



MONTHLY Bundle of Writes

NEWS AND EVENTS FOR IRWA CHAPTER 67

FEBRUARY 2020

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PRESIDENT'S MESSAGE

Amanda Fitch

Mobilitie

afitch@mobilitie.com (714) 325-8649

Hello and welcome to the February issue of the IRWA Chapter 67 Bundle of Writes. This is our first issue of 2020 and what an exciting year it is already turning out to be. Our January luncheon had one of our highest attendance in recent Chapter 67 history and has peaked the interest of several new members. John Ellis gave us an exciting insight to the economy's current status and future, which is always extremely interesting! If you were unable to attend the January luncheon and missed my presentation of "IRWA, Chapter 67 and You" and John Ellis' presentation "2020 Real Estate and the Economy", both presentations have been uploaded to our website at www.irwa67.org/latest-news. Be sure to click around our newly designed website for all past presentations, exciting news and even job postings! If you want something posted to the website, feel free to reach out at info@irwa67.org.

President Elect Meredith McDonald, Education Chair James Vanden Akker and myself will be attending the Region 1 Spring Forum on March 20 in Lemoore, CA. We will be electing the new Region Chair and Co Chair, as well as voting

P R E S I D E N T



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Amanda Fitch, RWA
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amanda.fitch@mobilitie.com

VICE PRESIDENT / PRESIDENT ELECT

Meredith McDonad, Senior Analyst
Integra Realty Resources
(714) 655-6515
mmcdonald@irr.com

TREASURER

Judith Amaro
Southern California Gas Co.
(562) 806-4323
jamaro@socalgas.com

SECRETARY

Gabe Becerra, MSPM Senior Right of Way Agent
Paragon Partners
(714) 379-3376
gbecerra@paragon-partners.com

PAST PRESIDENT

Alyson Suh, Esq.
Woodruff, Spradlin & Smart
(714) 558-7000
asuh@wss-law.com

for the Newsletter of the Year. Please join us in wishing our beautifully revamped newsletter luck! If there is anything you wish to be discussed at the Region Forum, or you would like a recap of the meeting, please feel free to reach out to Meredith, James or me.

Our next luncheon will be held Tuesday, March 10. Ben Rubin with Nossaman LLP will be speaking on the U.S. Supreme Court’s decision in Knick v. Township of Scott (2019) 139 S. Ct. 2162, and how lower courts are applying that precedent. Mr. Rubin recently wrote a blog post regarding the Knick decision which can be found here: <https://www.californiaeminentdomainreport.com/u-s-supreme-court-reverses-itself-property-owners-can-have-their-day-in-federal-court>. Tickets can be purchased by going to: <https://irwa-chapter67.ticketleap.com/march-2020-luncheon/>.

CALL FOR VOLUNTEERS!

The 2020-2021 IRWA Chapter 67 Executive Board elections are approaching quickly. If you are interested in holding a position on the Executive Board or becoming a Committee Chair Person for Chapter 67, please reach out to myself, Meredith McDonald or Joe Munsey. As I explained during my presentation in January, Chapter 67 and IRWA are made possible by the hard work of volunteers. We are happy to discuss the opportunities available and we assure you there is something for everyone of every industry, experience level and level of commitment! We plan to announce the slate of elected officers at the luncheon held Tuesday, March 10 and the election will take place at our luncheon on Tuesday, May 12.

Thank you and I hope you all are having an excellent first quarter of 2020.



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Senior Managing Director

2151 Michelson Drive
Suite 205
Irvine, CA 92612

714.665-6515
949.591.8150

rDonahue@irr.com
www.irr.com

EDITOR



EDITOR'S CORNER

Alyson Suh, Esq.
 Woodruff, Spradlin & Smart
 asuh@wss-law.com (714) 558-7000

Welcome back readers to the February edition of our newsletter. If you would like to contribute content to the newsletter, advertise, have questions or any ideas to improve the content, please contact me.

