Threading the Needle
Navigating Typical Distribution Right of Way Concerns

Breaking Ground in Cuyahoga Valley National Park

The National Park Service has officially broken ground on the new Boston Mills Visitor's Center. ORC was on hand for the exciting event.

On the Road with Bob: Something Different

In this edition Bob shares a letter, and a story, which shows that “out of the box” thinking can go a long way in helping with a difficult situation.
Distribution Pipelines (low pressure pipelines designed to serve customers along their route) present an array of challenges ranging from their proximity to existing underground and above ground utilities to how their installation impacts individuals and businesses during construction. In most all cases, space is a commodity and frequently unavailable except outside of existing road rights-of-way. In recent years, locating the distribution pipeline on private property paralleling the road right-of-way has become the preferred alternative. By doing so, you limit the need to disrupt traffic, reduce permitting, eliminate restoration of construction damages to roads and establish a dedicated location for the pipeline. Stakeholders are better informed and maintenance and operation of the pipeline is simplified and can be performed in a safer manner.

**EXISTING UTILITIES**

Existing utilities are one of the primary determining factors when it comes to the routing of distribution pipelines. In many cases, especially in urban areas, there is simply no room available in the public rights-of-way to lay a new pipeline. The use of HDD (horizontal directional drilling) construction practices has mitigated these problems, but not eliminated them. Water, sewer and electric utilities struggle for available ground and eventually necessitate the need to go outside DOT right-
ADAPTABILITY

noun
the quality of being able to adjust to new conditions.

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of-way to lay distribution pipelines. Even as you exit the road right-of-way, you may find that other utilities have already encumbered the private lands immediately adjacent to the road right-of-way, pushing the pipeline right-of-way further into private property. Land requirements can sometimes be reduced by using portions of these existing utility rights-of-ways for workspace or where the easements are non-exclusive, by partially overlapping a portion of the new pipeline easement onto a portion of an existing parallel utility easement.

**DEFINING EXISTING RIGHTS-OF-WAY**

Determining the widths of existing distribution utility rights-of-way can be an arduous task. Most new easements are recorded and have defined widths, but older ones may have been acquired under a blanket easement with no width specified. Companies that hold these types of easements often maintain a certain width over years and claim rights through prescriptive easements. Decades ago when many of these easements were acquired, company policies did not require easements be recorded or made public record. In these cases, you will need to contact the company’s land representative to determine when they were obtained and get copies of any records that they can provide. You can then follow-up with courthouse research to locate any recorded documents that might provide constructive evidence in support of the rights granted on your parcel (old plats or references to the facility on adjacent properties). To avoid laying in existing rights-of-way, due diligence is required. Failure to do so can result in the new pipeline being moved off of DOT right-of-way only to encroach on another existing utility right-of-way.

**PRIVATE LANDOWNER AND BUSINESS IMPACTS**

Any pipeline that crosses a private owner has some impact on the property it traverses. Distribution pipelines tend to impact numerous small lots and businesses because they are designed to provide service or make service available to anyone along their route. These impacts include aesthetic damages related to the removal of trees or landscaping, saw cutting driveways, impacts to signage, limiting access to businesses during construction or safety concerns for landowners. Construction methods such as HDD’s or boring of driveways mitigate many of these impacts if there is room. Space dictates all, from having enough room for a bore pit to being able to string the pipeline to facilitate a HDD. Many times, there is not room and the pipeline must be installed by ditching across the property. When these circumstances occur, landowners and businesses can be impacted more severely and efforts must be made to try and mitigate the impact. Some common measures are:

1. Working with landowners or businesses to coordinate construction times.
2. Limiting the duration that a driveway is closed (hours instead of days).
3. Closing only one access/drive at a time if multiple access points are available.

