Get Ready for IRWA’s 64th ANNUAL EDUCATION CONFERENCE

A sneak peek at some of the upcoming educational sessions

For over 60 years, the IRWA has invited members from all around the globe to come together for the Annual International Education Conference. In addition to the special events, luncheons, receptions and networking opportunities, a highlight of the Annual Conference is the highly-anticipated batch of educational sessions. These informative sessions allow members to share best practices, provide insight into the latest industry trends and report on the most challenging issues facing the right of way profession today.

This year will be no exception. Over 1,000 right of way professionals will gather in Edmonton, Alberta, Canada on June 24 – June 27. For those of you attending this exciting event, we’ve provided a sneak peek into some of the sessions that will be offered this year (for a full schedule of events and listing of sessions, visit www.irwaedmonton2018.org). As for members who will not be attending the Annual Conference, we hope that this serves as another opportunity to help bring the experience to you.
In 1591, William Shakespeare famously wrote, “The first thing we do, let’s kill all the lawyers.” Most of you probably think that nothing much has changed in the last 400 years. Non-lawyer team members on large-scale infrastructure projects often tell us that they think this way about lawyers. But feelings of dislike and distrust between team members can wreak havoc on your project. Through this article, and our accompanying presentation at the International Education Conference in Edmonton, we will help you recognize the important role of lawyers in your project and provide some advice on how to seamlessly integrate them into your team.

A Dangerous Misconception

Lawyers often rank as the least-liked and least-trusted of professionals. They are typically seen as arrogant, uncaring, self-interested, expensive and driven solely by the idea of making money. Although you can probably think of a lawyer that possesses at least one of these unsavory characteristics, many of these are just broad stereotypes. In fact, many lawyers are none of these things at all. But as we’ve seen many times, the way project team members feel about lawyers can detrimentally affect the success of the project.

Any successful project starts with a well-integrated project team. This integration is invaluable as it is the cornerstone that allows the team to address and solve any of the broad spectrum of issues that will arise during land acquisition and construction of the project. Successful project teams include acquisition agents, company representatives, engineers, field construction teams, valuation experts and legal practitioners. All of these individuals must work together in identifying issues and developing solutions. Ensuring strong relationships among all team members is key to getting your projects done on time and on budget.

We see the aversion for attorneys play out in problematic ways in many right of way projects. Acquisition agents

DO YOU HATE LAWYERS?
Learn to love them and create a cohesive team in the process

BY MISCHA M. BOARDMAN AND DEVIN R. SULLIVAN
worry that lawyers will prevent them from acquiring property by “over-lawyering” the negotiations. Engineers complain that the legal team is slowing down design with relentless questions on the need for certain property rights. All too often, we find other team members saying to themselves, “let’s leave the attorneys out of this decision, and just get it done.” But when team members aren’t fully cooperating and utilizing each other’s expertise, the project suffers. An attempt to exclude or work around lawyers can lead to a fractured team, resulting in errors in the process and missteps in decision-making.

An Effective Team

So how do you get land agents, engineers and appraisers to work hand in hand with the legal team? Here are some essential steps to ensure that your lawyers will be an effective part of the project team:

• Hire the Right Lawyers – Finding the right lawyer is hard. Start by picking an attorney that you like—someone with a good personality who you (and your team members) will enjoy working with. Pick someone who understands how the team members may view lawyers and has a sense of humor about it. This can go a long way towards countering the negative assumptions your team members may have about lawyers.

• Understand the Psyche of Lawyers and How It Can Benefit You – Most lawyers are classic “Type A” personalities. They hold themselves to extremely high standards and strive for perfection. Lawyers are also risk-averse, so they are always thinking about the worst-case scenario. Understanding this psyche goes a long way towards getting along with your lawyers. Plus, you can use these instincts to benefit the project. Fundamentally, the lawyers should be your canary in the coal mine. When there’s a potential problem on the horizon, your lawyer should be the first to spot it and help the team to avoid it.

• Make Sure the Client is in Charge – It’s important to make certain everyone on your project team is focused first and foremost on the goals of the agency/company. Maintaining a clear structure (with an identified decision-maker representing the agency/company) is of the utmost importance in making sure your project team functions well together. Remember, the client is in charge. Your lawyers are there to assist you.

