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JECTION

MITA 3rd Annual Conference Photos

SEE CENTERFOLD

Bold Changes Needed in State Permitting page 20

MEMBER PROFILE DiPonio Contracting page 12

ASSOCIATE MEMBER PROFILE Zervos Group page 16

MEMBER PROJECT Jay Dee Contractors, Inc. page 7

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Magazine Evaluation

Thank you for reading and/or advertising in Cross-Section Magazine. We value your input and ask that you please complete the following form and fax it to Nancy Brown at MITA (517-347-8344). We are constantly striving to meet your interests with our stories, so your comments are very important to us. Thanks for your participation in this survey.

Please rate each area of the magazine by circling a number. One is poor; five is excellent.

Executive Vice President Comment	1	2	3	4	5
Vice President of Government and Public Relations Comment	1	2	3	4	5
Vice President of Membership Services Comment	1	2	3	4	5
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Director of Legislative Affairs Comment	1	2	3	4	5
Member Profile	1	2	3	4	5
Associate Member Profile	1	2	3	4	5
Member News	1	2	3	4	5
Legal Issues	1	2	3	4	5
Legislative Update	1	2	3	4	5
Toolbox Talks	1	2	3	4	5
MDOT Environmental News	1	2	3	4	5
Questions and Answers	1	2	3	4	5

Which articles did you find most helpful?

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Are there any topics you would like to see covered in future issues of Cross-Section Magazine?

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For Cross-Section Magazine advertising, circulation or editorial inquiries, contact Nancy Hale 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. The address for overnight deliveries is MITA, 3413 Woods Edge Drive, Okemos; Mich., 48864.

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Cover photo: Brian Slagter, president of MITA's board of directors, spoke during the MITA 3rd Annual Conference in January. Slagter is president/CEO of Slagter Construction Company in Wayland, Mich.





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MITA Cross-section 5

Did You Know?

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MITA Information Technology Update

MITA Membership Directory & Buyer's Guide – Now On-Line

MITA recently came to the decision that, with a membership of nearly 800 members, it was time to update and upgrade the MITA membership database. With the new system in place, members are now able to log on to the MITA website and view the current membership listings that are updated daily. You are also able to add and/or edit your individual company listing via the MITA website at any time.

To ensure that your hard copy membership directory is updated, MITA will post the new member information and current member changes in our weekly e-newsletter that is e-mailed to the membership.

If you have any questions and/or concerns regarding MITA's website, please contact **Stacey Morris, MITA's technical-web coordinator, at (517) 347-8336 or via e-mail at staceymorris@mi-ita.com.**

Five Steps to Success on the Internet

By Ryan Doom

ww.mi-ita-com

President of Web Ascender

There are 5 easy things you can do to make sure your business embraces the Internet as a sales and marketing tool in 2007:

- 1. Purchase your own .com Domain Name for your company.
- 2. Use your .com Domain Name for all email communication.
- 3. Create a professional website and make it part of your sales team.
- 4. Internet marketing with Google, Yahoo and MSN.
- 5. Start an e-newsletter to communicate with customers.

You may not realize it, but if you're still using an e-mail address from Yahoo, Hotmail, SBC, Comcast, or some other free e-mail service to communicate with customers, you're losing some "professionalism points." If your website is not portraying your company effectively and generating business for you, then it's time to take action. Following these five steps is a good start to making your website function as an extension of your sales team.

Purchase a '.com' Domain name for your company

You have to buy "yourcompanyname.com" as soon as possible, or someone else will. Buying an Internet Domain Name (.com, .net, .org) is extremely affordable and is the first step in getting your own e-mail address and website. Your domain name is a virtual street address; it is neither a website nor an e-mail address but is needed to connect to your website or e-mail host. You can purchase a Domain Name from a variety of web sources on the Internet for around \$10 a year.

If "your companyname.com" is not available it may take some creativity to find an appropriate alternative. Web Ascender recommends .com addresses over .net, .org, .biz or other alternatives. If the .com is taken, try not to settle for a .net; see if you can think of a different name where the .com is available. Users habitually type .com after a domain name even if specifically told otherwise. If you don't own the .com name, it is very likely that potential customers will accidentally visit the .com and mistake another company for yours.

Communicate with customers using your .com address

Using a Yahoo, Hotmail or other generic e-mail service is an easy way to lose credibility when corresponding with clients or prospects. Having your own branded Continues on pg. 34

ASCENDER

Member Project Profile

Jay Dee Contractors, Inc.

38881 Schoolcraft Rd. Livonia, Mich. 48150

 PHONE:
 734-591-3400

 FAX:
 734-464-6868

 E-MAIL:
 tdiponio@jaydeecontr.com

 CONTACT:
 Tom DiPonio



The nose cone of the tunnel boring machine punched through on October 23, 2007, the birthday of Tom's brother, Mike DiPonio (pictured here).



Tunnel looking toward portal shaft.

PROJECT NAME: Big Walnut Augmentation/Rickenbacker Interceptor Part 1

PROJECT OWNER:	City of Columbus
PROJECT LOCATION:	Columbus, Ohio
PROJECT START:	January 2004
PROJECT COMPLETION:	February 2008
PRIME CONTRACTOR:	Jay Dee/Michels/Traylor, Joint Venture
MAJOR SUBCONTRACTORS:	CSI Hanson (segment manufacturer)
ENGINEERING FIRM:	URS (Engineer of record) H.R. Gray (Construction Management)
estimated Project Cost:	\$91 million
PROJECT DESCRIPTION:	14-foot finished interior diameter by 21,800 foot long earth pressure balanced sewer tunnel constructed using tunnel boring machine. The tunnel is lined with precast concrete segments.
	This project, according to Tom DiPonio, of Jay Dee Contractors, is one of the largest the Livonia-based tunnel contractor has ever handled. Challenges of the project included tough ground conditions – sand, boulders and high water tables

Tunnel boring machine delivery at portal shaft.

> LOVAT tunnel boring machine at the factory.









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Dear Rob:

Thanks and a job well done to the entire MITA staff for the 3rd Annual Conference. The venue, speakers and camaraderie of the membership present was a great way to kick-off the year. Special thanks to Dale Fisher Heli-Photo, Echo Publications and the anonymous donor for the spectacular photo publication. I have admired this book in the lobbies of several MITA members, and am glad that I now possess one. Best regards from a satisfied and proud MITA member.

> Michael C. Gentner, PE Vice-President Inspecsol Engineering, Inc.

Dear Mike:

This past year has proven to me that the Michigan Infrastructure and Transportation Association is an organization which stands steadfastly for its mission and beliefs. Given the focus and dedication you have provided, I know that the causes for which we are fighting will continue to shape the legislative discussions for years to come.

Michigan has many strengths upon which to build and I remain confident that our greatest years lie ahead. Please stay in touch; together we can make a difference.

Dick DeVos

Dear Mike and Keith:

Thanks for your help with the 2007 appropriations issue and for the favorable mention on your website. I will admit that this was not looking good when I visited with you guys two weeks ago, but we pulled it off. Thanks again.

> Rich Juliano Vice President for Chapter Relations & Grassroots Programs Managing Director, Contractors Division American Road & Transportation Builders Association

Dear Glenn:

I just wanted to thank you for having Jim Urban from Butzel Long contact me. It was great that you forwarded my e-mail on to him so he could answer my specific questions. Needless to say, he was able to clear up my confusion regarding payment bond claim procedures. It's a pleasure to get that kind of service. Thanks again.

> Linda Carpani Watertap

Dear Nancy Brown:

Thanks for the extra copies of the Cross Section Magazine. The project profile turned out great. It is nice to see the before and after.

Diane Coleman-Rogers Rockworks

Continues on pg. 55

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We Said It! MITA Speaks Up for the Industry

MITA is continually on the lookout for issues in the news that need to be responded to on behalf of our members. Here are just two examples of our recent Letters to the Editor.

Lansing State Journal Letter to the Editor

The recent article on Grand Ledge's sewage runoff highlighted the reality of Michigan's deteriorating sewage systems and the growing need for investment in wastewater treatment. In recent years, Michigan

> voters and our legislature have made it easier than ever for communities to pay for needed upgrades. Still, many municipalities continue to put off that which is unseen.

> Dumping millions of gallons of raw sewage into our fresh waters should be considered an unthinkable violation and yet it occurs far too

often throughout the state. In 2005, municipalities reported discharging 175 million gallons of partially treated or untreated sewage into our lakes and streams. Grand Ledge is just one of many cities in Michigan that need to make these projects a priority and utilize this funding in order to keep our waterways clean.

The Herald Palladium (St. Joseph) Letter to the Editor

This is a response to Guy Truxell's letter of Dec. 22, 2006, entitled "There's no need to raise state gasoline tax."

If we want Michigan's roads to continue to crumble, if we want congestion to get worse, and if we want traffic accidents to increase, he is right. But if we want to improve our roads, relieve congestion, reduce accidents and improve our economy, then we need more money to fund our state, county and city roads. Boosting Michigan's gas tax, which is the second lowest among neighboring states,



is one option among many others that should be considered to fix the state's deteriorating transportation system. Michigan has an annual estimated funding shortfall of \$700 million for its state transportation system (MDOT managed) and at least \$2 billion more for its local roads (counties, cities and villages). This is due in part to a sluggish economy and escalating debt payments to repay transportation-related bonds.

Truxell's assertion that state revenue is up based on current gas prices is inaccurate. Fuel taxes are not based on the price per gallon, but rather the number of gallons consumed. As gas prices spike, drivers consume less and therefore generate less fuel taxes.

He also states that the goal should be to fix the way money is spent on our transportation system. If we stay on the course we are on, there won't be funds to spend and our transportation system will continue to deteriorate.



10 MITA Cross-section

WINTER | 2007



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ROBERT A. PATZER, Executive Vice President

Contact Bob with questions regarding any business, labor, legal, regulatory, legislative or utility issue. He is also available to discuss any concerns regarding general association business.

Mobile Number: (517) 896-1491

e-mail: bobpatzer@mi-ita.com

MICHAEL A. NYSTROM.

Vice President of Government and Public Relations

Contact Mike with any questions pertaining to state and federal lobbying issues, political action committee activities, public and labor relations, as well as all high-level regulatory involvement. Mike is also promoting adequate state and federal infrastructure and road funding in his role as co-chair of Michigan's Transportation Team. He is also available to address any questions or concerns regarding general association business.

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ROBERT M. COPPERSMITH, Vice President of Membership Services

Rob oversees the services that are offered to MITA members, including (but not limited to): MIOSHA appeals, jobsite inspections, utility locating issues, educational opportunities, meetings and social functions, etc. Additionally, he participates in lobbying efforts on behalf of the industry.

Mobile Number: (517) 896-1495 e-mail: robcoppersmith@mi-ita.com

GLENN J. BUKOSKI, P.E., Vice President of Engineering Services

Glenn brings 32 + years of transportation related experience to MITA. He served for 30 years in various professional capacities at MDOT, accumulating experiences in engineering automation, materials testing, design, research, specifications, construction and asset management. Glenn is a licensed Professional Engineer, and received his bachelor of science degree in civil engineering from Michigan State University.

