

# INTERNATIONAL RIGHT OF WAY ASSOCIATION

*Kachina Chapter 28*

*PMB #428*

*5025 N Central Avenue*

*Phoenix AZ 85012*

*www.irwaaz.com \* info@irwaaz.com*

## *2003 Kachina Chapter 28 Officers and Committee Chairs*

<b>President / Int'l Director</b> Melita Hillman, SR/WA melita.hillman@cityofmesa.org	480.644.2671	<b>Leadership Develop. Council</b> Rebekah Louis rblois@srpnet.com	602.236.8195	<b>Property Management</b> Joel Gilmore jagilmor@srpnet.com	602.236.3150
<b>President Elect</b> Douglas McLaughlin, SR/WA dwm@mail.maricopa.gov	602.506.4648	<b>Local Public Agency</b> Ray Warriner, SR/WA rwarriner@pr.state.az.us	602.542.2146	<b>Real Estate Credits</b> Budd Rodgers budd.rodgers@ci.chandler.az.us	480.782.3392
<b>Secretary</b> Chris Banks, SR/WA cdbanks@srpnet.com	602.236.8175	<b>Luncheon</b> Pam Hicks pjhicks@srpnet.com	602.236.5948	<b>Relocation</b> Roger Ottoway rloottaway@aol.com	602.604.8115
<b>Treasurer</b> Michael Sterling, SR/WA msterling@ufsaz.com	602.604.8118	Dan Kovochich djkovoch@srpnet.com	602.236.8184	<b>Seminar</b> Melita Hillman, SR/WA melita.hillman@cityofmesa.org	480.644.2671
<b>International Director</b> Gary Patchett, SR/WA gpatchett@ufsaz.com	602.604.8118	<b>Marketing/Awareness/PR</b> Brett Smith basmith@landam.com	602.287.3500	Douglas McLaughlin, SR/WA dwm@mail.maricopa.gov	602.506.4648
<b>Education</b> Dwight Davis, MAI dwight@davisvaluation.com	480.968.7449	<b>Membership</b> Rebekah Louis rblois@srpnet.com	602.236.8195	<b>Survey</b> Gregg Tuttle gmtuttle@srpnet.com	602.236.3170
<b>Environmental</b> Gary Patchett, SR/WA gpatchett@ufsaz.com	602.604.8118	<b>Newsletter</b> Cate Chamberlain info@irwaaz.com	602.258.6128	<b>Title &amp; Escrow</b> Jim Herrell jherrell@fnf.com	602.224.8500
<b>Ethics</b> Charlie Grombacher cgrombacher@tierra-row.com	480.443.3262	<b>Nominations &amp; Elections</b> Paul Herndon, SR/WA paul.herndon@aps.com	623.932.6729	<b>Transportation</b> Ronald Hill, SR/WA ronald.m.hill@igate.fhwa.dot.gov	602.379.3645 ext 123
<b>Int'l Utilities Committee</b> Mike Burns, SR/WA meburns@srpnet.com	602.236.3108	<b>PDC</b> Toni Soderman, SR/WA, Chair tonisoderman@mail.maricopa.gov	602.506.4883	<b>Utilities</b> Mike Burns, SR/WA meburns@srpnet.com	602.236.3108
<b>Job Bank</b> Cate Chamberlain info@irwaaz.com	602.258.6128	Larry Ambrosier, SR/WA ldambros@srpnet.com	602.236.5003	<b>Valuation</b> Jared N Huish, MAI, SR/WA jhuish@cox.net	480.610.5600
		Al Dickie, SR/WA radickie@srpnet.com	602.236.8170	<b>Website</b> Cate Chamberlain info@irwaaz.com	602.258.6128

NEWSLETTER

**FEBRUARY, 2003**

**EXECUTIVE BOARD MEETING**

The next Executive Board and will be held on Wednesday February 5th @ 4:45pm in the 3<sup>rd</sup> floor Conference Room at Az State Land. Additional information can be found on the Chapter website.

**→ FEBRUARY CHAPTER LUNCHEON ←**

**DATE:** Tuesday, February 11th @ 11:30 am

**PLACE:** Treulich's Steakhouse (5020 N Black Canyon Freeway) [There is a map on the website for directions]

**COST:** \$14.00 for members and guests (please have exact change or your check made out to IRWA Chapter 28)

**MENU:** -- There will be three new menu choices:

-Tenderloin Tips over Noodles

-Baked Cod Vera Cruz

-Stuffed Roasted Capon, Orange-Apricot Sauce

All menu choices will be served with a Tossed Salad, Dinner Rolls, Garlic Whipped Potatoes and Chefs' Vegetable du Jour. Iced Tea and Coffee will be included.