• Clearly Define Roles – One issue we frequently see is team members feeling that the lawyers are invading their professional territory on a project. To prevent this, you have to make sure that your attorneys understand what you expect of them and what is and is not part of their job. This goes for all team members. Making sure each member understands their role in the project is imperative to creating a cohesive team.

• Effectively Communicate Those Roles to the Team – As in any relationship, communication is key. Once you’ve defined the roles of each team member, you have to communicate that to the entire team. If the team has a clear understanding of the role the attorneys play, they will be more accepting of those roles.

• Be a Good Salesperson – Even after you find an attorney that you like, you may still have to sell your team on them. Providing examples of how your attorneys have helped you on projects in the past will help to engender trust and buy-in from your team members.

In Summary

We get it. Some lawyers can be unbearable. But, a good lawyer has a lot to bring to your project. By following the above suggestions, you can successfully integrate lawyers into your project team, making it much more effective. You will see dividends in your project timeline and budget. If you’d like to learn more about how to identify the good lawyers and learn to love them (and maybe hear a couple of bad lawyer jokes to boot) come see our presentation in Edmonton on Monday, June 25, from 8:30 – 9:30 a.m.

Session Info:

Learn to Love Your Lawyers
Monday, June 25th 8:30am – 9:30am
IRWA has been adopting Social Ecology as a means to address successful community engagement at the project level. Most right of way practitioners have an interest in learning how to identify what projects are likely to experience community challenges in the project development process. Going hand-in-hand with that interest is a predictable desire to have that information as early as possible.

At the June Conference, this session will provide participants with practical tools to use in determining social risk early in a project development cycle. Why do communities push-back against some projects, but not others? Is it really possible to tell ahead of time that a community will challenge a project? If so, why aren’t project owners taking timely action to avoid those challenges which sometimes kill the project?

What is Social Ecology?

At the heart of Social Ecology is a descriptive process of the informal communication and support systems present in any community so that a real-time understanding of how the community functions can be obtained. Three concepts are important to understand how the community handles change.

1. Discover the informal networks operating in a community, along with the caretakers and communicators who are well-regarded by their peers and the natural gathering places where residents share information on a routine daily basis.

2. Understand human geography, or the ways that residents relate to their neighborhood and community areas.

3. Take part in issue management, which creates alignment between citizen interests and company interests.

With this knowledge in hand and through building personal relationships, a project is in a strategic position to identify and respond to emerging citizen issues. As this capacity is developed, a “moderate middle” is fostered which tempers the influence of extreme voices.
We will present a Social Risk Scoring Matrix of 12 indicators that identify social risk to a project early. Attendees will make a preliminary assessment concerning the risks of community push-back using the scoring matrix and the following guiding questions from us:

- What concerns can you identify now that would raise a “yellow flag” in your mind about the possibility of trouble ahead?

- What are some of the more complex, high-risk factors that indicate the need for the in-depth analysis of a professional to prevent harm to the project’s budget and/or schedule?

- What are proven methods to address citizen issues early, before disruption occurs, as a means to stabilize the project development process?

In Summary

This interactive session will show how effective citizen engagement can save time, save money and save projects. Entitled, How to Predict Community Push-Back Before It Is Too Late: Using the Social Risk Management Matrix, the session is scheduled for June 26, from 1:00pm to 2:00pm.

Many participants at the conference will recognize this session on social risk management as part of Social Ecology, a continuing effort on IRWA’s part to support effective community engagement. This is an ongoing effort that resulted in over 29 columns being published in the Right of Way Magazine. IRWA published these columns as a stand-alone anthology in 2017 called Social Ecology: A Special Collection of Articles on the Art and Science of Social Ecology, which has been very popular among IRWA members.

Equally popular among IRWA members is Course 225, Social Ecology: Listening to Community. This course brings the process to Chapters in an accredited learning program. There have been Course 225 sessions held in Montana, Michigan, California, Ontario, Arizona, Colorado and Alberta. Course 225 is already scheduled in 2018 in the following cities: San Antonio, Texas (April 4), Philadelphia, Pennsylvania (May 4), Concord, New Hampshire (May 15), Baltimore, Maryland (May 17) and Sacramento, California (August 8). Chapters are encouraged to continue to sign up for Course 225.