EXECUTIVE BOARD

CHAPTER ADVISOR

Joseph Larsen, Esq.
 Rutan & Tucker
 (714) 641-3418
 jlarsen@rutan.com

EDUCATION

James Vanden Akker, SR/WA
 Metropolitan Water District
 (213) 217-6324
 jvandenakker@mwdh2o.com

PROFESSIONAL DEVELOPMENT

Rudy Romo, SR/WA
 City of Irvine
 (949) 724-7303
 rromo@ci.irvine.ca.us

INTERNATIONAL DIRECTOR 1 YEAR

Amanda Fitch, RWA
 Mobilite
 (714) 325-8649
 amanda.fitch@mobilitie.com

INTERNATIONAL DIRECTOR 2 YEARS

Meredith McDonad, Senior Analyst
 Integra Realty Resources
 (714) 655-6515
 mmcdonald@irr.com

UPCOMING EVENTS

March Luncheon

Ben Rubin with Nossaman LLP will be speaking on the U.S. Supreme Court's decision in Knick v. Township of Scott.

DATE/TIME

March 10, 2020
 11:30 AM - 1:00 PM

[Click here to Register](#)

LOCATION

Santa Ana/ Airport
 Holiday Inn
 2726 S. Grand Avenue
 Santa Ana, CA 92705

May Luncheon & IRWA Executive Board Election

Ryan Hargrove, MAI, SRA, AI-GRS, R/W-AC "Self – Driving Vehicles"

DATE/TIME

May 12, 2020
 11:30 AM - 1:00 PM

LOCATION

Santa Ana/ Airport
 Holiday Inn
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CHAPTER 67 COMMITTEE CHAIRS

CASE OF THE MONTH

Mike Rubin, Esq. & Joseph Larsen, Esq.
Rutan & Tucker
(714) 641-3423 / (714) 641-3418
mrubin@rutan.com / jlarsen@rutan.com

ENGINEERING / SURVEY

Kurt Rhodenbaugh
Psomas
(714) 335-1763
krhodenbaugh@psomas.com

ENVIRONMENTAL

Ann M. Johnston
Psomas
(714) 751-7373
ann.johnston@psomas.com

HOSPITALITY

Joe Munsey, RPL
Southern California Gas Co.
(949) 361-8036
jmunsey@socalgas.com

LEGISLATION

Franci Coleman
Caltrans Retiree
(213) 925-5179
francicole@gmail.com

MEMBERSHIP

Meredith McDonald, Senior
Analyst
Integra Realty Resources
(714) 655-6515
mmcdonald@irr.com

NEWSLETTER / COMMUNICATION

Alyson Suh, Esq.
Woodruff, Spradlin & Smart
(714) 558-7000
asuh@wss-law.com

NOMINATIONS & ELECTIONS

Joe Munsey, RPL
Southern California Gas Co.
(949) 361-8036
jmunsey@socalgas.com

PIPELINES / UTILITIES

Sarah Downs, Land Advisor
Southern California Gas Co.
(213) 218-5465
sedowns@socalgas.com

PUBLIC AGENCY LIASON

Matthew VanEck, MAI
Kidder Matthews
(949) 557-5047
mvaneck@kiddermatthews.com

RELOCATION

Michele Folk, SR/WA, RW-RAC
Overland, Pacific & Cutler
(949) 951-5263
mfolk@opcservices.com

SEMINARS

Andrew Lee, Esq.
Allen Matkins Leck Gamble
Mallory & Natsis LLP
(949) 851-5484
alee@allenmatkins.com

VALUATION

Kevin J. Donahue, MAI
Cushman & Wakefield
(949) 637-3108
kevin.donahue@cushwake.com



EDUCATION

James Vanden Akker
 Metropolitan Water District
 JVandenAkker@mwdh2o.com (213) 217-6324

For questions regarding IRWA education, whether it be information on a particular course, how to register, potential upcoming courses, or the credentialing program, please reach out to James.

Currently there are no courses scheduled. Please check our [website](#) for new courses as they are scheduled.

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20/20 VISION

RWIEF FUNDS NEW SCHOLARSHIP PROGRAM !