**Please Note:** *There will be no Spumoni with this menu. (No temptation to those members who are trying to diet for their New Years' resolutions).*

**RSVP:** Deadline for reservations is 3:00 pm, Thursday, February 6th. Please RSVP through the Chapter website at [www.irwaaz.com](http://www.irwaaz.com) or call Pam Hicks @ 602.236.5948.

**GUEST SPEAKER**

Our Luncheon Speaker for February will be Robert B. Stevens, an Environmental Service Planner with the Flood Control District of Maricopa County since 1996. He manages the 404/401 (Section 401 and 404 of the Clean Water Act) permitting program for design, construction and maintenance of flood control facilities. Goals of program focus on insuring compliance in the spirit of NEPA (RCRA, CERCLA, SARA, Section 106 of the Historic Preservation Act, Migratory Bird Rule) and the 404 (b) 1 for Regional Area Drainage and Water Course Master Plan studies developed and implemented by the district, local municipalities and federal agencies.

He is a graduate of Northern Arizona University in Hydrogeology, a member of the National Association of Flood and Stormwater Management Agencies (NASFMA) and has worked both in the private and public sector of the environmental industry, including mining plant level compliance, consulting and planning for over 15 years.

**JOB BANK**

For current job openings, please visit the Chapter website: [www.irwaaz.com/jobbank\\_openings](http://www.irwaaz.com/jobbank_openings).

## PRESIDENT'S MESSAGE

Melita Hillman, SR/WA

For those of you who did not attend the January luncheon, Roy Tanney, Director of Subdivisions at the Arizona Department of Real Estate provided some insight into the subdivision laws and process in Arizona. Most interesting to me were his discussions of properties that are exempt from the subdivision laws such as sale of portions linear right of way to numerous adjacent owners. Thanks to Doug for a great topic and to Pam and Dan for the luncheon. If you have suggestions as to another luncheon restaurant for us to consider, let us know.

If you would like to participate in the planning for our Kachina Chapter Annual Educational Seminar in September, I encourage you to attend our first planning meeting to be held on Wednesday, February 19 at 4:30 at the State Land Department. We would welcome your suggestions as to the theme, speakers and speaker topics. This is your chapter and seminar – your ideas will help make the seminar what you want it to be.

By now you should have received the Right of Way magazine with information about the International Educational Seminar in Kansas City this June. As usual, the program looks to have numerous timely and interesting presentations. At the Seminar, the International Surveying Committee will present awards for its 1<sup>st</sup> Annual Right of Way Mapping Competition. Members are encouraged to submit maps that have or are to be used for the appraisal, acquisition, relocation or vacation of right of way projects. If you have such a map that you believe is excellent, submit it for consideration. Details about the competition are in the January-February Right of Way Magazine on pages 64-65.

I also noted in the International Seminar Brochure an announcement of the American Congress on Surveying and Mapping and Arizona Professional Land Surveyors Conference and Technology Exhibition on March 29 through April 2 at the Phoenix Civic Plaza. For those in the surveying or GIS field, this might be an opportunity to see the newest and latest technology. See page 10 of the Seminar brochure.

Join us – I'd love to see you at the February Board meeting, luncheon or Seminar planning meeting.

---

## Thought for the Day

"Reach high, for stars lie hidden in your soul. Dream deep, for every dream precedes the goal."

---

## EDUCATION

Dwight Davis, MAI

**Jan 30** - Course 104 Standards of Practice for the Right of Way Professional

**Feb 20** - Course 500 Uniform Relocation Assistance

**Mar 20-21** - Course 801 Land Titles

**Apr 17-18** - Course 205 Bargaining Negotiations

**May 22-23** - Course 900 Principles of Engineering

**Jun 19-20** - Course 602 Project Development and the Environmental Process

**Jul 24** - Course 407 Valuation of Contaminated Properties

**Sep 19\*** - Course 603 Understanding Environmental Contamination in Real Estate

**Sep 19\*** - Course 703 Real Property Asset Management

**Oct 23-24** - Course 502 Business Relocation

**Nov 20-21** - Course 200 Principles of Real Estate Communications

\*Held in conjunction with the annual seminar at the Holiday Inn.

