

Utility & Liaison Committees Present A Federal Update

by Robert J. Legato, SR/WA

The International Utilities and Liaison Committees have a good thing going. Once a year we hold a joint meeting, during which we invite various folks involved with federal legislation and related efforts to give us the latest on what's happening. We thought it would be good to share with the rest of the Association what we have learned. The federal update is always the highlight of our January meeting; unfortunately, bad weather in Washington, D.C., January 12 shut down the government, and that put some dents in our plans. The good news is that one government representative decided to brave the snow anyway, and two others were available by speakerphone from their homes. Highlights of their presentations follow:

**RON MONTAGNA:
BUREAU OF LAND MANAGEMENT**

Mr. Montagna began by noting a new, non-adversarial relationship between his agency and utilities. (As an aside, this spirit has been seen with several government agencies, lately.) Ron pointed out that in 1995, the BLM was able to process over 23,000 applications for rights of way, but that the backlog (some 3,000 applications) was not significantly reduced. The major topic was, of course, funding for 1996. Following spirited discussion, Ron suggested that anyone concerned about this funding issue contact the director of BLM or the Department of the Interior.

BLM has been working on a rewrite of the communication site rental regulations. The final regulations were published on November 13, 1995, and

became effective on December 12, 1995. One of the highlights of the new regulations is that holders of existing communications site rights of way will be able to "rent" space in their facilities to other communications site holders.

As long as both are approved "holders" of BLM rights of way, one may "sublease" space within their facilities to the other, without approval from BLM. Beyond that, when BLM receives a subsequent communications site application for use of a particular parcel of public land, the applicant will be strongly encouraged to locate within the existing facility.

The holder of the existing site right of way and the new applicant will have to negotiate the best deal for both parties. The holder will, in turn, be charged an annual fee based on the number of com-

munications applicants being permitted to occupy the site by the primary holder. On the other hand, Ron also noted that while subsequent applicants will be encouraged to deal with other holders of rights of way, no applicant or holder will be required to locate within an existing site facility.

BLM has been streamlining its procedures for applicants. Some of the new wrinkles in "Phase I" (1995 work) include: application processing fees due BLM may now be paid by credit card; faxed applications are now acceptable; if additional information is needed on an application, the applicant should be advised at one time as to all the items required, rather than on a piecemeal basis. Ron advises that Instruction Memo No. 96-27 has been issued to field offices detailing all these changes.

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Phase II efforts, due for 1996, are now being formulated. The Western Utilities Group (BLM's holdings are primarily in the western states) is developing suggestions for BLM to consider for Phase II. It will almost certainly include, however, a request to establish Master Right of Way Grants with major holders.

Note that this work has ramifications beyond BLM: in 1996, the BLM streamlining efforts will continue. The U.S. Forest Service is also a member of the streamlining team. The National Park Service may participate when the team explores an issue that is relevant to National Park Service operations.

SHERRY GLICK: ENVIRONMENTAL PROTECTION AGENCY

Ms. Glick is a team leader in an effort known as the Pesticide Environmental Stewardship Program (PESP), an initiative to elicit voluntary reduction in the use and risks of pesticides and herbicides among companies and agencies in the United States. Two targets for 1996 are to enroll 75 percent of agricultural programs (through the USDA) and to get the Department of Defense to reduce its use of herbicides by 50 percent.

Edison Electric Institute has been involved, and in our Region 4, specific mention was made of Rick Johnstone, of Delmarva. The program includes two categories of participation, Supporters and Partners: Supporters are organizations that do not use pesticides or herbicides, but influence those who do (example: fruit marketers); while partners do use pesticides or herbicides, and are invited to establish strategies to limit use of particular agents in specific sites or processes.

EPA invites the establishment of demonstration projects utilizing reduced levels of certain products or of substitute products considered less harmful to the environment. When asked what incentives she saw for a company or agency to join the program, Ms. Glick cited several:

- Marketing and Right of Way—Once their strategy has been approved by EPA, Partners and Supporters get to use an EPA logo on their literature, certifying that they utilize EPA-approved processes for pesticides and herbicides.
- Networking—Liaison with federal agencies and others who can help further a company's goals.

- Grant dollars—Some demonstration projects are funded in part by federal grants, when dollars are available.
- Gratification—Being an environmental "good citizen".

Sherry pointed out that FIFRA regulations are extremely complex, and that biologicals are being put on a fast-track status within the agency.

Participation by power utilities in the Northeast is heavy; she mentioned Atlantic Electric, Delmarva, New York State Electric and Gas, Ohio Power (American Electric Power), and Penn Electric.

Finally, Sherry said that EPA has some 27 voluntary programs working; she specifically mentioned Waste Wise, Green Light, Energy Star, and Climate Wise.

Anyone wishing further information on PESP can contact EPA, at 1-800-972-7717.

DAVID PRICE: CHIEF, FEDERAL AID PROGRAM BRANCH, FEDERAL HIGHWAY ADMINISTRATION

David braved the snow and the shutdown and arrived at the meeting, unscathed. His report included the following highlights:

A reorganization plan was submitted by Secretary of Transportation Federico F. Peña in April 1995; it has not been accepted but will be modified and resubmitted this spring. A key element in the 1995 submittal was an intermodal agency.

Speaking of intermodal, ISTEA is due for reauthorization in 1997. Given the fate of other legislation that has been undergoing reauthorization, there's no telling what will happen. The only maxim that seems to be in operation in federal circles these days is that no proposal under reauthorization is too exotic to be considered.

