



Kachina Chapter 28, Newsletter

August, 08

50th Annual Education Seminar

September 10, 11 and 12, 2008

Location: PERA Club!

(1 E. Continental Drive, Tempe)

Theme: Looking Toward the Next 50 Years!

This year, IRWA Kachina Chapter 28's 50th Annual Educational Seminar will be held September 10 - 12, 2008 at the PERA Club. Don't miss this great opportunity for education and to spend some time with your fellow IRWA members. The theme, "**Looking Toward the Next 50**", includes the local outlook on such issues as transportation, water, and development.

Dates: September 10 & 11, 2008

Course: **200 Principles of Real Estate Negotiation**

Facilitator: Beverly Francy, SR/WA

Date: September 11, 2008

Course: **410 Reviewing Appraisals in Eminent Domain**

Facilitator: Sandy St. Arnauld, SR/WA

Date: September 12, 2008

Will conclude our 50th Annual Educational Seminar with a host of interesting speakers. There may even be a special surprise guest speaker joining us for lunch!

Confirmed Speakers

- Larry Langer, Assistant State Engineer-State Freeway Projects Update
- Sobia Naqvi/Kate Maracas, Abengoa Solar - Solana:World's Largest Solar Plant
- Rick Simonetta, CEO of METRO Light Rail - Metro project status
- Shaine Alleman, Senior Planner, Tiffany & Bosco - "Urban Planning & Form Based Zoning"
- Cary Pfeffer, ClearComm Consulting - Motivational
- Greg Kornrumpf, Principal Analyst, Water Rights and Contracts, SRP - "Cragin Dam Project and the Water Outlook"
- AZ One - A Reality Check for Central Arizona

And the raffle prizes are spectacular!

They're so big that, this year, you must be present to win!

Go to our website www.irwachapter28.org for more information.

Thank you,

Kathie Sholly, SR/WA

Kachina Chapter 28 President Elect

Need accommodation for this education seminar?

See page 11 for further information

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2008 Kachina Chapter Executive Board

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dougest@hotmail.com

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ksholly@glendaleaz.com

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PDC Chair

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602.542.2146
rhw2@azstateparks.gov



President's Message

I am happy to report that, under the direction of Kathie Sholly, the Seminar Committee is working hard in preparation for our 2008 Seminar in September. It will be our 50th Annual Seminar, the 50th anniversary of the Kachina Chapter and will be an event worth attending. As said in a previous newsletter, our theme will be "Looking Toward The Next 50 Years," in recognition of the fact that it is our 50th annual seminar, all of our speakers have been confirmed and will discuss trends and developments that are relevant in the coming years, such as solar power, light rail, form based zoning, water outlook, and maintaining quality of life as growth in Arizona continues. We will also have a motivational speaker, Carrie Pheffer of ClearComm Consulting. And we may have a special guest speaker at our luncheon. Also, in recognition of the fact that it is our 50th annual seminar, we will have some memorabilia from our past. Our two-day class planned for Wednesday and Thursday is 200-Principles of Real Estate Negotiation, taught by Bev Francy, SR/WA. Our one-day class planned for Thursday is 410-Reviewing Appraisals in Eminent Domain, taught by Sandra St. Arnauld, SR/WA.

Welcome New Members



Lowell P. Parlow, ADOT
Steve Stanczyk, MC Flood Control District
Michael King (Mike), MC Public Works
Troy Kelley, Gilcrease and Partners
Wayne H. Jones, Jr. Acquisition Sciences
Angela Clark, City of Phoenix, Real Estate Division
Pamela Rosen, Century 21 Arizona Foothills
Marla H. Tannenbaum, City of Phoenix, Real Estate Division
Galdina Avila, City of Phoenix, Real Estate Division

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## Interest Article .....

### **Ninth Circuit Court of Appeals Upholds Use of Eminent Domain for Electric Power Transmission**

**In** a case where the United States had instituted condemnation proceedings to acquire easements for the Western Area Power Administration (WAPA), Sawyer and several other plaintiffs challenged the use of eminent domain. The plaintiffs alleged that the taking was unauthorized, that it was not for a public use, and that it violated California law.

