

AWARD WINNING
★★ NEWSLETTER ★★

QUARTERLY Bundle of Writes

NEWS AND EVENTS FOR IRWA CHAPTER 67

Q1 2025

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PRESIDENT'S MESSAGE

Jillian Friess Leivas, Esq.
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Hello Chapter 67 –

The new year has kicked off a lot of activity for Chapter 67 and it is the perfect time to get more involved! First, Chapter 67 has been working to overhaul its website, so that it can be a resource for events, education, and more. If you haven't had a chance yet, be sure to check it out [here](#). If you have any feedback or content worth sharing, please let me know and we can get it posted.

Second, getting more involved can take a variety of forms. Make sure to [renew](#) your IRWA membership and encourage others that you work with to do the same. Or, consider taking on a chair or board position. Nominations for the 2025-2026 board are now open. Please reach out to Nominations & Elections Chair, Joe Munsey, if you are interested.

P R E S I D E N T



Additionally, the Global Education Initiative Scholarship is now open, with [applications](#) due by April 1, 2025. This is a \$2,500 scholarship that is awarded to one member of each chapter. Don't miss out!

Finally, [registration](#) for our March 2025 luncheon is now open. Brad Kuhn and Liz Klebaner, attorneys from Nossaman LLP, will give a presentation entitled "Environmental Considerations for Right of Way Acquisition." This presentation will involve a discussion on how environmental issues factor into the right-of-way acquisition process, including best practices for identifying and tackling pre-acquisition and post-environmental approval issues.

I look forward to seeing everyone at the March 2025 luncheon.

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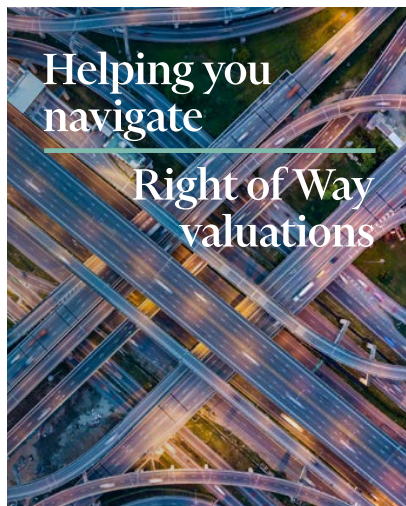
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Welcome back readers to the Q1 2025 edition of our newsletter. If you would like to contribute content to the newsletter, advertise, have questions or any ideas to improve the content, please contact me.

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UPCOMING EVENTS

MARCH LUNCHEON

Tuesday, March 11, 2025 12:00 PM - 1:30 PM
Holiday Inn, Santa Ana-Orange County Airport

Brad Kuhn and Liz Klebaner, attorneys from Nossaman LLP, will give a presentation entitled "Environmental Considerations for Right of Way Acquisition."

REGION 1 SPRING FORUM

Saturday May 3, 2025
Palm Springs, CA



Chapter 67 Is now on LinkedIn!
[Please join us. here.](#)

CHAPTER 67 COMMITTEE CHAIRS

CASE OF THE MONTH

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MARCH LUNCHEON

Luncheon Speakers

Brad Kuhn and Liz Klebaner, attorneys from Nossaman LLP, will give a presentation entitled "Environmental Considerations for Right of Way Acquisition." This presentation will involve a discussion on how environmental issues factor into the right-of-way acquisition process, including best practices for identifying and tackling pre-acquisition and post-environmental approval issues.



Brad is chair of Nossaman's Eminent Domain & Inverse Condemnation Group, where he handles all manner of eminent domain/inverse condemnation, land use/zoning, and other property and business disputes.



Liz is a partner at Nossaman LLP that specializes in a variety of complex land use and environmental matters, including California Environmental Quality Act, National Environmental Policy Act, California Coastal Act, Williamson Act, Subdivision Map Act, Planning and Zoning Law, and federal and state environmental regulatory compliance.