DOT's funding was approved during November 1995, for the Federal Fiscal Year 1996, at a level of \$17.55 billion. Mr. Price describes this as a "good funding level." Presumably, highway programs will continue without interruption.

The National Highway System Bill passed in November 1995. It included provision for conversion to metrics (more about that in a minute!). Some 80,000 to 90,000 additional miles will be added to the original Interstate Highway system, to become the National Highway system.

The other side of the coin is that the FHWA will provide funding but if the states choose, FHWA will not be directly involved in oversight of the remaining 96 percent of the country's highways and roads; these will be relegated to the care of the states. Price noted that the 4 percent of all roads that will become the National Highway system will carry some 40 percent of the nation's traffic.

Subsurface Utilities Engineering (SUE) is receiving heavy focus these days. Huge ratios of return on investments have been reported, prompting FHWA to put on a full-court press for its adoption as a standard operation in the design of roads.

The process is one of identifying potential conflicts with subsurface structures (including utilities), and excavating or exposing them during the preliminary design phase of the operation. This is done by various methods, but the method most often discussed is vacuum excavation, such as is done by So-Deep or Soft Dig.

The question of who pays for the preliminary excavation needs an answer now: While early jobs were funded by highway departments (through FHWA), the state DOTs are currently pressing for the affected utilities to pick up part or all of the tab. FHWA does not get into this, except to say that SUE funds spent by the state DOT's will be fully reimbursed.

FHWA's goal is to have all states try at least one project in SUE within four years. They offer to conduct a symposium on SUE for virtually any agency that invites them.

Resource sharing is another program now endorsed by FHWA. In this, state departments of transportation are soliciting bids from communications companies (no electric facilities are involved so far) for compensation—usually in the form of telecommunications facilities or services—to the state in return for use of public highways.

The greatest interest at this time appears to be centered on full-control-of-access, interstate highways. FHWA has offered its comments on the telecommunications bill regarding resource sharing. Dave noted that FHWA concerns focused on the continued ability of the state and local authorities to manage their rights of way.



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The metric conversion deadline has been rescheduled from 1996 to 2000 (Section 205 [c] of the 1995 National Highway Legislation). However, of 41 states surveyed by AASHTO, only six will delay their plans to convert DOT engineering operations to metric, two are undecided, and the others will continue to move forward at the original schedule.

The typical policy among the states is that all geometric measurements (i.e., distance, length, height, etc.) will be metric, while standard size measurements, such as 4-inch conduit, may be in metric, dual metric-and-English, or may continue to be given in English measurement. "Soft" conversions will generally be acceptable, unless and until various "hard" conversions are standardized.

Mr. Price talked about the Highway Utility Guide, disseminated by the FHWA. They have distributed some 10,000 of these volumes since the original printing in 1993. In my opinion, the Guide is the embodiment of a nonadversarial statement by a government agency toward utilities. It is intended to reflect the "best practices" for accommodating utilities on highway rights of way.

I strongly recommend that all interested parties obtain copies if they have not yet done so. If you need one or two copies, contact the Federal Aid Program Branch (HNG-12), Federal Highway Administration, 400 7th Street SW, Washington DC 20590, or call them at (202) 366-0450. If you need larger quantities, contact the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

A course on the Guide and its implementation is offered to state Departments of Transportation, in which half the audience is made up of DOT and half of utility personnel. Talk to your local DOT to find out if and when another is being offered. Finally, there will be a heavy focus on utility pole safety during the next year. From 1990 to 1994, there were some 6,100 deaths attributed to collision with utility poles. Pennsylvania, Ohio, New Jersey, Tennessee, and Massachusetts are high scorers. Look for added emphasis on location for new sets and replacements. Your state DOT may want to talk to you about a program for eliminating or reducing exposure in this area. It would be hoped that utilities do get a chance to contribute to such an initiative.

JOEL MAZELIS:

EDISON ELECTRIC INSTITUTE

Although EEI is not a federal agency, Mr. Mazelis was invited to give his perspective on federal legislation. He spoke about the impact of deregulation on the industry. His prediction is that there will be a series of mergers among power utilities, until some mega-companies emerge in future. He also pointed out that many power companies have a vested interest in the outcome of the telecommunications bill now before Congress, since "most of them want to get into the communications business now."

Mr. Mazelis talked about the Endangered Species Act and said the industry is working toward several improvements; among these are:

- Incentives for property owners—compensation
- Property owner participation in planning preservation of habitat
- Site-specific data, rather than broad policies
- Expedited processing by agencies
- Clearer definition of habitat/range
- Increased use of incidental taking permits to cover the taking of protected species
- Leeway for emergency service operations without liability for incidental takings.

A FINAL NOTE:

The International Utilities Committee has assembled two documents for distribution to the membership:

1. A list of Subject Matter Experts for discussion of issues faced by utilities. This list includes the SME's area of expertise and their contact information as well.
2. A group of documents utilized by various companies for permitting encroachment within their easements. These can be used as samples for drafting your own documents.

These two documents will be sent to all IRWA chapter presidents and Utilities Committee chairs. Look for them, and use them. □

Robert Legato works for Bell Communications Research (BELLCORE) as a member of the technical staff. He has been a member of Philadelphia Chapter 9 since 1990 and serves as the IRWA Region 4 representative to the International Utilities Committee.

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