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NANCY HALE BROWN, Director of Communications

Nancy oversees all member communications, such as the membership directory, quarterly magazine and all other print material for the association. She is your best contact for questions pertaining to public relations issues as well as placing news about your company and advertising in MITA's publications.

Mobile Number: (517) 896-1456 e-mail: nancybrown@mi-ita.com

PATRICK BROWN, Director of Safety & Workforce Development

Pat is a former Ingham County sheriff's deputy, firefighter and paramedic. He is the go-to-person for MITA jobsite inspections, training opportunities, and assisting Rob Coppersmith, MITA vice president of membership services, with MIOSHA appeals. He will be building on an already impressive skill base, which includes confined space, trench rescue, crisis intervention, Hazmat training and much more

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KEITH LEDBETTER, Director of Legislative Affairs

Keith assists Mike Nystrom, MITA vice president of government and public relations, in all political areas. Focusing on legislative staff and elected officials, he is working toward building stronger association relationships in an effort to communicate MITA's position on industry-important issues. In addition, Keith is helping to strengthen the MITA PAC.

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e-mail: keithledbetter@mi-ita.com

DOUG NEEDHAM, P.E., Director of Technical Services

Doug assists Glenn Bukoski, P.E., MITA vice president of engineering services, as they oversee all engineering, specification, and technical matters for the association. He focuses significant effort on expanding and strengthening MITA's relationships within the local agency owner communities working with and through the County Road Association of Michigan (CRAM) and the Michigan Municipal League (MML). Doug represents and advocates the industry's interest on committees at various levels.

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NANCY E. DURNER, Engineering/Safety Services Coordinator

Nancy handles all administrative duties for the Engineering Services Division as well as the safety / MIOSHA services. This includes all MIOSHA appeals that are being handled by the association, corporate safety programs, and all MDOT letting and spec issues that the association deals with on a regular basis. She is the executive assistant for the staff of the Engineering Division as well as the Safety Director.

e-mail: nancydurner@mi-ita.com

DANIELLE R. KEATING, Events Coordinator

Danielle helps manage the variety of member services being offered by the association. She also organizes each of the MITA's many social, leadership and educational events

e-mail: daniellekeating@mi-ita.com

TIYA KUNAIYI-AKPANAH, Membership Services Coordinator

Tiva coordinates the association's membership services. She is responsible for assisting prospective members through the joining process, as well as creating awareness of the different types of services available to MITA members. She is the go to person for various types of member services such as MISS DIG complaints, blue book rates, membership verification etc.

e-mail: tiyakunaiyi@mi-ita.com

MARY E. MOODY, Accounting Coordinator

As our controller, Mary handles all questions pertaining to invoicing of dues, advertisements, registration fees, etc.

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STACEY L. MORRIS. Web-Technical Coordinator

Stacey handles the database, e-mail addresses, company information, and mailings sent from MITA. She is the person to call if you have any changes in your company contact information. She is also the MITA contact for all MITA website related inquiries. As Bob Patzer's assistant, she is the person to contact if you need to reach him immediately and he is not available.

e-mail: staceymorris@mi-ita.com

JANIS STRANG, External Affairs Coordinator

Janis will assist administratively in all legislative, regulatory, public and labor relations issues that face the organization. As Mike Nystrom's assistant, she is the person to contact if you need to reach him immediately and he is unavailable.

e-mail: janisstrang@mi-ita.com

MITA Cross-section 11

Member Profile

DIPONIO Contracting

Contractor members of MITA quickly learn the value of their membership, and DiPonio Contracting got a recent reminder of why they never take their MITA membership for granted.

On a job in Swartz Creek, this underground contractor got caught in the middle of a utility problem between the utility company and the owner, Swartz Creek. The dispute was regarding the location of utility poles not included in the project design. Basically, the utilities (poles) were in conflict with MDOT's underground utility and road design. After award of the project, and numerous meetings, the utility company refused to relocate their utilities. This problem is becoming more prevalent among road construction projects.

"Because of MITA we are not in the litigation between the city and the utility and we were able to finish the \$1.6 million project on time," said Frank T. DiPonio, president of the Shelby Township company. "We appreciate Rob Coppersmith's help in trying to resolve the problems. He was very instrumental in helping us complete the project on time. MITA also helped us cope with safety concerns on the project and suggested ways to achieve our goals in a safe environment."

Rob Coppersmith, MITA's vice president of membership services, said that he just kept calling the utility company until they understood the gravity of the problem.

"This is typical of what MITA does for members on a regular basis," Coppersmith said. "It's our job and we appreciate members, like DiPonio Contracting, who take advantage of our services."

DiPonio said this type of strong support is why they have been members of MITA for over 10 years. "MITA is a members' organization that offers support to its members on safety matters, legislative involvement, and with labor and employment issues," DiPonio said. "We have taken advantage of a variety MITA's services including the recent Super Conference as well as with in-house trainings. MITA does a good job of keeping its members up-to-date on legal actions that affect our industry."

Even with the utility and safety concerns that come with many jobs and the ups and downs of the economy, DiPonio is glad he got into the business. His father, the late Michael DiPonio, started the company – then known as DiPonio Underground – in the late 1980's. A few years later Paul Rener joined the company as superintendent. In 1995, when Michael DiPonio became ill, Frank DiPonio joined the company. Michael DiPonio passed away in August of 1995, and Frank carried on the family tradition.

While Michael DiPonio's company had focused on site grading, Frank expanded into sewer work and site utilities and changed the company name to DiPonio Contracting. Recently the company expanded its services out of state, and is very proud of recently completing its first project in Nashville, Tenn. In addition, DiPonio Contracting is in the process of acquiring a trucking firm that currently is serving the greater Nashville area. DiPonio said the Nashville markets have much to offer, and foremost he appreciates their "Southern Hospitality."

In the past, DiPonio said his company had done a considerable amount of Michigan private and public work and: "We believe that, with the strong effort of MITA and other legislative organizations, the construction industry in Michigan is poised for a strong 2007 season."

Estimator/Project Manager Clifford Rhodes, who joined the DiPonio team in 2006 and was instrumental in the firm entering the MDOT market, added a comment that sums up how underground contractors often think about the challenges they face.

> "How do you end up with a small fortune in the construction business? You start out with a large fortune!

Village of Armada Street Reconstruction Project – New Storm Sewer

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CONTACT LIST:

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- Paul C. Rener Vice President
- Clifford Rhodes Estimator/Project Manager crhodes@diponiocontracting.com
- Marie Chesney Office Manager mchesney@diponiocontracting.com

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Member of MITA since 1996

DIPONIO CONTRACTING Sample project list

MDOT and Municipal Projects

- MDOT Item 029 Bristol Road Reconstruction, Swartz Creek
- Clovis Road, Mt. Morris Township
- Street Reconstruction Project, City of Linden
- Parker & Frost Drain Reconstruction, Richfield Township
- Macomb County Drain Commission 2006 Sanitary Manhole Adjustment Project, St. Clair Shores
- Manhole Rehabilitation Program, City of Center Line

Private/Commercial Site Work Projects

- Colecreek Phase II, Clayton Township, Mich.
- Athens Park Subdivision, Troy, Mich.
- Rochester DPW Building, Rochester Hills, Mich.
- Star International Academy, Dearborn, Mich.

Nashville, Tennessee Projects

- Creekside @ Brentwood in Brentwood, Tenn.
- Juliet Lakes Project in Juliet, Tenn.



Brentwood, Tenn.

Brownstown Township Pennsylvania Road Sanitary Sewer

Macomb Township Civic Center Site Development

MITA Cross-section 13



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Michigan Infrastructure & Transportation Association



MITA Names Philip LaJoy Legislator of the Year



Soft the Year Award at MITA's recent annual conference.

LaJoy received the award and spoke during a luncheon that wrapped up MITA's Third Annual Conference, which was held January 18-19 at the Soaring Eagle Casino and Resort in Mt. Pleasant. Most recently LaJoy, as chairman of the House Transportation Committee last year, sponsored the legislation to reinstate the truck drivers hours of service allowance. MITA lobbied for this bill, and the governor signed it on Dec. 30, 2006.

"Representative LaJoy felt it was his responsibility to learn as much as possible about the industry with which he was involved through his committee chairmanship," said Mike Nystrom, vice president of government and public relations for MITA. "He made it a point to get out to both state and local construction jobs, visit material production plants, and he even rode on equipment and in trucks which are so much a part of the heavy construction industry.

"Chairman LaJoy was a great supporter of promoting and protecting the heavy construction industry in a variety of ways. He helped push legislation through his committee that was beneficial to the industry, and he worked to amend deterimental legislation."

STATE REP. PHILIP LAJOY BIO

Representative Philip LaJoy was born and raised in Wayne, Mich. He served six years in the U.S. Marine Corp. before attending the University of Detroit and earning a degree in business. After working at U.P.S. for several years, LaJoy purchased and managed five Michiganbased Norel Service franchises, which specialize in helping people find parttime and full-time employment. In 1999 he founded The LaJoy Group, which provides services in human resources and staffing. He has also been involved for years in several community endeavors at the local level, and he is part of the Canton Township Hall of Fame.

After serving on the Canton Township Board of Trustees, LaJoy was elected to the House of Representatives in 2002. From 2004-2006, MITA enjoyed a close working relationship with him while he chaired the House Transportation Committee.

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ZERVOS GROUP, INC.

INSURANCE & BONDS

From left to right: Al Peterson, Don Burden, Angelo Zervos, Dave Lange, Michael Zervos, Jim Gargaro, Gus Zervos.



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MITA BUYER'S GUIDE CATEGORIES: 07: Bonds, Surety 54: Insurance, Self-Insured Programs, Administration 55: Investments, Estate & Business Planning

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ZERVOS

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Brief History

The Zervos Group was formed in 1994 by Chief Executive Officer Gus E. Zervos, who had been involved in a family insurance business since 1964. The Zervos family originally came from Pittsburgh, where Angelo Zervos (father of Gus) ran a hat and shoe shine business after immigrating to the U.S. from Greece. (Gus keeps a picture of him and his original hat brush in his office.)

Gus's brother, John, had a life insurance agency in Pittsburgh; when he came to the Detroit area in 1955, he expanded into property/casualty insurance and surety along with his brother, Michael. When Gus joined the company (known as The Zervos Agency) in 1964, he further expanded into the construction field before branching out on his own in 1994.

The Zervos Group now has a staff of 40, including 12 agents. Gus's sons, Angelo and Michael, are vice presidents; and his nephew, Steve, is president.

Brothers Gus and John may run separate companies now but not too far apart. The Zervos Group is located upstairs in a Southfield office building, while downstairs The Zervos Agency still operates. At Zervos Group, Inc., a staff of over 40 persons provides "Service with Zervos," according to a slogan the company uses in advertising to remind contractors about their insurance, bonds, pension plans, group health, life and benefits.

The Zervos family has been offering insurance from offices in the Detroit area since 1955 and takes pride in being a complete, one-stop shopping solution for contractors.

"We do it all," says Chief Executive Officer Gus E. Zervos. "We listen to contractors' needs and give them solutions that solve their problems."