Session Info:

**How to Predict Community Push Back Before It Is Too Late**

Tuesday, June 26th

1:00pm – 2:00pm

As President of the JKA Group, Jim is an advocate for using culture-based strategies when introducing site/corridor projects to local communities. He has fostered several successful long-term change projects in corporations and government units that have had long-term policy effects.

Kevin directs the Center for Social Ecology and Public Policy which creates corporate and governmental policy through culture-based project design. He has served as a project troubleshooter for numerous corporate and government clients.

Glenn Winfree, SR/WA is a Land Agent with Duke Energy with over 30 years of real estate experience. He is also the former Chair of the International Electric & Utilities Committee and an active member of the Carolinas Chapter 31.
It began just like any other Tuesday and ended like nothing Alberta, Canada could have imagined. On May 1, 2016, a small fire started near Fort McMurray, Alberta. Over the following weeks, the small fire turned into a beast reaching 6,000 square kilometers in size, an area larger than Prince Edward Island.

Assessing the Emergency

On May 3, the Regional Municipality of Wood Buffalo (RMWB) declared a local State of Emergency. Over the next 48 hours, mandatory evacuation orders were issued for more than 80,000 residents. Help came from all over the world to help get this fire under control, including more than 2,700 firefighters and 140 helicopters.

Tasked with putting together a response plan, ATCO did not initially understand the magnitude of the damage that the fire had caused or the obstacles they would be facing. Ideally, at the beginning of any project, there’s a research phase to help identify potential issues that may arise. However, with natural disaster response you often don’t have that time. Although ATCO had other crisis plans to refer to, this fire had its own set of unique obstacles. ATCO couldn’t fully determine the next steps until they were able to get their boots on the ground to assess the situation.

Damage Control

During the initial response, ATCO’s Gas Distribution and Transmission group had six employees in Fort McMurray to begin to shut off valves and lock up facilities. ATCO activated their crisis management team and set up employee support and assistance services for the employees affected by the fire. Within 72 hours, ATCO trailers were deployed for a temporary camp just south of Fort McMurray. These trailers—with complete kitchen facilities—grew from 42 to 1,200 beds and this became home to hundreds of employees and emergency responders.

As the weeks went on, the fire grew and more ATCO employees were deployed to help with their response plan. Hundreds of employees assisted, whether it was to help assess the damage, formulate a plan to re-energize the natural gas system or assist with the re-entry. Furthermore, employees worked around the clock to ensure electricity continued to flow to the local pump house so that water was available to fight the blaze. Keeping the power on so emergency responders could do their best to protect the community was critical to the response and ultimately to the recovery.

Overcoming the Obstacles

Like any project or emergency response, challenges happen along the way. ATCO’s challenges included resourcing, active wildfire, air quality, security protocols, wildlife, norovirus outbreak and more. Thankfully, they overcame these challenges and learned valuable lessons.

With 20,000 gas services turned off, 5,900 calls answered by our Customer Assistance Centre and the welcoming of 42,000 residents returning home, ATCO is proud of the work that was accomplished in Fort McMurray. Join Nathan Carter in this presentation to hear how ATCO responded to this devastating fire and the valuable lessons learned.

Nathan Carter is the Vice President of ATCO’s Gas Transmission Operations and Gas Distribution Edmonton Operations. He has been with the company for 17 years. During his career with ATCO, Nathan has held many senior operational and leadership positions.
How many times have we interpreted what another person said and in the process of filtering and distilling their words, we end up missing their point or coming up with an entirely different conclusion than what was intended? This is even easier to do today with the vague and implicit meanings in “text talk,” abbreviations, acronyms and social media. Even the best communicators can get lost in translation. Practicing effective, contextual communication helps us in all facets of our daily life. Without developing and constantly refining these skills, we will continue to have an issue getting our messages received as intended.

**Communication Tools**

The English language is complicated, and it’s easy for us to fall into the trap of assuming everyone will understand exactly what we are saying. For example, there is a big difference between “Your damn bridge requires a fare before we can cross it” and “Your dam by the bridge requires a fair amount of work before we can cross it.”