The court held that WAPA had authority to condemn land for the purpose of constructing electric power transmission upgrades. Regardless of the fact that the various Congressional authorizations for the project did not specifically mention WAPA's ability to use eminent domain, the court found that this power was implied: "When Congress mandates the construction of a new high-voltage transmission line and appropriates funds to carry it out, it implies, by necessity if not common sense, the authority on the part of the executing agency to acquire land on which the transmission line may be constructed."

As to the question of whether the condemnation was for a public use, the court held that it was, even though "the beneficiaries of the project arguably [were] the customers of the privately-owned utilities, as opposed to the public at large." The court emphasized the Supreme Court's broad reading of the public use requirement, and pointed out that the taking in this case "hardly entail[ed] a private-to-private transfer at all." The court, moreover, refused to question Congress' determination that the power upgrade would be a public use.

Finally, the court rejected Sawyer's contention that the taking was invalid because WAPA did not first obtain approval from California Public Utility Commission. This claim was waived, because Sawyer did not raise it in a timely fashion, but in any event, the claim was precluded by the Supremacy Clause (U.S. Const. Art. VI, cl. 2). As the court explained, "[p]reemption of state law 'is compelled whether Congress' command is explicitly stated in the statute's language or implicitly contained in its structure and purpose.'"

Sawyer also raised a number of procedural challenges, but these were rejected. The district court's grant of summary judgment in favor of the government was affirmed.



# August 12, 2008, Luncheon Speaker...



**Carter Froelich**  
Managing Principal  
DPFG, Phoenix Office

August 12, 2008 @ 11:30am  
PERA Club located at  
1 E. Continental Drive, Tempe

Topic  
Financing Regional Infrastructure  
!!!Register on-line now!!!



Carter Froelich is the Managing Principal of the Phoenix office of Development, Planning and Finance Group, Inc. Carter is a former member of the City of Phoenix's Camelback Village Planning Committee. Carter is also a member of the Urban Land Institute, the Valley Partnership, the Central Arizona Home Builder's Association, the Southern Arizona Home Builder's Association, and is a regular contributor of content to the Arizona School of Real Estate and Business School's monthly publication.



## Lasagna is on the menu...



IS YOUR IRWA INFORMATION UP TO DATE?  
PLEASE TAKE A MOMENT TO REVIEW YOUR DETAILS AND  
UPDATE IF NECESSARY AT [WWW.IRWACHAPTER28.ORG](http://WWW.IRWACHAPTER28.ORG)



# August 2008

| Sun | Mon | Tue | Wed | Thu | Fri | Sat | Schedule of Events                                                                                                                                                                                                                                                                                                     |
|-----|-----|-----|-----|-----|-----|-----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|     |     |     |     |     | 1   | 2   | <ul style="list-style-type: none"> <li>• 08/01– Did you know? Internationally recognized - Horses' Birthday!</li> </ul>                                                                                                                                                                                                |
| 3   | 4   | 5   | 6   | 7   | 8   | 9   |                                                                                                                                                                                                                                                                                                                        |
| 10  | 11  | 12  | 13  | 14  | 15  | 16  | <ul style="list-style-type: none"> <li>• 08/12 Luncheon and Speaker- pg 5 for more information.</li> <li>• 08/15 - Deadline!!!! Recognize someone~</li> </ul>                                                                                                                                                          |
| 17  | 18  | 19  | 20  | 21  | 22  | 23  |                                                                                                                                                                                                                                                                                                                        |
| 24  | 25  | 26  | 27  | 28  | 29  | 30  | <ul style="list-style-type: none"> <li>• 08/15 - <b>Deadline!!!!</b> Recognize someone~</li> <li>• <b>Employer of the Year</b></li> <li>• <b>Special Services Award</b></li> <li>• <b>Professional of the Year</b></li> </ul> Contact via email:<br><a href="mailto:Chris.Banks@srpnet.com">Chris.Banks@srpnet.com</a> |
| 31  |     |     |     |     |     |     |                                                                                                                                                                                                                                                                                                                        |

## !!Congratulations!!

**Doug Estes - approved for SR/WA designation!**

**Jan Sells - approved for SR/WA designation!**

A plaque is to be presented at August luncheon.

