

SPRING 2011

CROSS SECTION

Justice Prevails in Work Zone Accident

page 21

Underground Focus

page 11

Utility Damage Claim Resolved

page 29

REPOWER!

page 50

mita

Michigan Infrastructure &
Transportation Association

MITA, Michigan Infrastructure & Transportation Association
P. O. Box 1640, Okemos, MI 48865-1640

PRST STD
U.S. POSTAGE
PAID
PERMIT #718
Lansing, MI

Every **journey**
begins with
a *single step*



Drive your work force *forward*.

Healthy Blue Outcomes rewards your employees for achieving better health, so you can experience:

- ▶ Lower health care costs
- ▶ Increased employee productivity
- ▶ Reduced absenteeism.

Go the extra *mile*.

Employees who meet certain health targets and maintain healthy lifestyles can earn a Healthy Reward

Get to a *healthier place*.

Create a culture of wellness in your workplace and the Blues will help your employees get on the road to good health by supporting them with helpful resources.

Ready to **lead** your employees to a **healthier future?**

Call 248.356.3366 or 800.782.0712 today.

association

benefits

company



Authorized Administrator for the Michigan Infrastructure and Transportation Association's Blue Cross® Blue Shield® of Michigan and Blue Care Network Health Insurance Program

www.association-benefits.com



More Uptime. More Profits\$.



Introducing Orion 5000-EL Engine and Fuel Lubricant

The Missing Ingredient in Your Diesel Fuel Tank: Lubrication

This past June, your diesel fuel lost 97% of its natural lubricating properties and your engines felt the difference.

In June 2010, new ultra low sulfur diesel (ULSD) fuel regulations were implemented for ALL off-highway and non-road diesel powered equipment.

ULSD fuels lack natural lubrication (lubricity) and solvency (detergency). Instead of 500 ppm sulfur in the fuel there will be 15 ppm. That's harsh.

That means there will be more metal scarring and excessive engine wear which means the increased potential for downtime has just gone up. And downtime costs you money.

Orion 5000-EL Engine and Fuel Lubricant Increases Uptime and Profitability

Orion 5000-EL is a synthetic engine and fuel lubricant that protects your engine from metal on metal friction.

The synthetic lubricant quickly coats and penetrates the surface of your engine and its moving parts with a boundary layer of high-weight ester molecules that help moving parts slide past each other with less friction.

Take a No Risk Trial

Learn how other non-road operators have increased uptime and profitability with greater fuel efficiency and extended maintenance intervals using Orion 5000-EL.

888-785-8450

sales@orion5000.com



www.orion5000.com

© 2010 Orion Industrial, LLC



- ***Cleans and lubricates the engine***
- ***Reduces friction, engine heat and wear***
- ***Improves fuel efficiency***



Software as powerful as your heavy equipment

T. Daniels Consulting has spent over 25 years providing transportation and infrastructure contractors with solutions that save time, simplify processes, and provide complete visibility and control.

As an exclusive distributor of Dexter + Chaney's Spectrum® Construction Software, we can help you handle more work and grow your business without growing your overhead expenses.

Visit www.dexterchaney.com/mita and see how an infrastructure contractor efficiently tracks equipment operating hours, fuel usage and maintenance by using Spectrum.

To learn more about how Spectrum can help your business, call TDC, Inc. at (810) 629-0131 or visit www.tdaniels.com



CROSS SECTION

features

- 20 Executive Vice President Comment
- 21 Vice President of Membership Services Comment
- 22 Vice President of Engineering Services Comment

also in this issue

- 9 Letters to MITA
- 11 Underground Spotlight
- 14 Member Profile
- 16 Associate Member Profile
- 18 Did You Know?
- 24 Director of Safety Comment
- 25 Toolbox Talks
- 26 Director of Legislative Affairs Comment
- 30 Director of Technical Services Comment
- 29 Problem Solver
- 31 Underground Spotlight
- 34 Partner News
- 35 MITA Member Project Profile
- 36, 42 Legal Issues
- 40 Member Outreach Spotlight
- 43 Member Voice
- 44 Member News
- 49 New MITA Members
- 56 Where's Your MITA Hat Been Lately?
- 62 Ad Index, Bulletin Index

For Cross-Section Magazine advertising, circulation or editorial inquiries, contact Nancy Brown at: phone: 517-347-8336; fax, 517-347-8344; e-mail, nancybrown@mi-ita.com; or by mail at the following mailing address: MITA, P.O. Box 1640, Okemos, Mich., 48805-1640.

© 2011 Cross-Section. All rights reserved. Reprints or reproductions only with written consent of MITA.



Michigan Infrastructure & Transportation Association

MITA Board of Directors

President
Bruce Lowing
Hardman Construction, Inc.

President-Elect
Chris Shea
P.K. Contracting, Inc.

Vice President
Darrell Kaltz
Kaltz Excavating Co., Inc.

Treasurer
Keith Rose
Rieth-Riley Construction Co.

Executive Vice President/Secretary
Mike Nystrom

Directors

Robert Adcock
Angelo Iafate Construction Co.
Director at Large

Jeff Ardelean
Interstate Highway Construction, Inc.
Concrete

George Atsalakis
Atsalis Brothers Painting
Director at Large

Dan Babcock
Give'Em a Brake Safety
Specialties

Scott Bazinet
Lowe Construction Co., Inc.
Director at Large

Jeff Balkema
Balkema Excavating, Inc.
Director at Large

Frank DiPonio
DiPonio Contracting, Inc.
Underground

Tom DiPonio
Jay Dee Contractors, Inc.
Past President

Jim Doescher
Dan's Excavating
Director at Large

Pat Dunigan
Dunigan Bros., Inc.
Utilities

Craig Fons
Fonson, Inc.
Director at Large

Cheryl Hughes
C & D Hughes, Inc.
Director at Large

Stephen Jackson
Jackson-Merkey Contractors
Director at Large

Vance Johnson
Central Asphalt
Bituminous

Mark Johnston
Ajax Paving Industries, Inc.
Director at Large

Jim Kloote
J.E. Kloote Contracting, Inc.
Past President

Michael Malloure
C.A. Hull Co., Inc.
Director at Large

Al McQuestion
D.J. McQuestion & Sons, Inc.
Excavating

Kurt Poll
Kammenga & Roodvoets, Inc.
Director at Large

Andy Schmidt
Edw. C. Levy Co.
Director at Large

Tom Stover
Walter Toebe Construction Co.
Director at Large

Tom Wagenmaker
Anlaan Corporation
Structures

MITA Associate Member Council

Brad Poggi
Pinnacle Insurance

Ric Simon
Alta Equipment Company

John Washabaugh
Northern Concrete Pipe, Inc.

MITA Staff

Mike Nystrom
Executive Vice President
mikenystrom@mi-ita.com

Rob Coppersmith
Vice President of Membership Services
roboppersmith@mi-ita.com

Glenn Bukoski, P.E.
Vice President of Engineering Services
glennbukoski@mi-ita.com

Nancy Brown
Director of Communications
nancybrown@mi-ita.com

Patrick Brown
Director of Safety & Workforce Development
patrickbrown@mi-ita.com

Keith Ledbetter
Director of Legislative Affairs
keithledbetter@mi-ita.com

Doug Needham, P.E.
Director of Technical Services
douglasneedham@mi-ita.com

Nicole Cook
Outreach Coordinator
nicolecook@mi-ita.com

Danielle Coppersmith
Events Coordinator
daniellecoppersmith@mi-ita.com

Tiya Kunaiyi-Akpanah
Membership Services Coordinator
tiyakunaiyi@mi-ita.com

Anita Lindsay
Web/Data Coordinator
anitalindsay@mi-ita.com

Mary Moody
Accounting Coordinator
marymoody@mi-ita.com

Janis Strang
Executive Assistant
janisstrang@mi-ita.com

WE'RE THE LIGHTWEIGHTS IN OUR INDUSTRY. AND PROUD OF IT.



At James Burg Trucking Company, our lightweight equipment can scale over 115,000 pounds. Which means

you could save time and money by reducing the number of trips it takes for us to haul your job. We've been serving the construction industry with Michigan flatbeds for over



14 years moving concrete products, brick, bagged cement, steel sheathing, and trench boxes efficiently throughout Michigan, northern Ohio, northern Indiana, and Ontario.



In fact, our on-time delivery ratio exceeds 99%. So whether you need one truck for one load or twenty trucks for two weeks, call us. Because when it comes to superior customer service and on-time delivery, we're the heavyweights.



On time. Time and again.

MICHIGAN LABORERS' TRAINING & APPRENTICESHIP INSTITUTE



Grant Charlick, an apprentice program graduate out of Laborers Local 1076 and an employee of Skanska, USA, considers MLTAI and the Construction Craft Laborer apprenticeship program an important part of his professional growth.

Charlick stated, "Having passed a college calculus class I expected that there was very little MLTAI could teach me about math, but with their unique approach to teaching I learned how the mathematic principles I learned in college apply in the real world. College didn't teach me that. Also, the wide variety of subjects taught at MLTAI as well as the variety of experience I've gained as a result of working for a general contractor has prepared me to take advantage of advancement opportunities that could come my way in the future."

Michigan Laborers' Training and Apprenticeship Institute provides training to apprentices and journey persons alike. Our instructors have a wide range of field expertise to provide our members with top-notch training using cutting edge technology. Our state-of-the-art training facilities located in the cities of Wayne, Perry and Iron Mountain accommodate on average 2,500 members annually. Courses range from 2 hours to 120 hours in length and include environmental training, construction training, life skills courses as well as on-line courses.

Graduates reaching Journey worker status can be granted college credits at virtually all of Michigan's community colleges.

MLTAI and the Construction Craft Laborers apprenticeship program produce Laborers skilled in their field, dedicated and trained. When Grant was asked what it takes to be a successful Laborer he said, "You have to show up every day in the right state of mind, with a proper attitude and be dependable, punctual and trustworthy. You have to bring your "A" game every day".

Union wages and benefits are among the best in the nation. If great money and benefits are of interest to you, contact a Laborers Local Union in your area or contact Michigan Laborers Training and Apprenticeship Institute.



Michigan Laborers Training and Apprenticeship Institute
11155 S. Beardslee Road, Perry, MI 48872-9774
517-625-4046 www.mi-laborers.org

America's Trench Box Builder™

Efficiency Production, Inc.

MITA Contractor's Choice for Trench Shielding & Shoring

- Largest selection of shielding and shoring equipment available.
- Custom shields built to your specs.
- Site-Specific Engineering.
- MIOSHA Trench Safety Training.
- OSHA Trench Safety Training.
- Factory Direct Sales & Rentals from our central location 10 miles south of Lansing on US 127.



Steel Trench Shields



Hydraulic Shores



Build-A-Box™



Porta Tank™



Stone Mizer®



Slide Rail System

EFFICIENCY
PRODUCTION, INC.
America's Trench Box Builder™

*Call us for Factory Direct
Sales & Rentals!*

800-552-8800

www.efficiencytrenchbox.com

you said it

Letters to MITA

Dear Mike:

Today our office watched the Senate Committee hearings in regards to Bill 165 with great interest. Just wanted you to know there was a loud cheer that rang out after you finished your testimony. Thank you for the excellent presentation and thanks for your support!

Ed MacKenzie
E.T. MacKenzie Company

Dear Rob:

I would like to thank you for your help with the discussions and the subsequent meeting with Chris Brock of the Michigan Public Service Commission. As you know, prior to your involvement, DTE Energy-Mich Con was not cooperating with us on this issue. We appreciate your sticking with it and helping us resolve the problem.

We also appreciate the good job that Pat does in putting together the safety meetings for us. It is a well-organized and informative program, especially considering that we start the meetings at 7 a.m.

We look forward to a good year for both organizations in 2011.

Steve Jackson
Jackson-Merkey Contractors, Inc.

Dear Glenn:

On behalf of the 61 participants in this year's CEP program, MDOT crew leaders and staff, I want to thank you for an outstanding presentation during our training workshop. We will end this phase of the program on a high note while providing our participants with important information about the transportation industry. The questions following your presentation suggest that participants were engaged, inspired and informed. Thank you again.

Robert Davis
MDOT Metro Region Senior Advisor

Dear Nancy:

Thank you so much for sending the magazines over right away. We are so honored to be featured in the magazine and we appreciate all the extra copies.

Take care,
Andrea Rau
Rauborn Electric

Continues on pg. 52

Seize Control



Our newest state-of-the-art wash plant uses a computer controlled density separator that lets us supply consistently superior, virtually lignite-free sand at competitive prices. Controlled quality has made Levy a Pre-Qualified State Aggregate Supplier with:

- 10 State-Certified Aggregate Technicians
- 5 MDOT-Certified QC/QA Labs
- MDOT/ODOT Spec Products
- 14 Locations in SE Michigan
- Concrete/Asphalt Aggregates ■ Base/Fill Material
- Decorative/Roofing Stone ■ USGA Golf Course Sand
- Septic Stone ■ Road Gravel ■ Mason Sand

Seize your phone and call (313) 429-LEVY.
Or contact our web site: www.edwlevy.com



EDW. C. LEVY CO.

Nothing Builds Better Than Levy.





BarrierGuard Systems

Trench Shields

Versa Bridge Systems

NEW

IN A TRENCH OR ON THE SURFACE, IT PAYS TO USE THE BEST!

Rentals • Sales • Service • Training



PRO-TEC EQUIPMENT INC.
Three convenient locations

5460 36th St. SE
Grand Rapids, MI 49512
1-877-292-1225
Fax: (616)-285-5886

1298 Lipsey Dr.
Charlotte, MI 48813
1-800-292-1225
Fax: (517)-541-0329

25086 Brest Rd.
Taylor, MI 48180
1-888-292-1225
Fax: (313)-827-0012

www.pro-tecequipment.com



Rumble Grids



Street Plates



Temporary Roads



Overlap Sheet Pile



Slide Rail Systems



Aluminum Trench Shields



Stone Savers

A Shore Thing

By Thomas A. Marciniak
Pro-Tec Equipment

What do you call a job that requires four different pipe jacking pits to install a new 72" sanitary sewer pipe? Typically, this would be a standard job. But what if that job required excavations that ranged from 20' deep to 32' deep, had an active 21" sanitary sewer line running through one of the pits, had a pond directly next to another of the pits, had a creek less than 12' away, had a mix of sticky clay soil and running sand, had an apartment building nearby, and had a highly traveled road 15' away? If you are Lowe Construction, with the help of Pro-Tec Equipment's Slide Rail Shoring System, you would call it a successful job!

Lowe Construction contacted Pro-Tec Equipment early on in the process to design a plan to safely and efficiently protect their workers. According to Joshua Thorne, Pro-Tec Equipment's Slide Rail Manager: "When Lowe contacted us about this project, my first thoughts were, 'this is an ideal project for our Slide Rail System.' With the mix of bad soil conditions, the proximity to a building and a road, and the overall scope of the project, I was confident that the Pro-Tec Slide Rail System would be able to get the job done for Lowe."

The Pro-Tec Equipment Slide Rail System is a dig and push style system. With its modular, flexible design, the system can comply with a wide variety of shapes and sizes. The Pro-Tec Slide Rail Shoring System is installed from the top down and removed from the bottom up, minimizing size of excavations, soil disturbances and restoration time and cost. The installation is done with low vibration, providing soil support for excavations, adjacent structures and existing utilities.

"The original plans called for a beam and lag system," said Scott Bazinet, president for Lowe Construction. "We asked the engineers if we could use the Pro-Tec Slide Rail System instead of the beam and lag. They were happy to allow it." The project, Saddleback Sanitary, located in Grand Rapids, Mich., called for a low-vibration system, since all the work would be taking place in close proximity to multiple apartment buildings. "In past projects when we used the Pro-Tec Slide Rail System, we were able to push the post in place with our excavator bucket," said Scott. "Since we were so close to the apartment buildings, we had to take it a step further and pre-drill the post holes."

"On all four of the boring and jacking pits, we had limited access,"

says Kim Sprague, Field Superintendent for Lowe Construction. "We had a creek nearby on the first pit, a pond next to the second pit and apartment buildings and a road for the other two pits." With Pro-Tec Equipment's exclusive, patented Panel Installation Tool (P.I.T. Boss), having limited access is merely a minor inconvenience.

"We used the P.I.T. Boss on three out of the four pits we installed," said Josh Brown, one of the Pro-Tec Equipment Slide Rail consultants on the Saddleback Sanitary project. "Without the P.I.T. Boss, at the depths that Lowe Construction was working, there would have been no easy way to install those panels to the proper depth."

The Pro-Tec Slide Rail Shoring System is made up of five main components: corner post, spreader post (also known as linear rails), spreader beams, roller beams and panels. The panels used in the Slide Rail System are similar to trench shields; however, they are designed and reinforced in a way that allows them to stand up to the rigorous environment in which Slide Rail Systems are commonly used.

On the site, Lowe Construction was using two 100,000+ pound excavators, a PC 400 Komatsu and an 1880 Kato. At one point, they even enlisted the services of a 700 Hitachi. "In my 25+ years of dirt work," said Kim, "these were the worst job conditions I've come across. We had sticky and firm clay, mixed in with running sand. They weren't on top of each other. In some cases, they ran vertically or even diagonally!"

"But the [Pro-Tec Slide Rail] system did exactly what we expected and wanted it to," remarked Scott.

For the Saddleback Sanitary Project, Lowe Construction was the primary sub-contractor for the boring and jacking. The general contractor on the site was Jackson-Merkey Contractors, out of Muskegon, Mich., owners of the 700 Hitachi also used on the site.

Lowe Construction is based out of Horton, Mich. Founded in 1974, their primary focus is in auger boring and jacking, pipe jacking, and tunneling. Lowe Construction primarily services the Michigan, Ohio, and Indiana areas, but has been known to venture out even further.

Pro-Tec Equipment is the leading producer of trench shoring and shielding equipment since 1995. Based out of Charlotte, Michigan, Pro-Tec Equipment services contractors through an international network of dealers and distributors. In Michigan, Pro-Tec Equipment operates retail locations in Grand Rapids, Detroit, and Charlotte. All of Pro-Tec Equipment's products are P.E. certified to meet and/or exceed O.S.H.A. standards.



If you receive this magazine and are not a MITA member, here are plenty of good reasons to JOIN TODAY!