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Celebrating our 40th anniversary in 2017, the Right of Way International Education Foundation (RWIEF) partnered with IRWA to fund forty scholarships. The program, “40 For 40 Launching Careers Scholarship”, was open to IRWA members in good standing that were committed to achieving the Right of Way Agent (RWA) or Right of Way Professional (RWP) credential. Two recipients from each of the ten IRWA regions, plus twenty more recipients from members throughout IRWA were selected. RWIEF committed \$185,000 to fund these scholarships over three years from January 2018 to December 2020 and IRWA managed the program. The 40 For 40 Scholarship has flourished with 39 scholars in the program (one left the industry). Thus far, 20 scholars have completed their path with 11 RWA and 9 RWP certifications.

Due to the success of the 40 For 40 program, the Foundation is pleased to announce a new scholarship called, “20/20 Vision Scholarship Program”. This scholarship is targeted to new professionals in the infrastructure real estate industry seeking to advance their careers through credentialing. The Foundation will fund the program for three years, beginning July 1, 2020 through June 30, 2023, providing grants up to \$92,500.

To qualify, applicants must have been a member in good standing for at least one year and committed to achieving the RWA and/or RWP credential. Funding may only be used towards course registration fees for eligible courses. Applicants are required to submit a one-page essay outlining how the scholarship will enable them to contribute to IRWA’s purpose and mission.

To apply, visit www.irwaonline.org and click on “20/20 Vision Scholarship Program” under the education tab. Applications must be submitted by May 1, 2020 and grantees will be notified by June 1, 2020. Awards will begin on July 1, 2020.



DOWNLOAD APPLICATION

CASE OF THE MONTH

Federal Bankruptcy Court Denies PG&E's Attempt to Set Aside Inverse Condemnation Liability

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Law Firm of Nossaman LLP
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On November 27, 2019, U.S. Bankruptcy Judge Dennis Montali issued a [Memorandum Decision on Inverse Condemnation](#) ("Memorandum Decision") in PG&E Corporation and Pacific Gas & Electric's (together, "PG&E") Chapter 11 Bankruptcy proceeding in the U.S. Bankruptcy Court for the Northern District of California (Case No. 19-30088). PG&E challenged the application of the doctrine of inverse condemnation in connection with the 2015, 2017, and 2018 California wildfires. In the Memorandum Decision, Judge Montali ruled against PG&E and instead concluded that the doctrine of inverse condemnation applied with respect to the wildfire damages.

Specifically, PG&E challenged the applicability of the doctrine of inverse condemnation given that it is a privately-owned utility. PG&E asserted that it would be unconstitutional under the Fifth Amendment for the federal bankruptcy court to apply inverse condemnation liability without PG&E

having the ability to pass on their inverse condemnation losses by recovery from ratepayers. In support of that argument, PG&E focused on a 2017 California Public Utilities Commission ("CPUC") [decision](#) in which the CPUC denied the request of San Diego Gas & Electric Company to recover costs it had incurred associated with inverse condemnation liability during a wildfire ("SDG&E Decision").



First, because inverse condemnation arises out of the California Constitution, Judge Montali looked to existing California state court decisions. He noted that the California Supreme Court has yet to rule on whether inverse condemnation applies to a privately-owned utility. He therefore analyzed California appellate court opinions in [Barham v. Southern California Edison Co.](#), 74 Cal. App. 4th 744 (1999) and [Pacific Bell Telephone Co. v. Southern California Edison Co.](#), 208 Cal. App. 4th 1400 (2012), as well as recent California trial court opinions that have addressed the issue. In each these instances, the California courts have so far held that inverse condemnation applies to privately-owned utilities. Despite PG&E's attempts to discount

[Barham](#) and [Pacific Bell](#), Judge Montali ultimately found that "Debtors have not provided persuasive data to justify deviation from the intermediate appellate court cases discussed above." Memorandum Decision at 11.