Each requires involvement and coordination between the landowner, land agent, construction contractor and distribution company.
VALUATION
Determining the value of the right-of-way across various properties requires that the land agent keep in mind many of the factors that have been noted in previous paragraphs. These rights-of-way are typically very narrow with limited workspace, so even if a 100% fee value is placed on the right-of-way the amount of compensation is usually seen as very little by the landowners. Skill and imagination are needed by the land agent to negotiate these settlements. Agents will need to carefully balance their explanation of the value of the impact against the potential benefit that availability of the utility may afford. Loss of large trees and impacts to aesthetic value (loss of landscaping) can provide agents with additional negotiating options beyond a simple before and after valuation approach. Though public utility companies installing distribution pipelines typically have the right of eminent domain, there may not be sufficient time to exercise that right or it may not be economically practical. As a result, the land agent must rely on his or her negotiating skills to arrive at a mutually agreed upon compensation while not exceeding budgetary limits.

CONCLUSION
Though distribution pipelines present many challenges, they are not insurmountable. Close communication between all stakeholders is critical. Navigating these concerns successfully against the backdrop of today’s fast-paced construction schedules, congested corridors and active residential and business concerns requires planning, organization and an intentional right of way acquisition strategy.
Conservancy for the Cuyahoga Valley National Park (CVNP) Breaks Ground on New Visitor Center

By Kevin Robinson, Proposal & Market Research Manager, ORC

On January 8, 2018, the Conservancy for the Cuyahoga Valley National Park (CVNP) broke ground on a new $6 million state-of-the-art visitor center. Agent Lauren Falvey of ORC was an invited attendee.

In early 2017, ORC was selected by the National Park Service (NPS) to provide residential relocation assistance for 6 occupants on a tract of land in the Village of Boston in Summit County, OH, property that was donated to the park for the visitor center.

In addition to the visitor Center, the project also includes two smaller buildings nearby. One will be used for restrooms, and the other for office space.

One of the vacated structures, an historic, 3,600 SF building, will soon become the centerpiece of the new Visitor Center.

Congratulations to the CVNP on this exciting development! ORC is proud to have contributed to this long-awaited resource for your millions of yearly visitors!

The existing 3,600 square foot building (inset) will be renovated into a state-of-the-art visitors center, which will serve more than 2 million visitors a year.
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Please visit irwauniversity.org for more information.
Recent Wins

ORC Utility Sector: ORC U&I – Electric Transmission EPC Projects – Ohio

In January 2018, ORC U&I was awarded two EPC projects with Burns and McDonnell and EPC Services Company which is a joint venture comprised of Electrical Consultants, Inc. and L.E. Myers Company.

AEP Transmission has adopted an alternative solution to managing their capital work plan. The EPC (Engineer, Procure, Construct) model allows AEP to effectively manage their work plan by outsourcing the entire project to an engineering and/or construction firm to manage. In this model ORC U&I is contracted directly with the awarded engineering and/or construction consultant.

The Harpster – Waldo project involves an existing 25.1-mile transmission line. The existing 69kv line was secured with blanket easements in the 1940’s. The existing single pole wood structures will be replaced with a single steel mono pole operating at a 69kv. AEP plans to update their existing easement language. ORC U&I’s scope will include acquiring supplemental easements on 220 parcels. ORC will be responsible for construction support activities, including all property reclamation and damage settlements. The project started in January 2018 with a right-of-way clear date of July 2018. Construction is expected to be complete in late 2020. EPC Services is the EPC company managing the project.

The second project, Delphos Junction / Kossuth, involves an existing 27.66-mile transmission line. ORC U&I’s scope will include acquiring supplemental easements on 256 parcels. The existing 69kv line was secured with blanket easements in the 1920’s. The existing single pole wood structures will be replaced with a single steel mono pole operating at a 69kv. AEP plans to update their existing easement language. ORC will be responsible for construction support activities, including all property reclamation and damage settlements. The project started in January 2018 with a right-of-way clear date of March 2019. Construction is expected to be complete in late 2020. Burns and McDonnell is the EPC company managing the project.

ORC U&I has been awarded 8 total projects through the AEP EPC model within the last 12 months. To accommodate this workload, ORC has hired experienced staff in Ohio within the last six months and anticipates hiring another 2 - 4 employees within the next several months.