This focus on the needs of contractors is a hallmark of Zervos Group, which is located in Southfield. The staff brings hundreds of years of diversified experience to the table for small and large accounts, Zervos says.

"Our agents and support staff work as a team, so if one person has more experience than another with a particular account, we look to them for leadership," Zervos says. "We have grown with the right people who compete to get the best coverage for our customers, the most reasonable price for the exposure. We match our accounts to find the best fit between their needs for insurance and bonding and the specialties of the carrier." Each agent has a specialty: some handle bonds only, and others strictly handle commercial, others environmental. By working together as a team, they achieve peace of mind for their clients, Zervos says.

"There are a lot of changes in the laws; and because a lot of companies have exclusions, every time there's a crisis it seems as though the forms change," Zervos says. "It's our job to make sure that it doesn't affect our contractors. The complicating factor is that each policy is slightly different. That can make the difference between someone being covered or not."

Zervos Group makes it a priority to know these policies and coverages very thoroughly.

"It is our job to keep up with all the changes," Zervos says, "to make sure that our customers are taken care of. We compete on price for the client, but we also look for protection. We explain to clients that if they have a claim and it's not paid because they don't have coverage, price isn't going to help them."

Bond Manager Don Burden says the same problem-solving strategy works with performance and payment bonds.

"Our advantage is that we really know about the problems contractors face because we specialize in construction," he says. "In tough economic times, contractors often have problems getting the bond capacity they need and we can work with their accountant or bank to improve their financial presentation, find a way to defer debt, or work creative financing that puts them in a good position so they can get their bonds written. We are pro-active rather than re-active in dealing with our contractors' issues. Several of us are ex-company underwriters, so we know in advance what will be a problem and work to fix it even before we contact the underwriter for approval."

Although Zervos Group is a family-owned business, they treat employees and customers like family, says Burden, who is also proud of the fact that the company does insurance seminars in Michigan and other states to assist up-and-coming companies.

Zervos Group has become well-known as experts in a highly specialized field of environmental impairment, in addition to having a financial services division that handles group health benefits.

"We provide a complete solution to the contractor," Burden says, "rather than just writing an insurance policy for them."

Zervos Group takes pride in getting their feet dirty and watching construction jobs from start to finish. Over the years the company has been a part of many construction jobs throughout Michigan, including Ford Field, Comerica Park, the sinkhole in Sterling Heights, a demolition contract for Children's Hospital and projects in many other states.

"We want to be thought of as another facet of the client's own company," Zervos says. "Just like they have their own engineer and other internal people, we're part of their team. When they have a problem, we have a problem and solving it is what a good agent is supposed to do."

What MITA Means to Zervos Group, Inc.

Zervos Group, Inc., has belonged to MITA since 1972 and, although they belong to many other associations, what makes MITA special for them is that MITA represents the industry that makes up such a large part of Zervos business, the underground and heavy/highway industry. According to Gus Zervos, chief executive officer of the company, Zervos has been a long-time, active supporter of MITA and takes an active interest in all issues involving the industry. Along with their accountant and banker, Zervos is a critical part of the contractor's financial team, and the better they get to know and network with them and their partners, the more effective they can be at representing them.

Real Estate Investment Trusts:

Al Loomis and Mircea Dobre, Robert W. Baird & Co.

Investing in real estate can be a rewarding experience, offering both tangible appeal and performance potential. Like most Americans, you may think of real estate investment as purchasing a house or a plot of land. However, investment opportunities reach far beyond your front door or lot line. While recent headlines have been dominated by news on the decline of the housing market, real estate investment trusts (REITs), which invest in commercial real estate, have continued to perform well over the past year. NAREIT's composite equity REIT index experienced a share price increase of 29.5% in 2006 versus 13.6% for the S&P 500, representing the seventh consecutive year that equity (property-owning) REITs have outperformed the S&P 500.

There are more than 160 REITs in the United States, which collectively hold approximately 15% of U.S. commercial real estate across nearly all property types. By capitalization, equity REITs offer investment in the following property types.



REITs are companies that invest in or finance portfolios of professionally managed properties. They come in three varieties:

- 1. Equity REITs, which own real estate assets, make up most of the market and are the focus of this article.
- 2. Mortgage REITs loan money to real estate owners or invest in existing mortgages or mortgage-backed securities.
- 3. Hybrid REITs combine the investing strategies of both equity and mortgage REITs.

REITs of all varieties enjoy certain tax advantages but must meet a series of investment and operating requirements: To qualify as a REIT, a company must invest at least 75% of its total assets in real estate assets; it must derive at least 75% of gross income from rents or interest on mortgages; and most important, it must pay dividends of at least 90% of its taxable income in the form of shareholder dividends.

REITs have characteristics of both stocks and bonds but have historically exhibited a low correlation to both. REITs combine a steady income component with dividend growth potential and the opportunity for capital appreciation. Historically, REITs have generated market comparable, or better, returns with lower volatility. Combining each of these return characteristics suggests that REITs add significant portfolio diversification benefits.

What advantages can REITs offer to me?

- REITs that are traded on a major stock exchange offer liquidity that is not available from direct property investment.
- REITs are permitted a dividends paid deduction that allows them generally to avoid federal and state income taxes, eliminating the double taxation of income. REITs are permitted to pass gains from property sales to shareholders at the lower capital gain rate.
- · Professional management by experienced real estate professionals.
- · Portfolio diversification.
- Stable, growing dividend income. Equity REITs currently offer a 3.7% market-weighted dividend yield, which is more than twice the 1.8% yield for the S&P 500.

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Real Estate Investing Through REITs Offers Diversification

With respect to diversification, REITs have a relatively low correlation with the broader equity market, making the REIT asset class an effective diversification tool for portfolios. An Ibbotson Associates study of the period from 1972-2005 concluded that adding REITs to a balanced portfolio increased return and decreased risk. REITs have historically had lower volatility than the broader equity markets, partially due to the higher dividend yield and slow but steady earnings growth these securities offer. Due to the fact that REITs have a low correlation with the broader equity markets, REITs are a good way to reduce portfolio risk.



What factors should I consider when selecting a REIT?

- Management: Look for seasoned management teams that have a meaningful personal stake in the company, which align the interests of management and shareholders.
- Solid balance sheet and manageable dividend policy: High yields are tempting, but REIT yields above a certain level can mean there is not enough recurring income to fund current distributions or being reinvested for development and acquisitions, which could shortchange long-term growth. Too much debt could also hinder growth capability.
- ➤ Markets and Demographic Trends: Consider the supply and demand characteristics of the markets in which the REIT invests. In the case of apartment REITs, for example, ask about the area's direction of vacancy rates and rents, the amount of new apartment construction, and the affordability of home ownership. The higher the cost of home ownership, the more attractive an apartment REIT might be.

Are there risks associated with REITs?

As with any investment, REITs have associated risks that you should consider before adding them to your long-term portfolio.

REIT investments are confined to the real estate industry. Some REITs limit diversification even further by focusing on specific property sectors (e.g., apartments, office, retail) or on a single geographic region.

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GRIFFIN, SMALLEY & WILKERSON

INSURANCE AND BONDS FOR THE CONSTRUCTION INDUSTRY

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BOLD CHANGES NEEDED IN STATE PERMITTING

By Russ Harding, Mackinac Center for Public Policy

Businesses looking to locate or expand their operations in Michigan are often impeded by a complex and unfriendly permitting process. Legislation and administrative reforms are needed to reverse this jobkilling problem.

In order to demonstrate that our state is open for business, Michigan needs to send a clear message that it is simplifying the current cumbersome methods for acquiring permits. Potential job providers, who are required to secure environmental permits before they can locate or expand their operation in the state, frequently meet with delays, unnecessary costs and frustration.

Policymakers rarely address the negative impact that regulations have on job retention and creation. Instead, the elimination and replacement of the Single Business Tax and the outsourcing of jobs to China or India seem to dominate the economic discussions of our political leaders. One thing that I observed while serving as director of the Michigan Department of Environmental Quality, however, was that the state seldom was competing with China or India for jobs; Michigan's greatest competition came from other states that had more business-friendly reputations.

During the administrations of Gov. John Engler and Gov. Jennifer

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Granholm, the state has attempted to shorten the time necessary for obtaining environmental and other permits. Half-measures such as electronic permitting, although a step in the right direction, are not a replacement for the bold reforms that are necessary for the state to create not only a competitive regulatory climate but one that is among the best in the nation.

Even if a company or individual can bear the cost, they may not be able to afford the time delays associated with agency demands for new data.

Even if a company or individual can bear the cost, they may not be able to afford the time delays associated with agency demands for new data.

Wetland permitting is one example of how the permit process hurts economic development in the state. In recent weeks I have been contacted by two businesses that were prevented by DEQ from expanding their Michigan operations and creating new jobs. In both cases the overzealous interpretation of wetland regulations by DEQ staff forced job providers to choose between lengthy, expensive litigation or abandoning their projects altogether. Environmental permitting is usually expensive (costs often range between several thousand dollars to more than \$100,000) because of the need to hire consultants to provide information required by DEQ. Even if a company or individual can bear the cost, they may not be able to afford the time delays associated with agency demands for new data.

Taking the following actions would send a clear signal to firms in the state and throughout the world that Michigan is open for business:

- Forbid state agencies from promulgating regulations that are more stringent than federal requirements. Approximately one-third of the states have already passed similar laws. The Legislature could approve a law more stringent than federal requirements if it is in the best interest of the state, but that decision would be made by elected officials rather than unaccountable bureaucrats.
- Mandate maximum time frames for the adjudication of permits. This would ensure that businesses compliant with the law will receive timely permit processing. While waste and wetland permits require mandatory timeframes, others, such as air and water permits, do not.

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Executive Vice President Comment

Staying Ahead of the Federal Bureaucracy

One of the most frustrating aspects of association work is not only trying to figure out what the federal bureaucrats are doing, but also why they are doing it. Let's examine a tailor-made case of the inmates running the asylum and which involves the hours of service rules for your truck drivers.

By their own admission, the fed's stringent hours of service rules were and are primarily aimed at over-the-road interstate not intrastate drivers. Notwithstanding this admission, the folks at Federal Motor Carrier carried illogical thinking to an art form by requiring Michigan intrastate drivers to conform to interstate hours of service.

Circa 1990, the State of Michigan instituted an exemption to the interstate hours of service for intrastate construction activity. This exemption recognized the peculiarities of our industry, along with its seasonal considerations.

Now come the feds in 2005 declaring that the construction exemption was not compatible with federal regulations. To make matters worse, states that had an exemption prior to 1988, for example Indiana, could keep their exemption; and any state with an exemption after 1988, for example Michigan, had to repeal it. When asked, our friendly bureaucrats in D.C. could not provide any proof

or documentation that the Michigan exemption resulted in any safety related problems due to driver fatigue or any other issues.

Facing a loss of federal funds for state motor carrier operations, the Legislature repealed the exemption that had been in place for some 15 years. Thus, for over a year construction drivers were saddled with extremely restrictive hours of service. The new requirement was based on "on duty" hours not driving time. On duty hours included waiting to be loaded or any other non-driving time. A construction laborer who drives a truck/trailer combination unit to the job site and performs other duties until quitting time is likely violating the hours of service rules by driving the unit back to the employer's yard. In the case of an accident, regardless of fault, this hours of service violation could have devastating results.