### ~ **JOB OPENING** ~

**General Manager**

**Santa Maria Public Airport District**

**yppjobs.com**

**or contact**

**Bonnie Royster - 1800-445-4737**

Do you have any job listings?

Advertise here!

Email job listings for insertion into our Newsletter at  
[newsletter@irwchapter28.org](mailto:newsletter@irwchapter28.org)



**Talking Points**  
**International Professional Development Committee**  
**June 20<sup>th</sup> and 21<sup>st</sup>, 2008, Austin, Texas**

**Reports**

**New Key Measures – to be Posted on Website**

**Overall Education Class Statistics**

Number of Classes overall, Number of Participants, Class Average Size, Credentialing Statistics  
**Chapter Ranking Report:** Number of classes, Number of ACE's and ChIPs, Number of credentialing

**Course Material**

**New Print Partner:**

A new printer will be able to offer the following changes to be phased in the near future:

**Spiral Binding** - rather than perfect bound. **Duplexing** – instead of single sided

**Handouts will be perforated** – instead of separate and stapled.

**Flexible ordering-** can order exact number (15 or more).

**New Class Evaluation processes**

**Facilitator Evaluation** - Electronic link to an evaluation survey online. Facilitators will get comments anonymously

**Course Materials** - Hard copy evaluation for course materials

**Facilitators**

**Facilitator Clinic** was held in Austin pre-conference list of graduates in next magazine.

Next clinic in January in Las Vegas on January 11 and 12. Applications being accepted.

**Self Audit policy restrictions:** Self-audits policy was developed for hardships. Limited to classes no more than 2 days in length. Limited to level 4 facilitators. List of other courses that can not be self-audited will be posted.

**Credentialing Program**

**SRWA Study Session:**

Changed to 3 day format. Chapter fee equal to that of a 2 day class + exam fee

**Candidacy application – credit substitution:**

C410 and C801 for can not be substituted for C901

**Recertification – 8 hr requirement:**

4 hr Ethics class for other organization can not be substituted for IRWA. 8 hr Ethics class

**Credentialing Candidacy Process Change:**

Candidacy applications no longer need to be reviewed at chapter (streamlining). Members sign up and submit form with fee – no approval waiting period. Online list of candidates available 24/7 for access by chapter leaders.

Experience will be evaluated upon request. New form available online – August 1st

**Participation in SRWA Ceremony at Conference:**

Reserved for those that have achieved in the time frame Published

**Chapter programs of 1 hour or more in length now qualify for recertification credit:**

A form is available for chapters to use for local programs – August 1st.

**IPDC Policy Manuals being revised comments to be submitted by committee by August 1:**

Policy Manual for IPDC policies; Facilitator Code & Policy Manuals;  
and Professional Development Education Handbook.

**IPDC Liaison duties with Region Vice Chairs and Education Committees:**

IPDC members are encouraged to attend committee meetings when possible

**Revamp project:**

All courses have been revamped (except 220 and 222C); reformatting is underway


**Online courses:**

103 is now available through the Online Learning Center; 215 is scheduled to be released Oct. 1.

Other courses will be developed for online delivery periodically throughout the next 2-3 years.

**Call for proposals:**

Individuals and companies are being sought for revising and developing courses;  
list is available online and in the magazine.







# Move and Storage Made Simple

by Roger L. Ottaway, Move Cost Specialists, LLC

When a displaced business or person (s) is required to move off of their current site but for many reasons cannot move into their replacement site, this generally results in the need to utilize their storage relocation reimbursement benefit. Most of the situations requiring moves into and out of storage are uncomplicated and meet the need of the displacee. However, there are some issues and concerns that may occur which result in problems that may be avoided.

Each displacee exercising the storage benefit option must wrestle with the decision of whether all of their property must go into storage or is there a need for periodic access to some items. If a displacee concludes that they will need periodic access, then a decision must be made as to what type of storage and move (commercial or self) will best accommodate that need.