Next, Judge Montali addressed PG&E's arguments based on the recent SDG&E Decision. He held that (1) the SDG&E Decision does not state that inverse condemnation costs will never be passed on to ratepayers, (2) the SDG&E Decision does not change the outcomes of [Barham](#) and [Pacific Bell](#) because those cases were not premised on cost spreading, but instead based on the concept of public use, and (3) the Bankruptcy Court is not tasked with deciding what the law should be, but instead what the law is based on California court decisions. Therefore, he concluded that "the doctrine of inverse condemnation is applicable to Debtors and the California Supreme Court would likewise leave it in place." Memorandum Decision at 11.

Judge Montali indicated that an order consistent with the Memorandum Decision would be forthcoming and that he would certify it for direct appeal to the Ninth Circuit Court of Appeals when the order is issued. We anticipate that PG&E will appeal the Memorandum Decision once certified.

Mr. Hon can be reached at whon@nossaman.com.



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ARTICLE

The Silly Notion of “Speed Limits for Ships”

By Steve Goreham

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Ed. Note: Mr. Goreham is the Executive Director of the Climate Science Coalition of America, a non-political association of scientists, engineers, and citizens dedicated to informing Americans about the realities of climate science and energy economics.

Occasionally a report appears which claims to be wisdom, but after careful analysis, offers solutions that don't make much sense. Such a report was issued earlier this month by United Kingdom consulting firm GL Reynolds, titled "The multi-issue mitigation potential of reducing ship speeds." The report proposes that we can reduce global warming by imposing speed limits on ocean-going ships.

The GL Reynolds report [concludes](#) that a 10-20 percent reduction in ship speeds would have a "highly positive potential impact" on carbon dioxide (CO₂) emissions and nitrous oxide (NO_x) and sulfur oxide (SO_x) pollutants. The report also projects that a ship speed reduction may reduce fatal collisions with whales.

The report is actually conservative and recommends that more study is needed. But the BBC and environmental groups

now hail the report as a roadmap for international maritime policy.

Matt McGrath, environment correspondent for BBC News, [wrote](#) "Cutting the speed of ships has huge benefits for humans, nature and the climate, according to a new report." John Maggs from Seas at Risk [told](#) the BBC, "It's a massive win, win, win, win."

According to the International Transport Forum, ships carried 10.7 billion metric tons of freight in 2017, 70 percent of world freight volumes. ITF [projects](#) maritime freight volumes to triple from 2015 to 2050.

Like almost all modern transportation, ships emit carbon dioxide when they burn fuel. Ships [emitted](#) about 932 million tons of CO₂ in 2015, about 2.6 percent of global emissions. When ships move at lower speeds, they consume less fuel and emit less carbon

dioxide. A 2017 study by CE Delft [estimated](#) that a 20 percent reduction in commercial ship speeds would reduce CO₂ emissions by 19 percent, after a required 13 percent increase in the number of ships to provide the same transport work.

In 2017, the value of the world shipping fleet was [estimated](#) at \$829 billion. Increasing the size of the fleet by 13 percent would cost over \$100 billion, plus additional costs to hire and train additional crews.

Today, most global corporations practice cycle time reduction as a key business process. Apple, currently the world's most valuable company, [calls](#) it "reducing time to value." On-line retailing giant Amazon [implemented](#) one-day delivery for many products this year. Footwear and apparel producer Nike [announced](#) a goal to reduce supply chain lead times by 83 percent.

Regulations to reduce the speed of ocean-going ships by 20 percent would increase cycle times and costs for the shipping industry. Crews would need to be paid more for longer voyages and each ship would take 20 percent more time to deliver the same cargo. Cycle-times and costs would also increase for Apple, Amazon, Nike, and all freight customers.

Advocates point out that emissions of sulfur oxides and nitrogen oxides can be reduced with slower ship speeds. But international regulations [are](#) already in place to reduce SOx emissions by reducing the sulfur content of fuels and to reduce NOx emissions through new

diesel engine emission standards.

Collisions with whales have been rising with the growth of the world shipping fleet. National measures such as routing and speed restrictions [are](#) now in place in coastal whale migration areas at certain times of the year to reduce collisions. But how will increasing the number of ships by 13 percent reduce the number of whale impacts?