There are many examples of words that sound the same but have a different spelling and meaning. These are easier to comprehend in written form, but are not as distinguishable when spoken. Simply put, avoiding identical sounding words that have multiple meanings is a tool that leads to a more effective form of verbal communication. Another tool is to hit the pause button on responding without thinking. Taking a moment to truly understand what the other person is saying will help you frame the appropriate response or ask clarifying questions to make sure you understand what is being said.

**Convey Your Message**

Good negotiations are all about good communications, and we all have experience negotiating with a spouse or significant other, kids, staff/employees, business associates, buyers or sellers. In fact, IRWA consultants, right of way agents, appraisers and attorneys are always negotiating something or trying to persuade you to “see” their point of view. So how can we be more effective in achieving our goals? The best results come from discussions where all parties understand one another.

Effective communication requires engaging all senses to accurately convey your message in a way that can be heard and understood by your audience. One way to think about this is to communicate by “painting a picture” with words. Metaphorically speaking, when you communicate, will your audience be able to feel, smell or hear the physical feelings you describe? After all, a picture is worth a thousand words.

**In Summary**

These concepts and others are what we will be discussing at the *Bringing out your Inner M.O.R.O.N.*© workshop at the annual IRWA Conference in Edmonton, Alberta. We will provide you with a different perspective and way of looking at effective communications in order to help you in your professional and personal world.

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**Session Info:**

*Bring out your Inner M.O.R.O.N.*©

**Tuesday, June 26th**

10:00am – 11:00am

Scott Sheldon is the President of Terra Realty Advisors, Inc., a real property consulting firm with over 40 years of experience in development, acquisition, disposition and forensic analysis. Our consulting practice includes public school districts, city, state and federal agencies, along with private sector clients.
For the past 20 years in the energy, utility and infrastructure industries, more and more projects with eminent domain authority are facing lawsuits. These are often initiated by stakeholders and even non-stakeholders to challenge permits, applications, land rights freely negotiated, outreach and notice procedures. Often, the good stewards of the right of way industry can be caught in the crossfire. Increasingly, land acquisition or other service companies can be exposed to a cross-claim or a lawsuit and must share the burden of defense and attempt to rehabilitate public opinion.

Whether you work for a client (public or private sector) or a service company, you can’t prevent frivolous claims from being filed. However, you can put your best foot forward in defending against claims, both minimizing exposure to liability and protecting your company’s reputation. The ability to respond quickly, professionally and with precision can get a frivolous claim dismissed. While this article does not constitute legal advice, it may give you some questions to ask of your company’s counsel in the event of litigation and raise awareness for the addition of witness training to your professional tool belt.
Understanding the Terminology

There are various aspects to the legal process. Becoming familiar with the basics of legal understanding can truly help reduce stress and improve performance. For example, responding to a legal hold to preserve documents relevant to litigation is formal, but passive. Alternatively, receiving a subpoena coupled with a Subpoena Duces Tecum requires you to show up to testify and to bring required documents, evidence and information. It is very formal and very active.

In what forum could you be called? It could be a deposition in a conference room, where a sworn testimony is given for your side or required by the other side. It could be in an alternative dispute resolution (ADR) setting, in the format of contractual, binding arbitration or in voluntary mediation. For the latter, more and more courts are requiring good faith mediation between the parties—particularly in eminent domain cases—before the parties can set foot in the courtroom. Between 2012 and 2015, I attended dozens of court-ordered mediations required by federal courts in Ohio, West Virginia, Pennsylvania and Maryland, all related to project execution or land acquisition. In the event ADR is bypassed and your forum is the courtroom, the decorum and process can be very different, but that is not your worry as a witness. The attorney for your company or for your clients will know when to speak and not to speak, how to address the judge, when to stand, when to bow and when to pound the table. You just need to be focused on yourself and witness training can certainly help your performance.

Understanding Your Responsibilities

No matter the forum, the type of legal process and the substance of litigation, your responsibilities are essentially the same: to tell the truth, to remain calm and professional, to not alter or destroy evidence/information, and to show up on time and well prepared. The attorneys assigned to the case will prepare you on what you are to expect and what you are to bring, how you are to dress and how to conduct yourself. They cannot and should not coach your testimony, but they should help you make eye contact and learn when to speak up. Attorneys very often know the judges well in a jurisdiction and can advise you on pet peeves of the court to help you avoid them.

