw.com



QUESTION:

I have heard a lot about pipeline “corridors” recently. Have the Courts addressed this concept?

- William H. Brimmer, Right-of-Way Superintendent, Devon Gas Services, L.P.

ANSWER:

The Texas Supreme Court’s most recent statement of the law regarding the valuation of pipeline easements was in *Exxon Pipeline Co. v. Zwahr*, 88 S.W. 2d 623 (Tex. 2002) in which the Court stated:

Compensation for land taken by eminent domain is measured by the fair-market value of the land at the time of the taking. The general rule for determining fair-market value is the before-and-after rule, which requires measuring the difference in the value of the land immediately before and immediately after the taking. When, as here, only part of the land is taken for an easement, a partial taking occurs. In this situation, the before-and-after rule still applies, but compensation is measured by the market value of the part taken plus any diminution in value to the remainder of the land. ...

In determining market value, the project-enhancement rule provides that the factfinder may not consider any enhancement to the value of the landowner’s property that results from the taking itself. This is because the objective of the judicial process in the condemnation context is to make the landowner whole. To compensate a landowner for value attributable to the condemnation project itself, however, would place the landowner in a better position than he would have enjoyed had there been no condemnation. ...

On the other hand, the factfinder may consider the highest and best use to which the land taken can be adapted. The existing use of the land, in this case, cotton farming, is its presumed highest and best use, but the landowner can rebut this presumption by showing a reasonable probability that when the taking occurred, the property was adaptable and needed or would likely be needed in the near future for another use.

Finally, Texas law permits landowners to introduce testimony that the condemned land is a self-sufficient separate economic unit, independent from the remainder of the parent tract with a different highest and best use and different value from the remaining land. In this situation, the market value of the severed land can be determined without reference to the remaining land. But when the portion of the land taken by eminent domain cannot be considered as a separate economic unit, the before-and-after method requires determining market value by evaluating the taken land as a proportionate part of the remaining land.

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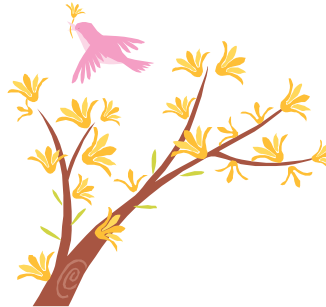
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Committee Page



Have a Job Opportunity you'd like to post?

Please submit all Right of Way Industry related job opportunities to:

Denise Perez at dperez@cityofirving.org

We Have A New Job Posting

Those of you searching for a new job opportunity, be sure to check out our website www.irwachapter36.org under Ch. 36 links, Local Job Postings section.