For a solid year MITA and the Aggregate Haulers tried to convince the Federal Motor Carrier Safety Administration (FMCSA) that their rigid stance on this issue was flawed and certainly not based on fact. Finally, our persistence paid off, and we submitted legislative language to FMCSA and



obtained their approval to reinstate the construction exemption. The problem we faced was that, by this time, the legislature was in "lame duck" status and was further complicated by the unwritten rule of not accepting new legislation during "lame duck" session.



MITA overcame the legislative hurdles and introduced House Bill 6663 on Nov. 28, 2006. HB 6663 passed the House on Dec. 5, 2006, the Senate on Dec. 14, 2006 and was signed by Governor Granholm on Dec. 30, 2006 as Public Act 595 of 2006.

I would like to thank Marty Leavitt of the Aggregate Haulers Association for his

work in contacting FMCSA and also for drafting the legislation. Kudos are also in order to Mike Nystrom and Keith Ledbetter for a yeoman's job in getting this bill through the legislative process in Mach 1 speed. Finally, thanks to all the MITA members whose contributions to our PAC have allowed us to gain enough influence to favorably affect the legislative process.

Somewhere near this article is a picture of our oldest grandchild, Riley, standing in a loader bucket. Don't let her diminutive size fool you. She baits her own hook, gets mean as a grizzly if you try to grab her fishing pole, and for some reason has expressed a fondness for heavy equipment. Along with our other grandchildren she is very special.

To contact Bob Patzer, e-mail him at bobpatzer@mi-ita.com or call 517-347-8336.



Vice President of Government & Public Relations Comment

2007: It is Time for Michigan's **Economy to Turn Around**

I have told this story before. It is a story that is often discussed at business schools around the nation. It's about a business school graduate telling his father, who ran a hot dog stand, about everything he had learned in college.

The son's knowledge included the fact that a recession was taking place at the time, and so he told his father that he had better start cutting back on his business costs. Since the father strongly believed in his son's education, he immediately stopped running an advertisement that extolled his food and his establishment. Weeks later the father then cancelled his contract for a large billboard on the main highway that for years had helped hungry customers find out about his famous hot dogs. Sure enough, the recession started to take its toll on the father's hot dog stand just like his son had predicted.

The father started to layoff employees and cut back on the ingredients that had made his hot dog so famous over the years, and sure enough business got even worse. Before too long the hot dog stand owner was barely able to carve out a modest living.

In many ways I believe Michigan's economy is a little bit like that hot dog vendor as mentioned in the above story. Our industry in particular tends to scare itself into an economic slow down. Although work is much slower and the industry has seen a reduction in the amount of money being spent in both the public and private sectors, we still seem to spend far too much time listening to the naysayers and believing everything they have to say about our economy.

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In the end all of that negative news, and much of it is negative, forces us to cut back on areas of our business that for years have helped us to grow and thrive. I am a firm believer that small doses

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of positive forecasting may ward off some of those negative vibes that are spreading across Michigan.

A recent report by the University of Michigan suggests that 2007 will be the year that Michigan's economy will begin to turn around. After years of reliance on the auto industry to help sustain our overall economy, Michigan is now looking at other sectors of business to help move our economy forward. In our discussions around town with various legislators and administration staff there are three primary issues up for debate in 2007: the Michigan Business Tax structure, an Energy package (that will help Michigan to become a leader in ethanol production), and then hopefully a transportation funding debate. All three of these issues would have a very positive long-term effect on Michigan's sluggish economy.

With new businesses looking to Michigan once again as a place to relocate due in part to ethanol production plants being built throughout our state, spin off private investments will follow. It is projected that 2007 will be a record year for the state revolving fund expenditures

> with regard to local governments improving their underground infrastructure. Finally, if successful, our transportation funding initiative will create immediate additional dollars at both the state and local level. All in all this bodes well for the future of our industry here in Michigan.

> I recognize that the last few years haven't been anything to write home about with regard to Michigan's economy, but the future does look a little brighter. As long as we stay positive about Michigan's future and continue to use the business techniques that have worked for us through the years, the old hot dog stand will be poised to take advantage of every business opportunity that comes our way once Michigan's economy truly begins its comeback.

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



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Vice President of Membership Services Comment

Change Before You Hit Bottom

In our industry numbers are important. They dictate most or all of our actions. In my case, it seems that the number of members at a function is a barometer for the success of an event. If that is true, we are doing great as an association. How many people are here? What's the turn out? Both are commonly asked questions. The attendance at our events has gone through the roof, but does this really equal success? I personally think it is only one component.

Our association is going through major changes. We have added new staff. We have combined the membership of two major construction associations, and we are still working on developing our own new culture. However, when conversing with members and performing function analysis, I have learned that many members are still hanging on to the memories of their old associations. This becomes very clear when you analyze the attendance at events. Current members tend to gravitate toward events that remind them of their past. If you are caught in this vacuum, please stop. You are depriving yourself of taking full advantage of what MITA has to offer.

To our underground contractors, it would appear that we spend an inordinate amount of time chasing road-funding issues (this I have been told). Funding is one of our founding principles. Whether it is the passage of a billion dollar sewer bond or passage of gas tax, it has a positive impact on all members. Just like spending a great deal of time working on staking and utility locating issues has a positive impact on all contractors. The fact of the matter is that sewer funding



creates the need for road replacement, and I've yet to see a road job that didn't involve some form of earthmoving or underground activity. Our keynote speaker Larry Winget spoke very poignantly of change at our annual conference. The essence of the message was change before you hit bottom. Many wait for a catastrophic event before they embrace change. Change is difficult; if it were easy we'd change things all the time. Comfort zones are infringed upon when it comes to change, especially when meeting new people or embracing new ideas no matter how good we think they are. However, my mother once told me don't be so open minded that your brains fall out. So all change should be

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Vice President of Engineering Services Comment

Let's Look Both Ways

As we dive head first into the opportunities and challenges 2007 will bring to our state and to our industry, I want to stop for a moment to look back and recall some of the successes and accomplishments we achieved in a busy, yet productive, 2006. Although many of our successes took place in the MDOT arena, bear in mind that those successes translate directly into additional successes in the county, local agency, developer and private owner arenas that invoke MDOT specifications and standards on their projects. Our most significant 2006 successes and accomplishments include:

- Partnering with MDOT to develop and write a new process for reviewing contractor claims.
- Elimination of the retainage provisions from the MDOT Standard Specifications.
- Completion of the two-year pilot program to evaluate a new subcontracting process that no longer requires MDOT approval of subcontracts.
- Development and implementation of the "Where Workers Present 45" work zone speed limit policy.
- Negotiated increase in the MDOT maximum mobilization allowance from five percent to 10 percent.
- Development and implementation of a pass-through warranty bond



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 Negotiated removal of the maximum lump sum pay unit restrictions on the Minor Traffic Devices and Flag Control items,



coupled with established per diem pay units for those items during an approved extension of time.

- Significant progress made in establishing rapport and developing positive working relationships with the non-MDOT infrastructure facility owners (county road and drain commissions, cities and villages).
- Signing of the Michigan Construction Quality Partnership for Transportation Charter and continued evolution, development, and implementation of that comprehensive training and process improvement initiative better known as CQP.
- Positive progress made working with MDOT to establish attainable DBE participation goals focused on a contractor community that is ready, willing and able to perform.

Considering these are just some of our success stories from 2006, it was definitely a very busy and highly productive year. However, 2006 is in the past; lets now look forward at just a few of the challenges and opportunities we anticipate in 2007:

- Adequate, long term transportation and infrastructure funding is, and will be, MITA's highest priority. Additional dollars for transportation, from either the federal or state level, will increase transportation and infrastructure related opportunities for every MITA member.
- Training for and implementation of the new claims process, a two-step process that will involve a higher level of expectation and accountability on the part of both the contractor and the owner agency.
- Continued evolution and implementation of the CQP initiative, in particular the successful execution of five pilot projects that will include project level training related to work zone traffic control and management, quality control plan development, soil erosion and sedimentation control and discipline specific technical training.
- The construction of a stakeless transportation project built utilizing owner agency provided electronic three-dimensional design data imported directly into the contractor's automatic GPS guided grade control equipment.
- Significant revision of the MDOT utility coordination provisions with an additional focus on early coordination and improved utility location identification in the project development and design process.

We look forward to these and many other challenges and opportunities in anticipation of a long list of 2007 successes and accomplishments that will help every MITA member have a safe and prosperous year.

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

Director of Safety & Workforce Development Comment

Why Companies Should Train

There is a big difference between training because standards require it and training to create a safe, efficient jobsite. Training is a popular word at MITA, and one we take pride in. Unfortunately, MIOSHA makes the allegation on a regular basis that contractor employees are not trained to recognize the hazards associated with heavy construction. MITA is looking to change that perception but we need your help!

This year's MITA Super Conferences, four in all, have been a success. Success is measured in different ways. First is the quality of the material presented. MITA staff is always looking for ways to update and inform participants on how to recognize and avoid the hazards of the heavy construction industry. Second is retaining the material taught. MITA uses real life experiences and pictures not wordy, statistic-packed presentations. This technique is successful because actually seeing someone else's fine work or misfortune sends a stronger message. Most important, however, is putting this training to use. Safety starts at the top of any organization. When the employer believes in the training and safety, the employees will follow suit.

There are other benefits to training aside from the obvious. When MIOSHA alleges a citation, the first thing they try to determine is if the employee was trained to recognize the hazard. In MIOSHA's perfect world there is no such thing as an accident. However, when an employer can show through documentation that employees are trained, and you demand compliance from them, it becomes much harder for MIOSHA to place blame on the contractor.

Now that we've talked about training, let's talk about the key employee who is supposed to enforce the rules set by the employer. MIOSHA standards require a "qualified person" on every job site to assure compliance. There is a difference between

Jobsite Inspections Available to MITA Members

Pat Brown, MITA's director of safety and workforce development, performs jobsite inspections for MITA members only upon request. To schedule a jobsite inspection, contact Pat Brown.

Pat Brown, MITA Safety Director patrickbrown@mi-ita.com Office: 517-347-8336 Cell: 517-896-4753 a "qualified" and "competent" person. The major difference is a qualified person(s) must possess extensive knowledge, training, experience and must demonstrate the ability to solve or resolve problems related to the subject matter and



work. What this actually means is that you do not need a degree or wall full of certificates to be a qualified person. The qualified person is responsible for EVERYTHING that goes on at the jobsite. If the operator digs the hole wrong, it's the qualified person's fault. If the traffic control is set up wrong, it's the qualified person's fault. As you can see, the qualified person has to be on top of his/her game and know what's going on all the time. The qualified person is considered an extension of management, and what they do or fail to do is transferred Continues on pg. 64



MITA Cross-section 25

Director of Legislative Affairs Comment

New Legislators Change Dynamics at the State Capitol

The 94th Legislature has convened and the question has been asked about how the dramatic changes will affect MITA's lobbying efforts.