We need course coordinators for Courses 602, 407, 603, 703, 502, and 200. These assignments will allow you to take the class free and are not very demanding.

We will probably have to find class locations other than SRP for many of the classes this year. SRP has been great, but will probably need most classrooms for other purposes.

Please contact Dwight Davis at 480.968.7449 to sign up as class coordinator, OR if your agency or company has a classroom we can use for courses after April.

---

Please visit [www.irwaaz.com/region1](http://www.irwaaz.com/region1) for current information on Region 1 activities. You can also contact Mark Keller, SR/WA at 602.236.8164 or [makeller@srpnet.com](mailto:makeller@srpnet.com) for Region information.

---

## MEMBERSHIP COMMITTEE

Rebekah Louis, Chair

The following people were read for approval at the January 8<sup>th</sup> Executive Board Meeting:

- Stephen Shea, City of Chandler
- Suzanne F Barnert, City of Chandler
- John Dutch, Universal Field Services

If you want information regarding membership in the IRWA, please visit our website ([irwaaz.com](http://irwaaz.com)) or contact me at 602.236.8175.

---

## FEDERAL HIGHWAYS UPDATE

Ron Hill, SR/WA

The Federal Highway Administration has recently published the 6th update of the Federal Highway Administration Program Guide for Utility Relocation and Accommodation on Federal-Aid Highways. This document may be accessed through the FHWA website at "[www.fhwa.dot.gov/reports/utilguid/index.htm](http://www.fhwa.dot.gov/reports/utilguid/index.htm)". The document has a published date of January 2003."

## INTERNATIONAL LOCAL PUBLIC AGENCY

Ron Hill, SR/WA

Attention: The International Local Public Agency Committee will be meeting in Dallas/Ft. Worth in early March, 2003 to finalize activities for the International Educational meeting to take place in Kansas City in June, 2003 and discuss potential topics for the 2004 Educational Seminar. Those members, and in particular those who work for local public agencies, such as cities and counties, are asked to submit topics and potential speaker names to your Regional Local Public Agency representative, Ron Hill at "[ronald.m.hill@fhwa.dot.gov](mailto:ronald.m.hill@fhwa.dot.gov)", (602)379-3645, 123. Topics suggested may be those which are particularly important to your way of doing business in the right of way arena. It may be with obtaining trained contractors in r/w or keeping trained staff personnel; it may be equipment oriented; or any thing that you may have identified as ways to be innovative, or solve problems, if solved."

## SEMINAR COMMITTEE

The first Seminar Committee Meeting will be held on Wednesday, February 19<sup>th</sup> at 4:30pm. We will meet in the 3<sup>rd</sup> floor conference room at AZ State Land. We will be planning our 45<sup>th</sup> Annual Seminar which is quite an achievement and all Chapter members are invited to participate. The first planning meeting will brainstorming new ideas and identifying the theme for this year's Seminar.


The Seminar Co-Chairs this year are Melita Hillman, SR/WA and Doug McLaughlin, SR/WA, our Chapter President and President-Elect respectively.

If you are unable to attend the Seminar Committee Meeting but would like to participate in planning this annual event, please contact Melita or Doug. Everyone is welcome.

---

Please consider submitting an article for publication in the Chapter newsletter. The deadline for submission is the 15<sup>th</sup> of each month for the following month.

---

  
**can-am**  
engineering geomatics

**Specialists in Right of Way Survey**  
**High Tech \* High Accuracy \* High Speed**

Field crews equipped with state of the art RTK GPS survey gear

**High end CADD**  
**Proprietary high speed data processing**  
**1200 dpi 48 inch color plotters**

Can-Am Engineering Geomatics Arizona offers 29 years of expertise in:

**Professional Land Surveying**  
**Land Planning and Subdivision Engineering**  
**Utility Engineering and Project Management**  
**Transportation and Traffic Engineering**  
**Water Resources and Geology**

**Contact:**  
**Dave Burden**  
**Can-Am Engineering Geomatics Arizona**  
**480-288-2271**

## SURVEYORS CORNER

Gregg Tuttle, Survey Chair

Question: Some time, this decade maybe, it is predicted that there will be handheld GPS units that can measure to within a few tenths of a foot, available for use by the general public. Wouldn't we be able perform our own property boundary surveys?