Continued on page 3 ▶
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For more information, please contact Steve Toth at stoth@orcolan.com.
**ORC Training: Contract for NCHRP Research Study – Outdoor Advertising Signs**

ORC’s training division received a subaward from the National Academy of Sciences, National Cooperative Highway Research Program (NCHRP) to conduct a research study titled Relocation and Acquisition of Outdoor Advertising Signs Impacted by State Highway Projects: Time and Cost Analysis. The objective of this research is to document and compare the approaches State DOTs (SDOTs) use to address impacts to outdoor advertising signs that result from highway improvement projects. The ORC team will conduct research to collect and analyze data on the acquisition and relocation of these signs in two different areas: the cost associated with acquisition compared to relocation and the time needed for acquisition compared to relocation.

The removal of outdoor advertising signs from rights of way for highway projects is a challenging aspect of the project delivery process. We anticipate that SDOTs approach the removal of these signs differently in terms of monetary costs, the time required for negotiation and legal processes, and necessary staff resources. Collecting the data and comparing the time and cost associated with different approaches will provide SDOTs with additional information to improve and streamline the project delivery process. This research study is scheduled for completion by April 2019.

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**ORC Public Sector: MassDOT - Needham - Newton Reconstruction of Highland Avenue**

ORC is assisting the Massachusetts Department of Transportation (MassDOT) to reconstruct portions of the Highland Avenue/Needham Street corridor. The project is approximately two miles long and aims to improve operational deficiencies and make the corridor safer for pedestrians, cyclists, and drivers. The goal is to improve all modes of transportation by adding continuous dedicated sidewalks, a five foot wide raised bike lane, improved turn lanes, and to improve transit by adjusting locations to optimize service. The improvements impact approximately 125 parcels and will require fee acquisitions and various permanent and temporary easements. ORC will be handling the negotiations to acquire the property rights in anticipation of advertising the project in the Spring of 2019.
On the Road with Bob: Something a Little Different

I usually write about traveling, some interesting sites, and some tasty meals. But I decided to make this article a little different.

One of the toughest things in any business is attempting to find “good people” or people who are the “right fit” as employees. Even when jobs were not plentiful, finding an “employee gem” was tough. And even more difficult is finding someone who can think outside the box, and knows when to break the routine of the job.

As I was sitting crammed in my airline seat on a Southwest flight back to St. Louis from Seattle, I happened to pick up the airline magazine and thumb through it. I usually do not bother to read the letters to an airline, since I am cynical and assume they only put in the good ones! But the picture of two people dancing in the airplane aisle caught my eye. So, I read the letter. Wow, what a surprising letter!

I asked Southwest if I could re-print their letter, and they graciously agreed that I could include it in this article (see letter to the right).

Now that was thinking outside the box! Mr. Henderson (the flight attendant) solved an immediate problem and created a lifetime of positive feelings for Southwest. Not only was the writer of the letter appreciative, but just imagine what the other passengers took away. As the letter points out, the other passengers watched in “amazement and gratitude,” which is a huge change from the bad press the airlines have gotten over last few months.

So again, thank you Southwest Airlines for letting me use the letter, and a thank you to James Henderson and the letter’s author, Amy Engelhardt, for permission to use the full content.

What a great example of solving a problem quickly and in a positive way. Innovation like that would solve many right of way issues. Of course, the question remains as to how to develop that skill in any group of people. Training for technical competence is relatively easy and standard. Most DOTs and other agencies do a good job. However, developing and improving the ability to solve problems is a much tougher goal.

Dear Southwest,

I was traveling to Denver, moving my elderly mother to my home. She has dementia, and sometimes seemingly easy tasks become difficult. When it was time to exit the plane, my mom sort of froze and didn't understand that she needed to walk out to the aisle. Seemingly out of nowhere, flight attendant James Henderson came over and asked me how he could help. I told him I needed help with my mom, and he jumped into action. James strapped my backpack on his back, got in the seat in front of my mom, and asked her if she wanted to dance. He said he wasn't going to see his wife for three days and needed a dance partner. He reached out for her hands, and the two of them two-stepped off the plane, with Mom smiling all the while! The whole plane watched in amazement and gratitude. The tenderness of this young man toward my mom was heartwarming. He treated her with respect, kindness, and dignity. In my mind, he was an angel who appeared at just the right moment. I already loved flying with Southwest, but I will carry this experience forever in my heart.

- Amy Engelhardt

Illustration and letter courtesy of Southwest Airlines and Amy Engelhardt