Michigan Infrastructure & Transportation Association

QUALIFICATIONS

MITA is a statewide construction trade association consisting of nearly 600 Michigan companies representing construction disciplines such as road and bridge, sewer and water, utility, railroad, excavation and specialty construction. The organization consists of 13 employees as well as a number of professional consultants all working to serve industry needs.

OBJECTIVES

To serve as an additional staff member for your company, with industry-leading expertise in engineering, labor relations, safety training, and legislative advocacy.

PROFESSIONAL EXPERIENCE

SAFETY AND WORKFORCE DEVELOPMENT

- ◆ Successfully handle MIOSHA appeals with representation through life of a citation.
- ◆ Provide safety training / jobsite inspections to thousands of workers.
- ◆ Ensure vibrant workforce through participation in statewide coalitions and events.

ENGINEERING SUPPORT

- ◆ Develop positive working relationships with MDOT, MDNRE, MDeLEG, USDOL, counties, municipalities, universities and consulting engineering community.
- ◆ Provide professional technical assistance with contract documents, specifications, contract modifications, extensions of time, contractor claims, payroll compliance, DBE, and project payments.
- ◆ Facilitate industry's input on technical issues, developing specifications, and modifications to MDOT's Standard Specifications for Construction.

MEMBER SERVICES

- ◆ Administer a statewide Best Practices Utility Contract, which helps companies with issues related to utility location.
- ◆ Provide statewide professional networking opportunities at Annual Conference/Trade Show, Winter Ski Weekend, Summer Conference, Golf Outings, Hunts and more.
- ◆ Assist with various labor relation issues including prevailing wage, labor law, and collective bargaining agreements.
- ◆ Provide members with prompt/professional attention to any issues they face.

LEGISLATIVE REPRESENTATION

- ◆ Represent the industry by promoting and protecting their interests in Washington D.C., Lansing and at the local level.
- ◆ Advocate for an increase in state funding for transportation/underground industries.
- ◆ Act as an advocate/watchdog for positive/negative legislation.
- ◆ With the strength of the MITA PAC, support legislators who support the industry.

LEGAL SERVICES

- ◆ Professional, knowledgeable, and experienced in the issues that the industry faces.
- ◆ Provide templates for various useful documents (lien packets, claim letters, etc.)

2937 ATRIUM DR.
OKEMOS, MI 48864
P: (517) 347-8336
www.mi-ita.com



THE
REASONS
ARE
OBVIOUS



THE **BENEFITS** ARE **HUGE**...

CLEANER AIR

ELIMINATE THE NEED FOR ENFORCEMENT

LOWER CANCER RISK

REDUCE RESPIRATORY-RELATED ILLNESSES

CONSIDER YOUR ENGINE TIER LEVEL WHEN MAKING NEW PURCHASES.
CONTACT YOUR EQUIPMENT DISTRIBUTOR FOR MORE DETAILS.

Member Profile

Caledonia Excavating, Inc.

Caledonia Excavating was founded in 1990 by Monte Tolan and his father, Marvin. Monte worked part-time for the company, and became the full-time business owner with his wife, Carrie, in 1998. Monte had worked for 15 years prior to 1998 for another construction company in the area near Grand Rapids before he saw an opportunity to go off on his own. Housing flat work was plentiful and a couple engineers he had worked for had faith in him and put Caledonia Excavating on their bid list. This opened the door to bigger projects. Caledonia Excavating's growth soared, and they began to dabble in water main and municipal road reconstruction work.

"We developed a good system in the cornfields around Caledonia laying pipe for housing flats, and we just took that to the "streets" to do more dirt, and underground work," said Monte, who wears many hats to run the 15-employee company with his wife. "We have a great employee base, with a few who have been with us from the start." Monte and Carrie have a 16-year-old son (who Monte coached at football through the ninth grade) and a 13-year-old daughter.

"I come from working on site where what needs to be done comes easily," Monte said. "Then I come to the office where the challenges of

finding work, estimating jobs and winning the bids begins! The trouble is like everyone else we are doing the work for less and less money."

Even given the recession, Caledonia Excavating has continued to be successful in part because before the downturn began in the housing industry, they recognized the warning signs and became MDOT pre-qualified. Today, one of their largest jobs is an MDOT job in East Grand Rapids that involves water main and road reconstruction.

Being around the industry for so many years has allowed Monte to follow the progress of MITA and its predecessor, AUC. "Since I started my company, it was always a goal to be a member of MITA," Monte said. "Being a member of MITA gives me an added feeling of security."

"During these challenging times, I still have a great love for this business," said Monte, who enjoys racing his Super Outlaw Late Model at the Berlin Race Track in Grand Rapids when time allows. "I do not know what else I would do. Our total plan is to survive these times and continue to grow. Our hope is to come out 5-10 years from now and live through better times again."



Carrie and Monte Tolan, owners of Caledonia Excavating.

CALEDONIA EXCAVATING, INC.

10478 East Paris SE
Caledonia, Mich. 49316
Phone: 616-891-7233
Fax: 616-891-7233

Owner/President:
MONTE TOLAN
mdtolan@sprynet.com

Secretary/Treasurer:
CARRIE TOLAN
tolanww@sprynet.com

Specialties:
Underground Utilities,
Excavation, Earthwork,
Site Development,
Land Clearing

Member of MITA since 2009

DBE Spotlight



672 Woodbridge • Detroit, Mich. 48226
Phone: 313-259-2020 • Fax: 313-259-2022
www.paradigm2000inc.com
CEO: Lester Lewis • llewis@p2000i.com

1. Tell us a brief history of your company.

I started the company in 1998. We started out doing video production, and then MDOT asked me to explore the business of video pipe survey inspections and pre-construction video surveys.

2. What does your company specialize in?

We have three divisions. The first is audio and video productions. We do television commercials, shows and movies. We also stream live events over the Internet. The second division is telecommunications. We set up teleconference systems that allow customers to hold meetings with people all around the world. We also set up covert security cameras for business people, such as those who want hidden cameras over their cash registers. The third division handles video pipe survey inspections and pre-construction video surveys.

3. Tell us about a recent project you have worked on.

Recently a prime contractor held us accountable for an oversight on our part. The special provisions of a contract required us to not only do the videotaping of pipes, but also clean the pipes. I quickly subcontracted with a company to clean the pipes. I elevated myself to another level and we are now pre-qualified to clean pipes!

I stepped up to the plate and was responsible for my actions. DBE's should be set up to examine documentation, such as special provisions thoroughly, because MDOT will hold the prime contractor responsible, and then the contractor has no alternative but to hold the subcontractor responsible. Building and establishing relationships can be a key success factor in resolving any challenges that may occur. Relationships are important to DBE's and

prime contractors.

4. How does being a member of MITA benefit you?

As a DBE, I am responsible for the performance and actions of my company. The relationship that we have with MITA and prime contractors, and the leadership of MDOT will no doubt enable us to be successful now and in the future. I am confident, and I am surrounding myself with confident people, such as the leaders of MITA. Recently we were challenged with a government contract. With the assistance of MITA, we were able to meet the requirements of the contract and complete the government's task. Michigan is at a critical state of survival. For Michigan to survive is going to take the will of God, relationships, positive thinking, with execution along with vision to see the future, and the ability to deal with change.

5. Do you have any additional comments?

Just a comment about prompt pay because its an area we all (prime contractors, subcontractors, and owners) need to pay attention to. It sometimes happens that after I have performed all of my services, the engineer approves my work and payment is made to the prime contractor, but the prime only pays me a portion of my invoice. Because my work was completed, and all of my paperwork (material certs, payrolls, etc.) had been turned in, I should have been paid in full. Following the MDOT Special Provision for Prompt Pay, I must notify the contractor in writing (copy to MDOT) about the error to get it resolved. This is an undesirable situation that hurts us all. We are in this game together and we all (primes, subcontractors, and suppliers) deserve to be paid timely when we do acceptable work, turn in the required paperwork, and pay our bills.



Sales Office
734-783-7474

Great Lakes Aggregates Inc.

Great Lakes Aggregates Inc. offers a wide variety of value-added aggregate product lines with specialized performance characteristics to meet our customer needs.

5 Convenient Limestone Locations

South Rockwood

Rockwood

Newport

Detroit

MDOT Certified Crushed Concrete

Taylor

New Haven

Rochester Hills

Salem Twp

Highland Park

Great Lakes Aggregates Companies

5699 Ready Rd P.O. Box 406 S. Rockwood, MI 48179 Phone 734-783-7400 Fax 734-379-0311 www.greatlakesagg.net

Associate Member Profile

Founders and current owners of Guy Hurley Blaser & Heuer, LLC, are:

Front row: Mike Lechner, Richard McGregor, Bob Heuer, Roger Blaser

Back row: Paul Hurley, Leslie Loftus, Tom Guy



GUY HURLEY BLASER & HEUER LLC

INSURANCE AND SURETY SERVICES

Guy Hurley Blaser & Heuer (GHBH) was recently selected to join the ranks of an elite group of independent insurance agencies from around the United States by the Independent Insurance Agents & Brokers of America best Practices Study Group.

Of the 37,500 independent agencies throughout the United States, roughly 1,200 were nominated, according to Tom Guy, president of the company, which is located in Troy.

"It's a great honor to be recognized among our peers in this way," Guy said. "It goes to show that perseverance and customer focus pay off in the long run."

The company was co-founded in 2001 by Tom Guy and Paul Hurley after Tom had a 27-year career as a surety underwriter, underwriting manager and broker. Today at GHBH, 27 professionals offer insurance and surety products from a number of companies, including a number of the nation's largest insurance and surety

companies.

GHBH is an active member of MITA, and one of the familiar faces to contractors is Bob Heuer, vice president. Bob joined the agency in 2002 and brings over 30 years experience in handling both insurance and surety bonds for a national broker's Michigan and California divisions. He has handled large, multi-state insurance and surety accounts, and currently sits on the regional agents' council for two national insurance carriers.

In Bob's current position at GHBH, what impresses him the most about the founding partners is that they think like business owners, not just insurance agents, when it comes to budgeting, business plans and developed a strong vision for the future.

"As a company, what we look forward to on a daily basis is solving problems and being of service to exciting, entrepreneurial business owners, which defines the contractor members of MITA," Bob said.

"We frequently hesitate to try to make clients out of personal friends, however, our contractor clients frequently become our personal friends."

During recent years, the company has continued to look for opportunities to grow, such as adding a new benefits division. Leslie Loftus founded and manages GHBH's employee benefits division, known as Veritas Benefits Group. She brings over 25 years of benefits experience to the job, including seven years as vice president of operations at a large insurance agency, 15 years as a human resource generalist, and four years as operations vice president for a start up health plan. At the health plan, she launched two commercial HMO products and managed six outpatient medical centers.

"We have surprised people," Bob said, "because during the recession we have without regret added staff, including sales staff."

Another example of newly hired staff is Paula Martin, who previously was the Managing Trial Attorney for the CNA Michigan Staff Counsel Office. With 20+ years of third party and workers' comp claim defense experience, she is an invaluable addition to the company's client service division.

"On a daily basis, Paula is in a claims review situation involving claims adjusters and the insured," Bob said. "Paula demonstrates her skills by pushing the carrier adjusters to increase their efforts toward outcomes that are in the best interest of the Insured. For example, when an insurance company indicated that they had checked case law in a western state, to determine a compensability issue, Paula does do her own legal research to defensibly refute compensability." In addition to Paula's legal representation and litigation experience, she also has a producer's license and will be representing a variety of commercial lines and employee benefits clients.

Access to potential new clients is a benefit of MITA membership that GHBH takes seriously, according to Bob. Frequent access to industry leaders, and the ability to mingle with their major existing clients who introduce them to potential new clients would be challenging without MITA.

"Given the current soft market, it is difficult to penetrate any universe of prospects," Bob said. "Through networking with MITA heavyweights, we are introduced to other members at many events, such as the annual conference, and the recent industry night in Troy."

"We love MITA. We feel much plugged into the political process thanks to MITA. Through MITA we learn about legislative happenings and funding issues, which ultimately allows us to provide added value to our clients."

GHBH is busy now bringing in the next generation of ownership of the company. Paul Hurley, one of the founding owners, and Vice Presidents Rick McGregor and Michael Lechner are the next generation. Strength will be built at the next level to find young producers, who usually arise from the ranks of surety bond underwriters.

"We are always on the lookout for producers who understand the consultative selling strategy that is important to business owners, particularly contractors with their variety of complex issues," Bob said. "This is a wonderful business to be a part of, and I am honored to be able to work with the founding partners and the next generation of owners, toward brighter economic days and success for both our clients and our agency."

**1080 Kirts Blvd., Ste. 500
Troy, Mich. 48084
Phone: 248-519-1400
Fax: 248-519-1401
www.ghbh.com**

SPECIALTIES:

**Bonds, Insurance, Self Insured/Captive
Programs, Administration**

CONTACTS:

THOMAS GUY
President
tguy@ghbh.com

PAUL HURLEY
Executive Vice President
phurley@ghbh.com

ROBERT HEUER
Vice President
heuer@ghbh.com

MICHAEL LECHNER
Vice President
mlechner@ghbh.com

Did You Know?

Blue Book Rate Access is Available to MITA Members

One of MITA's most utilized membership services is equipment Blue Book Rate access, which is available to members free of charge through MITA. This detailed rate information is intended as a guide for determining what appropriate recovery costs (equipment-related ownership and operation) can be charged.

To get equipment blue book rates:

- Open a web browser and navigate to the MITA website, www.mi-ita.com.
- Locate and click on the labeled homelink (Blue Book Rate Request Form) to download the blank PDF form. For members' convenience, the link can be found on the right side of the MITA homepage.
- Print out and complete the form for each piece of equipment you are requesting rates for, and fax them to the MITA office at (517) 347-8344.

Remember

Year is required on every equipment rate request submitted.

The system that is used to retrieve rates cannot calculate rates without this piece of information.

If it is an older piece of equipment, chances are that the year may not come up as an option. Under this circumstance, you will get rates based on the year-option closest to what was submitted.

Equipment type and/or model number is key.

Detail, detail, detail!

Many times there are multiple configurations for the same piece of equipment and those small details become important. Include as much detail as you can to ensure that you will receive the correct rate information in a timely manner. Here are some common pieces of information that are often needed:

- Type of equipment (be exact).
- Year?
- Who is the manufacturer?
- What is the axle configuration?
- How many tires (and/or axles)?
- Bucket capacity?
- What is the power mode (gas or diesel)?
- EROPS or ROPS?
- What is the equipment weight class?
- Fixed or extendable?
- What is the equipment horsepower?
- Any special attachments?

MITA is committed to providing members with accurate information in a timely manner. Be sure to browse the MITA website, www.mi-ita.com, for more helpful "Did You Know" member guides.

Trusted professionals delivering America's infrastructure solutions



WADETRIM

Construction Engineering
Highway Design | Bridge Design
Transportation Planning | Surveying

800.482.2864 | www.wadetrim.com





ATSALIS BROS. ***PAINTING***

*Your Answer To Lead-Based
Paint Compliance*



Setting the Standard for Tomorrow

We have the experience, equipment and the best trained work force in the industry.

Atsalis Bros. Painting welcomes the opportunity to discuss your needs and expectations on any interior or exterior job, no matter how large or small. For more information, call or write us.

Atsalis Brothers Painting Co.
24595 Grosbeck Highway
Warren, Michigan 48089

(586) 790-0123

Fax: (586) 790-9065

Executive Vice President



Mike Nystrom

Spreading MITA Influence

On January 1, 2011, the MITA sphere of influence was expanded once again, as the association took over all labor relation activities for the now dissolved Michigan Distribution Contractors Association (MDCA).

This change is significant in that the MDCA had been a stand-alone association for over thirty years. The primary function of that organization was labor relations representation for those companies that were signatory to the MDCA collective bargaining agreements.

MITA will now manage all facets of labor relations for distribution construction throughout the state of Michigan by overseeing the three collective bargaining agreements that affect that industry: the Operating Engineers, the Laborers and the Plumbers and Pipefitters. In doing so, staff will oversee all updates and changes to the various contracts. MITA staff will also guide all labor negotiations with the same professionalism that is used for the underground and road contracts. A new section for utility construction has been created on the MITA labor website and all wage rates will be updated as needed on a regular basis. MITA staff will also serve on the Taft-Hartley Trust Funds as a management representative for that segment of the industry.

There are many benefits that come as a result of this new relationship. First of all, as an organization, MITA receives the benefit of a broader opportunity for influence. Secondly, financially MITA now receives the Industry Advancement Funds that are collected from the three collective bargaining agreements. And finally,

although a majority of the contractors that were part of the MDCA were already members of MITA, the balance of those who were not have now joined. The benefit for that segment of the industry is that they now have the strength and voice of MITA standing behind them concerning all of their labor relations activities.

We as staff are excited to have this opportunity and look forward to representing this latest addition to our family with professionalism and commitment.

MITA Member Visits Continue

In 2010, I made a personal commitment that I was going to get out and visit with our membership across the state. This exercise has been extremely satisfying and educational. We represent some of the most interesting and hard working people in the state, and having the opportunity to visit and listen to many of you has made my job that much better. I have received many good suggestions for improvements at MITA and I have been welcomed at every single office with open arms. All of the feedback that I have received has been very positive even with the difficult times that we are facing with our economy.

I will continue to make these visits throughout 2011, and if you are interested in specifically requesting a meeting, and I have not yet visited your office, please feel free to call MITA and I will get you on the schedule.

For any comments or questions, please contact Mike Nystrom either by email at mikenystrom@mi-ita.com or call the MITA office at 517-347-8336.

CORRIGAN PROPANE
A Division of CORRIGAN OIL CO.
Home Heating • Construction Heat
Propane Dispensing Stations and Cylinder Exchange Service
775 N. Second • Brighton, MI 48116
(810) 229-6323 • (800) FAST-OIL
Fax (810) 229-4970

Justice Prevails in Work Zone Traffic Accident

Last November, a motorist found his way into a lane closure on a night job and struck a parked vehicle and the foreman standing next to it. While the foreman suffers from conditions related to a level-three concussion, he is alive and will return to work this spring. Had this diligent employee not parked his vehicle in manner that diverted the oncoming car away from the crew, the results of this incident could have been far worse. I call this an "incident" and not an "accident" because of the choices made earlier in the evening by the driver of the vehicle – a twice-convicted drunk driver who drank himself to a blood alcohol level of

.23, and then drove without a license in an uninsured vehicle.

