

Educating Our Clients: The Consultant's Responsibility

BY KERRY MALONE

The primary reason that right of way consultant companies exist is to provide services for projects – large and small. In this role, it is our responsibility to do our jobs in a professional, ethical, timely and cost-effective manner.

The success of the right of way consultant, the client project leadership and the project itself are unavoidably and directly related – one cannot succeed without the other two. Fostering a greater understanding of right of way by those charged with managing the project is the most important thing we can do toward this end.

At times, the greatest challenge we face is unrealistic client expectations. Whether this is due to internal pressure or limited project experience, this trend is becoming more prevalent. The reasons are readily apparent. The proliferation of pipeline projects associated with rapidly developing shale plays in several parts of the country is one reason. Another is the deterioration of the electric infrastructure and the associated upgrade projects, as well as the need to bring the renewable electricity resources from generation areas to developing markets. These project drivers, combined with new players in both pipeline and electric transmission industries, have spread thin the pool of project-experienced client representatives.

The result is that some client representatives who are assigned project oversight may have very limited project experience. These managers and other project supervisory personnel are well educated, highly-respected within their own organizations and conscientious in their intentions. Their engineering knowledge may be above question, and they may possess an extensive understanding of regulatory requirements. Nevertheless, their experience may be limited to management of very small projects or, in some cases, it may be lacking altogether. As a result, their ability to understand the key right of way issues and how critical they are to the project's success may be outside their scope of knowledge.

As consultants, I believe it is our responsibility to do everything we can to make these managers and their



projects successful. Educating our client project personnel in what it takes to have a successful project is essential. If given the opportunity, we should work with our clients to develop programs that will increase their understanding of the right of way process. Specific areas where greater client understanding is needed include right of way timeline considerations, an appreciation of landowner concerns, and the costs to be expected when acquiring land rights and compensating for damages.

It is understandable that clients want their projects completed and in operation in the shortest time possible. This is particularly true with oil and gas production projects, as no income is realized until the pipelines are delivering the client's product to market or providing the conduit for the client's customers to deliver their product. However, these same clients are often the ones who determine the in-service dates, and although tasked with developing the project schedule, they may be totally unaware of what's required for right of way acquisition or the construction process.

Here are some key areas that require consideration:

Title Investigation: Title takes time. A business decision may be needed to determine whether vesting title for acquisition is an acceptable risk or if only full title investigation will provide the project security required by the client.

Routing Options: Are multiple alternative routes viable or even required and, if so, is the client amenable to risking some capital to find the most rapidly achievable route? Is the client agreeable to making minor deviations to satisfy landowner requests and concerns?

Survey Issues: Are plats needed to acquire in the project's jurisdiction? If so, how are they provided in a timely manner? What are the alternatives to waiting for field survey in order to acquire?

Easement Payments: Is the client willing to set easement payment offers high enough to encourage timely voluntary acquisition? What kinds of damages are anticipated? For example, does the project involve cropland areas, forested areas or development areas? And what are the implications of damage to the affected area?

Types of Easements: Will the project utilize direct easements or options for easements – both have significant financial and timeline considerations.

Eminent Domain: Will the project be able to utilize the right of eminent domain and, if so, does the timeline allow for condemnation under the regulatory criteria governing the project? Have legal representatives been identified and consulted? Condemnation can be a huge factor and is often overlooked during the planning/business development stages.

Obviously, there are other right of way issues which need to be understood by client project management. This isn't intended to be a primer on projects – only to point out some areas where greater understating by client representatives would facilitate the success of their right of way service providers and, in turn, the success of their projects. Ultimately, this leads to personal success for all of us.

We are fortunate that there are also many companies that not only have experienced management for projects, but also have undertaken extensive right of way training for all of their project and field operations personnel. Some client companies have also developed a right of way curriculum for their employees. While there are many client companies who have experienced project personnel on all levels and understand the realities and limitations, we should recognize that as consultants, we can always encourage our clients pursue additional training.

So, as consultants and client companies, what can we do to improve our chances to have successful projects? There are several proactive approaches we can take. Some examples include:

- Client right of way representatives can work within their own organizations to encourage involvement in the earliest stages of project planning. If possible, integrate right of way input with business development to help set achievable timelines for in-service dates of projects.
- Client representatives can work with their project management personnel to bring right of way into feasibility assessments and early planning stages. Encourage the early involvement of a qualified right of way service provider – whether as the right of way contractor for the project or in the limited role of feasibility/routing consultant.

- Right of way consultants should be proactive in working with their clients. Offer to make presentations to client project personnel to outline the challenges to be addressed to facilitate successful projects. This should be done well before the consultant is involved in a project and is a service to clients which ultimately pays for itself many times over.
- All right of way professionals – consultants and clients – should seek out training opportunities for project management personnel. Client project management personnel should be encouraged to take advantage of IRWA educational opportunities. If access to upper management is available, client right of way professionals should not hesitate to promote the advantages of this training.
- Training sponsored by regulatory agencies is also available and should be attended by anyone involved in projects. FERC seminars, INGAA sessions and state regulatory agency events are some examples of these opportunities.
- Engineer and project managers should be encouraged to attend right of way events. Participation in the IRWA International Pipeline Committee would prove highly educational. While primarily for right of way professionals, attendance by non-right of way project managers would prove enlightening to both the project representatives and the right of way industry officials.

As consultants, it should be part of our scope to promote an understanding of right of way issues among non-right of way project personnel. As critical management professionals gain a deeper understanding about our business and how it relates to their projects, the greater potential we have to meet their needs.



Kerry Malone

Kerry is Senior Vice President at Contract Land Staff, LLC and has more than 30 years experience in pipeline and electric transmission right of way projects. With expertise in pipeline safety, operations and regulatory compliance, he oversees development and customization of policies/procedures used in managing and staffing CLS projects.