This January the Democrats took control of the state House for the first time in eight years. The elections ushered in 32 new House members and seven new state Senators. This changeover represents about a quarter of the entire Legislature. It also means that there will be 31 state Senators who are lame ducks this term and are not allowed to seek reelection. Senator Mike Bishop was elected the new Senate Majority Leader and Representative Andy Dillon was chosen as the new Speaker of the House.

Will the dramatic changes in the Legislature hurt MITA's efforts? The answer is no. Our strategy may have changed as a result of the elections, but our influence has not. Because our members have been willing to strongly support the MITA PAC and our lobbying efforts, we've been able to be a major player not just with legislative leaders and key committees' chairmen, but our support has been widespread throughout the Legislature. It also helped that MITA's support was well placed, earning an impressive 69-3 record in which we made financial contributions, of the 148 legislative seats that were up for election.

We have managed to create strong bipartisan support for the state funding initiative. We ultimately believe we can get approval of massive new investment in our state's infrastructure because we have managed to build an impressive coalition of diverse interest groups. Our organization includes representatives of business, labor and local units of government, along with our receiving support from numerous state policymakers who are both Democrat and Republican.

We recently met with Governor Granholm to discuss issues of importance to MITA. The governor's top concerns are tax related,

as she wants to address a projected \$1 billion on-going shortfall in the state budget along with the replacement of the Single Business Tax (SBT). She agreed that



we have significant needs within our transportation system that need to be addressed as well. MITA is working hard to ensure that transportation funding becomes a priority that is taken care of before tax restructuring is completed in 2007.

In terms of underground issues, MITA recently met with Department of Environmental Quality Director Steve Chester to talk about the state's clean water efforts, the revolving funds and other related issues. We received strong support from the director, opening the door for greater collaboration in strengthening the state's environmental laws.

Overall, MITA is well positioned for the coming year ahead in the Legislature, and we look forward to the challenges that lay ahead.

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



Director of Technical Services Comment

MITA is Working to Resolve Utility Problems

When utilities are not sufficiently detailed in the contract documents, not adequately field located, nor properly relocated prior to construction, the construction industry suffers. Therefore, in addition to working with the Michigan Damage Prevention Board (MDPB) to develop and implement Michigan Best Practices for the identification and protection of underground facilities, MITA has set off in two new directions that should yield significant benefits to our members.

"New" MISS DIG Design/Survey Ticket

MISS DIG is in the process of finalizing a new three-tier ticket system that is designed to provide more accurate information earlier in the design process and alleviate many of the utility problems typically encountered during construction. Recognizing that this new system will ultimately benefit all members, MITA coordinated a meeting between the MDPB, Michigan Department of Transportation (MDOT), County Road Association of Michigan (CRAM), Michigan Municipal League (MML), Michigan Association of County Drain Commissioners (MACDC) and the American Council of Civil Engineers (ACEC). MITA's objective for the meeting was to educate stakeholders about the proposed system and solicit their input prior to its implementation.

The planned three-tier system will involve a design ticket, survey ticket and normal "dig" ticket.

The *design ticket* is a notice to the utility's engineering group to exchange information with the design engineer during the preliminary design phase. By knowing where the utilities are located at this advanced stage of the project development stage the design engineer may be able to locate the infrastructure improvements around them.

The *survey ticket* is a request to the utility for field marking of the underground facilities for the purpose of utility identification and utility location during the design phase. From these marks, the designer can accurately survey and incorporate specific facility locations into the final plans. Ideally, the design ticket and survey ticket should yield similar results.

The *normal "dig" ticket* is the normal three-day ticket request to the utility company to field mark the underground facility for the purpose of excavating.

The normal "dig" ticket is the normal three-day ticket request to the utility company to field mark the underground facility for the purpose of excavating.

In an effort to secure a system that will ultimately alleviate many of the utility related construction headaches, MITA will continue to coordinate followup meetings between the owner agencies and MISS DIG to ensure that the new system provides accurate utility location information in the contract documents.

Contract Language

MITA acknowledges that even when the proposed MISS DIG system rolls out there will inherently be utility problems during construction. In response to that acknowledgement, we have initiated efforts to remove common "heartburn" language found in many of the project proposals. The language we are opposed to is typically found in the Utility Coordination Clause and generally states, "No additional compensation will be paid to the contractor ... for delays of construction due to the encountering of existing utilities that are, or not, shown on the plans."

It is MITA's position that owner agencies and the utilities bear the responsibility for identifying and communicating

existing utility location in the contract documents and that contractors should not be held financially responsible for delays and/or extra work when those agencies fail to communicate that information. To date discussions with MDOT on the issue have been positive, as they appear to be receptive to our request to remove the subject language. Once MDOT modifies their contract language the local agencies typically follow suit.

We are confident these two MITA initiatives will yield better construction plans in relation to utility locations, as well as provide a better avenue for recovering delay costs when utility issues are encountered.

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



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TOOL BOX TALKS Heavy Equipment

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- KNOW YOUR JOB.
- BE ALERT.
- EXPECT THE UNEXPECTED.

- USE GOOD JUDGEMENT.
- ALWAYS THINK SAFETY.

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.

Heavy equipment can be found on most construction sites. This equipment could create a potential hazard to workers safety. The possibility of injury exists, but common sense and well-maintained equipment should insure a safe work environment. The following list should be a good reference for working around heavy equipment.

- All employees should be aware of all safety aspects of heavy construction equipment.
- Always be alert when working around heavy equipment. Assume the operator cannot see you.
- Only operate equipment you have been designated to use.
- Never ride on moving equipment. It is a MIOSHA violation and a dangerous practice. **No seating, no seat belt, no ride.**
- Back-up alarms should be on or a signal person should be behind all equipment with obstructed rear views. Workers should make deficiencies in this area known to their foreman.
- Always barricade the superstructure of a crane and be sure excavators have danger signs on moving counterweight.
- Cranes and excavators should have a current annual written inspection available at the jobsite at all times. Daily visual inspections of heavy equipment should be preformed as frequently as possible.
- Be sure rollover protection and seat belts are in good working order.

Back-up alarms and employees riding on equipment are two of the most cited violations by MIOSHA. Heavy equipment is essential to construction and should always be treated with respect. By following these simple suggestions, heavy equipment should not pose a danger to worker safety.

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

LEGISLATIVE

MITA Transportation Funding Initiative Gaining Momentum

MITA recently unveiled comprehensive plans to make roads safer, repair deteriorating streets and relieve traffic congestion in rapidly-growing communities. The plan would also provide a boost to the economy by providing an additional \$1 billion a year to help fix the state's crumbling and neglected transportation system. "Doing nothing isn't an option," said Mike Nystrom, vice president of government and public relations at the Michigan Infrastructure & Transportation Association. "Available dollars to fix state roads are expected to drop by over 40 percent in the next two years because we are at the end of our bond program and now must pay back the borrowed money."

See the chart below for MITA's state funding initiative concepts.

State Transportation Funding Increase Concepts

PROPOSAL	REVENUE INCREASE
9-cent gas tax increase (three cents per year for three years) – Includes 7-10 year sunset	\$450 million
 Diesel tax parity – Raises diesel taxes up to the new gas tax amount, with a gradual phase-in 	\$130 million
 50 percent increase in vehicle registration fees (currently averages \$110 per vehicle) – Helps to mitigate effects of proliferation of hybrid vehicles and increased mpg 	\$500 million
 Vehicle Registration fee reforms Pro rata vehicle registration (collect the vehicle registration fee at time of purchase rather than birthday) Regularly retire existing license plates to cut down on registration tab scams 	\$30 million
 Inter Departmental Grant/TAC Fund reforms Make TAC fees self-sustaining and reduce IDGs to SOS and Department of Treasury 	\$10 million
 Fast Lanes (allows toll lanes to be built in the right of ways of existing congested roadways) – Fast lanes pay for themselves but would not generate money for other roads 	
 Local options Allows counties or regions to collect a gas tax or vehicle registration fee (for transportation-related items only) Up to 3 cents for a single county, up to 5 cents for two partnering counties and up to 7 cents for three or more counties working as a region 	Indeterminate
* These funding option concepts are proposed by MITA and have not been formally endorsed by members of the Michigan Transportation Team.	\$1.12 billion + local

MITA Cross-section 29

Legal Issues

SCHEDULE MODIFICATIONS AND ENFORCING THEM

ON SUBCONTRACTORS[©]

Jeffrey M. Sangster, Esq. • R. Edward Boucher, Esq. Kotz, Sangster, Wysocki and Berg, P.C.

True story: on a recent project, the discovery of previously unknown hazardous soil brought work to a halt

for nearly three months while remediation took place. To recover time not extended by the Owner, the prime contractor completely re-sequenced the project and then sent the new schedule to subcontractors with a cover letter stating, "The soil delays are finally behind us. Attached is a revised schedule. Please inform us of any objection you have to it, or it will become part of your original contract." A subcontractor who was significantly affected by the resequencing responded, "We're not sure we can make these dates, but we'll try." Should the subcontractor be held liable for delay damages if it misses the new dates? The prime and subcontractor strongly disagreed and litigated the issue and, in the end, the judge sided with the prime.

Despite leaving some grey areas, recent cases provide both prime and subcontractors with guidance regarding the enforceability of schedule modifications. Generally, when prime contractors update and adjust the baseline schedule, subcontractors will be contractually required to follow the new schedule at no additional cost to the prime as long as the schedule modifications are reasonable. A prime contractor who modifies the schedule in a manner that is deemed unreasonable may be responsible for the subcontractor's cost in meeting the new time or sequence requirements. Unfortunately, courts fail to state exactly what constitutes an unreasonable schedule modification. However, prime contractors and subcontractors can avoid uncertainty over the enforceability of modified schedules by treating



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significant schedule changes as changes to the contract.

 Subcontractors' schedule obligations depend on the project's time and scheduling requirements.

In the same way that a subcontractor's work depends on the work described by the contract documents, a subcontractor's schedule commitments depend on the overall time and scheduling requirements of the project. Therefore, any analysis of a subcontractor's duty to follow a modified schedule must begin with a review of the prime contractor's agreement with the owner. Most owners require substantial completion within a specified number of days and drive this requirement home with the phrase "time is of the essence." This phrase is not essential; a simple requirement that work be completed by a certain date suffices to make that deadline contractually enforceable. ¹

The owner's contract documents also give the prime contractor flexibility to organize its work and, hence, the work of its subcontractors, to meet the project's time requirements, unless the owner requires specific methods and sequences. The most commonly used form in the construction industry, AIA A201, states, "The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract..."² Large owners frequently impose critical path method scheduling requirements as well. Invariably, these specifications require the prime contractor to update and revise the schedule on a regular basis. For example, the Michigan Department of Transportation ("MDOT") has developed form 03SP102(C), Special Provision for Critical Path Method Network Schedule, which requires the prime contractor to update the schedule "monthly to show current progress" of the work. This form also requires the prime contractor to issue a revised schedule if the work is delayed, altered by a change order, or is otherwise different than the department-approved schedule.