In 1975 during the first oil crisis, the US federal government [imposed](#) a National Maximum Highway Speed Limit of 55 mph. Officials estimated that lowering highway speeds would

cut national gasoline consumption by over two percent. Later studies showed actual savings to be less than one percent. Today the world is awash with petroleum and the US 55 mph limit no longer exists.

We could certainly run our ships, planes, and vehicles at slower speeds. And if we returned to horse-drawn wagons, vehicle collisions with deer would be eliminated. But does anyone really think this would stop sea levels from rising?

Mr. Goreham can be reached at gorehamsa@comcast.net.



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THE NOSSAMAN REPORT

Nossaman, LLP is the IRWA's advocacy partner and writes weekly updates. In case you missed this week's update, we've included it below.

If you would like to see past advocacy updates, please [click here](#).

The White House

- The impeachment trial in the Senate concluded last week.
- The President deliver the State of the Union address to Congress last Tuesday. His only mention of infrastructure was to state: "We must also rebuild America's infrastructure. I ask you to pass Senator John Barrasso's highway bill to invest in new roads, bridges, and tunnels all across our land."
- The President's budget request is scheduled to be released today.

Congress

- Both Chambers are in session this week.

Analysis

- It is noteworthy that the President made no mention in the State of the Union address of the large infrastructure proposal released by House Democrats. In the panoply of legislative priorities, infrastructure is always one of the few potentially bipartisan issues. And as we noted in last week's update, House Democrats have been clear that they will not suggest ways to pay for their infrastructure package without working side-by-side with the President. In that context, completely ignoring the House Democrat proposal and focusing only on the legislation advanced unanimously by the Senate Environment and Public Works Committee sends a clear message that the President is not interested in engaging directly on the massive proposal introduced by the House Democrats, at least right now.
- The U.S. Department of Transportation has been working for months on a surface transportation reauthorization platform. It is unclear whether any of these policy details will be included in the President's budget request or if the Administration position will be similar to years past—requesting \$1 trillion for infrastructure, which will include the Senate bill and other ideas previously advanced by the Administration.



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WELCOME NEW MEMBERS



Robert Dunatov

Chapter 67 is excited to welcome Robert Dunatov as one of its newest members! Robert is a commercial real estate appraiser with Kidder Mathews. He is a California native, born in Los Alamitos and attended undergraduate school at San Diego State University and obtained his MBA from California State University of Long Beach. His favorite food is seafood and his favorite hobbies are golf and long-range fishing. Robert enjoys listening to hard rock music and the last book he read was "Against the Gods: The Remarkable Story of Risk". Wondering what Robert watches on television? It's pretty simple--anything sports related. The most influential person in Robert's life is his dad and when asked what the secrets to his success are, he believes that it's not a secret...(hmmm--sounds secretive). The last vacation he took was to Palm Springs to play golf at the La Quinta Country Club and PGA Stadium West. When asked what his most important unrealized goal is, Robert revealed that he strives to be a candidate for MAI designation. Good luck Robert-we know you can do it!

An aerial photograph of a complex highway interchange with multiple overpasses and ramps. The image is overlaid with a semi-transparent dark blue layer containing white and green text. The text includes a list of services, a slogan, a list of specialties, and the company logo and contact information.