After the court requirements were met, the day of sentencing was upon us. The victim's wife, MITA and our member prepared brief impact statements covering topics related to the incident and its aftermath. Prior to providing these statements, the judge declared that only the victim was typically allowed to speak, but she would make an exception in this case. The judge also stated that she had thoroughly reviewed the documents, and nothing we had to say was likely to change her decision to sentence the driver to probation and rehabilitation programs.

Continues on pg. 38



Rob Coppersmith

Michigan's Largest Distributor of ADA Tiles



Compliant with MDOT & City of Detroit

Cast in Place • Surface Mount • Replaceable

Available in Assorted Colors & Sizes



IN STOCK NOW

25806 Novi Rd. **(248) 449-4944**
Novi, MI 48375

Visiting us online at www.acecutting.com

Vice President of Engineering Services



Glenn Bukoski, P.E.

MDOT Director Kirk Steudle is a Plus for Michigan

Last fall MITA staff provided each of the gubernatorial candidates with a white paper outlining what we believed were the desirable qualifications for the ideal Director of the Michigan Department of Transportation (MDOT). That list of qualifications included, "notable professional experience in the transportation arena," "strong leadership recognition," and "a passionate visionary with strong and effective communication skills." In late December, then Governor-elect Rick Snyder announced that Kirk Steudle would stay on as the director of MDOT, an appointment we at MITA and many others saw as a plus for Michigan's transportation infrastructure future.

A registered professional engineer, Steudle

brings significant operational experience and technical expertise to the position from years of serving in various capacities within the department, including the four most recent years as director under our previous Governor Jennifer Granholm. Although recognized by many as an effective leader, it was perceived that Steudle was often restricted from publicly advocating the department's known need for increased infrastructure funding by the Granholm administration.

At the state and national level, Steudle is recognized as a strong advocate for asset management serving on the Michigan Asset Management Council and chairing the American Association of State Highway and



Lake Orion
(248) 370-0000



Toll Free:
(866) 597-0716



Serving Michigan's Municipalities Since 1951

Transportation Officials (AASHTO) Subcommittee on Asset Management. In those capacities he has traveled extensively abroad promoting the benefits of asset management to countries like Latvia, Australia, New Zealand, England and Canada.

Steudle is also a national expert in Connected Vehicle Technologies, a high-tech highway operations technology that enables vehicles to communicate with roads and each other to improve safety and mobility. He sits on the board of directors of the Intelligent Transportation Society of America (ITA America) and chairs the Strategic Highway Research Program (SHRP) II oversight committee implementation report to the U.S. Congress.

In 2010, Steudle was honored nationally for his outstanding service and exceptional contributions to highway engineering when he was awarded the prestigious Thomas H. McDonald Award from AASHTO. Steudle is only the second person from Michigan to win this award, the first being the late John Woodford, MDOT director from 1972-1982, who received the award in 1989.

In January, Steudle was again recognized nationally when he was awarded the P.D. McLean Award, an award presented annually to individuals whose achievements are considered to be distinct and significant contributions "to the cause of better highway transportation in the public interest."

And, at their annual conference to be held later this year in Detroit, AASHTO will induct Steudle as their 2011-12 president, a prestigious and influential

leadership position for all departments of transportation at the national level.

So, how is the reappointment of Kirk Steudle as the Director of MDOT a plus for the future of Michigan's transportation infrastructure?

We believe Steudle's reappointment is proof that transportation is not a partisan issue, and it gives validation to much of MDOT's work in recent years; and, most importantly, it is a hopeful sign that Governor Snyder recognizes that strong leadership is needed when it comes to the call for increased infrastructure investment. We are optimistic that Steudle will be granted maximum latitude to be the leading advocate for transportation infrastructure needs in the state with the freedom and license to publicly communicate those needs, as well as a vision of how those needs can be addressed.

At the national level, we are again hopeful that Steudle's leadership position with AASHTO, and the rapport he maintains within the U.S. Department of Transportation, will lead to positive results for Michigan as those organizations and our Michigan delegation work with Congress to develop and pass reauthorization bills for both the federal aviation and surface transportation programs.

MITA believes Governor Snyder made the best possible choice to lead MDOT, and we will continue to work closely with Director Steudle and his staff in many important areas on our member's behalf.

To contact Glenn Bukoski, P.E., e-mail him at glennbukoski@mi-ita.com or call 517-347-8336.

comment

Director of Safety & Workforce Development



Patrick Brown

A Year of Change

The time is NOW. If you have not figured it out, contractors are being forced through regulatory agencies (MIOSHA/ OSHA) to change their ways. Change is a very hard word for most to digest and even harder for some to embrace. The fact of the matter is: change is here to stay. So as a contractor in the construction industry, this means you may have to change your operational and training methods.

As I complete my sixth season of training MITA members, I'm actually starting to see many positive changes. All be it, very hard for some, we need to step up and show that we are the leaders in worker safety. Training, communication, pre-planning and documentation are the keys to a successful safety program. As a contractor, you need to communicate with everyone. There are not any jobs out there that the entire crew shouldn't know what's going on. Encourage your leaders to keep people in the loop. Safety starts at the top and involves everyone. There are no secrets. People feel important when they are involved and have input. If an employee knows they will be heard, they will speak up and that spreads awareness. Many employees say that they are eager

for input, but are unsure sometimes who to provide it to. As an employer, you have to create an atmosphere where employees feel comfortable to provide feedback. I understand how the "system" works. That doesn't mean I have to agree with it, BUT I do understand it. Finding work in this tight economy is like finding water in the desert. Training people to perform their jobs the right way and promote safety. This will save dollars via fewer accidents and or related MIOSHA fines. Planning ahead will save time and money. For example: You know where you will be at within a project at any given time (barring rain days, etc.). Tell me if this sounds familiar: you just start installing 1000' of 8" water main. As the foreman, you know that at 500', there is a lateral gas main in your way. The plans call for you to go under it. At the current rate, it will be two days before you get there. It has been this author's experience that planning ahead will ensure employees don't make bad decisions in the field and place themselves in a bad situation exposing workers to potential hazards and the company to possible MIOSHA citations. A MITA job site analysis could also help identify potential hazards down the road.

Contractors need to truly stress safety on their employees. Holding employees accountable for their actions is SO important as well. Every employer has to have a safety program put in place that spells out the rules for employees. If all employers held employees accountable for their actions, I would not have a job. MITA handled 549+ MIOSHA citations in 2010. Of those 549+, MITA could have proved employee misconduct. In order to prove employee misconduct, it must be shown that the employee was trained, had the tools or equipment needed to perform the task, there was a means of detection (foreman) and discipline was handed down. The problem is that many employers never discipline employees. The proverbial butt chewing that is not documented means nothing. Any employee discipline must be documented, from the verbal warning, to time off. From an employer standpoint, it protects you. From an employee standpoint, it sends a message.

Hazard management is the most important thing on any job site. Recognize

Continues on pg. 39

Contractors Insurance Bonds Pension Plans
Group Health & Life



ZERVOS GROUP, INC.
INSURANCE & BONDS

24724 Farmbrook Rd. P.O. Box 2067 Southfield, Michigan 48037-2067
(248) 355-4411 www.zervosgroup.com

Staff of 40 to provide "Service with Zervos"

Gus E. Zervos, CEO Steve M. Zervos, President Angelo G. Zervos, VP Michael G. Zervos, VP
Don Burden Jim Gargaro Dave Lange Dominic Nicita

Ergonomics – Back Safety & Lifting



Before you get started:

There are five basic safety tips that apply to the entire heavy construction industry. If you practice these five tips, you could make a difference.

- **KNOW YOUR JOB.**
- **USE GOOD JUDGEMENT**
- **BE ALERT.**
- **ALWAYS THINK SAFETY.**
- **EXPECT THE UNEXPECTED.**

These Tool Box Talks have been designed to include all of the information your company should be able to include in a five minute session. MITA suggests that you document this activity with the sign-in sheet that has been provided and keep it on file for future reference.

Sprains and strains are the most common causes of lower back pain. The back can be injured by improper lifting of moderate to heavy objects, falling, auto accidents, and sports activities. But of these, lifting improperly is the largest single cause of back pain and injury. Luckily, construction workers can prevent back pain by knowing and using proper lifting techniques. Safe lifting is a special concern on the construction jobsite because lifting is a major part of the job. Without lifting, through either physical or mechanical means, materials could not move around the site to build the project.

Currently, there is no MIOSHA regulation on safe lifting, but the subject is always near the top of the list of concerns because about 17 percent of all occupational injuries or illnesses are from overexertion in lifting (Bureau of Labor Statistics, 1994).

Back disorders are frequently caused by the cumulative effects of faulty body mechanics: excessive or repetitive twisting, bending and reaching; carrying, moving, or lifting loads that are too heavy or too big; staying in one position for too long; poor physical condition; and poor posture.

Prolonged sitting also stresses the body, particularly the lower back and the thighs, and may cause the lower back (lumbar) region to bow outward if there is inadequate support. This abnormal curvature (called Kyphosis) can lead to painful lower back problems, a common complaint among drivers of dump trucks, back hoes, and other heavy construction equipment.

Other factors which are contributors to back injuries include the natural degeneration of the back due to aging; inactivity both at work and at home; seasonal activity undertaken without prior physical condition; stress and vibration.

Employee Training

There are no specific employee training requirements on safe lifting, but because back injuries due to improper lifting are a commonly recognized hazard identified by MIOSHA in ergonomic

guidelines, MIOSHA may cite construction companies under the General Duty Clause. Fortunately, the basics of safe lifting are well known and easy to understand. Administrative controls, like teaching safe lifting and work techniques, are a proven way to reduce employee lost time and workers' compensation costs.

In addition, engineering controls, like limiting weights to be lifted, having people lift in pairs/teams, or using material-handling equipment as much as possible to assist in lifting can also be used to reduce or eliminate problem lifting tasks.

General lifting instructions stress these key aspects of safe lifting above all others:

- Size up the load.
- Plan ahead, making sure you have a clear path to carry your load.
- Bend your knees.
- Place your feet close to the objects and center yourself over the load.
- Get a solid hand hold
- Lift straight up and smoothly, letting your legs do the work instead of your back.

With the above lifting techniques as the basics, these additional points should be stressed:

- Do not twist or turn your body once you have made the lift.
- Set loads down properly, once again bending your knees.
- Always push objects instead of pulling them if you have a choice.
- Keep the load as close to your body as possible.
- Split larger loads into several smaller ones if you can.
- If it's a long or awkwardly shaped load, get some help.

Training Tips

Use the demonstration method to show employees proper examples of lifting techniques.

Your employer is an equal opportunity employer and as such welcomes applications from qualified female and minority applicants.

Director of Legislative Affairs



Keith Ledbetter

Policymakers Begin Turbulent Legislative Session

MITA staff penned a headline just hours after the November election results were in the books: "Tidal Wave Crashes on MI Political Landscape, Republicans Sweep."

And this year's tumultuous legislative session has lived up to its billing.

Gov. Rick Snyder promised that he would turn Michigan's economic fortunes around by cutting business taxes and making tough financial decisions that previous policymakers were unwilling to do. The governor has made controversial decisions to require state employee union concessions, cut K-12 funding, give emergency financial managers the power to void collective bargaining agreements and he has proposed a tax on pensions.

Not to be outdone, the Republican-led Legislature has also proposed some significant reform ideas that have stirred controversy.

Legislators Seek Elimination of Project Labor Agreements (PLAs) on Taxpayer Funded Projects

MITA testified in March on legislation (HB 4326 and SB 165) that would eliminate PLAs on publicly funded construction jobs. The MITA Board of Directors discussed the issue at the February board meeting and directed staff to support the elimination of PLAs on public jobs as a way to defend the competitive bid process.

MITA staff testified in both the House Commerce Committee and before the Senate Reforms, Restructuring and Reinventing



810.989.5011

fastconceptsonline.com

- Graphic Design
- Vehicle Wraps
- Logo Creation
- Fleet Graphics
- Signs & Frames
- Decals & Lettering
- Hats and Embroidery
- Trade Show Packages
- Promotional Products
- Large Format Printing
- Complete Marketing Programs



"In Business to Create Business"

Featured Customers:



Committee that all companies – regardless of union status – should be eligible to do public work without being compelled to sign a collective bargaining agreement. No vote has yet been scheduled, but those contractors interested in the issue should contact their legislators soon.

Bills Introduced to End Prevailing Wage for State Construction Jobs

Republican legislators in the House and Senate have introduced a series of bills (HB 4224-26 and SB 95-97) that would end prevailing wage requirements on state construction projects. The MITA Board of Directors discussed the issue at length and unanimously endorsed retaining the State Prevailing Wage Law. The Board felt that prevailing wages provide for a level playing field with regard to employee compensation.

The House has held one hearing on the matter but has shelved the issue for now while they discuss a number of other hot button issues.

MITA Testifies in House Committee on Prompt Pay

MITA staff testified in a House Appropriation Subcommittee in February at the request of Chairman Rep. Dave Agema on the issue of prompt pay.

The MITA Board of Directors discussed the issue in-depth at a recent meeting, and the general sentiment was that contractors were normally paid in a timely manner from MDOT, but not necessarily when doing municipal and private work. Where problems with MDOT typically occurred was in the area of contract modifications, extras and overruns. Those payments take an extended length of time, as they are often slowed down because of a series of bureaucratic and administrative hoops, where approval is needed by both the State Administrative Board and the State Transportation Commission. MITA suggested these reforms to the committee and is currently working with MDOT to pursue these changes.

Mike Malloure of C.A. Hull and John

Continues on pg. 39



DEWATERING & SPECIALIZED TRENCHING

Revolutionary pipe laying service
lays up to 5,000 ft. of rigid or flexible pipe per day.



- Makes your projects more profitable
- Reduces dewatering needs up to 90%
- Up to 24" D.I.P.
- HDPE installation
- Nationwide service capability
- Full service dewatering
- Sock tile up to 20' deep
- Pump rental available
- Griffin pump sales, service and rental



TRENCH TECH, INC.
16580 144th Ave. Spring Lake, MI 49456 PH: 616.842.8655
www.trenchtechinc.com

Legislative Update

BILLS AT A GLANCE

BILL	SUMMARY	POSITION	STATUS
HB 4091	Amends the Michigan Business Tax Act to provide for a 6% flat tax to certain business entities.	Support, to the extent that it does not impose an additional tax burden on members.	Referred to the Committee on Tax Policy.
HB 4131	Allows for the creation of a public-private partnership agreement and public transportation authority.	Support.	Referred to the Committee on Transportation.
HB 4224 - 4226	Repeals prevailing wage and fringe benefits on state projects.	Oppose.	Referred to the Committee on Oversight, Reform and Ethics.
HB 4262	Restricts the department from entering into a public-partnership agreement on certain roads.	Oppose.	Referred to the Committee on Transportation.
HB 4282	Department of Transportation Budget	Neutral at this time; however, continue to pursue additional and adequate road funding.	Referred to the Committee on Appropriations.
HB 4287	Would not allow project labor agreements on public construction contracts.	Support.	Reported from the House with recommendation for referral to Committee on Commerce.
HB 4326	Amends the Administrative Procedure Act to provide that an agency shall not adopt rules more stringent than the applicable federal standard unless authorized to do so by statute.	Support.	Referred to the Committee on Regulatory Reform.
SB 14	Would repeal the Michigan Occupational Safety and Health Act (MIOSHA).	Oppose.	Referred to the Committee on Appropriations.
SB 66	Would establish a multinational bridge authority.	Support.	Referred to the Committee on Transportation.
SB 77	Would amend the Revised Judicature Act to establish a two-year statute of limitation on actions against architects and professional engineers and a three-year statute of limitations on actions against contractors.	Support.	Passed the Senate and referred to the House Committee on Judiciary.
SB 95 - 97	Repeals prevailing wage and fringe benefits on state projects.	Oppose.	Referred to the Committee on Economic Development.
SB 118	Would amend the general sales tax act to include a person who sells precast concrete products in the definition of "materialperson".	Support but would expand to include all types of precast products.	Referred to the Committee of the whole.
SB 185	Department of Transportation Budget.	Neutral at this time; however, continue to pursue additional and adequate road funding.	Referred to the Committee on Appropriations.



**Boring and Jacking
Pipe Jacking
Tunneling**

Scott Bazinet or Dick Lowe

2535 Bader Road • Horton, Michigan 49246 • Office (517) 529-9406

Problem Solver

MITA Helps Member Resolve Utility Damage Claim

It is no secret that gas and utility conflicts are a major problem for members from a safety standpoint. Far too often shallow or miss marked facilities are found, by accident, with powered equipment. The results have been devastating. In this example, while no one was injured, the devastation came in the form of a nearly \$70k dollar damage repair bill issued to our MITA member.

The culprit for the damage was a stub off a gas main that was found when a road grader took off the top of it during final pavement removal on the project. Luckily no one was injured during the event and no property damage was sustained. While mains are relatively easy to locate, a stub protruding off of it in a vertical fashion is not unless the whole main is exposed. Exposing an entire main is not a requirement of Public Act 53, which is the governing document concerning utility locating.

Numerous negotiations between the member and the facility owner resulted in no movement toward resolution of the damage bill, including a meeting with field personnel and damage representatives at the MITA building. Feeling that all options were nearing the point of exhaustion and the thought of an expensive trial was unappealing, MITA requested a review of the incident from the Michigan Public Service Commission (MPSC), the state entity that regulates gas distribution and related enforcement activity. The investigation resulted in the MPSC supporting MITA and our member regarding the facts and findings surrounding the incident. This created enough leverage to persuade the facility owner to recall their bill and consider the matter closed.



The advertisement features a background image of a mountain climber on a snowy peak. In the center, the Pinnacle Insurance Partners logo is displayed, consisting of a stylized mountain peak above the text "PINNACLE INSURANCE PARTNERS" and the tagline "A Better View.™". Below the logo, the text "Construction Industry Specialists" is prominently displayed in a large, bold, black font.

Contract Bonds

Safety Programs

Insurance Programs

Claims Management

Captives and Self Insurance

Employee Benefits

Construction Team:

Brad Poggi

bradp@pipgrmi.com

Mike Poggi

mikep@pipgrmi.com

Penny Kirk

pennyk@pipgrmi.com

1430 Monroe NW, Suite 100, Grand Rapids, MI 49505 t: 616.458.8990 f: 616.913.3301 www.pinnacleinsurancepartners.com

Director of Technical Services



Doug Needham, P.E.