## Commercial Moves

One of the best reasons to consider a commercial move is the available insurance coverage against loss, damage or theft. A commercial mover bears the responsibility and liability for completing a loss free move beginning at the time the property is packed and transported to the commercial facility for storage and moved at a later date to the replacement site and unpacked there. The cost of Replacement Value Insurance available through the mover is a reimbursable relocation cost.

Another important concern for the displacee opting for the commercial move is the periodic need to access the property while it is in the commercial storage facility. Most commercial movers will accommodate a request by a displacee to access their property while in storage. However, the ability to grant this request is not always possible because many times the property is stored in crates that are not easily accessible and the mover may have to charge for the time to make the crate available.

If a displacee knows that they will require ready and frequent access to the property in storage, then the use of mini-storage facilities is a better accommodation. If a commercial mover were hired to move the property to the mini-storage facilities, they would still bear the liability of any claims resulting from loss beginning at the time of packing, transporting and unloading into the mini-storage units. However, the liability of the commercial move ends once the packed goods are placed in the mini-storage facility. If there are any damaged goods noted at the time of completed move into storage, then a claim should be filed. If no claim is filed within the mover's claim period (which varies from 10 to 30 days) and damaged goods are detected after that time period, then a claim may be rejected.

This leads to another concern. Does the displacee have insurance for the property while in storage? At the minimum, a recommendation by the relocating agency to the displacee should be made advising that they should acquire property insurance to protect against loss, theft or damage while their property is in storage. Generally, replacement value insurance can be obtained through the homeowner's or business insurance company. Also, most mini-storage facilities can offer various types of insurance coverage.


## Self Moves

Many displacees will select the option of a self move so that they can have more control over the timing of the move, packing, and especially what items will remain accessible while they are in storage. The displacee bears all the liability of loss, damage or theft when selecting the self-move option. Displacees should carefully examine the insurance coverage and restrictions of coverage for the move and storage of their property when choosing as a self-move.

When a self-move is being considered, it should be noted that it might be very difficult to obtain insurance coverage of inventory while it is being packed, loaded, moved and unloaded. This is one of the most important differences between a self-moves and a commercial move. Not only will the commercial mover provide insurance coverage but they will also generally have the resources and knowledge to minimize loss of property during the move and while the goods are in storage.

In conclusion, a displacee can avoid some of the possible issues or concerns if they remember to ask themselves a few questions when planning their move and need for storage. How much insurance protection will they need? Is a self-move or commercial move the best option? What will be the accessibility needs to the goods while in storage?

The safest recommendation is the commercial move and commercial storage option. As noted above, other move options can raise additional concerns and create possible problems. Also, as a representative of the agency, it is always a good idea to document the move and storage options selected by the displacee.





## Family Finds Backyard is Off-Limits Because of Conservation

**Easement**... Kevin King and his wife, Donna, dream of installing a backyard pool this summer. But the young couple got a rude awakening when their pool contractor drove to Lancaster Town Hall to get the construction permit this spring. That's when the Kings learned for the first time since buying their home in 2003 that they legally have only a 3-foot-deep yard in which to build their pool. Or to enjoy a swing set with their kids, ages 3 and 5. Or to do much of anything else, it seems.

Turns out the Kings technically aren't even supposed to mow the grass in their 60-foot-deep backyard because of a conservation easement. They have learned that the fence they installed around their property in 2005- for which they did obtain a town permit -is apparently illegal. So is the shed in the yard that was already there when they moved into their home on Depew's Michael Anthony Lane as second owners. Appearing before the Town Board last week, King said he and his wife were caught up in the thrill of buying their first home. "I guess love is blind," he said.

They don't remember the paralegal who handled the closing on their house in 2003 warning them that there was any kind of problem with their backyard. "There was a shed already on the property," King said, "and the previous owner had had the bulk of the trees cleared from the yard before we bought the house." Both the shed and the tree-clearing are supposed to be forbidden on land protected by a conservation easement. "If a tree falls down in a conservation easement during a storm, you're not even supposed to touch it; you're supposed to leave it there," said Council-woman Donna G. Stempniak, who -like others on the Town Board -feels badly for the Kings. The 60-foot-long easement affects not only the Kings' yard but also those of nine of their neighbors on Michael Anthony Way. Some of those neighboring yards already have pools, King said, because the conservation easement doesn't cut far into their property. In the Kings' case, however, the easement cuts deeply -- leaving only a 3- foot-deep area for their yard. Why is there a conservation easement in the first place?