Please Join Us

Tuesday, March 11, 2025 at 12:00 PM

Holiday Inn - Santa Ana/OC ARPT

2726 S Grand Ave, Santa Ana, CA 92705

[REGISTER HERE](#)





EDUCATION

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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.

Upcoming Courses

Course Number: C803

Course Title: Eminent Domain Law Basics for ROW Professionals (Virtual Class)

Date: March 12-13, 2025

Description: This course discusses the characteristics and sources of eminent domain law, and analyzes the many components of the constitutional right of eminent domain. Participants will gain an understanding of the meaning of just compensation and the legal aspects of valuation, and will be able to describe the key players in the eminent domain process.

[REGISTER HERE](#)

Course Number: C506

Course Title: Advanced Business Relocation Assistance (Virtual Class)

Date: March 26-27, 2025

Description: This course begins with a pre-assessment of the participants' knowledge, followed by case study analysis of complex business relocation issues which require a thorough understanding of the relocation process and the Uniform Act. A detailed analysis of each case study is provided so participants understand the lead agency's theory behind its interpretation of the situation. Facts are applied in order to simulate a relocation that is consistent with the intent of the Uniform Act.

[REGISTER HERE](#)

Course Number: C700

Course Title: Introduction to Property/Asset Management (Virtual Class)

Date: April 3-4, 2025

Description: This two-day, intermediate-level course addresses all major aspects of property and asset management. Participants will gain the necessary knowledge and skills to establish a cost-effective management plan that increases profitability, conserves resources, and reduces risk exposure.

[REGISTER HERE](#)

Course Number: C502

Course Title: Non-Residential Relocation Assistance (Virtual Class)

Date: April 8-9, 2025

Description: This course presents the processes necessary to relocate a business. Participants will learn how to apply provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, in conjunction with the Surface Transportation and Relocation Assistance Act of 1987, and subsequent revisions, to the relocation of non-residential entities.

[REGISTER HERE](#)

IRWA's Virtual Classroom

[IRWA's virtual classes](#) let you engage in courses delivered in real-time from your desk, home or anywhere with an internet connection. Through an easy-to-use digital platform, IRWA instructors facilitate live interactive courses, creating a classroom experience in a virtual environment.

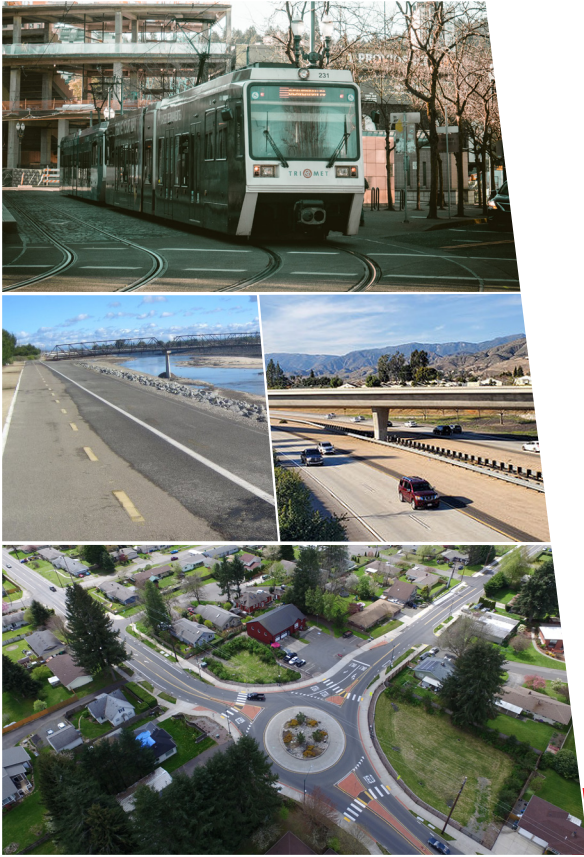
Scholarship Programs

GLOBAL EDUCATION INITIATIVE SCHOLARSHIP

The Right of Way International Education Foundation (RWIEF) has opened applications for the Global Education Initiative Scholarship. This scholarship intends to provide \$2,500 to a member of each active chapter to encourage educational opportunities.