MITA is Active 24/7 on Your Behalf

Flurry of Activity

As you can tell from the numerous bulletins posted to the newly launched MITA website, there has been a flurry of activity occurring at MITA. For the most part, when a bulletin is posted or a mass-produced e-mail is sent, it involves an issue that impacts the heavy/highway and underground industry as a whole. However, I would like to point out that MITA works on many issues that never make it to bulletin status. Even though construction activity slows down during the winter months, MITA continues to work very diligently on your behalf on an array of issues. If a bulletin were published or e-mail sent regarding all of this activity, your inbox and our website would be overwhelmed. These are not always the big impact items. They deal with day-to-day operations along with topics that surface for segments of the industry and are not necessarily those related to the entire construction industry.

The following are just a sampling of the items MITA is addressing on your behalf. Although they may not make it into bulletins, please be assured that MITA is involved in issues that impact the heavy/highway and underground construction industry.

- Lighting for night work
- Inspections and enforcement actions associated with soil erosion and sedimentation control (SESC) measures
- Trucking permits
- Strain pole foundation and design
- Prompt Pay
- Settlement of foundations
- Vibration impacts resulting from construction equipment
- Utility delays and damage claims
- Attenuator usage requirements
- ADA impacts
- Mobility policy
- Design Build

Note: MITA is striving for all members to receive the weekly electronic bulletin. If you are not currently

receiving the weekly electronic bulletin, please contact Anita Lindsay at the MITA office or at anitalindsay@mi-ita.com to add your e-mail to the list.

3rd Annual MUCC – Utility Coordination

One of the major issues that MITA continues to be a strong advocate for is upfront and comprehensive utility coordination. The successful and well-attended 3rd Annual Michigan Utility Coordination Conference (MUCC) supported this advocacy. The theme of this year's conference was the "Importance of Communication and Coordination" and helped provide a great kick-off to the 7th Annual MITA Conference held in Mt. Pleasant, January 19, 2011. With over 200 people in attendance, Mike Nystrom, MITA's executive vice-president, and Greg Johnson, MDOT's deputy director, welcomed and opened the conference. The morning sessions focused on the importance of communication, national perspective on utility coordination and a Michigan report card on coordination. This year participants had a choice in the afternoon of attending a presentation of MDOT's new construction permit system or joining the MITA Annual Conference and hearing MITA's keynote speaker discuss "Business Growth Requires Communication, Coordination, Leadership, Development, and many other Factors."

Some comments received from this year's participants were "This is my 3rd year in attendance, and this has been the best MUCC conference so far;" and "Topics were very well covered and the face-to-face interaction between the various utility companies, designers, owner agencies, and contractors is extremely valuable. Thanks for providing another great conference."

To contact Doug Needham, e-mail him at douglasneedham@mi-ita.com or call 517-347-8336.

Underground Spotlight:

Michigan Studying Water Infrastructure Needs

The tough work has now begun on reviewing the state's sewer infrastructure needs and evaluating the funding systems that pay for improvements.

The TF2-style "State Water Pollution Control Revolving Fund Advisory Committee" was created last year with the passage of Public Act 231 of 2010. MITA requested the creation of this in-depth study along with partners at the Michigan Chamber of Commerce, the Michigan Municipal League and the American Council of Engineering Companies. MITA Director of Legislative Affairs, Keith Ledbetter, was appointed in January to represent the heavy construction industry in these deliberations.

As described in the legislation, the advisory committee goals include:

- Increasing the level of investment in sewage collection and treatment systems.
- Providing incentives for action that improve water quality and prevent pollution.
- Optimizing the cost benefit ratio of alternative designs of sewage collection and treatment systems.

The advisory committee has already hosted several marathon meetings to begin building the foundation for an eventual report due by the end of the summer. Discussion thus far has revolved around whether the eventual goal of the report is to create a sustainable State Revolving Fund (SRF) program or whether there should be a more expansive goal of enhancing water quality in Michigan and expanding financing tools.

The group was quick to point out that the SRF program increases interest rates and implements more stringent scoring requirements in order to lower the amounts of loans tendered, thereby ensuring sustainability. This sustainability, unfortunately, doesn't necessarily ensure that Michigan is meeting its sewer infrastructure needs. The committee believes that the current amount of loan applications submitted by communities across the state is not a gauge of actual needs. Instead, it is a reflection of the money

currently available in the existing system. How much more demand would be apparent if a more complete infrastructure financing system was available?

The USDA Rural Development Program administrator reported at one advisory committee meeting that the 2008 federal stimulus package produced a threefold increase in available money for small Michigan communities to invest in their water infrastructure (up to around \$300 million), and all those monies were quickly snatched up. The federal administrator believes that there is even greater demand for water and sewer dollars on an ongoing basis that isn't being met, although it was difficult to pinpoint actual needs.

The advisory committee will continue to meet over the spring and summer to review the state's sewer/water infrastructure needs. To offer input or ideas, feel free to contact Keith Ledbetter at keithledbetter@mi-ita.com.

Specific tasks the advisory committee is hoping to accomplish:

- Propose alternative financing mechanism for funding sewage treatment works projects, storm water projects and nonpoint source projects.
- Reduce and streamline the cost-effectiveness review requirements to be more consistent with local planning needs.
- Update the scoring system to include infrastructure asset management.
- Simplify application procedures.
- Establish protocols for a pre-meeting process for the DNRE to provide informal feedback to review the application and determine the likelihood to receive funding.
- Recommend a new model for establishing interest rates on a sliding scale.
- Review options to allow municipalities to be able to roll project plan expenses into the loans.

SWAD & COMPANY

Gary M. Blanck, CPA

2011 MTA ANNUAL CONFERENCE



Please take an opportunity to thank the following list of sponsors and exhibitors who made the 2011 Annual Conference a great success. Thanks again to all of you!

ANNUAL CONFERENCE SPONSORS

MAJOR SPONSORS

Alta Equipment Co.
AIS Construction Equipment
Association Benefits Company
InfoTech
JDE Equipment Co.
Laborers Local 1076 LECET
Laborers Local 1191 LECET
Michigan CAT
Michigan LECET
Michigan Regional Council of
Carpenters
Operating Engineers Local 324

CO-SPONSORS

Benesys, Inc.
BNY Mellon Asset Management
Butzel Long
Edw. C. Levy Co.
Seizert Capital Partners
TIC International

M.L. Chartier
ERSCO Construction Supply
Give 'Em a Brake Safety
Guy, Hurley, Blaser & Heuer
Klett Recycle
Messner Group of Morgan,
Stanley, Smith, Barney
NEPC, LLC
Northpointe Capital
Pinnacle Insurance Partners
Pro-Tec Equipment Co.
Ritchie Bros. Auctioneers

SUPPORTER SPONSORS

Bell Equipment
Curbco, Inc.
Doeren Mayhew
East Jordan Iron Works
Inspecsol Engineering, Inc.
Jensen Bridge & Supply Co.
Meketa Investment Group
Premarc Corporation
Southeastern Equipment
St. Mary's Cement

3M Traffic Safety Systems
ACE Cutting
Advance Concrete Products
AIS Construction Equipment
Alta Equipment Co.
Association Benefits Company
BARNSCO
BCT Benefits Co.
Bell Equipment
Carrier & Gable
M.L. Chartier
Corrigan Oil Co.
Cougar Sales and Rental
Curbco, Inc.
T. Daniels Consulting
Driesenga & Associates
East Jordan Iron Works
Efficiency Production
Fast Concepts
CSI/Geoturf
Godwin Pumps
Guy, Hurley, Blaser and Heuer
InfoTech
JDE Equipment Co.
Jeffers Crane Service

Michigan CAT
Michigan Laborers Training Center
Mapes Insurance
MDOT-DBE
Michigan Fair Contracting
Michigan Highway Signs
Michigan Laser
MIOSHA
MISS DIG Systems
Non-Destructive Testing
Operating Engineers Local 324
Orion Industrial, LLC
Pinnacle Insurance Partners
Plante & Moran
Pro-Tec Equipment Co.
Quick Fuel
Rain for Rent
Ritchie Bros. Auctioneers
SIETCH MICHIGAN
Snap-Tite/ISCO Industries
Southeastern Equipment
TTL Associates
UHY, LLP
VanManen Petroleum

PATRON SPONSORS

ANNUAL CONFERENCE EXHIBITORS

Jensen Bridge & Supply
Kerkstra Precast



Michigan's Top Engineering and Surveying Projects Recognized at Annual Excellence Awards Ceremony

The American Council of Engineering Companies of Michigan (ACEC/M) recently honored 13 firms for engineering and surveying excellence during the association's annual awards ceremony.

On February 26, engineering professionals and guests gathered at the MotorCity Casino SoundBoard Theatre in Detroit to recognize outstanding Michigan engineering and surveying projects from the past year. Since 1965, firms have competed to receive ACEC/M's top honor – the prestigious Eminent Conceptor Award.

This year's engineering Eminent Conceptor winner was HNTB for the I-75 Ambassador Bridge Gateway Project in Detroit. The project provided a complete transformation of the busiest international border crossing in North America allowing direct connections between the freeway system and the Ambassador Bridge. The main contract, Contract 4, was the largest single contract in MDOT history at nearly \$170 million. The project was completed five months ahead of schedule and created approximately 3,500 jobs. In 2010, HNTB ranked 19 among Engineering News Record's (ENR) top 500 design firms.

Six firms were honored with the Honorable Conceptor Award, the second-highest award of achievement. The firms are as follows: Fleis & VandenBrink for the Northport Waste Water Collection & Treatment Facility (Northport); Mead & Hunt for the Sand Creek Relocation project (Benton Harbor); Spicer Group for the Karn/Weadock Coal Dock Replacement project (Essexville, Mich.); Alfred Benesch for I-196 Reconstruction/Baldwin Street Interchange Improvements (Georgetown); Fishbeck, Thompson, Carr & Huber for the 9 Mile over I-75 Emergency Bridge Replacement (Hazel Park); and a surveying award to Spicer Group for the Henry Ford Hospital Site Information System (West Bloomfield).

Engineering Merit Awards were presented to: Johnson & Anderson for the Water System Control Optimization project (Charter Township of West Bloomfield); NTH Consultants & AEW for the North Gratiot Interceptor-Phase 1 (Chesterfield & Harrison Townships, MI); Abonmarche for the Silver Beach Center (St. Joseph); URS Corporation for the new I-96 Interchange at Wixom Road (Wixom); and C2AE for the new Francis Motz County Park (St. Johns).

The Judges' Choice Award for Board Design was given to Mead & Hunt for the project board designed to tell the story of the Sand Creek Relocation project in Benton Harbor.

This year's ACEC Vernon B. Spalding Leadership Award was presented to William Winiarski, P.E., P.S., retired CEO of ROWE Professional Services, to honor his outstanding leadership roles in ACEC and community organizations. The Felix A. Anderson Image Award was presented to James Page, P.E., retired Detroit Office corporate director of Harley Ellis Devereaux, for his contributions that have enhanced the image of the engineering profession.

The 2011 Engineering & Surveying Excellence Program offers the opportunity to showcase the year's best engineering and surveying achievements to an audience of peers, clients and decision makers at all levels. Eminent and Honorable Conceptor award winners are eligible to compete at the National ACEC competition in Washington, D.C.

For more information on the projects and award winners, please contact ACEC/M at (517) 332-2066 or visit the ACEC/M Web site at www.acecmi.org. ACEC of Michigan represents the business interests of over 100 Michigan engineering, surveying, and related scientific firms who provide professional knowledge to the built environment and strive to protect the health and safety of the public.

MITA Member Project Profile

Upper Peninsula Contractor Separates the Sewer at the Soo, with Help from Efficiency Production Slide Rail System

By James McRay
Efficiency Production, Inc.

Sault Ste. Marie, Mich., like so many other communities, is in the midst of storm-sewer separation upgrades. For many cities, that can mean miles of new pipe or upgraded utilities. Sault Ste. Marie has a unique challenge in that its historic downtown area is essentially an island, with the famous Soo Locks closely adjacent to the excavation area.

Taking on a part of this very unique and difficult project is Bacco Construction Company, headquartered in Iron Mountain, Mich., in the center of Michigan's Upper Peninsula. The \$9.5 million CSO Control C-1 C-2 Div A project entails installing 2,000 linear feet of new sanitary sewer pipe as deep as 28 feet, with an average depth of 22-24 feet deep.

Ironically, it was not Sault Ste. Marie's adjacent historic buildings and Indian Burial Park that were the biggest excavation challenges for Bacco. Certainly, maintaining the surrounding buildings and structures was important. First and foremost was the safety of the workers due to the depth of the excavation. The other major factor came down to cost and economics.

"Sault Ste. Marie requires Class 3 sand as backfill which is very expensive, especially in the Eastern Upper Peninsula," said Chris Wentland, Bacco's Project Superintendent. "Therefore, it was very important that we excavate out as little dirt as possible, but also move as quickly as possible."

Given this consideration, it left Bacco with very few excavation and shoring options. So, Bacco contacted Efficiency Production, Inc., – a leading manufacturer of trench shielding and shoring equipment – for consultation and solutions.

Slide Rail perfect for safety requirements

"We knew that Efficiency had a Slide Rail (Shoring) System that seemed like it would work great, but we had never used Slide Rail or even seen it used," continued Wentland. "So, Efficiency sent us out to Salt Lake City, Utah, to see the system in use."

Explained Mike West, Efficiency Production's Vice President of Engineering: "There are a couple of contractors in Salt Lake City using hundreds of feet of Slide Rail to install the big aqueduct system there," he said.

"One contractor has been using our system for several years, so it was a great example for Bacco to see how Slide Rail would work on their project," finished West.

Efficiency's Universal Slide Rail is a component shoring system comprised of steel panels (similar to trench shield sidewalls) and vertical steel posts. The versatile system can be used in a variety of configurations, such as small four-sided pits; large unobstructed working pits as big as 50 x 50 ft. with Efficiency's ClearSpan™ System; or in a linear Multi-Bay™ configuration to install length of pipe over 40 feet.

"After we got back from Utah, I was confident that with a little practice, we'd be just as good as those guys who've been using Slide Rail for awhile," said Wentland.

Continues on pg. 55



Another advantage of using Slide Rail in the linear configuration is that as bays are removed from the back end of the trench, they can be "leap-frogged" to the front end; thus increasing the utilization of the system which also saves money.



Ironically, it was not Sault Ste. Marie's adjacent historic buildings and Indian Burial Park that were the biggest excavation challenges for Bacco. Due to the high cost of backfill, it was essential to excavate out as little as possible, but also move quickly.



After an initial learning curve, Bacco's crew were typically getting in 80 to 100 linear feet of 8 foot long, 18 inch diameter reinforced concrete pipe per day at an average depth of 22 feet.



Emergency Financial Managers Act: Could Managers Cancel Public Works Contracts?

On March 16th, Governor Snyder signed into law the "Local Government and School District Accountability Act." This new law "strengthens" a collection of prior statutes, and provides greater powers to an Emergency Financial Manager ("EFM") who is appointed to take over and manage struggling municipal governments and public school districts. As anyone who has watched the news lately, the law has drawn the ire of unions because it permits the EFMs to reject, modify, or terminate of one or more terms and conditions of an existing collective bargaining agreement. All of the televised union protests and furor has overshadowed the potential impact to the infrastructure and transportation construction industry. The EFM's authority may arguably extend to canceling existing competitively bid public works construction contracts. This column is intended to alert you to the new risks your company might face, and to advise you of the measures you may take to protect yourself.

How "At Risk" Are Local Government Construction Contracts?

In November 2010, Governor-elect Rick Snyder appointed a 10-member Government Work Group, headed by the executive director of the Southeastern Council of Governments (SEMCOG), to make recommendations to his administration concerning the financial condition of local units of government in Michigan. Following its review, the group issued a report that notes: "The State of Michigan and many of its local governments, even those best fiscally managed, are experiencing severe economic stress."

How many local governments are there in Michigan? There are 83 counties in the state. The counties are further divided into 1,242 townships, 274 cities, and 259 villages. In addition there are 533 school districts, 243 charter schools (which under the law are treated as individual school districts), and 57 intermediate school districts. The total number of municipally-owned utilities is unknown; however, according to the Michigan Municipal Electric Association there are 41 municipally owned electrical utilities.

Anemic State coffers forced Governor Snyder to make necessary yet painful cuts in the State's budget. On February 17, 2011, Governor Rick Snyder submitted his Fiscal Year 2012 Executive Budget to the Michigan legislature and among his recommendations is an additional reduction in State Revenue Sharing. Although a new \$200 million fund would award grants to local governments if they demonstrated efficiency and effectiveness, the leaders of dozens of struggling counties, cities, towns, villages, and townships are expected to face a financial crisis, since this loss of statutory revenue sharing constitutes 40- to 50- percent of some local governments' general fund budgets.

Governor Snyder's proposed Budget also cuts spending for public schools by about four-percent, and would cut five-percent from the intermediate school districts. In addition to struggling counties, towns, townships, and villages, as many as 40 school districts may also face financial emergencies in the coming year. In short, looming fiscal crises for local governments and school districts made this new law necessary in order to stave off ruinous bankruptcies.

Historically, the state has intervened to assist local units of government and school districts when they faced a financial emergency. Under the prior package of statutes, the state could employ three strategies if a fiscal emergency was declared in a local government: (1) local officials could develop and implement a plan to resolve the crisis under a consent agreement negotiated with a state-appointed review team; (2) a state-appointed EFM could develop and implement a plan to resolve the financial crisis; or (3) if the EFM recommended and the state approved such action, a local government could file under Chapter 9 of the federal bankruptcy code. Seven Michigan communities have had EFMs appointed under the old statutory scheme: Hamtramck (in 2000); Highland Park (in 2001); Flint (in 2002); the Village of Three Oaks (in 2008); Ecorse (in 2009); Pontiac (in 2009); and Benton Harbor (in 2010). Additionally, a financial manager was appointed for the Detroit Public School District in 2009.

Several organizations including the Michigan Chamber of Commerce, the Mackinac Center for Public Policy, and the Citizens Research Council recommended that changes be made to the state statutes so that EFMs would have greater authority to act unilaterally in a fiscal emergency in order to ensure communities will avoid bankruptcy and its many possible adverse effects, including higher borrowing costs for adjacent communities, as well as for the State of Michigan. For instance, under the former Acts, the State could appoint an EFM to temporarily operate the local government or school district. Under those former statutes, an EFM could renegotiate union contracts but not break them. That is no longer the case. The Act places some restrictions on the EFM's ability to break contracts, namely, to prove it is necessary, based on the "financial emergency" and the good of the public. MITA is concerned (and rightfully so) that the EFM seemingly could also break existing competitively bid public works construction contracts.