There were no wetlands or other environmental issues involved in establishing this particular conservation easement, according to Mark A. Tuffiaro, the builder of the homes along Mark Anthony Way. He said the easement was the only way he could gain the Town Board's approval for a zoning change a decade ago. It came about because existing homeowners on neighboring Country Place wanted to make certain nothing would ever be built on the land behind their homes, he said. "I didn't want to do it," Tuffiaro. "It wasn't the most desirable solution for us, but it was the only way to achieve the rezoning." Lancaster Supervisor Robert H. Giza has asked town attorney John M. Dudziak to research the problem and see if the Kings' dilemma might be somehow resolved to allow for a pool. But several developers and real estate attorneys The Buffalo News spoke to for background purposes said that unless the current Lancaster Town Board and all of the Country Place homeowners who originally requested the conservation easement agree to change it, the Kings may be out of luck with their pool project. It will be messy legal situation to unravel at best, they said, and possibly it cannot be resolved. "If that's the case, I guess we'll be putting a 'For Sale' sign on the lawn," Kevin King said. *By Irene Liguori, The Buffalo News.*

## 50 Years....

In preparation for our 50<sup>th</sup> Annual Educational Seminar in September, we have been seeking out **"historical photos"** – those captured moments from past Seminars and other chapter events. Although we have gotten our hands on quite a few, we would like more.

### .....that's where you come in.

If you have any photos from past Chapter 28 meetings, classes, seminars, or outings, please loan them to us for a time. It is our intention to turn these memories into a slideshow collage that can be played at opportune times during the day.

If you have photos or other "scan-able" chapter memorabilia that you are willing to share for this occasion, please email me at: [PresidentElect@irwachapter28.org](mailto:PresidentElect@irwachapter28.org).

**Thank you, Kathie Sholly, SR/WA 2008 Chapter 28 President-Elect.**







**I R W A**

**INTERNATIONAL RIGHT OF WAY ASSOCIATION**  
**EDUCATION**

**213 Conflict Management 08.12.08 Santa Ana, CA**

**800 Principles of Real Estate Law 08.27.08 San Diego, CA**

**104 Standards of Practice for the R/W Professional 09.03.08 Santa Ana, CA**

**701 Property Management Leasing 09.09.08 Sacramento, CA**

**900 Principles of Real Estate Engineering 09.23.08 San Diego, CA**

**201 Communications in R.E. Acquisition 09.24.08 Riverside, CA**

**901 Engineering Plan Development & Applications 09.25.08 San Diego, CA**

**506 Advanced Business Relocation Assistance TENTATIVE 10.02.08 Riverside, CA**

**506 Advanced Business Relocation Assistance 10.02.08 Riverside, CA**

**303 Managing the Consultant Process TENTATIVE 10.06.08 Tucson, AZ**

**802 Legal Aspects of Easements TENTATIVE 10.08.08 Tucson, AZ**

**400 Principles of REal Estate Appraisal TENTATIVE 10.09.08 Tucson, AZ**

**SRWA Comprehensive Review and Exam 10.14.08 Santa Ana, CA**

**902 Property Descriptions 10.17.08 San Diego, CA**

**400 Principles of Real Estate Appraisal 10.22.08 Sacramento, CA**

**209 Negotiating Effectively with a Diverse Clientele 11.13.08 San Diego, CA**





# Arizona Title offices closed; parent co. cuts funds

Jul. 30, 2008

The Colorado-based parent company of Arizona Title Agency has cut off funding to the subsidiary in the wake of a pullout by its financial backers.

A call to Arizona Title's 3131 E. Camelback Road office in Phoenix prompted a recorded message saying the company had closed its doors Tuesday, and it referred escrow and title customers to the Phoenix office of First American Title, headquartered in Santa Ana, Calif.