Application due by April 1, 2025. Grantees notified by June 1, 2025 and the award will begin on July 1, 2025.

[Click here for more information.](#)



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CHAPTER 67 2025 OFFICER CANDIDATES

CHAPTER 67's OFFICER CANDIDATES FOR 2025-2026 TERM Joe Munsey, RPL, Nominations Chair

Chapter President, Jillian Friess Leivas, Esq., Associate, Nossaman LLP, appointed Joe Munsey, RPL, Senior Land Advisor, Southern California Gas Company, as Chair of the Nominations Committee.

We will be electing Chapter Officers at our May 13th, 2025, luncheon. Further nominations from the floor will also be accepted at the May meeting.

Feel free to contact Joe Munsey at jmunsey@socalgas.com or 949-361-8036 to offer additional nominee(s) as a Chapter officer(s) by April 30th.

Per Article IV, Section 2, "At the expiration of the term of the President, the President Elect shall succeed to the office of the President for a one-year term." Lara Boyko, JD, is the current President Elect and will succeed as Chapter President.

The Chapter will be electing the following officers:

- President-Elect
- Treasurer
- Secretary
- International Director – 2-year term

Nominees are:

Officer	Nominee
President	Lara Boyko, JD, Independent Consultant Per Article IV, Section 2, "At the expiration of the term of the President, the President-Elect shall succeed to the office of the President for a one-year term."
President-Elect	Jacinto Munoz, MAI, SRA, AI-GRS, AI-RRS, Managing Director, Principal, Citgo Realty Partners
Secretary	Colin Valles, Senior Acquisition Agent, Paragon Partners, Ltd.
Treasurer	Dwayne Ozenne, JD, Land Advisor, Southern California Gas Company
International Director - 2 year term	Jacinto Munoz, MAI, SRA, AI-GRS, AI-RRS, Managing Director, Principal, Citgo Realty Partners

Aside from the new officer nominations, the following committee chairs and positions are available:

- Professional Development
- Seminar (and committee for 2026 seminar)
- Hospitality
- Nominations & Elections
- Public Agency

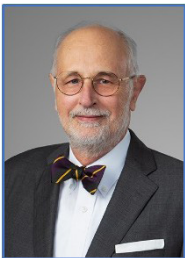
CASE OF THE QUARTER

Misspelled Name Leads to Land Title Chaos

*JCharles Sartain, Esq., Partner
Gray Reed*

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*Originally published www.energyandthelaw.com
on October 25, 2024*



Charles Sartain is an experienced trial lawyer who primarily focuses on resolving complex energy disputes in Texas and Louisiana through litigation, arbitration and negotiation. His clients include oil and gas producers and investors, midstream transportation operators, and mineral and royalty owners involved in all types of contractual, payment and operational disputes. This information is provided by Gray Reed for educational and informational purposes only and is not intended, nor should it be construed, as legal advice.

[**Carson et al v. Winter Gordon, Junior**](#) is a reason you should not name your son after yourself. But if you insist, at least spell his name correctly.

The Gordons

Winter Gordon was born in the 19th century. His son was Winter Gordon, Junior. The court referred to him as “Father” or “Decedent”. Father had a son born in 1955 named on the birth certificate as “Wenter” Gordon, Junior. The court referred to him as “Gordon”. His opponents in the litigation probably used other names more akin to epithets.

Throughout his life Gordon referred to himself as “Winter Gordon, Junior”. Father died in 2011 and Gordon reported Father/Decedent’s name as “Winter Gordon” and his own name as “Winter Gordon, Junior”. Father’s will was deemed valid after a will contest. Father left his entire estate to Carson, who was Gordon’s niece and Father’s granddaughter.

A Tax Suit Leads to Confusion

The Brazos ISD sued Carson for delinquent taxes claiming two tracts of land comprising 49 acres were owned by “Winter Gordon, Junior,

et al”. Carson claimed she had never heard of the property and alleged that the property was vested in the heirs at law or devisees of “Winter Gordon, Junior, deceased”. (That would be Father.) She paid the taxes, obtained an Independent Executor’s Deed (the executor was her mother), and requested the taxing authority to place title in her name.



