A farm operation is eligible for the fixed payment in lieu of all moving and related expenses including reestablishment expenses. You may encounter a wide variety of farm operations that include growing crops, raising livestock, or harvesting timber. The Uniform Act regulations define a farm operation at 49 CFR 24.2(a)(12):

“any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator’s support.”

Eligibility Requirements and Payment Amount

The fixed payment eligibility criteria for farms is different from that used for businesses. There are only two basic requirements that a farm operation should meet. In looking at the definition of a farm operation above, we see that the activity/operation must produce enough of its product so that sales of the product contribute materially to the owner’s income. The term “contribute materially” generally means that in the two taxable years prior to the year of displacement the farm operation had gross revenue of at least $5,000; or net income of at least $1,000; or it contributed at least 33 and 1/3% to the owner’s annual gross income from all sources. [See §24.2(a)(7)] This requirement would generally eliminate home gardens or hobby farms from being eligible for a fixed payment.

Although the regulations do not list a specific requirement that a farm have personal property at the displacement site, this requirement is implied since the payment is “in lieu of” actual moving expenses. The most accepted interpretation is that farms, like businesses, must have personal property to move in connection with the displacement to be eligible for the
payment. Since this requirement is not explicitly stated in the regulations, and there is no guidance in the Uniform Act Frequently Asked Questions published by the Federal Highway Administration, an agency may use its discretion to determine that a farm operation is eligible for the fixed payment in situations when it does not have personal property to move. Keep in mind that the farm products raised by the operator may be personal property.

Unlike businesses, farms are not subject to the loss of existing patronage requirement, nor are they limited by the multiple location criteria. Since renting a dwelling or a commercial site are not related to the definition of a farm operation, these restrictions do not apply.

The fixed payment amount for a farm operation, and its actual calculation, are the same as for a business. The maximum payment is $40,000 and the minimum payment is $1,000. The payment is calculated based on the average annual net earnings of the farm operation for the two taxable years preceding displacement. [Refer to 24.305(e)]

Eligibility for Fixed Payment as Result of Partial Acquisition

A farm operation may be eligible to claim a fixed payment in two partial acquisition situations. First, an agency may determine the partial acquisition causes the entire farm to be displaced. The second situation arises when the acquisition causes a substantial change in the nature of the farm operation. In other words, the agency must determine the partial acquisition has a substantial impact on the operation in the after situation.

This determination can be a subjective measure, and should be carefully evaluated on a case-by-case basis. Let’s look at some factors or reasons a partial acquisition could impact a farm operation to the point that it triggers a change in the nature of the operation. These are items an agency should consider when making this decision.

Loss of Access

A partial acquisition may cause a farm operation to lose access to the remainder portion of the
operation. For example, if the partial acquisition splits a farm and leaves the owner with land on both sides of a new limited access highway, the resulting loss of access could be considered a substantial change in the owner’s operation in terms of access, efficiency, and future costs.

**Loss of Land that Supports the Farm Operation**
The agency’s acquisition includes a substantial portion of land that supports the ongoing farm operation, such as land the farm owner uses to grow corn to feed his cattle. After the acquisition, the farm owner may no longer have the land needed to grow feed corn which is an essential function of the farm operation.

**Resulting Noncompliance with Local Codes or Industry Standards**
The partial acquisition may result in the farm operation now being in noncompliance with local codes or industry standards. For example, the partial acquisition may impact a water source or the soil quality of an organic farm to such an extent that the farm operator can no longer meet the industry standards or the code requirements of an organic farm.

**Inability to Replace Improvements Necessary for the Farm Operation**
The farm owner may be unable to replace acquired features or improvements on the remainder property due to cost or physical limitation. For example, the farm owner may not have the area necessary on the remainder property to replace a grain silo purchased as real property or a retention pond that is necessary for the operation.