Much has been, and continues to be, written about applying GPS to surveying applications. At relatively low cost, GPS provides a reliable means to get both relative and absolute positional data. The continuing lowering of costs of this technology had seen an explosion of GPS receivers in the hands of hikers, campers, hunters, fishermen, and now, landowners. Unfortunately, the proliferation of GPS has often resulted in its misuse, especially in locating boundaries, and, not only by the lay property owners, but even by some land surveyors who should have known better.

To understand the problems using solely GPS in boundary line retracement, knowledge of historic land boundary survey practices is necessary. The early surveyors (1800's and even early 1900's) used compass and chain, (and later transit and tape), to establish many of today's boundaries. Land was much less inexpensive. Training was hap-hazardous. Obstacles in the path the surveyors were many. Forest, mountains, deserts, wild animal, hostile indigenous people, wars of insects, poisonous plants, etc. all distracted the surveyors from their work. The equipment was often poorly used by inexperienced employees. As a consequence, inconsistencies and errors in measurement were so common in early surveys that measurements were NOT held in high regard or respect.

To resolve ambiguities between what was marked and what was measured, the judicial system adopted principles known as the Rules of Construction, that are meant to be applied in a consistent manner where there is conflicting information. The First Rule is that the retracement of a boundary is to "follow in the footsteps of the original surveyor." The original boundary fixed by the original surveyor, as imperfectly as the boundary may have been measured and documented, remains the boundary.

In following this fundamental principle, the courts have consistently held that *original monuments* (or the former location of said monuments) *are superior to measurements in determining the location of boundaries.*

Research and field reconnaissance are more important than the precision of measurements in location the position of the original monument locations.

NOTE: The new measurements, while important, are seldom a persuasive factor and/or a critical aspect of the proper boundary retracement. Lines of occupation and ownership, along with witness marks, and memories of the elderly are more compelling than the measurements.

It is often disturbing to the non-boundary-surveyors to discover that in fixing old boundaries, the law favors the old hedge that meanders several feet off a straight line rather the sophisticated technology that can measure to +/- a few hundredths of a foot.

The Measurer's Paradox:

As the precision of measurement increase, the accuracy decreases.

In many boundary retracement surveys, there is an indirect correlation between precise measurements (referring to the repeatability of the measurement) and accurate measurements (referring to the correlation with the original boundary locations.)

Precise measurements become less useful in finding the position of original corners than more imprecise measurements that better replicate the original measurements (accuracy.)

With this in mind, a person probably has a better chance of successfully retracing that ancient boundary using less sophisticated methods than a GPS receiver.

It should therefore follow that the ability to replicate (with great precision) the nominal measurements in the record document and then project them upon the ground with GPS technology is seldom the best way to retract old boundaries.

Obviously the proliferation of GPS receivers in the hands of the uninitiated laypeople (who lack the knowledge of the legal rules of construction) does not make those laypeople any more qualified to locate their boundaries, then to give them surgical staplers makes them qualified to close a patient on an operating table.

We will continue this in the next column with some additional thoughts about how even some surveyors are misusing GPS technologies in the modern hunt for the boundary. We will consider how critical and crucial boundary evidence may be missed by using GPS, and how problems can go undetected.

But not all about GPS & Boundary Surveys is negative and we will close out our discourse in a discussion of the Advantages of GPS on Boundary Surveys.

Thanks, and remember.....

**Real knowledge is to know the extent of one's ignorance. -  
Confucius, philosopher and teacher (c. 551-478 BCE)**

---

### **PERMANENT EASEMENT COMPENSATION**

Brett Smith, Marketing/Public Awareness/PR Committee

I have interviewed participants in the rights of way market over many years to understand customary methodology and practice for arriving at compensation estimates for permanent easements for various types of corridors.

#### **Historic Trends**

In my files of past interviews through 1993, I have the following information on compensation amounts typically paid for permanent easements.

<b>CONTACT</b>	<b>COMPANY/SOURCE</b>	<b>% OF FEE PAID FOR PERMANENT EASEMENT</b>
Tracy Shepherd	Mountain Fuel Supply	50%
Rex Johnson	Northwest Pipeline	50%
Kirk Morgan	Kern River Pipeline	50% to 75%
Max Derbes, Jr.	IRWA Article	50% to 75%
William O. Ewing	IRWA Article	25% to 50%
Foster Lamb	Bureau of Reclamation	25% to 50%

Dean Brown	University of Saskatchewan, BC	30% to 50%
Carl Meyer	IRWA Pipelines Committee Chairman	50% - small diameter 75%-100% - large diam.
Don Zimmerman	Z-Land Services	50%
Jack McDonald	BLM	40%

I followed up later with some of the same interview participants where possible, or the appropriate person from the various sources, to update this on-going study. Their comments are summarized by source as follows.