It was unclear Wednesday whether all 15 Arizona Title offices had closed permanently, since phones at some locations were not playing the recorded announcement. Arizona Title's corporate parent, Mercury Cos., stopped funding operations in Arizona and California, the Houston Chronicle reported in its Wednesday online editions.

All 27 United Title of Texas offices in the state are closing due to Mercury's financial troubles. "This decision was precipitated by an unexpected, and in our opinion, unwarranted and unjustified act by our syndicate of banks, which deprived us of the cash we needed to sustain and to continue those operations," the newspaper reported the Denver-based company said in a memo to employees Wednesday.

Both Arizona Title and United Title are subsidiaries of Mercury, which also owns title agencies in California, Colorado, Oregon and Nevada.

Jim Hilbun, chairman and CEO of United Title of Texas, was told late Tuesday afternoon that the company would no longer operate in Texas.

Mercury said it is coordinating with its underwriter, First American, "to ensure that all escrows are safe and all closings through the Arizona, Texas and California offices will take place," the memo said.

United Title is an independent agency that relied on national title companies to underwrite its policies.

"We have a lot of closings that are supposed to occur," Hilbun said. "If people miss closing dates, they can lose their loans. The ones today could be in jeopardy."

## Chapter 28 Treasurer 2009~

Do you like working with numbers? Can you balance a checkbook? Chapter 28 needs a Treasurer for 2009. If you would like to be the Chapter Treasurer or know of someone that you would like to nominate, the Nominations and Elections Committee of Chapter 28 will be accepting nominations at the August Luncheon meeting. The membership will vote at the Seminar on September 12, 2008. This position is VERY important to our organization and requires a 5 year commitment to serve on the Board. The person elected will advance annually through the different Board positions.

If you have questions, please call me.

*Chris Banks*, SR/WA, Nominations and Elections Committee, Chair

Email: [Chris.Banks@srpnet.com](mailto:Chris.Banks@srpnet.com) - 602-236-8175



# Light Rail almost here... stay tuned for more information



**Accommodation near the PERA Club as  
mentioned on Page 1~ provided by President, Doug Estes**

**Courtyard by Marriot**  
Scottsdale Old Town  
3311 North Scottsdale Road  
Scottsdale, AZ 85251  
Phone: 480-429-7785  
Facsimile: 480-429-6320  
[cy.phxsc.frontdesk.sup@marriot.com](mailto:cy.phxsc.frontdesk.sup@marriot.com)  
[Marriot.com/PHXSC](http://Marriot.com/PHXSC)

**Country Inn & Suites By Carlson**  
808 North Scottsdale Road  
Tempe, AZ 85281  
Phone: 480-858-9898  
Facsimile: 480-784-2246  
[www.countryinns.com/airporttempe](http://www.countryinns.com/airporttempe)

**Holiday Inn Express Hotel & Suites**  
3131 North Scottsdale Road  
Scottsdale, AZ 85251  
Phone: 480-675-7665  
Facsimile: 480-675-8666  
[Cmpm244@cmpm.net](mailto:Cmpm244@cmpm.net)  
[www.hiexpress.com](http://www.hiexpress.com)

.....accommodation continued.....

**Best Western Inn of Tempe**  
670 North Scottsdale Road  
Tempe, AZ 85281  
Phone: 480-784-2233  
Facsimile: 480-784-2299  
[joe@innoftempe.com](mailto:joe@innoftempe.com)  
800-Western

**Hampton Inn & Suites**  
1429 North Scottsdale Road  
Tempe, AZ 85281  
Phone: 480-675-9799  
Facsimile: 480-675-9879  
[sales@hamptoninnsuitesarizona.com](mailto:sales@hamptoninnsuitesarizona.com)

**Hospitality Suite Resort**  
409 North Scottsdale Road  
Scottsdale, AZ 85257  
Phone: 480-949-5115  
Facsimile: 480-941-8014  
[www.hospitalitysuites.com](http://www.hospitalitysuites.com)

**PERA Club Address:**  
**1 East Continental Drive, Tempe**  
**Arizona**

Newsletter Editor ~ Paula Day, Tierra Right of Way Services, 602-682-0000 ext. 312