Note: These are suggested factors for an agency to consider when evaluating if a partial acquisition caused a substantial change in the nature of the farm operation. These factors are explained and illustrated in IRWA Course 521, Nonresidential Fixed Payments. This course was developed by O. R. Colan Associates through our licensing agreement and is available at IRWA University. The IRWA Relocation Community of Practice also developed Q & A’s for Farm Operations, which is available on the IRWA Member Network. Lisa Barnes and Bob Merryman are members of the Relocation CoP, and contributed to this publication.
Report from AASHTO 2017

The 2017 Joint AASHTO Subcommittee on Right-of-Way and Utilities and Outdoor Advertising Control and the National Alliance of Highway Beautification Agencies (NAHBA) met in beautiful Indianapolis, Indiana April 30 – May 4.

On Sunday evening ORC partnered with Cardno as Platinum Sponsors for the Welcome Reception. ORC has sponsored the AASHTO Welcome Reception for more than 25 years and has partnered with Cardno for this event in recent years. The conference was held at the Crowne Plaza Indianapolis Downtown, located inside the historic train station. The architecture of the historic building created a dramatic setting for the conference.

The AASHTO format involves presentations by the various technical councils within the organization. Bob Merryman is a member of the Relocation Technical Council, and was invited to participate on a panel that presented materials designed to engage the audience in discussion. Bob’s presentation dealt with large residential rental subsidies: are they effective at providing long-term housing and a smart use of highway dollars? Bob used an actual situation, with altered names and location, to illustrate his argument that the current structure of the rental subsidy program, especially for larger payments, does not work well as a long-term housing solution, and is not an efficient use of dollars. The presentation certainly accomplished the goal of involving the audience in an active discussion.

Copies of our new book, Inspiring Confidence in Progress: The History of O. R. Colan Associates, were given to those who were interested in the history of ORC, as well as a look into the history of the Uniform Act.

Cathy Muth is pictured above with a race car from the Indy 500. The car was parked in the central hall for the dinner on Wednesday night.

Lisa Barnes stayed in one of the more interesting accommodations at the hotel - a "train car" room.

Pictured above at our booth (left to right) are Donna Roche, Steve Toth, Bob Merryman, Cathy Muth, Tracy Jones, Lisa Barnes and Daryl Knobbe of ORC.

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Please visit irwauniversity.org for more information.
Anchorage Provides Idyllic Setting for 2017 IRWA Conference
By Lisa Barnes, VP of Training

IRWA held its Annual Education Conference in amazing Anchorage, Alaska from June 11-14. Everyone had a great story to tell about their trip getting there. First, how long it took, and then how beautiful it was approaching Anchorage. It is one thing to fly from the east coast to the west – going on to Anchorage from Seattle adds another 1,250 miles to the trip and a loss of 4 hours when we look at the clock. Downtown Anchorage was so nice for walking, if you remembered to bring a sweater and something for a light rain. The temperature didn’t get above the mid-fifties, however, the walk to and from the conference center each day was beautiful. There were flowers everywhere; in pots, hanging baskets, park areas, even on the roof of the Visitor’s Center! I was exclaiming over the size of the blooms and then a friend reminded me that they get over 20 hours of sunlight a day. So, if you love daylight savings time, Alaska is your place in the summer. The sun rises about 4:30 am and sets around 11:30 pm.

The conference was held at the Dena ‘Ina Civic and Convention Center. Most of the sessions were on the third floor, which offered incredible views of the Chugach Mountains around Anchorage. There were a wide variety of sessions and topics available: project management, design build projects, energy and utility projects, appraisal, acquisition and relocation issues for Uniform Act projects. I spoke at a session about the Q & A’s for Farm Relocations the Relocation Community of Practice developed and published on the IRWA Member Exchange. My topic was Fixed Payments for Farm Operations, which is explained in our technical article for this issue (see pages 1-3). I also moderated and was on the panel for a session about Complex Residential/Nonresidential Relocations. We had almost 100 people at this session, with a lot of audience questions and participation.

Other News from the Conference

Derrick Roma (pictured left), Project Manager in ORC’s Franklin, MA office, received his SR/WA (Senior Right of Way Professional) designation at the SR/WA Recognition Breakfast on June 13. Derrick achieved this prestigious designation through experience, education, and examination. An SR/WA must have a minimum of 5 years of qualifying experience, complete coursework across all disciplines, and pass a capstone examination. Congratulations to Derrick – ORC’s newest SR/WA!