Emergency Financial Manager's Authority.

One of several events triggers the State's review of a city or school district's finances, such as payless paydays or a failure to meet a pension obligation, defaulting

Continues on pg. 57

Build a Better Future



Distinctive Degrees for Construction Leaders

Associate
Construction Engineering Technology

Bachelor's
Architectural Engineering
(combined bachelor's and master's program)
Civil Engineering
Construction Management
Engineering Technology

Master's
Civil Engineering
Construction Engineering Management
Engineering Management

Explore over 100 undergraduate, master's, and doctoral programs in Colleges of Architecture and Design, Arts and Sciences, Engineering, and Management.

Lawrence Tech
Leaders in the Making

Lawrence Technological University
21000 West Ten Mile Road
Southfield, MI 48075-1058
800.225.5588 | www.ltu.edu





WORK HARD. REST EASY.



MORE CARE. BUILT IN.

Getting the job done and sleeping soundly just got easier. With the new partnership of **Volvo Construction Equipment** and **Alta Equipment Company**, you can now buy some of the most fuel-efficient machines in the industry from a dealer committed to service. Work hard and rest easy knowing Alta is behind you.

Visit **Alta Equipment Company** now to learn more – and see for yourself how we will help you reach greater profits through lower operating costs.



ALTA EQUIPMENT COMPANY

www.altaconstructionequipment.com

Battle Creek
269-965-1269

East Detroit
586-716-2982

Grand Rapids
616-878-7450

Kentwood
616-698-2960

Lansing
517-272-5033

Metro Detroit
248-356-5200

Muskegon
231-798-8754

Romulus
734-641-8238

Saginaw
989-752-9400

Sterling Heights
586-977-6000

Wixom
248-449-6700

Zeeland
616-748-4108

Vice President of Membership Services Continued from pg. 21

A portion of my statement follows:

My name is Rob Coppersmith and I am the Vice President of Membership Services for the Michigan Infrastructure and Transportation Association, which is a statewide construction association with over 500 members representing thousands of road workers in the heavy construction industry. MITA assists the construction industry in protecting its employees by preparing work zone training for our members, working with the government on drafting traffic safety laws, such as Andy's law, and meeting with the road construction industry and other partners to determine how to make our roads safer for construction workers.

*MITA and the road construction industry are greatly impacted by Mr. Doe's * criminal conduct, as well as the conduct of similar individuals on our roads. MITA works endlessly to make our roads safer for its members, by providing training on best practice principals for the industry. Our member, the employer of the victim in this case, is a long-standing member and is more than diligent with regard to training efforts, which they have demonstrated on a regular basis. By doing so they have provided their workers with some of the safest conditions a road construction worker could ask for.*

Despite MITA and our members' efforts to protect road workers, careless drivers, such as Mr. Doe, create a dangerous environment for our industry every day. Without the assistance of the courts in enforcing our laws, the statistics of injuries and deaths to road workers will continue to rise. On a daily basis, we are faced with an apathetic driving public that tends to focus on how they have been inconvenienced by construction work being performed on their behalf. Many of the road workers MITA trains talk of the distractions drivers exhibit on a daily basis: texting, putting on make-up, eating breakfast or reading the paper, not to mention more careless or depraved acts such as drinking and driving. Many of

these practices are dangerous on their own but are greatly amplified when you place construction workers just feet from a vehicle under the control of one of these individuals. Public education may curb some of these behaviors, however, when education is not enough, the road construction industry relies on our courts to enforce the laws put in place to protect them. Mr. Doe, a repeat offender of drinking and driving, demonstrated that he is one of those individuals that our efforts cannot reach. He should be given the maximum sentence, thus ensuring road workers that he can no longer be of threat to them and possibly himself. Furthermore, MITA hopes that a strong sentencing in this case, against an individual who has habitually violated our drunk-driving laws, will be a deterrent to others who consider driving while intoxicated.

It is my sincere hope that we can leave here today with a positive message for the construction industry, and I hope my words resonate in the court long after today. Mr. Doe is just the tip of the iceberg regarding poor driver behavior in construction work zones. His actions just happen to be the most egregious.

MITA and the heavy construction industry thank you for your time today.

After our impact statements had been delivered, the judge fell silent. When she finally spoke, she admitted that she made a mistake in saying that our statements would not impact her initial decision. After repeating portions of each of our impact statements, she said construction work does warrant special attention by the courts and told the offender that he was going to jail.

Closure is important when it comes to many of life's challenges. After getting to know those involved in and close to this incident, I believe it was paramount for moving forward and I thank everyone for speaking out that day in court to help safeguard construction industry employees.

MITA has been working diligently on promoting job site safety analysis forms that put safety on the job prior to the crew getting there. Consider using these resources as you go forward and take a proactive stance toward safety.

Please keep this article in mind as you go to your job sites each day. Remember, you cannot control every hazard you face, but you can try to anticipate and limit the possibility of your exposure to them.

**Real name withheld from publication.*

To contact Rob Coppersmith, e-mail him at roboppersmith@mi-ita.com or call the MITA office at 517-347-8336.



Michigan's reliable traffic safety specialists for over 25 years.

CAPITOL BARRICADING, INC.

Providing:

- Full service traffic control
- Temporary and permanent signing
- Equipment rental and sales
- Message and arrow boards

We have a solid reputation for providing outstanding service and reliability. And, we have quickly become the company of choice for bridge scoping lane and shoulder closures.

Contact us today!

Phone: 517.372.1291

Fax: 517.694.6123

E-mail:
info@capitolbarricading.com
Offices in Mid-Michigan



Capitol
Barricading,
Inc.

MDOT DBE
Certified

Director of Legislative Affairs Continued from pg. 27

Washabaugh of Northern Concrete Pipe were members who joined MITA staff in testifying on behalf of the industry at the hearing.

Special Committee on Transportation Funding Alternatives Named

State Representative Paul Opsommer (R-DeWitt), Chairman of the House Transportation Committee has named Rep. Rick Olson (R-Monroe) and Rep. Roy Schmidt (D-Grand Rapids) to serve on a special legislative committee to look at transportation funding options.

Sound familiar? The Transportation Funding Task Force (TF2) met for almost a year to discuss various transportation-funding options in 2008. The committee presented their findings to policymakers at the conclusion of the year-long review effort. Now, this special subcommittee will use the TF2 report as a template to develop and identify some new ideas of their own.

MITA staff is encouraged by the new effort to focus on transportation investment and was one of the first groups to meet with the new subcommittee.

Statute of Limitations on Suing Contractors Reduced Under Bill

Director of Safety & Workforce Development Continued from pg. 24

a hazard, avoid a hazard, control a hazard and eliminate a hazard. If something feels wrong, it's probably wrong. If something looks wrong, it's probable wrong. FIX IT!!!!

Federal OSHA has implemented Sub Part CC. This is the lifting and digging standard. MIOSHA is finalizing its "as affective" version and there is no timetable as to when that will be implemented. Currently MIOSHA is following the federal standard and can write General Duty violations if there is a Serious hazard. There is information on both MITA's and MIOSHA's websites. Significant changes that will affect MITA members will be: All crane operators will have to be certified crane operators (CCO) within 4 years. For union contractors, this may be accomplished through the Operators Training Center. For non-union contractors, you will need to seek an accredited program. MITA has been contacted by ATS Specialized Training, which has sites all across the United States. ATS has the ability to train operators to meet the requirements of the new standards. ATS can be contacted at 800-678-8149 or www.MobileCraneOperator.com.

Two other important changes are the need for a certified signal person and a qualified rigger during lifting operations. The standard spells out exactly what is required; but, in short, the signal person will need training and either a written or practical test. A qualified rigger needs to meet the requirements of a qualified person in the area of rigging and know all there is to know about proper rigging, as well as some knowledge of how the crane is affected by what is being lifting. These requirements took affect when the standard did. MITA is in talks with some local rigging companies to coordinate the necessary training.

As the season is getting started, make sure to contact the MITA office and schedule a job site inspection. This is a detailed audit that points out any potential job site hazards and reinforces all of the positive things your crew has accomplished. It never hurts to have a third party evaluate your progress.

.....
If you have any questions, contact Patrick Brown at patrickbrown@mi-ita.com or call the MITA office at 517-347-8336.

A bill recently passing the Senate Judiciary Committee would establish a two-year statute of limitations on actions against architects and professional engineers, and a three-year statute of limitations on actions against contractors, to recover for property damage or personal injury.

The 2006 State Supreme Court Ostroth decision had changed years of legal precedent and more than doubled the statute of limitations in some cases. Since the decision, injured parties could bring an action against an architect, professional engineer or contractor up to six years after the completion of a real property improvement.

Legislators Seeking Government Reform Ideas

Do you see government regulations and inefficiency that are needlessly costing your business or taxpayers money? MITA has been asked by legislators to provide ideas on ways they can streamline government and make a more business friendly environment.

Send your ideas or suggestions to keithledbetter@mi-ita.com.

.....
To contact Keith Ledbetter, e-mail him at keithledbetter@mi-ita.com or call 517-347-8336.

Construction Related Engineering Services

- Vibration Monitoring
- Value Engineering
- Temporary Shoring/Support Design
- Design-Build Engineering
- Foundation Investigation/Design
- AASHTO Accredited Laboratory
- Construction Engineering & Testing
- Environmental Testing & Design
- Geophysical Investigations
- Subsurface Utility Engineering

EverydayBrilliance

Brilliant engineering solutions - delivered daily.



NTH Consultants, Ltd.

Infrastructure Engineering
and Environmental Services

(800) 736-6842
www.nthconsultants.com

Member Outreach Spotlight: Legislative Meeting Tips

The 96th Legislative Session is well into its third month and MITA members have been actively engaging their elected officials and getting noticed. Within the past three months, MITA members have met with close to two dozen legislators, testified in front of several legislative committees, and attended one of the three MITA Industry Nights, where there were 12 legislators in attendance and three staff representatives from different legislative offices.

The efforts being put forth by MITA members are being noticed by the legislators. After an in-district visit from a MITA member, a senator, through his chief of staff, reached out and requested a meeting with the member at their business location to discuss transportation funding. In this request, the chief of staff specifically stated, "Clearly, something has to be done soon as it relates to attaining a more stable and reliable funding mechanism for transportation infrastructure and your insights would be most helpful."

In another instance, during a number of the legislative meetings held by MITA's staff, the legislators made a point to mention that they recently met with a MITA member constituent. It is this type of involvement from members that energizes the enthusiasm of the legislators and instills in them a willingness to attend MITA's various events.

Momentum is gaining and the legislators are taking notice of the outreach efforts. More and more, MITA members are becoming a trusted resource to their elected officials on the issues of infrastructure and transportation funding. It is important that MITA members continue the process of outreach and education to their legislators, so this trend will continue.

To ensure that you're always prepared when you meet with your legislator here are a few good tips to remember:

1. Before your meetings identify the issue or issues you want to discuss.
2. Prepare for the meeting
 - i. Jot down notes of specific items you wish to cover.
 - ii. Have the relevant facts and data.
3. Attend the meeting
 - i. Make it real and personal.
 - ii. Always be credible with the information and facts you provide.
 - iii. Be focused on the purpose of the meeting and what you are looking to accomplish.
 - iv. Ask questions and answer questions.
4. Make your request /ask. What is it you would like your elected official to do following your meeting?
5. Mail or e-mail a thank you to your legislator following your meeting.
6. Follow up on the status of your request/ask.
7. Let MITA staff know how your meeting went and whether there are follow up issues/questions.
8. Plan to follow up with a second meeting in three to four months to continue developing your relationship with your elected official.

If you want to become more involved in legislative outreach, but don't know how or where to start, please contact Nicole Cook, outreach coordinator at nicolecook@mi-ita.com.

GBM RECYCLED CONCRETE, CO.

- Whitmore Lake Road, Whitmore Lake
- Chilson Road, Howell
- Kensington Road, Brighton
- North Dort Highway, Flint
- Hawley Road, Holly

7644 Whitmore Lk. Rd. • Brighton, MI 48116
phone: 810-231-5188 • fax: 810-231-5404



Need more access to information? It may be time to look beyond FieldManager® Read-Only.

FieldManager® Contractor



Provides all of the functionality of FieldManager Read-Only, plus:

- Create discrepancy reports and a daily progress discrepancy by item
- Establish the basis of a subcontract and easily calculate a subcontractor total dollar amount; track DBEs
- Import your Trns•port Expedite® Bid (.ebs) file or build your own contract
- Track costs of personnel and equipment per day and track your daily revenue
- Create payment reports for subs and export to accounting

Developed for users, by users...experience user-driven development. License today!

info
TECH

www.infotechfl.com
info@infotechfl.com
352-381-4400

Legal Issues

Federal Judge Stops Attacks On Drug Free Work Place Efforts

By Donald H. Scharg
Bodman PLC

MITA members received some encouraging assistance, from a western Michigan federal judge, in their efforts toward a drug free work place, a goal which protects the health and safety of their employees. Drug free work place efforts have been stymied by the Michigan Medical Marihuana Act (MMMA). Although passed by Michigan voters with good intentions, the MMMA has actually promoted dangerous work places as employees with State issued medical marihuana cards claim protection from termination after positive marihuana drug tests. More disconcerting is the realization that many of these 56,000 individuals who have the State's permission to use medical marihuana are working employees and some employed by MITA members.

On February 11, 2010, a federal judge in Grand Rapids ruled in *Casias v Wal-Mart Stores, Inc.* that a licensed medical marihuana user, terminated for a positive drug test, could not sue his employer for wrongful discharge under the MMMA. The plaintiff worked for Wal-Mart for five years and was considered a good employee. He obtained the medical marihuana card because of cancer treatments and tested positive for marihuana after an on-the-job injury. Wal-Mart terminated him and he sued, claiming that licensed medical marihuana users were protected from discharge under the MMMA.

The pro-medical marihuana advocates claimed that the MMMA was specifically written to protect employees from discharge. They relied on Section 4 of the MMMA which states that a "qualifying patient" with a registration card "shall not be subject to arrest, prosecution or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional board or bureau, for the medical use of marihuana in accordance with this act ..." (Emphasis added). The federal judge disagreed.

According to the federal judge, the purpose of the MMMA was to provide a "potential defense to criminal prosecution or other adverse action by the state."

The judge ruled that the phrase, "civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau" was not meant to protect employees against discharge. Rather, the MMMA was meant to protect against potential criminal prosecution, loss of state-issued licenses (such as a master electrician license), or other adverse action by the state.

Although not decided in the Wal-Mart case, federal law is also on the employer's side. The MMMA may be preempted by federal law. Under, *Gonzales v. Raich*, a United States Supreme Court decision, federal law criminalizing marihuana preempts state medical marihuana laws. In 2010, the Oregon Supreme Court examined a law similar to the MMMA and ruled in *Emerald Steel Fabricators, Inc. v. Bureau of Labor and Industries* that state medical marihuana laws do not override federal law which classifies marihuana as illegal. The discharge of an employee who identified himself as a medical marihuana user was allowed in the Oregon case.

The Wal-Mart decision is important and helpful, but MITA members cannot let their guard down. Wal-Mart is one decision, by one judge, and it is not binding on any other federal and state judge. Any other judge, faced with a similar lawsuit filed by a different discharged employee could come to a different conclusion and rule that Michigan employers do not have the right to discharge a licensed MMMA cardholder testing positive for marihuana. And, the plaintiff in Wal-Mart and his supporters have vowed to appeal, an action that may take years to reach a final resolution.

What should MITA members do? Until some finality on the scope of the MMMA is reached, MITA members should consider the following options when faced with a positive marihuana test from an employee with a state-issued MMMA card:

- Concentrate on the importance of protecting the health and safety of employees. Review drug and alcohol policies and revise when appropriate.
- Continue to drug test where appropriate.

Look for the traditional signs of being under the influence of marihuana (e.g., dilated pupils, smell on clothing, bloodshot eyes, sluggish or sleepy appearance, reduced motivation, difficulty thinking, impaired judgment, and increased appetite).

Identify how often the employee uses marihuana and the most recent use before work.

Contact MITA's professional staff for guidance.

When considering discharge, work with an experienced employment law professional.

Michigan employers have been rightly concerned that the MMMA hampers their efforts toward a drug free workplace. Maintaining a drug free workplace requires even more effort and employers should not address medical marihuana issues without the guidance of experienced counsel.

Donald H. Scharg, a member of the Bodman PLC and its Workplace Law Group, has been representing MITA and its members for over 20 years. His practice is limited to representing employers in labor and employment matters. Don Scharg can be contacted at Suite 500, 201 West Big Beaver Road, Troy, MI 48064 or at (248) 743-6024.



YES, WE CAN! www.aisequip.com

AIS, YOUR AUTHORIZED FINN EQUIPMENT DEALER



STRAW BLOWERS



BARK BLOWERS



HYDRO SEEDERS



CONSUMABLE PRODUCTS

■ Grand Rapids (616) 538-2400

■ Lansing (517) 321-8000

■ Richmond (586) 727-7502

■ Saginaw (989) 777-0090

■ Traverse City (231) 267-5060

Member Voice

From time to time we ask MITA members questions about issues of importance to the industry. Some of the answers are then published in this magazine.

Do you have a renewed sense of confidence about the direction of Michigan under the new leadership of Governor Snyder? Why or why not?

1. He accepts fiscal responsibility for the state budget.
2. There is transparency in decision making and measures on his team's performance.
3. Infrastructure investment is on his agenda and part of the "dashboard."
4. He and his team showed skill in negotiating the \$500M match gift for the international bridge project.
5. Refuses to wear a tie.

S. Evan Weiner
Edw. C. Levy Co.

Just his business background should be a plus.

David F. Doub
Warner Petroleum

Yes, I do because he is not afraid to dump everything on the table and disturb the status quo, which hasn't been working. This includes examining all the special interest and incentives. Plus, as a business man, he understands that when the outgo exceeds the income, you need to quit spending!

Leslie Loftus
Veritas Benefits Group, LLC

Governor Snyder seems to understand that taxing does not fix a spending problem.

Jason Walk
Traffic Control Corp.