Unsupported Assertions Fail to Persuade

Gordon sued alleging that he, rather than Father, purchased the property by a deed in 2008. Carson responded by relying on the Executor’s Deed to her as the sole beneficiary of the estate of Father. She claimed that Gordon only

changed his name from "Wenter" to obfuscate and remove ownership of the property from Father's estate.

Summary judgment for Gordon was affirmed. His declaratory judgment action was treated as a trespass to try title claim requiring proof of a regular chain of conveyances from the sovereign and through a superior claim from a common grantor.

Gordon presented evidence demonstrating a chain of conveyances from the Sovereign up to the 2008 deed showing the grantors conveyed the property to "Winter Gordon, Junior". He offered several detailed affidavits supporting his claim that he was the actual buyer. Carson's response was that the property was actually purchased by Father and not Gordon, they never shared the same name during Father's lifetime, and Gordon only changed his name five years after Father's death. She presented a title company's letter concluding record title appeared to be vested in Father.

The court believed that Gordon's proof was the kind that could have been easily and conveniently rebutted and the testimony was of

a nature which could be effectively countered by opposing evidence. That, Carson did not do.

Carson missed the point. The fact in dispute was whether Gordon or Father was "Winter Gordon, Junior who purchased the property in 2008." The court found no authority requiring a purchaser to identify himself in a deed by his name exactly as it is written on his birth certificate.

Carson asserted that Gordon was not the true purchaser but was unable to refute the material facts in Gordon's affidavits testifying that he was the purchaser of the property in 2008. Carson presented argument and supposition but no evidence that discredited Gordon's association with the transaction.

Carson did not carry her burden to demonstrate that Junior's claim that he was the signatory on the 2008 deed was false. The trial court judgment was affirmed. Carson demonstrated no genuine issue of material fact. Gordon was entitled to a judgment on his trespass to try title claim.

Mr. Sartain can be reached at csartain@grayreed.com



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CASE OF THE QUARTER

Court of Appeals of Virginia Holds Proof of the Physical Location of an Easement is a Necessary Element of an Implied Easement



By James L. Windsor, Esq., Member
Catrina C. Waltz, Esq., Associate
Kaufman & Canoles



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Originally published in jdsurpa.com - January 25, 2024*

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Yesterday, the Court of Appeals of Virginia held that, in order to establish an implied easement, a party must prove the physical location of the easement. In [Thomas E. Morris, et al. v. Anthony Heath Parker, et al.](#), Record No. 1700-22-1 (Ct. App. Va. Jan. 23, 2024), the Court affirmed a ruling from the Circuit Court of the City of Chesapeake, which denied the Morrisses' claim for an implied easement over a right of way allegedly abutting their property.

In 1998, the Morrisses purchased a tract of land consisting of two parcels, Parcels 3 and 5. Their 1998 deed incorporated a land survey, which showed a right of way named "Flurry Road" bordering the east side of Parcel 5. More recent land records identify Flurry Road as "Fluridy Road."

In 2003, the Parkers purchased two parcels of land on the other side of Fluridy Road. The Parkers access their property via a gravel road, which they allege is depicted on the plat attached to their deed as entirely on their property.

In 2017, the Morrisses re-subdivided their property to eliminate Parcel 5 and create Parcel 5-A, which borders Fluridy Road. They wanted to sell Parcel 5-A and install a driveway connecting Parcel 5-A to the gravel road used by the Parkers. Mr. Parker told Mr. Morris that the gravel road was the Parkers' property and refused to allow the Morrisses to install the driveway. Thereafter, the Morrisses filed a declaratory judgment action against the Parkers, seeking an order confirming

the Morrisses' right to use the gravel road to access their property and enjoining the Parkers from interfering with that right.

The Morrisses moved for summary judgment, arguing the undisputed evidence proved the Morrisses had an implied easement across the gravel road such that the Parkers could not deny them access. In opposition, the Parkers argued the Morrisses failed to prove a "reasonably accurate description of the location of the easement." The court agreed and denied the Morrisses' motion.