### **IRWA Pipelines Committee**

Alan D. Wurtz, SR/WA, was the 1994-95 Pipelines Committee Chairman for the International Right of Way Association (IRWA). He was cooperative in answering questions about the permanent easement compensation custom for his seven state-wide area (including Oklahoma and Missouri). He posed my questions to the attending Pipelines Committee members at an April 29, 1995 meeting in Durango, Colorado to get their input on a national level. The members of the Pipelines Committee represented all 48 of the mainland United States.

Mr. Wurtz explained that in his experience, compensation for permanent easements typically begin (and hopefully end) at **50%** of the underlying market value as a starting point. However, after negotiations it can go as high as 100% or more of the underlying fee value in some cases where there is particular need for a certain parcel, or there are other extenuating circumstances. He said that this method is used for both rural and urban areas, but that he has noticed a recent trend where landowners in more urban areas seem to be more knowledgeable of real estate related issues and are requiring compensation amounts toward the upper end of the range.

I spoke again to Mr. Wurtz after his meeting in Durango, Colorado with the IRWA Pipeline Committee. He said that the pipeline companies represented at the meeting included Southern California Gas, ARCO, AMOCO, B&P Oil, El Paso Natural Gas, Willams & Williams Gas, ENRON, EXXON (represented by Haskall Rogers, Chairman for 1995-96 of the IRWA Pipeline Committee), Pacific Gas Transmission, NAPCO and Shell Pipeline. He said that they discussed the issues I had included in my questionnaire to him and had collectively agreed that for compensation of permanent easements in urban areas, 50% of the underlying fee value is the opening negotiation point and where they try to stay. More may be paid depending upon how resistant the owner is, and how much they need the parcel. In rural areas, permanent easements are paid based upon the going rate of the cost per rod in the area. Where there are many pipelines in an area, there is typically a going rate which everyone is using and which the farmers usually agree to.

For temporary easements, compensation is based upon the actual loss to the owner. This is often times an area used for a "fudge factor" in negotiation as a way to give an owner more money to increase chances of settlement. The underlying value of the land is often used as a basis, and there are instances where a rent on the land based on yield rates derived from land leases are used over the period of the easement.

Damages inside the permanent easement area are considered in addition to the 50% of fee paid. Either the construction crew will make restoration efforts to reestablish the area as it was in the before condition, or actual replacement costs are paid to the owner so he can do it himself if he so desires.

Damages to remainders outside of the easement area are also in addition to the compensation paid for the permanent or temporary easement, and are estimated on a case-by-case basis. Consideration is given to potential development before and after the project (i.e. lost lots, increased development costs, access, etc.)

### **Questar Pipeline Company**

I interviewed Mr. Timothy R. Blackham, who was the Director of Property and Rights of Way for Questar Pipeline Company based out of Salt Lake City. They manage high-pressure transmission pipelines carrying natural gas. He said that their company uses **50%** of the underlying land value as a starting point for permanent easements negotiations for these pipelines. He said that this has been the custom for many years, and is used for agricultural type land to more urban type land uses. Damages to the remainder have only been found in cases where the pipeline is situated in such a way as to hinder development of a particular parcel. He is unaware of any situations where mere proximity to the pipeline has caused any damages to the remainder in the form of a loss of market value. Mr. Blackham also said that for pipelines in very rural areas, he uses a compensation amount of \$10/rod for permanent easements.

Mr. Blackham mentioned that in his experience, he has found no instances where a property suffered value loss as a result of proximity to a natural gas line. He said that the only cases where damages occurred outside of the easement area were where the pipeline went through a parcel in such a way as to impede or hinder development. In such cases, damages usually occurred to the remainder, and the larger parcel was often purchased rather than just acquiring an easement on a portion of it.

### **Mountain Fuel Supply Company**

Donald D. Moore, Jr., Right of Way Agent for Mountain Fuel Supply Company, said that the typical amount of compensation for permanent easements is **50%** of the underlying land value in his experience. Mr. Moore explained that in most cases, he is able to cause very little disturbance to properties encumbered by MFS easements because they have a lot of flexibility on where they can



put their lines and are usually able to put them along property lines or in setback areas causing only minor disturbances. However, in cases where this is not possible, they have paid up to 100% of the underlying fee value, or purchased a parcel outright.