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MEMBER SPOTLIGHT



Mike Rubin

This month we are honored to feature one of Chapter 67's long-standing members, Michael ("Mike") Rubin. Mike is an attorney at Rutan & Tucker, LLP with an emphasis on eminent domain, both for private property owners and for public entities. Mike lives in North Tustin and has 4 children and 5 five grandchildren. Both of Mike's sons are attorneys in Orange County and both are members of Chapter 67 (and coincidentally, Mike's son, Ben Rubin, is our guest speaker at the March luncheon). If you guessed that Mike's favorite food is angel hair pasta with meat sauce and meatballs at Ristorante Genovese in Orange, you are correct! In his spare time Mike enjoys reading or listening to books and attending lectures by prominent teachers. He traveled to Poland, Lithuania and Belarus last year and loves the adventure in discovering and experiencing new places and cultures, but what Mike enjoys most of all is spending quality time with family and good friends. Some other fun facts about Mike: he has two 13 year-old "puppies" Morgan and Murphy; his favorite music is Bach's Brandenburg Concertos; the last book he read is "A Brilliant Solution: Inventing the American Constitution" by Carol Berkin; the last movie he saw was Schtisel (on Netflix) and his favorite college team is the University of Michigan (go Wolverines), which is no surprise since he obtained both his undergraduate and law degrees from there. When asked about his proudest accomplishments, Mike has many to choose from--raising great kids to become wonderful adults, winning a wrestling scholarship to the University of Michigan, being selected "Professional of the Year" by Chapter 67 of the IRWA, being honored by the Anti-Defamation League (Orange County/Long Beach Region) with its 'Marcus M. Kaufman Jurisprudence Award', being honored with the Judge Learned Hand Lifetime Achievement Award by the American Jewish Committee, serving as the Regional Chair for the Anti-Defamation League, (Orange County/Long Beach Region) and being selected every year since 2005 as one of Southern California's "Super Lawyers", an honor bestowed on 5% of Southern California's attorneys each year. Still on his "to-do" list are learning to read and understand Hebrew and learning to play the piano. The characteristics Mike looks for in people are integrity, care for others, zest for living a desire to learn and work hard towards goals. Mike's secrets to success have been learning from his mistakes and failures and following incredible mentors and inspirational role models. Mike, you have been a secret to the success of Chapter 67 and an incredible mentor and inspirational role model. Thank you for your many years of service to our chapter!

MEMBER SPOTLIGHT

J. Richard (Rick) Donahue

Chapter 67 would like to welcome back J. Richard (Rick) Donahue. While not new to IRWA (he joined in 1994), Rick has recently transferred back to our Chapter after being an active member in Chapter 1 for the past several years. Rick is currently the Senior Managing Director with the Integra Realty Resources Orange County office. He has been appraising in Southern California since 1977, specializing in valuation and consulting services related to public agency and right-of-way clients and for major, investment grade commercial properties and special purposes properties.

Rick was born and raised in California but spent some time in the Gulf of Mexico in his younger years where he developed a taste for seafood and Cajun/Creole food. He graduated from California Polytechnic University, Pomona with a Bachelor of Arts in History. Rick and his wife, Rene, live in Laguna Niguel and have been married for 35 years. They have two kids, a loving grand-dog and are expecting their first grandbaby in April, at which time whatever his favorite things to do will change to enjoying his new grandbaby! According to Rick, he has two proudest accomplishments: one lives in San Diego and the other is working on her doctorate at UVA.

Rick loves good ol' fashion rock and roll and anything classical. His hobbies include reading, carving divots in fairway grass and traveling with his wife to see the great sights of the American West. His most recent "vacation" was moving his daughter to Virginia to go back to school; his last "fun" vacation was a road trip to Sedona and Page, Arizona and Durango, Colorado. His most important unrealized goal is to be the best person he can be at work and at home and admires those who display honesty, respect and passion in people. His two favorite quotes come from Ronald Reagan: "There is no limit to the amount of good you can do if you don't care who gets the credit" and "Live simply, love generously, care deeply, speak kindly and leave the rest to God"

When asked why Rick is involved in the IRWA, his response was: "After many years working on the institutional side of appraisal work, I wanted to get back to doing right-of-way work that I did a little of when I was a Partner at Schmitz-Riach Associates. It makes me a better appraiser because the reports are read and questioned for content rather than "You forgot an apostrophe in 'its' on page 56". Obviously, IRWA is most the significant professional organization in the right-of-way arena and the obvious choice for education, shared



insights, right-of-way knowledge and professional relationships. I look forward to returning to Chapter 67 and being a part the chapter relationships with other right-of-way friends and professionals."

And ...one of the highly pertinent bits of information that Rick wants to make sure everyone knows about is, that despite the question once posed to him by a client who shall remain nameless, Kevin Donahue is NOT his son.



Come join your fellow IRWA members for a

Summer Field Trip!



OCSD is committed to providing a valuable educational experience that focuses on learning the importance of wastewater treatment in protecting public health and the environment. To encourage learning, OCSD offers a one and a half hour tour that includes a video overview, discussion of the wastewater treatment process, and a bus tour of the facility.