There are many difficult decisions that need to be made to put Michigan back on track and many of those decisions will prove to be unpopular. Governor Snyder is up to that task. He has already demonstrated that he is more interested in facing and solving Michigan's issues than he is at catering to partisan politics. The kick the can approach has not worked in the past and has only resulted in an increased burden for our future generations. I am glad to see that we are finally talking about truly fixing the issues instead of how to spin them to make one political party look better than the other. My hat is off to him!

Jeffrey S. Elliott, P.E.
TTL Associates, Inc.

I think it is going to take some time, but Gov. Snyder is on the right track. He is taking a common sense approach, and getting back to Business 101. Government is a business, a very large business, and reducing overhead in difficult times is a key to success and longevity.

Jeffery Goretski
Goretski Construction

He is offering a favorable atmosphere for business to return to Michigan. Those that have not been taxed on their pensions, or been given free money, will finally have to pay their share. It's a tough decision but it needs to be done.

Kurt D. Kloha
Pyramid Paving Co.

Reduced emphasis on fluff jobs programs such as bringing in the movie industry with tax incentives that appear to allow entertainment companies to operate in our state essentially tax free in exchange for a few short term jobs.

David Hohmeyer
Soils & Structures

Governor Snyder seems to be about the people and their voice. He wants to see Michigan grow into the state it once was. I'm confident that he will keep pursuing what is right for our state: growth. It's nice to see our governor working for Michigan.

Joshua Thorne
Pro-Tec Equipment, Inc.

Continues on pg. 53



ENGINEERS-CONTRACTORS
IRON MOUNTAIN, MI 49801
An Equal Opportunity Employer

Highway Construction
Site Development
Private Drives
& Parking Lots
Concrete Construction
Bituminous Paving
Earth Moving
Sewer and Water Construction

MEMBERS
Michigan Infrastructure & Transportation Assn.
Wisconsin Transportation Builders Assn.
MI Associated General Contractor
Michigan Asphalt Paving Assn.
National Asphalt Pavement Assn.

Member News

Bultema Excavating Incorporated

Bultema Excavating Inc., is proud to announce that they celebrated their 65th anniversary. Congratulations!



Fishbeck, Thompson, Carr & Huber, Inc.

www.ftch.com

Serving clients for over 55 years, FTC&H is a full-service civil engineering, environmental, architectural/engineering, and construction management firm with over 340 employees. With Michigan offices in Grand Rapids, Lansing, Kalamazoo, Farmington Hills, and in Cincinnati, Ohio, FTC&H is one of the Top 500 design firms in the United States as ranked in Engineering News-Record.

Promotion

Kamran Qadeer, P.E., has been promoted to associate, a key management and leadership position at Fishbeck, Thompson, Carr & Huber, Inc. (FTC&H).

Qadeer, a senior project engineer, joined FTC&H in February 2009 and works out of the Farmington Hills office. He has over 23 years experience in transportation engineering, including road-way and bridge design, municipal engineering, residential and commercial land development, and project management. His municipal engineering experience includes site plan reviews, water distribution, storm water infiltration, drainage studies, and water main and sewer design.

He received his bachelor of science degree in civil engineering from the Indian Institute of Technology in India. He also holds a master of science degree in civil engineering from the University of Michigan and an MBA in international business and finance from Eastern Michigan University. Qadeer is a registered professional engineer in Michigan and is an MDEQ-certified storm water inspector.



Kamran Qadeer, P.E.

Grant Thornton LLP

www.grantthornton.com

The people and independent firms of Grant Thornton International Ltd provide personalized attention and the highest quality service to public and private clients in more than 100 countries. Grant Thornton LLP is the U.S. member firm of Grant Thornton International Ltd, one of the six global audit, tax and advisory organizations. Grant Thornton International Ltd and its member firms are not a worldwide partnership, as



**Ebony
Construction
Company, Inc.**

Asphalt Paving

Milling

Material Supply

Certified in Indiana, Michigan & Ohio

8(a), DBE, MBE, SDB, EDGE, NOMBC

419-841-3455 [phone]

419-841-7845 [fax]

ebonyco.com [website]

3510 Centennial Road, Sylvania, Ohio 43560

An equal opportunity employer

each member firm is a separate and distinct legal entity.

The flurry of recent tax legislation and the lingering effects of the economic downturn make this tax-planning environment one of the most challenging in recent memory. Contractors need to do what they can to improve cash flow by effectively managing their tax burdens and leveraging any available new tax incentives. Tax planning over the next two years will require thoughtful and nimble analysis.

In order to help contractors with their planning, Grant Thornton LLP's Construction Group has developed eight tax tips for contractors. Below is a sampling of some of the things construction contractors should keep in mind:

1. Double bonus depreciation – full expensing! Lawmakers have extended and doubled bonus depreciation, allowing full expensing for many assets placed into service through 2011. Property qualifying for bonus depreciation that is placed in service after Sept. 8, 2010, and through the end of 2011, will be eligible for full 100 percent expensing.
2. Review deferred compensation plans. Most contractors are

struggling to remain profitable in this difficult environment.

If your company cannot afford large bonuses to retain key employees, now is the time to revisit alternative compensation arrangements.

3. Certain S corporations should consider taking gains in 2011. If you converted to S corporation status in 2004 or 2005, consider sales of "gain" property in 2011. Special provisions enacted over the last two years provide a reduced seven-year period for sales that take place in 2009 or 2010 and a five-year period for sales of property during 2011.
4. Take full advantage of capital asset expensing deductions. Rules originally intended for small businesses were significantly expanded to allow contractors to expense up to \$500,000 of 2010 fixed asset costs, provided less than \$2 million of assets were placed in service throughout the year. Unlike bonus depreciation, this applies to new or used assets.
5. Maximize Section 199 deductions. The Section 199 domestic production activities deduction is a unique tax incentive available to most contractors. This incentive allows taxpayers to

Continues on pg.46



NEED
HELP
MEETING YOUR
DBE GOALS?

Think **MITA MBE/WBE/DBE**
Solicitations website
www.mi-ita.com/ads.asp

DID YOU KNOW...

MDOT recognizes the MITA MBE/WBE/DBE Solicitations website advertisements as an approved part of your "Good Faith Effort" and DBE contractors looking for work are visiting the site daily. What other reasons do you need to visit www.mi-ita.com/ads.asp today?



Member News

Continued from pg. 45

deduct 9 percent of qualifying production activities, which includes the construction of substantial renovation of domestic real property.

"To learn how these tax tips may apply to your contracting business, please contact your tax adviser," said Todd Taggart, tax partner and practice leader of Grant Thornton LLP's Construction Practice.

Grant Thornton LLP's Construction, Real Estate and Hospitality group has developed

eight tax tips for contractors. To read all of the tax tips in their entirety, visit www.granthornton.com/crhtaxtips.

Michigan CAT

www.michigancat.com

MacAllister Machinery co., Inc. Purchases Michigan CAT

The MacAllister family, sole owners of MacAllister Machinery Co. Inc., the Caterpillar dealer for Indiana, acquired Michigan Tractor and Machinery, the Michigan based CAT dealer, on January 31. MacAllister Machinery was established in 1945 and is headquartered in Indianapolis with 16 locations throughout Indiana. The company has 750 employees and serves customers in heavy construction, coal, quarry/aggregate, scrap/waste, commercial/residential construction, agriculture and power systems industries.

Chris MacAllister, now president of both firms, sees great potential for synergy between the sister companies. "Michigan CAT has a strong reputation for excellent customer service, a very good organization and a market twice the size of MacAllister. There are significant opportunities to grow and improve each company by sharing information, best practices, resources and common functions.

Michigan Tractor, more commonly known as Michigan CAT, was founded in 1944 by Jerrold A. Frost Sr., who served as chief executive officer until 1971. At that time his son-in-law, Mark Jung, was elected president. His son, Jerrold M. Jung, was elected dealer principal, in 1988. The sale of Michigan CAT culminates three generations of ownership by the Frost and Jung families. Jerry Jung has served as dealer principal and chief operating officer of Michigan CAT for almost three decades. Michigan CAT

GUY HURLEY BLASER & HEUER LLC

INSURANCE AND SURETY SERVICES

Does
your
agent
read the



We Do.

www.ghbh.com
248-519-1400



VERITAS BENEFITS GROUP LLC
EMPLOYEE BENEFIT SPECIALISTS

services industries similar to MacAllister and covers the lower peninsula of the state from eight locations. In addition to continuing agreements with Caterpillar Inc., and allied manufacturers, Michigan CAT will remain a partner with the International Union of Operating Engineers, Local 324, a relationship that began in 1971.

Jerry Jung elected to sell Michigan CAT when subsequent generations expressed their desire to explore other ventures outside of the equipment industry.

"Words cannot express how proud I am of the people of Michigan CAT," Jung said. "I extend the most heartfelt thanks to our customers, employees and retirees who have made Michigan CAT so special for the last 67 years and I retain the highest hopes and best wishes for both Michigan CAT and MacAllister for many more years to come."

NTH Consultants

www.nthconsultants.com

New Program

The City of Pontiac and NTH Consultants, Ltd. (NTH) jointly unveiled a new environmental educational program in December, which is designed for 1st through 8th graders in the City of Pontiac. The program, called Otto's Great Water-

YOU CAN HELP OTTO SAVE THE WATERSHED!

ABOUT OTTO
Otto is a river otter that lives in the watershed. Otto is a friendly otter, but his favorite place to be is in the water! He lives in a den with lots of tunnels, and he likes to come out of his den to swim.
The biggest problem for Otto and all river otters is pollution. We all need to do everything we can to keep the watershed clean. Otto is tired of his home being polluted. With your help, he's going to fix it.

"ONLY RAIN IN THE DRAIN"
DISPOSE OF PET WASTE BY BAGGING IT AND PUTTING IT IN THE TRASH.

KITTY LITTER IS GREAT FOR SOAKING UP MOTOR OIL, ANTI-FREEZE AND OTHER SPILLED LIQUIDS.

PAINT, CHEMICALS AND OTHER HOUSEHOLD TRASH SHOULD NEVER BE DUMPED INTO THE STORM DRAINS.

RAIN BARRELS ARE A GREAT WAY TO CONSERVE WATER AND MONEY.

PLAY THE VIDEO GAME!

HELP OTTO SAVE THE WATERSHED AT:
www.pontiacmi.us/nth/watershedgame.html

THE CITY OF PONTIAC'S

OTTO THE RIVER OTTER



OTTO'S GREAT
WATERSHED RESCUE!

www.pontiacmi.us/info/watershedgame.html

shed Rescue, was funded by a grant through the Michigan Department of Natural Resources and Environment (MDNRE), and seeks to educate school children on community watershed management principles. The program was unveiled as part of the 2010 Watershed Seminar, sponsored by the Michigan Water Environment Association.

The educational program examines common sources of watershed pollution and how seemingly small, environmentally-friendly behaviors at home can significantly improve the quality of our rivers, lakes, and streams. A comic book and video game featuring Otto the River Otter and three polluting monsters have been developed

Continues on pg.48



Specializing in:
Pipe Jacking
Soft-Ground Tunnelling
Rock Tunnelling
Shafts and Caissons
Underground Concrete Structures

Jay Dee Contradors, Inc.
38881 Schoolcraft Road
Livonia, MI 48150
734-591-3400
Fax 734-464-6868



Member News

Continued from pg. 47

by the City and NTH. The computer video game, which closely follows the learning discussed in the comic book, can be found on the City of Pontiac's website by following the link www.pontiac.mi.us/info/watershedgame.html.

The concept for the comic book and video game was borne from the desire to develop an innovative and creative medium to educate. From historical data, it has demonstrated that the static printed literature and informational meetings did not yield the intended results.

"Educational outreach is a critical step toward improving environmental stewardship in all our communities," says Leon B. Jukowski, City of Pontiac mayor, "and reaching school-aged children with this message is an important part of their future too."

With MDNRE's help, the City of Pontiac and NTH plan to spread their environmental message during 2011 by developing a school-focused marketing program and constructing a traveling Otto exhibit that will reach many of the city's children.

This is the third of three grants the city has been awarded to address watershed management and awareness. The first grant funded through the Clean Michigan Initiative allowed the city to complete a Michigan Department of Natural Resources & Environment approved Watershed Management Plan. The second grant resulted in an implementation of the Watershed Management Plan demonstration project whereby a Rain Garden was constructed at the city's Library.

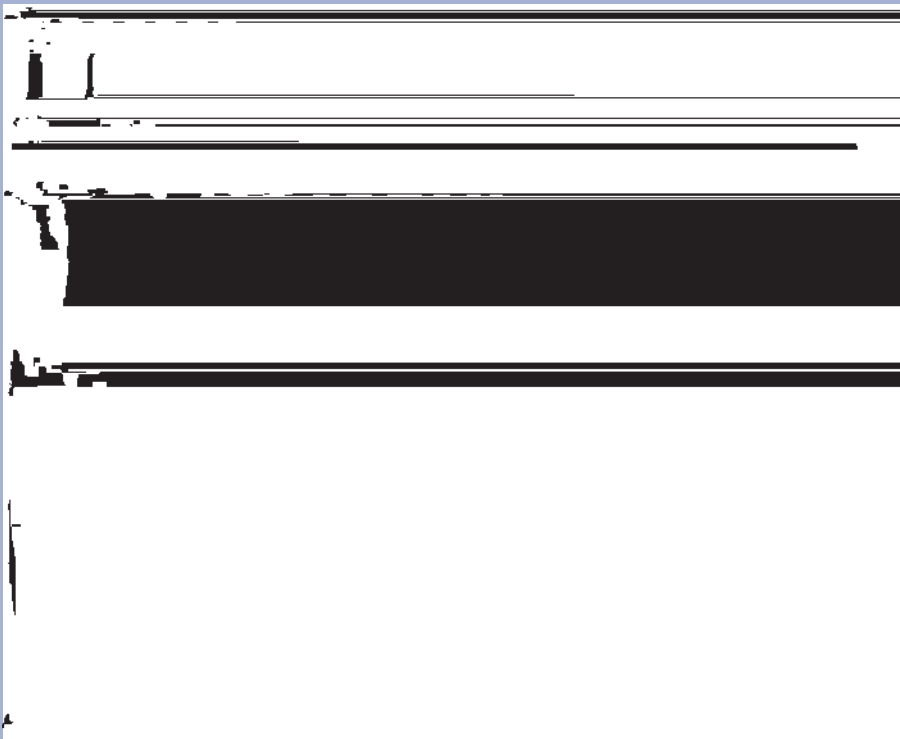
Testing Engineers & Consultants, Inc. www.testingengineers.com

TEC provides client support from property acquisition through construction, renovation and restoration. Expertise includes environmental assessment; consulting and training; geo-technical and facilities engineering and consulting; construction material testing; indoor air quality; and asbestos, lead, and mold management services. Founded in 1966, TEC has offices in Troy, Ann Arbor and Detroit.

New Project

The Michigan State Housing Development Authority (MSHDA) has selected Testing Engineers & Consultants, Inc. (TEC) to be included on their preferred list of pre-qualified environmental consulting firms eligible to provide as needed environmental review and statewide professional environmental services for a two-year period.

As a Michigan-based firm, TEC has a vested interest in supporting MSHDA's vision to build a strong and vibrant Michigan. TEC will do their part in creating and preserving affordable housing for low to moderate income residents by working with MSHDA and private developers to provide environmental assessments, asbestos and lead-based paint surveys, due care compliance assistance, and peer review of the same for the revitalization of residential and commercial properties in neighborhoods and rural areas throughout the state.





MITA New Members

Contractor Members

C & R Construction Co., Inc.
Day Construction, Inc.
DP Schwehofer Excavating, Inc.
GM & Sons, Inc.
Hart & Associates Construction LLC
L.J. Construction Inc.
Waldorf and Son's Inc.

Associate Members

Acrow Bridges
Burgess Contracting Company
Iron Planet
Foster Blue Water Oil LLC
Curbco, Inc.
TrucknTow.com



Kotz, Sangster, Wysocki and Berg, P.C. *Construction Law Specialists*



- LITIGATION
- ARBITRATION
- CONTRACT ADMINISTRATION
- EMPLOYMENT AND LABOR
- CORPORATE TRANSACTIONS
- REPRESENTING
 - General Contractors
 - Subcontractors
 - Developers
 - Owners and management companies

Solving corporate and litigation problems for the construction industry

Detroit

400 Renaissance Center Suite 3400
Detroit, Michigan 48243-1618
Telephone: (313) 259-8300
Facsimile: (313) 259-1451

Buchanan

400 East Front Street, Suite G
Buchanan, Michigan 49107
Telephone: (269) 697-4863
Facsimile: (269) 697-4867

Birmingham

300 Park, Suite 265
Birmingham, Michigan 48009-3413
Telephone: (248) 646-1050
Facsimile: (248) 646-1054

Grand Rapids

61 Commerce SW
Grand Rapids, MI 49503
Telephone: (616) 940-0230
Facsimile: (616) 285-7215

WWW.KOTZSANGSTER.COM

REPOWER!

The following photos were taken at various member equipment shops.

Numerous contractors have been receiving engine upgrades via a grant project, established by MITA, with Region Five Federal EPA.



Jon Hoffman of AIS, stands on a crane that is receiving two new engines for E.T. Mackenzie Company.

MEETING YOUR NEEDS FOR BONDS AND INSURANCE

(517) 371-2300
615 N. CAPITOL AVE.
LANSING, MI 48933

(616) 942-6978
550 CASCADE WEST PKWY S.E.
GRAND RAPIDS, MI 49546

*Affiliations: NASBP, AGC, ABC, MITA
Serving Michigan Since 1933*



**MOURER
FOSTER**
Bonds & Insurance

*Service Beyond the
Contract Nationwide*



Member Florence Cement receives a repower for an excavator at the CAT Macomb store.



The Guys from JDE prep an engine for installation on a piece of equipment for Hoffman Brothers.

Continued on page 53



Art Divine of Alta Equipment stands behind a new Volvo engine scheduled to be placed in a loader for Milbocker and Sons.