## **Utah Power**

Keith Corry, Property Manager for Utah Power (formerly Utah Power & Light), was familiar, after seven years experience, with what is typically paid for permanent easements for transmission line corridors. He said that the amount of compensation for permanent easements for his company depends on the size of transmission line being placed in the easement. He explained that for a 46KV to 138KV line, **60%** of the underlying fee value is typically paid. Where the line is larger, say up to their largest of 345KV, the percent of the underlying fee value paid increases up to 100%. Rather than pay more than 100% of fee value for an easement, his company will often purchase the strip in fee value if possible, or even purchase the larger parcel being impacted by the transmission line.

As a side note, Mr. Corry said that he did his thesis in college on the impact of electro magnetic fields (EMF) on property values, and that he has several such studies on file, which show little to no impact to property values resulting from proximity to power lines or EMF. He did say that in some cases, stigma was evident, but only in the form of longer periods of marketing time. He provided us copies of some of these studies.

## **Bureau of Land Management**

Jack McDonald, an appraiser with the Bureau of Land Management, said that they do not grant permanent easements, but rather give 30-year leases to parties requesting rights of way across BLM land. These leases can be renewed without difficulty, but are subject to reappraisal every five years. The methodology used in determining the amount of rent to be paid for rights of way depends on the value of the underlying ground. Where land is located in more urban locations, and therefore has a higher underlying value, it is appraised and the rent is estimated based upon **40%** of the fee simple land value. Once that is determined (40% of the fee value), a rent is established using an annual return requirement, currently around 8 1/2% to 9%. This calculates to the annual rental of the 30-year lease to be paid to the BLM for the right of way.

Where the land is very rural, the value is determined by an amount per rod, usually \$10-\$20/rod, and then a rent is determined based upon that amount. Congress has developed a schedule for this type land designed to cut down on costs and time for appraisals. Blanket land values are used for large, generalized areas. The amounts are tied to a conservative index (less than the CPI) and updated annually.

The majority of responses through 1995 from the Utah sources indicated that compensation for permanent easements acquired for use in right of way corridors, particularly for underground

pipelines, began around 50% of the underlying fee simple land market value in urban or suburban locations. This is strongly supported by the national information provided by the IRWA Pipeline Committee discussion. Utah Power paid 60% of fee value for permanent easements in their corridors, but are more visible since they are on the surface and harder to work around. The 40% of fee value paid by the BLM is not a permanent easement, but rather for a 30-year lease, and is not directly comparable to the other indications.

Most of those market participants surveyed in the past were from the Utah. I made additional interviews from 1995 through 2002, and then compared these interviews with a recent 2002 survey of market participants in Arizona. I first summarized my file information on easements as follows, and then added comments from local market participants in the Arizona market.

I contacted Mr. Chris Guinn, former Chairman of the IRWA Valuation Committee, who had provided information on the Alyeska pipeline project in earlier interviews. He is in Fairbanks, Alaska, and said that permanent easements are based upon 50% of the fee simple market value of the underlying land in his experience. Should a second easement overlap part of an existing one, he would pay 45% of the underlying land value to the owner. The area encumbered by the two easements, then, is considered to be 95% encumbered in his opinion.

I spoke with Paul Norlen, MAI, who works with the Metropolitan Water District of Southern California. He deals with many easements, and easements within easements, in his practice. He said that it is difficult to find market data for land with easements to compare to similar land without easements to quantify the compensation on a strict before and after approach. Even if you could, he doubts that the market would recognize much of a difference unless the easement crossed a parcel in a way that damaged the remainder. However, it is logical that a landowner will want some compensation for the easement. It boils down to a judgment call in most cases and varies by the location of the pipeline in his opinion. If it is a minor impact, the first easement through a parcel could be as low as 10% of the fee value. If the impact is major, it could be up to 100%.

Then, should a second easement share the same corridor as the first, the impact is less because the first one has already impacted the property. It already constitutes the bulk of the loss of rights in the bundle. Mr. Norlen said that the value lost from the property might be as low as 0% of the underlying fee simple land value, but that it would not be logical to pay the owner nothing. In such a case, Mr. Norlen uses what he calls a "middle of the road" approach and compensation is typically within a range of 10% to 20% of the underlying land value for a shared right of way.