In short, by agreeing to work on a project with a predetermined date of substantial completion and a predetermined method for scheduling activities that includes a requirement for schedule revisions, a subcontractor must anticipate reasonable adjustments in its activity start dates, durations, and sequence because a prime contractor must make those adjustments to meet the overall obligation to the owner.

2. Subcontractors should also anticipate making reasonable adjustments in their performance time at no addition cost to the prime, if time limits and schedule flexibility are terms of the subcontract agreement.

In order for a prime contractor to unilaterally revise a schedule and hold a subcontractor liable for failing to meet it, the baseline schedule must be part of the subcontract. ³ MDOT's contractual forms provide good example of this incorporation: the subcontract expressly states the subcontractor's work "shall be so conducted and supervised by the subcontractor as to insure its completion in accordance with the following schedule." Clauses such as these are enforceable. ⁴

Even if they lack express language making the schedule a contractual requirement, most subcontract agreements contain other provisions that can impose time limitations on the subcontractor's performance. Clauses incorporating the entire owner – prime contractor contract documents into the subcontract might be used for this purpose.⁵

To avoid negotiating with subcontractors over schedule updates, most Continues on pg. 31 prime contractors' standard subcontract agreements provide prime contractors with the right to modify the schedule as the needs of the project change. Typical contractual language requires the subcontractor to meet deadlines in the original project schedule and "all changes thereto" and states that if the prime contractor "directs the subcontractor in writing to accelerate the work, the subcontractor shall employ overtime work as so ordered." These clauses are enforceable, too. For example, in *Arrow Sheet Metal Works, Inc. v Bryant & Detwiler Co.,* ⁶ the Michigan Supreme Court denied a subcontractor's claim for delay and failure of coordination because its subcontract agreement contained a clause permitting the prime contractor to direct the work "at such time or times and in such manner and in such quantities as may be required by us to meet our time schedule." ⁷

Even if a subcontract agreement lacks the type of language enforced in *Arrow Sheet Metal Works*, courts are likely to bind subcontractors to minor schedule modifications for two additional reasons. First, regularly updated schedules are an industry standard,⁸ and subcontractors should have contemplated them when they bid on the project. Second, as noted above, most owner-issued Continues on pg. 62

Problem Solver

MITA Helps Member Resolve Plan Quality Issue

On a recent residential development project a MITA member encountered a large obstacle when the project plans did not accurately depict the work required by the developer.

The plans were clear that the ditch line was to be constructed within the shown right-of-way (ROW). However, after the staking, clearing, and initial construction of the ditch, the project engineer informed the contractor that the ditch must be constructed to a 1 on 4 and at a depth of about 9 feet. This change in scope required the contractor to work well outside of the ROW limits and add additional clearing to this project.

Following the appropriate protocol, prior to beginning the additional work, the contractor put the developer on notice of their intent to file a claim for the additional cost associated with that work. Unfortunately, the developer denied the claim based on the belief that the plans accurately depicted the work and the contractor should have been able to figure out that work outside of the ROW limits was required.

Frustrated with the decision imposed by the developer, the contractor called MITA. Within days a meeting was scheduled with the developer, design engineer, contractor and MITA to discuss the issue. At that meeting the design engineer maintained that the contractor should have been able to determine from the information given on the plans that the ditch line was to extend beyond the ROW limits shown. MITA made the case, however, that there were no easements or other indications shown on the plans that would lead the contractor to believe the work would extend beyond the shown ROW limits. MITA further contended that it is the responsibility of the design engineer to design and properly detail the plans for bidding and construction purposes.

As a result of the meeting the developer acknowledged the deficiencies and errors in the plan details and the matter was resolved to the satisfaction of the MITA member (without legal fees!). 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

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MITA Cross-section 31

EMERGING TECHNOLOGIES IN WINTER ROAD MAINTENANCE

Improving Safety While Minimizing Environmental Impacts

Contributed by the **MDOT Storm Water** Management Team and its consultant, Tetra Tech, Inc.

Most of your construction projects are buttoned up for the winter, and you are finally able to relax and get ready for the next construction season. However, the Michigan Department of Transportation (MDOT) works year-round seeking better ways to manage highway storm water runoff and reduce environmental impacts. In Michigan, that often means reviewing our winter road maintenance activities.

As the birthplace of automobile manufacturing, Michigan has long appreciated its roads and highways. Michigan's highway network consists of nearly 120,000 miles. While only 10,000 of these miles fall under MDOT jurisdiction, they carry close to half of the total vehicle miles traveled in Michigan each year.

To ensure efficient and safe use of our roads in winter, MDOT primarily uses road salt (sodium chloride) to melt snow and ice, and sand to provide traction for vehicular traffic. While much can be said about the environmental impacts of using salt and sand, their application is effective, convenient and inexpensive. To create a balance between safety and environmental protection, MDOT uses a variety of strategies to enhance winter road maintenance, including improving operational practices, implementing new technologies and using state-ofthe-art equipment.

Improved Operational Practices

MDOT follows a sensible salting program. The goal is to use just enough material and no more. By limiting the use of salt, sand and chemicals, the amount of polluted storm water entering our waterways is decreased. MDOT snow removal crews are trained in environmental awareness, equipment



Blue Water Bridge Salt Storage and Maintenance Facility in Port Huron. Photo courtesy of Hubbell, Roth & Clark, Inc.

maintenance, effective salt and sand application, and the use of alternative de-icing and anti-icing products. The Sensible Salting Handbook provides guidelines for truck spreader calibration and when and where to apply material.

Many environmental problems associated with highway salt stem from improper storage. Salt needs to be covered, preferably in a building, or if not feasible, under a waterproof covering. The salt should be stored on an impermeable pad, such as asphalt. If concrete is used, it must be high quality, air-entrained and treated with sealers to reduce chloride penetration. The storage pad should slope to let water drain away, with runoff discharging into detention ponds or sanitary sewer systems. All newly constructed MDOT salt sheds are built so that loading and dumping is done inside the shed.

New Technologies

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Working Together for Better Roads, Cleaner Streams

Region crews are using a technique called pre-wetting to increase the effectiveness of road salt in melting ice. The process involves spraying a brine solution made up of water and salt on to dry salt as it is applied to roads. The salt uses the moisture to begin the reaction that generates heat and melts snow and ice. The combination of brine and salt works faster than salt alone. Unlike granular de-icers, which tend to bounce off surfaces, pre-wetted de-icers remain on the surface, and less salt is needed to break the ice's bond with the pavement.

ALTERNATIVE DE-ICING AND ANTI-ICING PRODUCTS

De-icing chemicals are applied to roads after ice has already formed on the surface. The de-icer lowers the temperature at which water freezes, causing the ice to melt. Anti-icing chemicals work on the same principle; however, anti-icers are applied prior to snowfall to prevent snow and ice from bonding to the pavement. Because it is easier to prevent a bond from forming than it is to break a bond that has already formed, anti-icing techniques are more effective and require less volume of chemical spray. Many studies have been conducted to evaluate the effectiveness of alternative de-icing and anti-icing chemicals, and MDOT has been using these alternative compounds on some of its highways, particularly on highway ramps and bridges that are susceptible to corrosion and are near rivers. One alternative product success story comes from the Zilwaukee Bridge near Saginaw, Mich.



Zilwaukee Bridge © State of Michigan – Michigan Department of Transportation

Application of Anti-Icing Solution Photo courtesy of Cryotech Deicing Technology



CMA* (calcium magnesium acetate) and Cryotech CF7* (liquid potassium acetate) have been the only chemical de-icers used on the Zilwaukee Bridge since its completion in 1988. To date, there is no evidence of chloride-induced corrosion. The CF7 is used to pre-wet CMA as it is being applied. When pre-wet at the time of application, CMA does not bounce and roll, allowing it to stay on the bridge surface longer. Since CF7 is a high performance de-icer, there is an immediate effect. MDOT has also modified equipment for direct application of CF7 for anti-icing and frost conditions. CF7 readily biodegrades and results in little environmental impact.

Sodium chloride (rock salt) and calcium chloride each have advantages and disadvantages. Sodium chloride costs less but does not work as well as calcium chloride at lower temperatures. Calcium chloride doesn't have the chemical additives that rock salt has (two to five percent of road salts consist of other elements, such as phosphorus, nitrogen, copper and even cyanide) and is less harmful to vegetation. Both sodium chloride and calcium chloride are corrosive.

Magnesium chloride is similar to calcium chloride, but twice as much is needed. It has a low cost and low freezing point, making it suitable as both a de-icer and anti-icer. It is less corrosive on roads and safer for the environment compared to sodium chloride and calcium chloride. However, magnesium chloride is corrosive to floors when tracked into buildings. If over applied, the road surface can become slippery.

Continues on pg. 70



e-mail is definitely comforting to prospective customers; it means that you have your Information Technology needs in order (an important message to send in this day and age).

After you have purchased your Domain Name, you should invest in an e-mail hosting service. This service will allow you to connect to a remote e-mail host to send and receive e-mail. You should expect to pay \$3-\$5/month per employee for a quality e-mail hosting platform.

Create a professional website

A website can hurt your company as easily as it can help. An unattractive, poorly organized and rarely updated website can be detrimental to your Internet brand. You should think of your website as a salesperson who is operating 24 hours a day. Your website should present a professional, knowledgeable and reputable image of your company. At a minimum you should have information about your products and services, portfolio/case studies, news/press releases, testimonials, company biography and contact information.

Sponsored Internet marketing

Google, Yahoo, and MSN all have a form of paid advertisement on their search results. For a reasonable amount (as low as \$50/month) you can be sure that interested visitors will find your site from the major search engines. Here's how it works: your company would bid on a particular keyword such as "driveway paving" and tell Google how much you are willing to pay each time a person clicks on your ad. The average pay-per-click amount for most keywords is around \$0.50 per visitor/click. If your ad is seen on Google (on the right side of the search results where it says Sponsored Links) but not clicked, it costs you nothing. Sponsored Internet Marketing is a great way to get qualified leads at a low cost.

Electronic newsletters

For the majority of companies, their income is comprised of repeat business or business that has been referred by a customer or friend. Often, no matter how hard we try, it is very difficult to stay in touch with all of our customers on a very personal level. However, a great way to keep your customers thinking about you is to publish an electronic email newsletter. Get in the habit of collecting e-mail addresses from all of your new clients and contacts. Once you have a significant contact list, start sending out your e-mail newsletter (monthly or quarterly) with your company name and logo, and announce a new product or service to your customers. It's normally a good idea to include some educational content (as opposed to purely sales) in your newsletters. If your customers and clients can learn something from your newsletter, then they will start to expect and anticipate its arrival. The goal is to keep your company name in front of them so that when someone asks "Do you know where I can go for...?," your name will immediately come to mind.

More and more consumers are turning to the Internet instead of the phone book to get information about products and services they need. The five steps outlined in this article provide an effective start to positioning your business for the growing number of online consumers.