IRWA Chapter 13 – Ohio (The Buckeye Chapter) won the IRWA 2013 Website of the Year Award. The chapter president accepted the award, and acknowledged Ben Zera (pictured right), Project Manager in the ORC Cleveland, OH office, for the success of the website, saying Ben has made the website what it is today. Congratulations to Ben and Chapter 13.

Chapter 13 also won the 2016 Gene L. Land Award for the chapter with Highest Numerical Gain in Membership AND was successful in its bid to host the 2022 IRWA Annual Conference in Cleveland. Cleveland – where Right of Way Rocks!
(Top left) Lisa Barnes presents *Fixed Payments for Farm Operations* (see pages 1-3 in this issue). (Top right) An interesting window at the convention center. (Middle) The Chugach Mountains, as viewed from the conference center. (Bottom left) Flowers in the city park. (Bottom right) Flying into Anchorage.
In addition to the education and networking opportunities, this year at the Annual IRWA Education Conference, the focus for the Young Professionals Group was to become integrated with senior leadership, and remain involved in shaping the future of the IRWA. Everyone recognizes that the workforce is aging, and that the younger professionals will play a vital role in the future of the industry. However, there is no clear cut path ahead. The Young Professionals Group members are taking every opportunity to be involved in the discussions and strategic planning.

The conference kicked off this year with a networking reception on Saturday night sponsored by the Young Professionals Group. At the event, which proved to be an excellent opening for the conference, professionals of all ages were able to meet in a casual atmosphere. The YP Group continued to maintain a strong presence throughout the week, including staffing our own booth in the exhibit hall. At the booth, we signed up over 150 professionals of all ages to participate in a new mentor program that will be launching soon. The program will aim to match mentors with younger professionals, and each member will be able to customize the user experience. We hope that this program will help members develop lasting mutually beneficial professional relationships. The YP Region Chairs were then invited to the Leadership Appreciation and Recognition Reception where we were able to continue our discussions regarding the future of the organization.

Another initiative of the YP Group was to organize several of the education sessions. This year, the sessions were integrated into the conference, and the topics focused on soft skills, leadership, and career growth. One of the workshops was streamed live online for members that were not able to attend the conference in person. This was a new and innovative approach to try to engage more young professionals from across the organization.

Finally, all of the Region YP Chairs participated alongside other IRWA leadership members in a strategic planning session with Glenn H. Tecker. Glenn is recognized as one of the world’s foremost experts on association leadership and strategy. The session was interactive and participants spent time scanning the environment for current conditions, trends, and made assumptions about the future that could impact the organization. Among other challenges, there was a general consensus that an aging workforce remains one of the primary concerns of the Association. This challenge for the organization will present numerous opportunities for young professionals throughout the industry.
Recent Wins

ORC U&I Awarded 7 New AEP Telecom Projects in Indiana

Recently AEP Indiana Michigan Transmission Co. awarded ORC U&I seven new Telecom projects to install fiber lines on existing facilities throughout Indiana. The projects combine to encompass approximately 52 miles of added fiber lines to existing stations for improved communication for AEP Transmission lines. The services ORC U&I will be providing include obtaining permits for City Road crossings, County Road crossings, State Road crossings, Railroad crossings, and notifying landowners of the upcoming fiber installation. ORC U&I will be acquiring approximately 215 permits to support the new projects. The new Telecom projects will be ongoing throughout 2017 and early 2018.

Hwy 274 Force Main Replacement Project, York County, SC

ORC has been selected to team with Dewberry Engineering to provide right-of-way acquisition and associated support services for York County, SC’s Hwy 274 Force Main Replacement Project. The project corridor covers approximately 28,000 feet (5.3 miles) and targets the design of a system to replace the existing 12-inch diameter pipeline presently carrying wastewater from the County’s Crowder’s Creek Pump Station to the Little Allison Creek Pump Station. The County has identified this segment as under capacity for the substantial growth occurring in the surrounding Lake Wylie Community. This phase of the project is valued at approximately $1.2 million-dollars and was approved by the County in May. York County’s 2025 Comprehensive Plan (published in 2009) identified $4.5 million-dollars to complete improvements associated with the project. Preliminary plans estimate approximately 70 right-of-way and/or temporary construction easement acquisitions associated with the project.