Mr. David Sinclair is a past chairman of the IRWA Pipeline Committee and works for Enron Corporation. Enron has 35,000 miles of natural gas pipelines nationwide and, therefore, are familiar with easement negotiations all over the country. Mr. Sinclair prefaced his comments by saying that each situation is unique and must be considered within the parameters of its own market. In each case, however, there are factors that are always considered. These are:

- The underlying land value in the area estimated by appraisers
- The use of surrounding properties
- Historical custom and practice for other easements acquired in the local market
- Case law for similar situations

All of these factors are considered by Mr. Sinclair in an attempt to conclude a reasonable compensation amount for easements, or easements within easements. He tries to err on the side of historical custom and practice, in an attempt to be generous to landowners, rather than try to “gouge” them. In relation to the rest of the cost for a pipeline project, the acquisition of the right of way is a small dollar item, but without it in place, the critical path of moving the project along can be crippled. It makes no sense in his opinion to “nickel and dime” the landowners and potentially jeopardize the whole project over the relatively insignificant cost of the right of way.

Mr. Sinclair said that the first easement through a parcel typically is compensated at 50% to 100% of the fee simple value of the underlying land in his experience. If the easement will cause relatively little impact to the property, then the compensation is at the lower end of the range. If it crosses in a manner that has a significant impact on the property, then compensation may be toward the upper end of the range.

In the case of an easement within an easement, Mr. Sinclair said that he pays the same percent of the fee value as was paid for the original easement if that information is available. He said that the owner may have had an unpleasant experience when the first one came through and, in reality, will typically expect to be paid the same or more than was paid the first time.

I contacted Claudia Conder, with PacifiCorp, and asked what they pay for electric transmission line easements. She said that they typically pay 50% to 60% of the underlying land value for permanent easements to be used for high power transmission lines. These easements are typically non-exclusive and allow for other easements to follow within the same corridor under certain conditions.

Questar employee Tim Blackham stated that a 50% of the fee amount is still reasonable for the original easement, and 50% for the second easement as well in his opinion and experience.

Don Moore, also with Questar said still no more than 50% of fee value should be paid for the original easement, and 10% to 50% of the fee value for a second one within the same corridor.

George Adams, with Chevron Pipeline, stated that an original easement is typically compensated at 50% of the underlying fee value in his experience, and a second easement at 25% of the underlying fee simple value.

To compare this information with local Arizona market participants, I asked the following people about the custom and practice of their experience in obtaining rights-of-way for perpetual easements.

Terry Hedges, with Citizens Utilities Rural Company, said that he typically pays between 25% and 100% of the underlying fee simple market value to acquire perpetual easements. He said that it mostly depends on the impact of the land to be encumbered. The lower the impact, the lower the compensation.

Mark Keller, with Salt River Project, said that they have a variety of policies for compensation of easements depending upon the type of use intended. Since he typically installs power lines within the easements, the difference in compensation is tied to whether the power lines will be above or below ground, and the size of lines to be installed. For example, he said that for smaller 12kv lines, they may pay around 25% of the underlying land fee simple value. For larger lines, such as 69 kv, 50% of fee is paid; and still larger lines such as 115 or greater, 75% of the underlying fee value is paid for the perpetual easement. They pay 10% of fee value for temporary construction easements under one year in duration. They interpolate to the specific situation based on these parameters.

Fernando Gurrola, with Pima-Maricopa Irrigation Project, said that they use the Arizona State Land format for perpetual easement compensation that varies the amount paid by intensity of use. He provided me with a copy of their policy (see Addenda) for minimum rent schedules. In urban areas, their compensations ranged from 40% to 99% of the underlying land value. Roads and high power transmission lines were close to 100% of fee value. Lighter uses slowly decreased from that point. For an underground water, power, communications, gas distribution, and cathodic protection use, the compensation policy is at 40% of fee value. These were reduced to 10% if within an existing corridor. Temporary easements are at 25% of fee value for ingress and egress.

Art Trevino is with Southwest Gas. He said that they typically pay from 25% to 50% of the underlying land value for perpetual easements.

Based on these discussions, and those from prior surveys, I concluded that the amount of compensation for a perpetual easement taking from a parcel should still be considered on a case-by-case basis based upon the proposed impact. It should take into account the local custom and practice of participants in that particular market.