For more information, e-mail Ryan Doom at ryan.doom@webascender.com, or call him at 517-579-0420. Visit his website at www.webascender.com



Member News



MITA Board President Brian Slagter, of Slagter Construction, Inc., recently presented MITA's \$25,000 contribution to L.A. Glasgow, chairwoman of The Road Information Program (TRIP). TRIP, a non-profit organization based in Washington, D.C., has served the highway industry for 30 years with state and national reports regarding the condition of city, county, state and national

roads. These reports help influence state policy leaders to support increased funding for infrastructure improvements. Transportation policies that stem from TRIP's reports help relieve traffic congestion, improve air quality and highway traffic safety and enhance economic productivity.

NTH Consultants, Ltd. www.nthconsultants.com

NTH Consultants, Ltd. (NTH), an expanding Midwest and Mid-Atlantic Infrastructure Engineering and Environmental Services firm, recently opened a new office in the heart of downtown Indianapolis, Ind. Their newly renovated space is located in the Vienna Building at the northeast corner of Alabama and New York Streets in downtown's historic Lockerbie Square neighborhood.

For nearly 40 years, NTH has had the good fortune of providing engineering and technical services for high profile clients throughout the Midwest and Mid–Atlantic regions as well as across the nation. Established "work with" relationships have helped NTH grow steadily in the rankings as an ENR Top 500 Design Firm. Specialization areas include:Underground Engineering (geotechnical), Facilities Infrastructure Engineering (building elements), Redevelopment Engineering (environmental), Resource Engineering Technologies (waste management) and Construction Engineering Services (inspection). As employee owners, all NTH staff members are personally committed to assuring client satisfaction each and every day.

NTH's newest office is located at 303 North Alabama, Suite 110, Indianapolis Ind., 46204. Our office phone number is (317) 735-7640. Headquartered in Detroit, NTH operates eight full service regional offices in Indiana, Michigan, Ohio and Pennsylvania.

Hubbell, Roth & Clark, Inc. www.hrc-engr.com NEW HIRE

NEW HIK

Dennis Benoit, P.E., a widely recognized expert in water and wastewater treatment and associated systems, has joined Hubbell, Roth & Clark, Inc. (HRC). Benoit will be based in HRC's newly opened Grand Rapids office and will serve as the Grand Rapids office manager. The office is located in the city's renaissance zone.

Benoit will manage work performed throughout west Michigan as well as northern Indiana and Illinois as HRC continues



Dennis Benoit, P.E.

to expand its service offerings geographically. As a former managing officer with a national consulting engineering firm, he brings with him over 30 years of professional experience in water, wastewater, stormwater, flood control and Continues on pg. 37



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Member News

Continued from pg. 35

transportation projects, both locally and nationally, as well as general municipal consulting.

Benoit holds both bachelor's and master's degrees in civil engineering from the University of Illinois and is a registered professional engineer in Michigan, Illinois and Indiana. Professional affiliations include the American Water Works Association where he serves the Michigan Section as Co-Chair of the Water Treatment Practices Committee and as a member of the Water Utility and Water for People Committees, the American Public Works Association, the American Society of Civil Engineers and the Water Environment Federation.

For over 90 years, HRC has been providing consulting engineering and architectural services to municipal, industrial and private clients throughout southeastern Michigan, in addition to servicing various national clients. As a full service, multi-disciplined firm, HRC is comprised of over 230 engineers, professional surveyors, architects, technicians and support staff. HRC is an Engineering News Record (ENR) Top 500 Design Firm whose work has been recognized by numerous prestigious industry awards. HRC has offices in Bloomfield Hills, Grand Rapids, Howell, Detroit, Pontiac and Mt. Clemens.

Wade Trim www.wadetrim.com

WADE TRIM TAKES SPECIALIZED EXPERTISE TO OMAHA

Many of the solutions developed to control combined sewer overflows

(CSOs) along the Detroit and Rouge Rivers are considered pioneering technology in the field of CSO control and treatment. These projects are serving as examples across the country of how effective different technologies can be in addressing this problem that contributes to pollution in our rivers and streams during rain events.

Wade Trim, a Detroit-headquartered engineering firm that has planned and designed CSO projects for the City of Detroit, Wayne County, Oakland County and other local communities, is using this expertise to expand its business. The firm recently landed a contract with the City of Omaha, Nebraska. Omaha is embarking on a 20-year program to address its CSO problem. Because of their expertise in CSO control and treatment, Wade Trim was one of six consultants given a more complex sewer district and the only Michigan-based firm to lead a contract. The work in Omaha adds to the CSO work Wade Trim is completing with the Northeast Ohio Regional Sewer District in Cleveland, Ohio, and the Pittsburgh Water and Sewer Authority in Pennsylvania.

Asphalt Paving Awards Given to Many MITA Members

Building on the tradition established in 1977, the Asphalt Paving Awards Program continues as a cooperative effort between the Asphalt Pavement Association of Michigan (APAM) and the Michigan Department of Transportation (MDOT). The awards program recognizes excellence in asphalt pavement Continues on pg. 38



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Member News

construction. All APAM members and their customers in the private and public sector were invited to nominate projects that exhibit exceptional construction qualities. During 2006, 60 projects were evaluated in 9 different award categories. The judging committee visited each of the nominated projects, traveling about 4,000 miles in 10 days. Each project was rated on a scale of 1-10 in the following nine quality areas: Appearance: includes overall neatness, no overspray or left-over materials; Ride: must be smooth; Texture Uniformity: free of segregation, major surface grinding, roller marks, etc.; Longitudinal and Transverse Joints: straight, well-blended, smooth and uniform; Edges: straight, uniform, true to the contour of the road; Approaches: blended well with the mainline pavement; Utility Covers: flush with the pavement; Degree of Difficulty: includes exceptional circumstances, maintenance of traffic, night paving, etc.

As in the past, when and where possible, the judges evaluated these jobs from the same vehicle and sat in the same seats in order to get a consistent feel for how the projects rode.

The individual judge's scores were added up and averaged to arrive at the highest project scores. After all the jobs were visited, the committee met as a group, reviewed the projects and scores and selected the winners.

Continued from pg. 37

The 2006 Asphalt Paving Award winners were:

SINGLE COURSE OVERLAY

Award of Me	<i>rit:</i> M-52 from M-43 to
	Bath Road, Ingham and
	Shiawassee Counties
Contractor:	Michigan Paving & Materials
	Co./Spartan Asphalt Division
Owner:	MDOT University
	Region/Lansing TSC
Award of Exe	cellence: US-2 Loretto,
	Dickinson County
Contractor:	Bacco Construction Company
Owner:	MDOT Superior Region/Crysta
	Falls TSC

LOCAL AGENCY PROJECTS

Award of Me	erit: Washington Avenue
	Improvement Project
Contractor:	Michigan Paving & Material
	Co./Battle Creek Division
Owner:	City of Battle Creek

Award of Excellence: Oakland Street Reconstruction, Village of Holly

 Contractor:
 Cadillac Asphalt, L.L.C./

 Clarkston Division

 Owner:
 Village of Holly

 Consulting Engineers:
 Rowe Incorporated

URBAN STREET PROJECTS

 Award of Excellence: Wildwood Avenue

 Reconstruction

 West Avenue to Steward

 Avenue, City of Jackson

 Contractor:
 Aggregate Industries/Mason

 Plant

 Owner:
 City of Jackson

 Consulting Engineers:
 Capital Consultant/Design

 Works A.E.

RECREATIONAL PROJECTS

Extonsion
LATENSION
Bay City State Recreation Are
Contractor: Rieth-Riley Construction Co.,
Houghton Lake Division
<i>Wwner:</i> Michigan Department of
Natural Resources





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Continued from pg. 38

 Award of Excellence: Lake Ann Baptist Camp

 Contractor:
 Rieth-Riley Construction Co./Traverse City

 Division

 Owner:
 Lake Ann Baptist Camp

CWILCI. LAKE AIII

AIRPORT PROJECTS

 Award of Merit:
 Mason County Airport

 Contractor:
 Rieth-Riley Construction

 Co./Big Rapids/Ludington Division

 Owner:
 Mason County Airport

 Consulting Engineers:
 Peckham Engineering, Inc.

 Award of Merit: Antrim County Airport

 Contractor:
 Payne & Dolan, Inc.

 Owner:
 Antrim County Airport

 Consulting Engineers:
 Peckham Engineering, Inc.

 Award of Excellence: Delta County Airport

 Runway 9/27 Rehabilitation

 Contractor:
 Payne & Dolan, Inc.

 Owner:
 Delta County Airport

 Consulting Engineers: URS Corporation

SPECIAL/CHALLENGING PROJECTS

 Award of Excellence:
 Dearborn Development Center

 Contractor:
 Ajax Paving Industries and Rieth-Riley

 Construction Co. Track Division

 Owner:
 Ford Motor Company

 Consulting Engineers:
 Wilcox Professional Services

PROJECTS 2,500 – 20,000 TONS

Award of Mer	<i>t:</i> Howard and Three Rivers Road
	2006 Paving Project
Contractor:	Rieth-Riley Construction Co./Houghton
	Lake Division
Owner:	Gladwin County Road Commission
Consulting En	gineers: Wade Trim

Award of Excellence: Hamlin Road, Macomb County John Carlo, Inc. Owner: Macomb County Road Commission

PROJECTS 20,000-50,000 TONS

 Award of Merit: Davison Road 5 Lane Widening

 Vassar Road to Irish Road

 Contractor:
 Cadillac Asphalt, L.L.C./Clarkston Division

 Owner:
 Genesee County Road Commission

 Consulting Engineers:
 Kraft Engineering & Surveying, Inc.

Award of Excellence: US-2 S-Curves, Iron County Contractor: Bacco Construction Company Owner: MDOT Superior Region/Crystal Falls TSC

PROJECTS OVER 50,000 TONS

Award of Excellence: I-75, Lincoln Road to Arenac County Line Contractor: Payne & Dolan, Inc. Owner: MDOT Bay Region/Bay City TSC Continues on pg. 43



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3rd Annual MITA Cor

Over 650 MITA members attended the 3rd Annual MITA Conference, which was held in January at the Soaring Eagle Casino & Resort in Mt. Pleasant. Motivational speakers, panel/roundtable discussions, exhibits and networking functions were all made possible by the generous support of sponsors and exhibitors.

Please show your appreciation by taking the companies listed on these pages into consideration as you do business.

And mark your calendars for the 4th Annual MITA Conference, which will be held Jan. 17-18, 2008 at the Soaring Eagle.





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Member News

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NEW HIRE

Wilcox Professional Services, LLC, welcomes William R. Zipp, P.E. to their Farmington Hills office. Zipp has over 25 years experience including serving as project manager and lead road engineer on planning and design projects for southeast Michigan client base. His clients have included MDOT, the Road Commission for Oakland County, the Washtenaw County Road Commission, the City of Pontiac, the City of Rochester Hills, the City of Birmingham and the City of Livonia.

Zipp is a graduate of Michigan Technological University and is a member of the Institute of Transportation Engineers. Early in his career he worked for the FHWA as a regional engineer.

Wilcox is an award winning company with offices in Michigan, Indiana, Wisconsin and Arizona. Continues on pg. 44

MITA Helps Sponsor Youth Engineering & Science Expo

As one teacher put it, MITA helped connect education with jobs for over 3,000 students and teachers during the Youth Engineering & Science Expo (YES! Expo) 2006 November 2 at Ford Field in Detroit.