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*Children over 10 years are
welcome and despite what you
may think, the plant
DOES NOT STINK !*

RSVP to francicole@gmail.com

***One (1) hour IRWA Continuing Education Credit available for this event**

HIGHLIGHTS FROM THE JANUARY LUNCHEON



	2014	2015	2016	2017	2018	2019	2020
Real GDP Growth	4.0%	3.0%	3.0%	3.0%	3.4%	3.0%	3.0%
Real Personal Income Growth	5.0%	3.9%	3.2%	3.7%	3.7%	3.0%	3.0%
Total Employment Growth	424,200	476,000	427,000	342,200	270,000	222,700	28,000
Unemployment Rate	7.0%	6.2%	5.5%	4.8%	4.2%	3.7%	3.4%
Real Per Capita Income (\$K10)	\$44,875	\$47,176	\$48,341	\$48,638	\$50,052	\$51,430	\$52,647



HIGHLIGHTS FROM THE JANUARY LUNCHEON

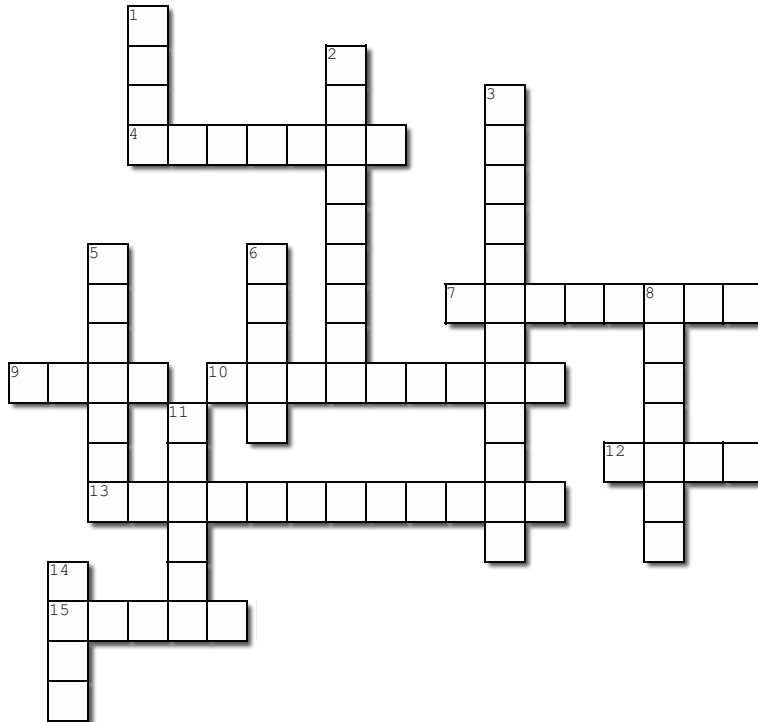


FOR FUN

Name: _____

IRWA February Crossword Challenge

Send your completed crossword to asuh@wss-law.com for a chance to win a free luncheon attendance!



Created using the Crossword Maker on TheTeachersCorner.net

Across

- 4. A revised set of drawings submitted by a contractor upon completion of a construction project
- 7. This company was the first to mass produce Valentine's Day cards in 1913.
- 9. A division of the US Department of Transportation that specializes in highway transportation.
- 10. IRWA Members with Chapter voting directive. International _____
- 12. A strong sense of affection
- 13. North American energy infrastructure company based in San Diego, California.
- 15. IRWA Foundation funding ROW education initiatives (acronym)

Down

- 1. Public sector transportation planning body and mass transit service provider for Orange County
- 2. Card given on February 14
- 3. IRWA Region 1 Current Chair
- 5. In the US, as estimated \$3.3 billion will be spent on these smell good gifts this February
- 6. In classical mythology, the god of desire, erotic love, attraction and affection.
- 8. IRWA Region 1 includes the states of California, Nevada and _____.
- 11. A way to ask for someone to be your valentine, for short
- 14. IRWA's premier designation