PERFORMANCE
+
RESPONSIVENESS
CUSTOMER SATISFACTION

DYNAMIC PILE TESTING (PDA) SERVICES


Pre-Driving Studies (WEAP™ Analysis)

- Test Pile Program Analysis
- Driving Stress Evaluation
- Pile Damage Assessment
- Hammer Efficiency
- Pile Capacity
- CAPWAP™ Analysis

Related Services

- Geotechnical & Structural Instrumentation
- Vibration Monitoring
- Pile Load Tests
- Earth Retention & Deep Foundation Design

MDOT Prequalified for Geotechnical Engineering Services



INSPECSOL
ENGINEERING INC.
MEMBER OF THE JACO GROUP OF COMPANIES

14496 Sheldon Rd., Suite 200
Plymouth, MI 48170
Michael Gentner, PE 734-453-5123

www.inspecsol.com

Geotechnical Engineering • Materials Engineering • Building Science • Environment

you said it

Letters to MITA

Continued from pg.9



Dear Pat:

On behalf of my dad, brother and all of Rauhorn, I'd like to thank you for teaching at our annual safety meeting this year. Your presentation was informative and interesting. The information provided will help us develop new procedures and improve our existing ones. Attached is a sign in sheet from the safety meeting for your records. In the new year, I will be sure to contact you as I work on our safety program.

Andrea M. Rau
Rauhorn Electric

Dear Rob:

Thank you for speaking with our foremen and supervisors Wednesday at the OSHA 30 hour in Grand Rapids. I received a lot of good comments from the group about your presentation. Our guys appreciate the fact that someone out there is watching out for us or as they put it, is "on our side." I look forward to working with you in the future.

Bob Montel
Safety Manager
Rieth-Riley Construction

Dear Pat:

I wanted to drop you a line just to let you know I thought you did an outstanding job with the 30 hour OSHA class. The feedback from some of the others I spoke to concurred, you managed to take something that had the potential to be boring and monotonous and actually make it interesting. I think everyone was grateful for that, and I think we were able to get more out of it as opposed to staying awake being our primary focus. Your father also was great. It's easy to see where you garnered your skills.

As always, the entire MITA staff was a pleasure to see. They are a hard-working group and professional to the core, top to bottom.

Butch Fons
Fonson, Inc.

INSURANCE AND BONDING *For the Construction Industry*

General Insurance ♦ Surety Bonds



1175 West Long Lake Rd.,
Suite 200, Troy, MI 48098
248-828-3377
Fax 248-828-4290 Bonding
248-828-3741 Insurance
www.vtcins.com



GRIFFIN, SMALLEY & WILKERSON, INC.

37000 Grand River, Suite 150
Farmington Hills, MI 48335
248 471-0970
FAX 248 471-0641
www.gswins.com

VTC INSURANCE GROUP
Representing



Member Voice

Continued from pg.43

is a cut although it is small because of inflation. I believe there will be adjustments as this process continues and I feel that he is open to new ideas.

Kurt Siebenaller
UHY LLP

Why? This could be answered by why not, given the despicable prior eight years of the previous administration. Why? Because Governor Snyder is not your atypical politician. He is one of us, a hard working businessman who understands budgets in order for his company to survive. Why? Because he knows one way to keep employment up in Michigan is through the infrastructure. We must not shy away from infusing greater amounts of money so we can all be proud of the roads that we drive on again and the fear of collapsing bridges is eliminated from all citizens.

Tim Acton
TKMS & LTI

He is trying to cut spending. Every segment of the budget needs to be evaluated.

John Snyder
East Jordan Iron Works

The governor has allowed the public agencies to have more open discussion of the issues facing us. The private sector has been dealing with these issues facing us. The private sector has been dealing with these issues for some time. It is very early, but I sense the direction we as a state are taking is the correct one.

Dan Fredendall
Hiltz & McCliment, Inc.

Might be a little early to speculate, but the idea of a business person as the go to guy for job creation and making it easier to do business in Michigan is more comforting than your typical politician (Democrat or Republican.)

James Rothenberger
Rothenberger Company, Inc.

Snyder is a believer that a good transportation system is a key and essential for economic growth in Michigan

Michael Evangelista
Tony Angelo

Governor Snyder's plan goes beyond this year's budget and lays a long-term foundation for future growth. It addresses needed tax cuts and tax increase in a rational, courageous manner. In spite of proposed cuts for this year, he seems to recognize that Michigan cannot prosper if we continue (as we have for the last two decades) to abandon two key economic drivers -- higher education and pre-school education. His plan for funding Michigan's infrastructure with Canadian DRIC dollars and federal matching funds is a master stroke. He has convinced me that he has no interest in scoring political points; he just wants to get the job done.

Phil Vogelsang
URS

Continues on pg.60

REPOWER! Continued from page 51



The CAT Crew at the Saginaw store get behind an new engine being provided to Ace Asphalt.

Lensen BRIDGE & SUPPLY CO.

CORRUGATED STEEL PIPE

WATERMAN GATES

GEOTEXTILE FABRICS

SANDUSKY

400 Stoney Creek Drive
Sandusky, MI 48471
810-648-3000
Fax: 810-648-3549

GRAND RAPIDS

3520 36th Street S.E.
Grand Rapids, MI 49512
616-940-2660
Fax: 616-940-0169

WE'RE BUILDERS, TOO. OF PROFITS.

And the tools we use? Tax consulting and audits. Strategic planning. Operations reviews. Mergers and acquisitions. Succession planning. Technology strategies. And many others.
Tom Doyle 248.223.3402
plantemoran.com



CPAs / Business Advisors

THRIVE.

Michigan Transportation Team Honored with 2010 Diamond Award

The Michigan Transportation Team (MTT) was honored recently by the East Central District of the Public Relations Society of America with a 2010 Diamond Award for its "Message in a Bottle" public affairs tactic.

The "Message in a Bottle" was part of the MTT and DriveMI's efforts to help win legislative support for increased road funding. The message was delivered last year, in partnership with the County Road Association of Michigan, by sending clear bottles filled with the pulverized remains of Lake Montcalm Road in Montcalm County to each state legislative office, along with a short message. Montcalm County was one of 24 counties in Michigan forced to pulverize roads into gravel due to lack of funding. There are now 38 counties in Michigan that have turned their roads to gravel.

"We received numerous calls from lawmakers who made it apparent that they heard our message loud and clear with our Message in a Bottle campaign," said Mike Nystrom, executive vice president of the Michigan Infrastructure and Transportation Association (MITA) and co-chair of the MTT. "Efforts like these help advance our conversation with lawmakers about finding a long-term, sustainable transportation funding solution."

MTT received the award at a luncheon in East Lansing February 11. The Diamond Awards are presented annually to public relations professionals who have successfully addressed a communications challenge with exemplary skill, creativity and resourcefulness. There were 74 entries in the 2010 PRSA East Central Diamond Awards contest. The PRSA East Central District spans Michigan, Indiana, Ohio, Pennsylvania, West Virginia and Virginia.

The MTT and DriveMI is a partnership of businesses, associations and citizens linked with the common goal of improving Michigan's transportation infrastructure.

MITA Member Project Profile Continued from pg. 35

Bacco rented direct from Efficiency a Slide Rail System configured in a 6-bay, Linear Multi-Bay™ application.

Slide Rail is installed simultaneously as the trench or pit is excavated by sliding the panels into integrated rails on the posts – either double or triple rails depending on needed depth – then pushing the panels and posts incrementally down to grade as the pit is dug; a process commonly referred to as a “dig and push” system.

Bacco achieves cost-saving production with Slide Rail

After an initial learning curve, Wentland said that they were typically getting in 80 to 100 linear feet of 8 foot long, 18-inch diameter reinforced concrete pipe per day at an average depth of 22 feet. “This (Slide Rail) really is the perfect shoring system for this type of soil,” explained Wentland. “The heavy clay we were encountering is always moving, flowing; and with Slide Rail, the panels sort of seal off the trench from the dirt that’s constantly shearing in. It can withstand a lot of soil pressure.”

Bacco is moving east to west, along E. Water Street and East Park Place, across from the opening to the Lake Huron or “downriver” locks. Parts of the new sanitary sewer line were installed just below the old line which runs down the center of the two concurrent roads. Here again, Slide Rail shows its advantages and versatility. “Just consider, if we used double stacked trench shields, we would still need to cut outside the box. With Slide Rail, I only have to dig inside the system,” said Wentland. “It allows us to keep the trench as narrow as possible – not even 8 feet wide – and that means less expensive backfill which means more profit for us,” Wentland concluded.

Bacco is using a CAT 385 Excavator on the front end of the trench to excavate and install the Slide Rail components. They are using a CAT 345 Excavator on the back end to backfill and remove the system, plus a CAT 966 Front Loader. Another advantage of using Slide Rail in the linear configuration is that as bays are removed from the back end of the trench, they can be “leap-frogged” to the front end; thus increasing the utilization of the system which also saves money.

Bacco Construction Company’s founder, Medio Bacco, was awarded the company’s first contract in 1915. On April 9, 1930, Bacco Construction Company was incorporated and has been prequalified with the Michigan Department of Transportation (MDOT) for over 70 years. Today, they handle a wide array of jobs including DOT projects and private-market work. Bacco is a member of the Michigan Infrastructure and Transportation Association (MITA), as well as other state and national construction and road builder organizations.

Efficiency Production, Inc., “America’s Trench Box Builder™,” provides the widest selection of standard and custom trench shielding and shoring systems in the industry. Efficiency’s versatile products are designed specifically for safe and cost effective installation of utility systems and infrastructure improvements. All products are P.E. certified to meet OSHA and MIOSHA requirements.

James McRay is the Director of marketing and media for Efficiency Production, Inc. He can be reached at 800-552-8800; jmcray@efficiencyproduction.com.



“If we used double stacked trench shields, we would still need to cut outside the box. With Slide Rail, I only have to dig inside the system,” said Bacco Superintendent Chris Wentland.



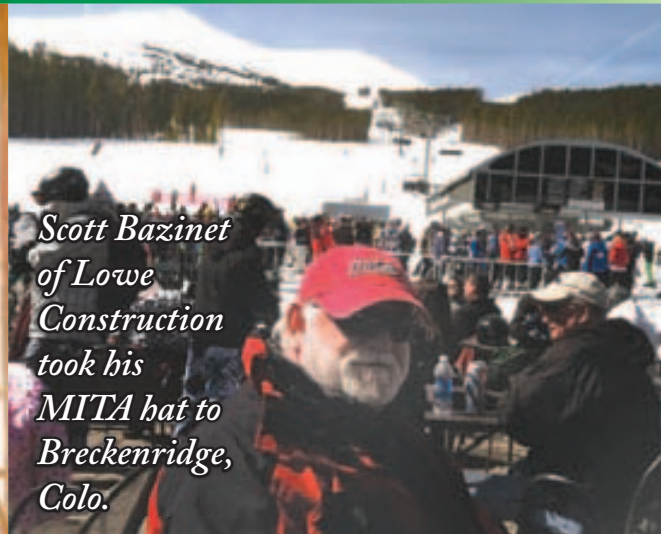
“Slide Rail allows us to keep the trench as narrow as possible – not even 8 feet wide – and that means less expensive backfill which means more profit for us,” Wentland concluded.

Where Has Your MITA Hat Been Lately?

Craig Studeman, from Jackson-Merkey Contractors, Inc., traveled to Luxor, Egypt on the Nile River. No MITA hat, but check out the MITA shirt!



Scott Bazinet of Lowe Construction took his MITA hat to Breckenridge, Colo.



Michael Mancini, of Mancon, takes time for a phone call during a recent MITA European Pheasant Hunt.



**GEOTECHNICAL
ENGINEERING**

**ENVIRONMENTAL
CONSULTING**

**CONSTRUCTION
ENGINEERING SERVICES**



SHELBY MACOMB MEDICAL BUILDING

*"Even on **difficult building sites**, G2 delivers **economical solutions** and **clear recommendations**."*

— DALE JEROME, AIA, PRESIDENT, FRENCH ASSOCIATES



G2 CONSULTING GROUP, LLC

Troy, MI: 248.680.0400 | Brighton, MI: 810.224.4330 | Chicago, IL: 847.353.8740
g2consultinggroup.com | twitter.com/g2_consulting



Mike Jones, from MBJ Equipment Transport, wore his MITA hat to the Daytona 500 race in February.

**Send your photos to
nancybrown@mi-ita.com.**



Legal Issues

Continued from pg. 36

a school district is involved) would then convene a review panel to evaluate the local government's financial health. If the panel finds that a "financial emergency" exists, an EFM is appointed.

Once appointed, the EFM would be able to revoke labor contracts, suspend collective bargaining for up to five years, become the sole trustee of an underfunded pension system, and suspend the power and authority of city managers and local elected officials. This column is not intended to debate the merits of those actions. Rather, it is to warn members about a provision that might affect public works contracts.

Section 19 of the Act empowers the EFM with 32 actions it may take while the local government is in receivership. The relevant portions that could affect MITA Member contracts are the following:

Section 19(1)(g): "Make, approve, or disapprove any appropriation, contract, expenditure, or loan, the creation of any new position, or the filling of any vacancy in a permanent position by any appointing authority."

This section seemingly would allow the EFM to reject a competitively bid public works contract that had awarded conditioned upon to the owner's official action.

Section 19(1)(j): "Reject, modify, or terminate one or more terms and conditions of an existing contract."

This is the first sentence of Section 19(1)(j). The remaining portion of this section discusses how the EFM may reject, modify, or terminate one or more terms and conditions of an existing collective bargaining agreement ("CBA"). One may argue that the term "existing contracts" should be read in context with the balance of the paragraph, and therefore restricts the EFM authority to rejecting, modifying, or terminating CBAs. That argument would be consistent with the focus of the

Act, which overwhelmingly seems to be upon restructuring CBAs and pension fund agreements.

However, the introductory sentence is so broad that one could also argue it could extend to public works contracts that contractors are performing, in addition to the specifically referenced CBAs. Moreover, this section expressly limits when an EFM may terminate CBAs, but there would be no limitation on other "existing contracts" if that term is intended to be broader than CBAs.

MITA pointed out this ambiguity and the attendant risks to construction contracts to the Legislature prior to passage of the bill. However, the Legislature declined to take up the issue and delay passage of the Act. MITA is now engaging the State Treasurer in the rule making process, attempting to clarify this ambiguity and persuade the Secretary to exclude competitively bid public works contracts from the operation of this provision.

Competitive Bidding Favored

Competitive bidding for public works contracts is designed to promote honest, open and fair government, and to ensure that the governmental unit receives the best work at the lowest price practicable. Section 19(3) of the Act reinforces the beneficial public policy embodied in competitively bid government contracts. This section mandates that for future contracts, the EFM must competitively bid contracts involving a cumulative value of \$50,000 or more. If the statute mandates future contracts must be awarded by competitive bidding, it stands to reason that existing competitively bid contracts should be exempt from the EFM's termination powers.

The Act repeatedly stresses it is designed to ensure local governments provide necessary services essential to the public health, safety, and welfare. The primary justification offered for permitting an EFM to cancel a contract is that by voiding a contract the local government may save money in a replacement contract, and thereby continue to provide necessary public services. Public works contracts, by definition, serve the public good. Providing sewers, fresh water, schools and serviceable roadways

Continues on pg. 58

Why gamble on getting competitive bids?

**Advertise your projects on
www.mitaads.com**

**Greater exposure
= Increased competition
= Better Prices**

VISIT TODAY
www.mitaads.com



Legal Issues

Continued from pg. 57

works improvement project and thereby obtained the lowest commercially reasonable price for the work, then the EFM should not be permitted to reject, modify or rescind that contract. Unlike negotiated agreements, there are no savings to be found through cancelling a competitively bid public works contract and renegotiating or rebidding the contract. It is illogical and circular reasoning to award a contract created to foster the public welfare and then cancel that contract in the name of public welfare in order to rebid the contract serving precisely the same public good in the original contract.

Once the public owner and contractor execute a competitively bid contract, it would be contrary to the public policy embodied in competitively bidding principles to permit the public owner to freely cancel the contract simply out of expediency. Otherwise what good would a public bidding be if after the execution of a contract the owner can simply ignore its contractual obligations? An owner who can freely terminate a contract for convenience is actually under no obligation to perform the contract, thus rendering the entire agreement an illusion. The United States Supreme Court has ruled that the United States Government may terminate a contract in mid-performance only when circumstances make the subject of the contract no longer necessary. For instance, the Navy may terminate a contract, entered into during wartime with a shipbuilder, when the Government negotiates a truce with the enemy because the resulting peace makes the ship no longer necessary. Michigan law imposes a similar duty of good faith and fair dealing in the performance of contracts where a party to a contract makes the manner of its performance a matter of its own discretion. More importantly, the Government is not permitted to terminate a contract for convenience simply to obtain the work at a better price.

The Administration reasons that the mere threat of cancellation will force Collective Bargaining Units to grant concessions that are necessary to stave off bankruptcy. Unlike unions in the private sector, CBAs negotiated with government

are just part of the primary purposes of a government. It would seem logical then that if the local governmental unit or school district competitively bid and awarded a contract for a public

unions are not subject to competitive pressures. Traditionally, industrial employers passed along the costs of CBAs to consumers. If the employer's products rose to such a level that their cost exceeded an available alternative, the company lost sales and its union workers lost jobs. While oil could replace coal and Toyota could replace General Motors as the world's leading producer of cars, the government is a monopoly that operates under its own, unique set of rules. Nobody is likely to replace the state or local bureaucracies no matter what the cost to the taxpayers; yet shrinking tax revenues can no longer offset government compensation packages. Without any competitive pressure to keep costs as low as commercially reasonable, the Snyder Administration understandably reasons that government unions need to be "reigned in" when their employee costs contribute to the financial crisis of a local government or school district.

When an EFM cancels and then renegotiates a CBA with a government union, the concessions are spread over the spectrum of its individual members. While the resulting hardship to those individuals is certainly real, the diffusion among the members makes those costs different than the concentrated losses a construction contractor alone would endure if existing competitively bid contracts fall within Section 19(1). If an EFM cancels a public works contract, and then pressures that contractor to accept a lower price for the same work, a single entity would have to absorb the entire loss. A contractor performing a competitively bid contract by definition has already submitted the lowest commercially reasonable price for the work. This is particularly true in today's market where competition for the reduced number of public works contracts has cut margins razor thin. The contractor most likely will not be able to perform the work for a lower price without suffering a loss. That contractor will thus be forced to decline the EFM's negotiated price, and then lay off employees given the loss of work. This natural result seems to be contrary to the public good – not in the betterment of the public welfare.