Litigation Training

I advocate for companies to do rudimentary witness training on a regular basis. Practicing testimony and being briefed on legal trends for litigation in the project world can help both client and service companies evaluate operations and processes to minimize the litigation target. More and more project opponents are demanding company executives to testify to processes, procedures and training for their employees. Therefore, senior management can expect to be subpoenaed even if they never set foot on a project. Due to exposure across so many operational areas, some companies give executives annual witness training to keep senior management skills sharp.

In Conclusion

Does all of this matter? Absolutely! The testimony of right of way personnel and other professionals can decide a case. We are the boots on the ground, at the front lines and witnesses to the most crucial parts of a project. Many times, our teams are both subject matter experts on land acquisition and historians for everything else throughout a project timeline. I have had cases in federal court where the brilliant, professional and well-prepared testimony of a project land manager pushed the court’s decision in a client’s favor, forever serving as precedent for other companies and as a testament to our profession. You react how you are trained, so litigation training should be included in a company’s professional development offerings. Doing so can make all the difference for a specific case, for a company and for our industry as a whole.

Beth Minear is the president of Global Project Solutions Consultants, LLC, a comprehensive project strategy, land acquisition and regulatory compliance company. Along with other professionals of GPS Consultants, Beth offers customized annual and compliance trainings to client companies, including issues related to defensive drafting of contact notes, litigation planning and witness training. She has also been a licensed attorney for more than 20 years, providing counsel and business advice to energy companies and utilities in state and federal courts in multiple jurisdictions.
Despite the current uncertainties in the economic climate, this has been a busy time for large infrastructure projects in the United Kingdom. Citizens’ rights are affected by both public and private proposals, so a delicate balance has to be struck in achieving a greater, general good compared to the inevitable interference with people’s property and the surrounding environment. Road, rail, airport, energy, housing and other projects have been implemented or proposed with varied impacts on our green and pleasant land.

**Major Projects in Construction**

There has been a busy program of construction and development of major infrastructure over recent years in the UK. London is to have a new railway line named The Elizabeth Line in honor of the Queen, which will serve as a cross-town, multi-node connecting line. The project is 80 percent complete and will be delivered on time and within budget, with the first passenger trains running later this year. The new line will improve journey times across London, ease congestion on the wider London Transport network and offer better connections to provide easier, quicker and more direct travel opportunities across the capital. It actually extends as far as Reading to the west of London (providing another connection to Heathrow Airport) and to Shenfield in Essex to the east. It is anticipated that it will generate £42 billion pounds ($58 billion USD) for the UK economy.

Another major project for London currently under construction is the
Thames Tideway Tunnel, a 16-mile-long “super sewer” to take pressure off London’s existing Victorian sewage system. This was originally constructed to combat The Great Stink, which overwhelmed London in the summer of 1858. The smell from sewage in the Thames was so unbearable that the Houses of Parliament considered closing for business and relocating to Oxford. The new sewer is scheduled for completion in 2023 and will prevent overruns from the existing system, which can occur after heavy rain showers causing overflow into the Thames. The original sewers were designed to cater for a population of approximately 2 million people compared to the current figure of over 8.5 million.

Projects Waiting Approval

A particular cause of controversy in the UK has been the airport expansion plans for London. Aside from the City Airport, all of the airports serving London have been considered as possible locations for an additional runway to allow more flights and increase passenger throughput. The Government’s preferred scheme is the provision of an additional runway at Heathrow. Consultations are being undertaken on the extent of the physical changes on the ground needed to build a new runway. As a result of the expected local impacts, feelings have run so high that one member of Parliament resigned from Government. The former London Mayor, Boris Johnson, is a vocal opponent.