At trial, the Morrisses introduced evidence from a title examiner, who testified that, in her expert opinion, neither party owned the platted Fluridy Road. She did not testify about the physical location of the road on the ground, only about its location as platted in the land records. Further, when the Morrisses introduced a photograph of the Fluridy Road street sign on the gravel road leading to the Parkers' residence, Mr. Morris testified that he did not know whether the gravel road was "in the same place" as the platted Fluridy Road.

Meanwhile, the Parkers disputed that the gravel road was the same as the platted Fluridy Road, maintaining the platted Fluridy Road is actually an undeveloped ditch that separates the parties' properties. *Neither party presented testimony from a surveyor as to whether the platted Fluridy Road matches any current physical location on the parties' properties.*

In analyzing the Morrisses' claim to establish an implied easement, the trial court applied a three-prong test: "(1) the dominant and servient tracts originated from a common grantor, (2) the use was in existence at the time of the severance, and that (3) the use is apparent, continuous, and reasonably necessary for the enjoyment of the dominant tract." The circuit court held there was no evidence of the second or third elements and dismissed the matter with prejudice. The Morrisses appealed the final order, arguing that the court erred by holding the Morrisses must establish necessity and prior use in order to establish the implied easement.

Based on a "right-result-different-reason principle," the Court of Appeals affirmed the lower court's holding. Rather than considering whether the circuit court erred in requiring the Morrisses to establish necessity and prior use, the Court held that it was not necessary to reach that analysis, because the Morrisses failed in the first place to establish the physical location of the purported easement.

The Court found the Morrisses presented insufficient proof to link the gravel road to the platted Fluridy Road, thereby failing to prove a "key threshold fact: the physical location of their claimed easement." The Court pointed out that neither the land records nor the title examiner's testimony established that the platted road is the actual gravel road. While acknowledging the

evidence that the gravel road has a street sign that reads "Fluridy Road," the Court held that because the Morrisses offered no testimony as to the history of the sign, a fact finder could only conclude through speculation that the gravel road is the platted Fluridy Road. The Court also noted that while the failure to present testimony from a surveyor is not per se fatal to an implied easement claim, the Morrisses' failure to present any surveyor testimony here was fatal due to the significant evidentiary gap regarding the physical location of the easement.

Basing its holding on the "best and narrowest ground," the Court of Appeals held that because "nothing sufficiently linked the platted right of way to an actual location," there was no support in the record for a decision to grant access to an implied easement. Thus, the Morrisses' failure to prove the location of the claimed easement necessitated affirming the trial court's holding, albeit for a different reason, which denied the existence of an easement.

This opinion makes it clear that in order for a court to find an implied easement, a party must first prove the purported easement's physical location on the property.

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ARTICLE

November 11, 1884 – Gas Companies Merge Into Con Edison

*By Mr. Bruce A. Wells, Executive Director
American Oil and Gas Historical Society
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“Bird’s-eye view” illustrates New York and Brooklyn in 1873. The Brooklyn Bridge, then under construction, can be seen at the right. Image courtesy Library of Congress.

The largest U.S. gas utility company at the time was created in New York City when six gas-light companies – using manufactured coal gas – combined to form the Consolidated Gas Company. The Consolidated Edison Company, “Con Ed,” began six decades earlier as the New York Gas Light Company, which received a charter from the state legislature in 1823.

Like most early manufactured gas companies, New York Gas Light focused early efforts on public street lighting, replacing whale oil lamps installed by the city beginning in the 1760s.