Moreover, taxpayers and the public treasury would suffer in the long run if competitively bid contracts may be terminated in the name of expediency. Even a hint of such heavy handed conduct will dissuade contractors from investing the time and effort to bid on that public owner's contracts in the future when to do so would be a waste of that time and effort. That is no small or imaginary concern when you consider

Affiliated Local Unions of the MICHIGAN STATE CONFERENCE of PLASTERERS AND CEMENT MASONS

PLASTERERS & CEMENT MASONS LOCAL 16

Cyril Wilson, Business Manager
3815 W. St. Joseph Street, B-200
Lansing, MI 48917
Phone: 517-999-3410
Fax: 517-999-3412

CEMENT MASONS LOCAL 514

Douglas Nowak, Business Manager
1154 E. Lincoln Avenue
Madison Heights, MI 48071
Phone: 248-548-0800
Fax: 248-548-0700



PLASTERERS LOCAL 67

Jack McCool, Business Manager
1154 E. Lincoln Avenue
Madison Heights, MI 48071
Phone: 248-591-6700
Fax: 248-591-0671

PLASTERERS & CEMENT MASONS LOCAL 886

Jim Pedro, Business Manager
4652 Lewis Ave.
Toledo, OH 46312
Phone: 419-478-2652
Fax: 419-478-0208

Daniel Rauch, International Representative
Phone: 419-467-1372

that contractors on complex projects invest literally hundreds of hours and thousands of dollars in the bidding process. Without assurance that the successful bidder will be able to perform the work at the commercially reasonable prices proposed, contractors will not bid on a public owner's contracts. Lessened competition and higher prices to the taxpayers will result in the long run.

There is yet another potential use (or abuse) of §19(1) of the Act that runs counter to public policy. Consider a typical scenario where the contractor encounters a claim situation, and the public owner cannot agree upon the price of the work. The parties proceed under the force account provisions, tracking the T&M costs and applying the specified mark-ups to the various cost components. A subsequently appointed EFM might think he could terminate the contract during the restoration phase, and thereby negate the stipulated measure of damages. The EFM might assert that the Termination provision of the contract governs the measure of the value of the completed work. Typically, such provisions state that in case of such termination for the Owner's convenience, "the Contractor shall be entitled, as its sole remedy, to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work executed but not on Work that has not been executed." The EFM may argue that "reasonable overhead and profit" is dictated by the circumstances, and the stipulated mark ups are unreasonable under the "financial emergency." The Act is not intended to permit EFM's to renegotiate the costs of completed services and work, and yet a misguided EFM might attempt to do so.

How to Protect Yourself

In most cases, the local government will have secured funding for a public works project before letting the contract, and if grant conditions apply – either state or federal – the money most likely cannot be used for other purposes without risk of forfeiture. Nonetheless, it would be advisable to determine if the public owner to whom you are bidding has been flagged by the state as in possible economic trouble.

The Michigan Department of Treasury has developed fiscal indicator scores for all local general-purpose governments in the state. Based on a review of its annual audit, each community is scored: 0-4 points represents a fiscally neutral position requiring no state action; 5-7 points designates a "fiscal watch" condition; and 8-10 points denotes

fiscal stress. Local governments that score 8-10 are notified, placed on a watch list for the current and following years, and they receive consideration for state review. Each community's score is published on the Michigan Department of Treasury website at www.michigan.gov/treasury.

If the public works owner has a fiscal indicator score of 5 or higher, consider sending a letter to the Engineer inquiring as to whether full funding is available for the project and subject to any grant/financing conditions. Inquire whether those conditions would prohibit use of the funds for any other purpose than the project at issue. Confirm any response in writing, and announce your reliance on that representation before signing any contract. Detrimental reliance may be an alternative path to recovery if the EFM terminates the public works construction contract.

If you are performing work for a fiscally distressed public works owner, vigorously attempt to negotiate binding Change Orders to avoid inviting a subsequently appointed EFM from attempting to avoid valid claims for extra work under the guise of "public expediency."

Your Association is working with Secretary Dillon and others to ensure that these legitimate concerns are addressed in the rule making process. MITA's anticipated involvement in the rule making process will hopefully persuade the State Treasurer that nothing is to be gained from terminating contracts that were competitively bid, specifically public works projects, and adopt rules expressly excluding competitively bid public works contracts from §19(1). MITA will advise you of its progress on that effort.

Legal Issues

Continued from pg. 58



Eric J. Flessland, Esq.
Butzel Long
Phone: 313-225-7000
flesslae@butzel.com

James J. Urban
Butzel Long
Phone: 517-372-4385
urban@butzel.com



Michigan Pipe & Valve, Inc.

Complete Water & Sewer Supplies Distributor

- More than 150 years combined experience
- 6 Diverse Locations
- Dedicated to Our Customer's Needs

Craig Spencer
Shelby Township Yard
(586) 884-6646
(586) 884-6641 Fax

Tom Ryan
Jackson Yard
(517) 764-9151
(517) 764-9155 Fax

Mike Kovich, Mike Deneen
Flint Yard
(810) 230-2737
(810) 230-2992 Fax

Gary Putrow
Lansing Yard
(517) 322-0300
(517) 322-4037 Fax

Jim Jaime
Saginaw Yard
(989) 752-7911
(989) 752-7970 Fax

Mike Crowley, Tim Brugger
Traverse City Yard
(231) 929-7473
(231) 929-9897 Fax



■ Ductile Iron Pipe	■ Pipe Couplings
■ Ductile Fittings	■ Water Meters
■ Restrained Joint Products	■ Water Meter Boxes
■ PVC Water and Sewer Pipe	■ Tools & Test Equipment
■ PVC Pressure/DWV Fittings	■ Concrete Products
■ Schedule 40 PVC Pipe	■ Polywrap
■ Storm Sewer Pipe	■ Erosion Control Products
■ Water Service Tubing	■ Corrugated Metal & Plastic Pipe
■ Corps, Curbs Stops and Boxes	■ HDPE Piping & Fusion Equipment
■ Fire Hydrants	■ Specialty Valves
■ Gate Valves	■ Butterfly Valves
■ Tapping Sleeves	■ Air & Vacuum Valves
■ Tapping Machines	■ Detector Check Valves
■ Repair Clamps	■ Back Flow Preventers
■ Flexible Couplings	

Servicing Contractors, Developers & Municipalities

Member Voice

Continued from pg.53

has to make tough decisions and we need that now more than anything!

Susan Zebrowski
Valenti Trobec Chandler Inc.

He seems to understand that government is not the answer to all problems. Everyone needs to and should feel some pain in returning state finances to a stable footing.

JDE Equipment Co.
Dave Park

He is going after the right cuts and trying not to add to the spending. Government needs to get out of the jobs business and that is the direction he seems to be heading.

Mike B. Lounsbury
Lounsbury Excavating Inc.

I am cautiously optimistic because he recognizes the situation we are in, and is trying to deal with it instead of using accounting gimmicks and pretending everything is ok.

Brad Poggi
Pinnacle Insurance Partners

Good guy or bad guy, someone needs to step up and take on the responsibility to get things in check. It will not be a popular role. Someone needs to be honest. We cannot have all decreases in tax dollars due to less working, less people, less spending. A tax increase along with many cuts needs to happen. Governor Snyder needs to get it done and I think he will. Good luck Governor Snyder.

Chad Listerman
CL Trucking & Excavating LLC

Our only No comment:

Governor Snyder showed some innovation thinking with the DRIC Canadian funds to be counted as our match to the federal funding. Although it was innovative, is just kicked the bigger funding issue down the road (no pun intended). What we need is additional permanent funding!

I obviously do not spend much of my time at the Capitol, so I do not know what ideas are being suggested to increase our much needed additional funding. To me the increase in the user fee (gas tax) is the only immediate way to begin to give our infrastructure the much needed additional funding it truly needs. I am against taxes as much as the next guy, but if we don't find these funds soon our industry will continue to decline. I support Governor Snyder and hope he has some more innovative ideas or we will continue towards the path to a third world infrastructure.

Mike Mooney
Give 'Em a Brake Safety



Limestone

AG Lime

MDOT Pre-Qualified

Rip Rap

Topsoil / Sand

Recycled Concrete

Natural Gravel

Material Delivery

Rail Logistics

www.stoneco.net

Construction Materials

Stoneco Eastern Division (734) 241-8966
Ottawa Lake • Maybee • Monroe • Newport • Ann Arbor • Ida

Stoneco Western Division (269) 795-3500
Grand Rapids • Kalamazoo • Moscow

Conrad Yelvingston Distributors Inc. (CYDI)
Flint • Lansing **(810) 785-5802**

Providing All grades of Construction Limestone, Sand & Gravel

Calendar of Events

(All dates are subject to change and additional events may be added. Please check out the electronic calendar regularly in the events section of www.mi-ita.com.)

JUNE 9

Western Michigan Golf Outing
Boulder Creek, Belmont • 9 a.m.

JUNE 22

MITA Board Meeting
Country Club of Lansing • 8:30 a.m.

JULY 14

Southeastern Michigan Golf Outing
Twin Lakes, Oakland

JULY 27-31

MITA Summer Conference
Crystal Mountain, Thompsonville

AUGUST 24

MITA Board Meeting
MITA Office, Okemos • 1 p.m.

AUGUST 25

Central Michigan Golf Outing
Eagle Eye, East Lansing • 9 a.m.

OCTOBER 19

MITA Board Meeting
MITA Office, Okemos • 1 p.m.

DECEMBER 9

MITA Board Meeting
Country Club of Lansing • 8:30 a.m.

DECEMBER 9

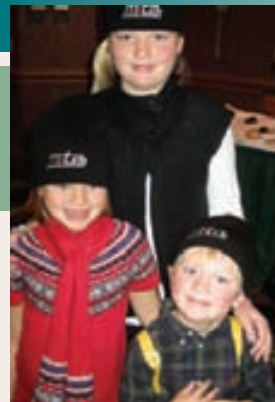
Central Michigan Holiday Party
Country Club of Lansing • 11:30 a.m.

DECEMBER 16

Western Michigan Holiday Party
McFaddens, Grand Rapids • 11:30 a.m.

DECEMBER 21

Southeastern Michigan Holiday Party
Troy Marriott • 11:30 a.m.



The children of Greg Pease from Michigan CAT take time out for a photo during the MITA Ski Weekend in January.

The daughters of Leo Remijan from Ajax Paving enjoy the food at the MITA Ski Weekend.



2011 MDOT BID LETTINGS

All bid lettings are downloaded at the MDOT Building (Van Wagoner Building on Ottawa St. in Lansing), second floor.

January 7, 2011	July 1, 2011
February 4, 2011	August 5, 2011
March 11, 2011	September 2, 2011
April 1, 2011	October 7, 2011
May 6, 2011	November 4, 2011
June 3, 2011	December 2, 2011

INSURANCE



WESTFIELD
INSURANCE

Sharing Knowledge. Building Trust.®

BONDING

OAKLAND COMPANIES

INTEGRITY • COMMITMENT • SECURITY

Our Primary Client Goals:

Protect Your Assets • Control Your Costs • Provide Exceptional Service

ISO 9001:2000
Certified Co.



888 West Big Beaver, Suite 1200, Troy Michigan 48084

www.oaklandcompanies.net

Ph (248) 647-2500 • Fax (248) 647-4689

Spring 2011 Cross-Section Ad Index

Ace Cutting Equipment and Supply	21	Great Lakes Aggregates	15	NTH Consultants	39
AIS Construction Equipment	42, BC	Griffin, Smalley and Wilkerson, Inc.	52	Oakland Companies	61
Alta Equipment Company	37	Guy Hurley Blaser & Heuer LLC	46	Operating Engineers	IBC
Association Benefits	IFC	Info Tech	42	Orion Industrial	3
Atsalis Bros.	19	Inspecsol Engineering, Inc.	51	Pinnacle Insurance	29
Bacco Construction Company	43	Jay Dee Contractors, Inc.	47	Plante Moran	54
Bell Equipment Company	22	Jensen Bridge Contractors, Inc.	53	Pro-Tec Equipment, Inc.	8
James Burg Trucking Company	6	Kotz, Sangster, Wysocki and Berg, P.C.	49	Spartan Specialties LTD	48
Capitol Barricading, Inc.	38	Lawrence Technological University	36	Stoneco, Inc.	60
Corrigan Oil Co.	20	Edw. C. Levy Co.	9	Stuart, Franey, Matthews & Chantres, P.C.	23
T. Daniels Consulting	4	Lowe Construction Company, Inc.	28	Swad & Company, CPA's	31
Ebony Construction, Inc.	44	Michigan LECET	7	Trench Tech, Inc.	27
Efficiency Production, Inc.	10	Michigan Pipe and Valve	59	Valenti Trobec Chandler Inc.	52
Fast Concepts	26	Michigan State Conference of Plasterers and Cement Masons	58	Wade Trim	18
G2 Consulting Group, LLC	56	Mourer Foster, Inc.	50	Zervos Group, Inc.	24
GBM Recycled Concrete	40				

Bulletin Index *Visit www.mi-ita.com to view or print these bulletins.*

LEGISLATIVE BULLETINS

03/25/2011	Action in Washington and Lansing to Impact Construction Industry
03/08/2011	Register Now for the 2011 Washington Fly-In
03/04/2011	Legislature Off to Quick Start: Elimination of PLAs, Prevailing Wage and MIOSHA Among Issues Being Discussed
03/04/2011	Governor Snyder to Address MITA Membership
03/02/2011	Michigan Transportation Team Honored with 2010 Diamond Award
02/24/2011	Contact Your Legislator Month
02/17/2011	Why the New International Trade Crossing is Good for the Heavy Construction Industry
02/08/2011	A State In Need - Presentation by Keith Ledbetter
02/04/2011	Save the Date - MITA/MTT Washington Fly-in 2011
01/28/2011	Jerry Jung to be Appointed State Transportation Commission Chairman
01/28/2011 ..	Snyder Unveils Business Tax Concept: 6% on 'C' Corps Only
01/26/2011	Snyder Administration Issues Challenge to MITA Members
01/12/2011	State House/Senate Appoint Members to Key Legislative Committees

MEMBERSHIP BULLETINS

04/14/2011	Did You Know: Union Agreements & Wage Rates are Available on t he MITA Website
04/12/2011	Traffic Regulator Update
04/06/2011	Did You Know: Jobsite Posters Are Available Through MITA
03/31/2011	Did You Know: Michigan is Studying State Water and Sewer Funding

03/24/2011	Did You Know: Time is Running Out to Sign Up for the 2011 MITA Future Leader Program
03/17/2011	Did You Know: MITA Outreach Opportunities
03/15/2011	MITA Offers 30hr OSHA Training
03/11/2011	MITA Golf Outing Sponsorship Opportunities
03/09/2011	Did You Know: Jobsite Danger Signs are Must Haves

ENGINEERING BULLETINS

04/11/2011	MDOT Seasonal Weight/Load Restriction Bulletin #4 - April 11, 2011
03/25/2011	FUSP/CA/SOA Update
03/25/2011	MDOT Seasonal Weight/Load Restriction Bulletin #3 - March 28, 2011
03/16/2011	MDOT Hosts Prevailing Wage Training Workshop in Grand Rapids
03/16/2011	MDOT Hosts "The Benefits of Workforce Diversity" Forum
03/15/2011	MDOT Seasonal Weight/Load Restrictions - March 16, 2011
03/04/2011	Trucking Update for Davis-Bacon Prevailing Wage Projects
03/01/2011	Tax Liability on Construction Materials
03/01/2011	M-222 Slope Stability Project
02/18/2011	FUSP/BOHIM/CA/SOA Update
02/18/2011	Second Release of Electronic Design Files - Item 018 March 4, 2011 MDOT Letting
02/17/2011	MDOT Seasonal Weight/Load Restriction - February 18, 2011
02/09/2011	MDOT New Plan Layout: March Letting - Item 064
02/08/2011	Spring Weight Restrictions - Are you ready?

02/08/2011	MDOT Server to be Down - REVISED
02/07/2011	Save the Date - MITA Industry Nights New Casual Format
02/01/2011	FUSP/CA/SOA Update
01/28/2011	Electronic Design File Pilot - Item 001 February 4, 2011 MDOT Letting
1/17/2011	FUSP Update
01/13/2011	REMINDER - Temporary Concrete Barrier - December 31, 2011 Deadline Looms
01/11/2011	MITA's MBE/WBE/DBE Solicitations Website

SAFETY BULLETINS

03/11/2011	New Installment of Tool Box Talks Now Available
03/07/2011	Patricia Meyer Appointed Director of the Construction Safety and Health Division (CSHD)

LABOR BULLETINS

03/25/2011	Table Agreement Reached with Laborers
03/15/2011	Teamsters Fringe Adjustments
12/21/2010	Good News on the MITA Labor Front
09/23/2010	FASB Issues Exposure Draft Outlining New Employer Disclosures Related to Multiemployer Defined Benefit Pension Plans
09/17/2010	Michigan Laborers District Council Change In Leadership
09/02/2010	Operating Engineers Ratification of Table Agreement for Underground Construction: Delayed until September 9th



Expanded Opportunities

The members of the International Union of Operating Engineers Local 324 (IUOE) are proud to have built many of the showcase facilities throughout Michigan, including the Renaissance Center. We are equally proud to have been a part of building the schools, roads, sewers, waterlines and power generation plants that serve our communities. We at Local 324 have expanded our role and now represent the educated and highly skilled workers that operate and maintain these facilities. Contact us today to learn more about our commitment to worker training and how partnering with IUOE Local 324 will ensure your projects are completed safely, on-time and on-budget.

WE BUILD, WE OPERATE, WE MAINTAIN

OPERATING ENGINEER'S VALUE PROPOSITION

*Members will provide
a fair day's work, bringing
unsurpassed **Unity, Pride**
and **Productivity**
to the job-site
while performing safely.*

Operating Engineers Local 324

500 Hulet Drive
Bloomfield Twp., MI 48302
248.451.0324
www.iuoe324.org

John M. Hamilton
General Vice President
& Business Manager

Journeyman and Apprentice Training Fund, Inc.

275 East Highland Road
Howell, MI 48843
517.546.9610
www.oe324jatf.org

Operating Engineers Local 324 Labor-Management Education Committee

500 Hulet Drive
Bloomfield Twp., MI 48302
248.836.2731
www.324lme.org

AIS is bringing you the first
Hybrid Excavator to Michigan.



How much will this **save you?**
call us.

www.aisequip.com



■ **Grand Rapids**
(616) 538-2400

■ **Lansing**
(517) 321-8000

■ **Richmond**
(586) 727-7502

■ **Saginaw**
(989) 777-0090

■ **Traverse City**
(231) 267-5060