The proposed High Speed rail link, known as HS2, is also currently going through the approval process. This will extend for about 250 miles from London to Manchester and Leeds. Being a Government-promoted project, it is the subject of a legislative Bill in Parliament and open to scrutiny by both the House of Commons and House of Lords. It will affect millions of businesses and home owners, but it will also allow for a faster commute between the north and south of the country with the potential for onward extension to Liverpool, Newcastle and Scotland. The project cost is approximately £50 billion ($70 billion USD), but it is estimated that it will generate about £15 billion ($21 billion USD) annually for the UK economy.

Public Concern

Elsewhere in the country, wind farms, power stations and electricity transmission lines are being developed to fuel the UK industry and economic growth initiatives following the financial recession of the late 2000s. The current economic situation is rendered even more uncertain by the UK’s decision to withdraw from the European Union, so the necessity to build a strong and stable economy is even greater.

But these infrastructure projects have to be accommodated within the rural landscape and urban fabric of a densely populated island nation. Citizens are concerned both about the impact on their property, as well as the impact on the natural and historic environment. Larger energy, water and rail projects can now be promoted by private companies who can exercise compulsory powers to purchase property from members of the public. The benefits of the public good and economic growth from these projects can often be a hard sell where individuals who are directly affected are concerned.

Similar issues arise where areas of public housing are redeveloped to provide a more efficient and upgraded urban environment. People who have set down roots in a particular housing project or estate—even if it has become run down as a result of age and lack of maintenance funding—will usually object to being moved or relocated.

Looking Forward

In the UK, there are different authorization processes for different kinds of projects. For certain proposals, particularly those promoted by Government, the principle of the proposal cannot be challenged once it has been determined. But the critical question always remains, “Is the achievement of the greater public good sufficient to outweigh the particular impact on the private individuals affected?” Sometimes, truly creative solutions are required to accommodate the needs of those affected.

Session Info:

Recent Infrastructure Projects and Proposals in the UK

Tuesday, June 26th 3:00pm – 4:30pm

Meyric Lewis is a UK Barrister at Law practicing from Chambers in London. He is former Chair of the UK Compulsory Purchase Association.
Become a force for change in your organization by bringing back specialized knowledge that you can’t get anywhere else. Professionals who attend IRWA’s Annual International Education Conference gain invaluable insight into the latest industry trends, giving them the edge they need over their competition.

IRWA’s conference participants make up a unique body of knowledge. With over 1,000 experienced right of way professionals gathering in one place and sharing industry practices, you and your organization can’t afford to miss this event.

For a full schedule of events and listing of sessions, visit: www.irwaedmonton2018.org
### Breakout Sessions

#### Monday, June 25

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<td>Successful Project Management: The Role of the Project Manager</td>
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<td>Learn to Love Your Lawyers (and Create a Well-Integrated Project Team in the Process)</td>
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<td>Avoiding Risk in Part Take Situations - Drafting Tips for Acquisition Documents</td>
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<td>Unmanned Aircraft Systems (Drones): From Land to Legal</td>
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<td>Easement Drafting Nuts and Bolts: How to Draft Utility Easements Ahead of Time to Ensure A Successful Project</td>
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<td>A Peek Around the Bend: Emerging Landowner Tactics to Maximize Just Compensation</td>
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<td>NEB - Current Initiatives</td>
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<td>Transportation Utility Corridor Development in Alberta</td>
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<td>ROW Game Show</td>
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<td>Successful Project Management (Part II): Leading &amp; Managing the Project Team; Essential Skills for the Project Manager</td>
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<td>When Does a Partial Acquisition Trigger Relocation Assistance</td>
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<td>Utility Wildfire Risk Assessment</td>
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<td>Indigenous (Aboriginal) Consultation</td>
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<td>Getting the Most Out of the Pre-filing</td>
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<td>Site Selection Process for a New Central Library in Ottawa</td>
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<td>Streamlining the Bid Process Through Standardization</td>
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<td>Buying Islands for Millions, Overcoming Challenges in the Valuation and Acquisition of Habitat/Mitigation Property</td>
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<td>Cost Controls Through Proper Project Controls and Management</td>
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<td>Lessons Learned about Stakeholder Outreach: A Right of Way Perspective</td>
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<td>Don’t Get Hung Up on Cell Tower &amp; Billboard Relocation</td>
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Note: Sessions are subject to change. For updated information, visit www.irwaedmonton2018.org.