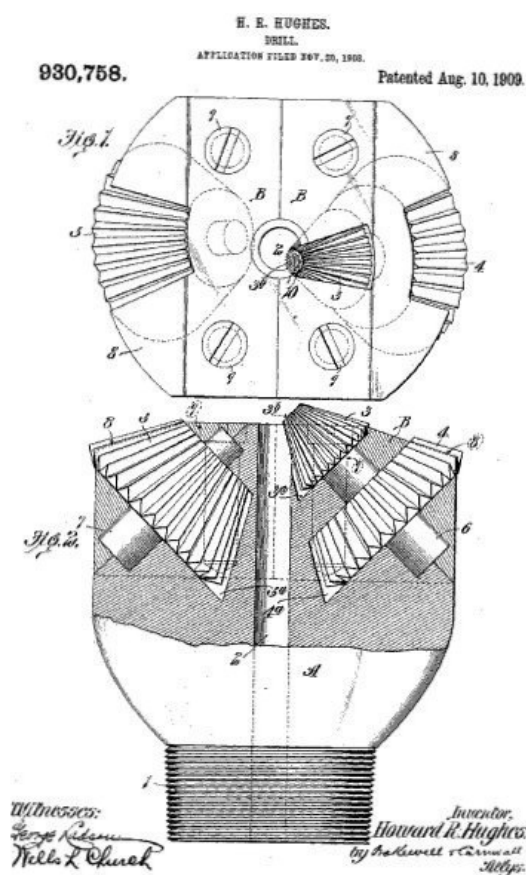
Prior to the 1884 merger of the competing companies, streets often were being torn up by competing workmen installing or repairing their own company’s lines – and removing those of a rival. “Sometimes these work crews would meet on the same street and brawl, giving rise to the term “gas house gangs.”

Mr. Wells can be contacted at bawells@aoghs.org.

ARTICLE

August 10, 1909 – Hughes Patents Dual-Cone Roller Bit

By Mr. Bruce A. Wells, Executive Director
American Oil and Gas Historical Society
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Patent Drawing of Hughes 1909 Drill Bit

Fishtail” drill bits became obsolete after Howard Hughes Sr. of Houston, Texas, patented the dual-cone roller bit consisting of two rotating cones. By pulverizing hard rock, his bit led to faster and deeper rotary drilling.

Historians have noted that several men were trying to improve bit technologies at the time, but it was Hughes and business associate Walter Sharp who made it happen. Just months before receiving the 1909 drill patent, they established the Sharp-Hughes Tool Company to manufacture the new bit (see Carl Baker and Howard Hughes).

Howard Hughes Sr. of Houston, Texas, received a 1909 patent for “roller drills such as are used for drilling holes in earth and rock.”

“Instead of scraping the rock, as does the fishtail bit, the Hughes bit, with its two conical cutters, took a different engineering approach,” reported the American Society of Mechanical Engineers (ASME), which in 2009 designated the invention as an Historic Mechanical Engineering Landmark.

“By chipping, crushing, and powdering hard rock formations, the Hughes Two-Cone Drill Bit could reach vast amounts of oil in reservoirs thousands of feet below the surface,” ASME explained. “This new drilling technology would revolutionize the industry.”

Hughes engineers invented the modern tri-cone bit in 1933, and Frank and George Christensen in 1941 developed the earliest diamond bit. The use of bits utilizing tungsten carbide arrived in the early 1950s. Synthetic diamonds in the early 1970s led to the fixed cutter, polycrystalline diamond compact bit.

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ARTICLE

November 14, 1947 –
WW II “Big Inch” and “Little Big Inch” Pipelines Sold

*By Mr. Bruce A. Wells, Executive Director
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War Emergency Pipelines, Inc., in 1942 began construction of the longest U.S. petroleum pipeline construction ever undertaken in the United States – two pipelines spanning 1,200 miles. Photo Courtesy Library of Congress.


Texas Eastern Transmission Corporation, a company established 11 months earlier to acquire the World War II surplus 24-inch “Big Inch” and 20-inch “Little Big Inch” pipelines, won ownership of them with a bid of \$143,127,000. It was America’s largest sale of war surplus material to the private sector.

By the 1950s, Texas Eastern Transmission converted both oil product pipelines to natural gas, which was needed for the Appalachian region. By the 2000s, transmission would become bi-directional for carrying natural gas from the Marcellus and Utica shale to mid-west markets. The Big Inch Pipelines of WW II were added to the National Register of Historic Places in 1998.

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