Force mains are pressurized wastewater pipelines used where the elevation of the source is insufficient for gravity flow to the destination or where the design of a gravity flow system would result in cost prohibitive excavation depths. Force mains carry wastewater from the discharge side of a pump or pneumatic ejector system to a designated discharge point in the system.

ORC Training Division Awarded Contract to Develop/Produce HUD Online Training

ORC’s training division has been working with Cloudburst Consulting Group, Inc. to develop a training plan focused on the applicability of the Uniform Act and Section 104(d) to HUD funded programs and projects. HUD approved this training plan in late 2016, and recently awarded a contract to develop an online training course to Cloudburst Consulting Group as the prime contractor, with ORC as the subcontractor.

ORC will develop 8 modules included in the training plan, representing a total of approximately 15 hours on online learning. These modules will cover overviews of the Uniform Act and Section 104(d), planning and budgeting for URA projects, acquisition and relocation for URA projects, and temporary relocation. Each module will include slides with appropriate text and graphics, accompanied by audio narration. This interactive online learning will use videos, examples, learning activities, exercises and case studies to illustrate concepts. Learners will be able to download learning aids, such as fact sheets, comparison charts and module summaries.

ORC will also produce the content in the Adobe Captivate online learning platform. The course will comply with 508 requirements, including closed captioning of audio narration and video. The course will be posted to the HUD Exchange, and will be available to registered users. The anticipated completion date is March 31, 2018, although individual modules may be available sooner.
I was reminded by some folks in our office in St. Louis that I have never written about St. Louis. So, a home focus seemed appropriate for summer.

The City of Saint Louis was named for the King of France, Louis IX, who later was determined by the Catholic Church to be a saint, hence the name of the city, Saint Louis. We can recall from our history lessons that Thomas Jefferson purchased most of the center portion of the present United States from another French historical figure, Napoleon Bonaparte. The Louisiana Purchase turned out to be a great bargain. For fifteen million dollars, the United States gained what is today the states of Arkansas, Missouri, Iowa, Oklahoma, Kansas, and Nebraska. Other portions of the Louisiana Purchase became part of nine other states. The United States also acquired the port of New Orleans.

The French influence in the Saint Louis area is noticeable to this day. For instance, a fleur de lis (lily flower), which is a symbol of historic France, has been incorporated into the flag of the City of Saint Louis. The stylized lily is a common site in the area. The annual Fleur de Lis Ball raises funds to support a local children’s hospital.

Perhaps the most interesting reminder of the French influence is to look at the oldest deed books at the recorder’s office. They are hand written in French in many counties in the area, including the City of Saint Louis.

O.R. Colan has been providing right-of-way services in the Saint Louis area since 1978. One of the early office locations was in an area known as Laclede’s Landing, also the home of the Jefferson National Expansion Memorial. This area is where the city was established and a base for Lewis and Clark to explore the west. History lovers will enjoy the newly renovated Museum of Westward
Expansion located under the famous Eero Saarinen “Arch”. And while you are visiting make sure you include a ride to the top of the Arch in the pods that crawl up inside each leg of the structure.

Other great things worth a mention in Saint Louis are a great zoo that happens to be free, the Old Courthouse, which was the site of the famous Dred Scott case, tours of the Anheuser-Busch brewery, a tram ride at Ulysses Grant’s Farm, baseball at Busch Stadium, and the Mississippi River.

So how about eating in Saint Louis? We do have our own unique delicacies. Saint Louis has a cut of pork that we call a “pork steak”. They are great on the grill. We have a pasta that we call “toasted ravioli” which is actually fried, but good none the less. We have pizza that is made with provel cheese, so it is “super gooey”. And of course, we have ice cream, and a lot of arguments as to the best. The most consistent name you might hear in ice cream is a locally owned business in South City called Ted Drews. It has been family owned for nearly 90 years.