MITA participated in the event as part of Michigan's Design and Construction Coalition (MDCC) and contributed funding for tote bags that displayed www.mi-dcc.com, a website that MITA staff designed for the coalition. In addition to MITA, the coalition includes: American Council of Engineering Companies – Michigan Chapter, American Society of Civil Engineers, Michigan Society of Professional Engineers, Michigan CAT, Michigan Laborers-Employees Cooperation & Education Trust Funds (Michigan LECET) and the International Union of Operating Engineers Local 324.

MITA Vice President of Engineering Services Glenn Bukoski, P.E., and Director of Technical Services Douglas Needham, P.E., talked with students and teachers about MITA's student intern program and passed out cards, which directed them to www.mi-ita.com/student_ intern.htm, where students can apply for internships with MITA members. MITA Director of Communications Nancy Brown photographed the event and helped pass out MITA pens to the eager middle school and high school students and teachers from all across Michigan.

Students and teachers examined and "test drove" Michigan CAT

equipment and waited in line to try out the Operating Engineers' challenging Crane Simulator. Others designed a bridge, thanks to a bridge simulator computer program provided by ACEC. METCO showed students a three dimensional mapper/scanner, and Ruby and Associates demonstrated soil analysis using a simple sieve analysis tool.

Other points of interest in the MDCC exhibit area included a video about construction careers, the coalition's banner, and large photos of Detroit's Arch Bridge project and Ford Field under construction. A representative from the design firm for the Arch Bridge was also on hand to answer questions.

The goal of MDCC is to inspire young people in Michigan who are in the midst of career planning to consider careers in the fields of engineering and construction. MITA plans to continue its participation with MDCC to gear up for next year's event. If you have suggestions, please contact MITA vice president of membership services Rob Coppersmith at robcoppersmith@mi-ita.com.



As part of Michigan's Design and Construction Coalition (www.mi-dcc.com), MITA participated in a job fair at Ford Field last year. Thousands of students from across Michigan attended the event. In addition to MITA, members of the coalition include: American Council of Engineering Companies – Michigan Chapter, American Society of Civil Engineers, Michigan Society of Professional Engineers, Michigan CAT, Michigan Laborers-Employees Cooperation & Education Trust Funds (Michigan LECET) and the International Union of Operating Engineers Local 324.







The development and use of carbon-fiber reinforced polymers (CFRPs) for bridge construction by Nabil Grace of Lawrence Technological University has led to a series of research projects that will have a dramatic impact on the maintenance needs and longevity of America's highway bridges.

Grace is chairman of the Lawrence Tech's Civil Engineering Department and director of the Center for Innovative Materials Research (CIMR) that opened in 2006. He recently was named university distinguished professor, Lawrence Tech's highest faculty rank.

Grace has tackled a problem that has vexed civil engineers for decades. The use of traditional steel reinforcements in the nation's bridges has resulted in frequent maintenance because steel rusts rapidly when exposed to water, salt and other chemicals. Wide temperature variations, heavier truck loads and growing traffic volumes have accelerated structural failures that sometimes require replacement years ahead of schedule. Cracking and spalling failures can even result in chunks of concrete falling from bridges and threatening public safety.

Bridge repairs have proven to be both costly and time-consuming, and highway departments are often unable to keep up with and fund the necessary remedial work.

"The same problems are likely to recur over time if repairs are made by employing the same methods, materials and designs of the original construction," Grace said.

Grace and his faculty and student teams have spent many years developing new structural design methods using CFRPs. They have developed creative new ways to eliminate the use of steel reinforcement in bridges. These revolutionary design methods could usher in a new era in the sustainability of highway bridges.

Grace believes that taking advantage of high-strength carbon-fiber technology will result in better design and less maintenance, which will translate into a dramatically longer lifespan for bridges. Public officials will be willing to invest more in bridge replacement when they know they can get more for their money, and taxpayers will benefit due to lower costs of less frequent repairs. Fewer shutdowns and detours caused by

Students at Lawrence Technological University in Southfield install sensors for testing box-beam bridges reinforced with carbon-fiber reinforced polymers developed by Nabil Grace, director of the university's Center for Innovative Materials Research. repairs also benefit commuters and commerce.

Grace has a patent for his invention of ductile hybrid fabric. This unusual combination of carbon and glass fibers offers an excellent means to reinforce existing structures, both buildings and bridges. In many instances, existing buildings can be reinforced to survive catastrophic failures from natural or terrorist events. The ductile hybrid fabric can be applied with a special adhesive bonding to structural components and produce a dramatic strength improvement.

When Grace began his structural research work at Lawrence Tech, there were no suitable laboratory facilities available. He personally designed and supervised the construction of large testing frames and associated hydraulic loading systems with full-scale environmental chambers. He secured sizeable donations of materials and system components to complete the construction.

In 2001, the City of Southfield and consulting engineers Hubbell, Roth & Clark Consulting Engineers partnered with Lawrence Tech to provide a real-life research project for Grace's new structural materials. When rebuilding the \$8 million Bridge Street bridge over the Rouge River near Eight Mile Road, the city used traditional, steel-reinforced concrete for one span and CFRP-prestressed concrete for a parallel span. Both spans are continually monitored and a five-year load test was completed in December 2006.

It was the first American bridge for auto traffic built with Grace's research results. The bridge project won the Precast/Prestressed Concrete Institute's Harry H. Edwards Industry Advancement Award. The American Consulting Engineers Council of Michigan and the Michigan Society of Professional Engineers



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Nabil Grace is a distinguished university professor, chair of the Civil Engineering Department and director of the Center for Innovative Materials Research at Lawrence Technological University in Southfield.

awarded the engineering design and research team the Eminent Conceptor Award – the highest award for engineering excellence for outstanding achievement for an engineering or surveying project.

Gregory Johnson, Metro Region engineer for MDOT, said his department wants to build on knowledge gained from the Bridge Street bridge demonstration project to assess "constructability issues, cost comparisons/life cycles, and maintainability issues" involved in replacing steel reinforcement with CFRPs.

"The Michigan Department of Transportation is very interested and excited to partner with Lawrence Technological University in the area of innovative construction materials such as carbon fiber," Johnson said. "We hope to show that certain carbon fiber applications will provide longer life and less maintenance as well as being cost competitive over the life cycle for certain bridge conditions that MDOT is faced with across the state."

In 2005, Grace secured a major new source of funding for his research when the U.S. Army recognized that CFRPs also have tremendous potential for military applications. Lawrence Tech began a five-year, \$11 million cooperative agreement involving both the Army Research Laboratory and the U.S. Army Tank Automotive Research Development and Engineering Center (TARDEC) in Warren. The scope of the agreement includes research on the usage of ductile hybrid fabric as well as many other innovative carbon-fiber applications.

The grant helped build Lawrence Tech's Center for Innovative Materials Research (CIMR), a \$3.2 million research facility on the university's 125-acre campus in Southfield, which opened last year.

In 2006, Lawrence Tech and Grace received a \$1.175 million grant from the U.S. Department of Transportation to study bridge materials and a \$1 million grant from the U.S. Department of Defense to research, develop and test carbon fiber composites and other advanced materials for defense applications. Two patent applications addressing the development of armor structure and a new bridge system have been filed.

Also in 2006, Lawrence Tech and Grace were awarded a threeyear, \$899,996 grant by the Michigan Economic Development Corp. (MEDC) from Michigan's 21st Century Jobs Fund to develop, implement and commercialize new materials and engineering practices.

Grace said the goal is to develop a box-beam bridge that will require very little maintenance because of its design and corrosionfree materials. Using a carbon-fiber, reinforced polymer instead of steel to reinforce the concrete should double the lifespan of replacement bridges and save taxpayer money, according to Grace.

The project will combine experimental and theoretical research to produce applied technology that will be used in the replacement of various structural components in three bridges identified by MDOT.





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DRIVING MICHIGAN MITA is engaged in a massive statewide campaign with several other business, labor and local government groups called Drive MI, with the common goal of investing and improving Michigan's transportation infrastructure. This effort will have spin-off benefits for the heavy construction industry as a whole.

Thanks to thousands of legislative postcard participants thus far, we have distributed 10,000 postcards so far to senators, representatives and the governor. We are thus moving closer to our goal of letting the governor and every legislator in Lansing hear your voices regarding increased transportation funding.

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If you have any questions, please contact Mike Nystrom, MITA vice president of government and public relations (mikenystrom@mi-ita.com) or Keith Ledbetter, director of legislative

affairs (keithledbetter@mi-ita.com). You may also call them at 517-347-8336.

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24-CENT POSTAGE HERF

WINTER | 2007

DEADLY **STORY** WE KEEP MISSING

By Peter J. Woolley, Ph.D.

Reprinted from the Washington Post.com (December 27, 2006) with permission from the author.

The non-story of 2006 was also the non-story of 2005. It is a non-story every year going back decades. Yet the number of people who die in car crashes in the United States is staggering, even if it is absent from the agenda of most public officials and largely ignored by the public.

When all is said and done and the ball begins to drop on New Year's Eve, 44,000 people, give or take several hundred, will have died in auto accidents this year. To put that number in perspective, consider that:

- ▶ At the 2006 casualty rate of 800 soldiers each year, the United States would have to be in Iraq for more than 50 years to equal just one year of automobile deaths back home.
- In any five-year period, the total number of traffic deaths equals or exceeds the number of people who died in the horrific South Asian tsunami of December 2004. U.S. traffic deaths amount to the equivalent of two tsunamis every 10 years.
- According to the National Safety Council, your chance of dying in an automobile crash is one in 84 over your lifetime. But your chances of winning the Mega Millions lottery are just one in 175 million.
- If you laid out side by side 8-by-10 photos of all those killed in crashes this year, the pictures would stretch more than five miles.
- If you made a yearbook containing the photos of those killed this year, putting 12 photos on each page, it would have 3,500 pages. If you wanted to limit your traffic-death yearbook to a manageable 400 pages, you'd either have to squeeze more than 100 photos onto each page or issue an eight-volume set.

Can you hear me now? Automobile deaths are the leading cause of death for children, for teenagers and in fact for all people age 3 to 33. Yet this annual tragedy is not a cause celebre.

Opinion leaders largely ignore this ubiquitous

massacre. No marches, walkathons, commemorative stamps or fundraising drives are organized. It is not brought up in the State of the Union address. It is rarely the subject of public affairs shows. Statistics aren't updated daily in major newspapers or broadcasts.

Gruesome crashes are reported just one at a time, each as if it might never happen again. Little attention is paid to the aftermath: safety measures taken or not taken, the workings or non-workings of the justice system. These avoidable deaths, as well as more than two million non-fatal dismemberments, disfigurements and other injuries that go along with them, have become part of the fabric of everyday life in the United States.

Elected officeholders naturally take the path of least resistance. They are well aware that significantly reducing deaths on the roads requires radical solutions in the form of regulation, investment and enforcement. Roads need to be made safer, for example, by extending guardrails and medians to every mile of busy highways. Speeding and aggressive driving need to be much more rigorously controlled. Trucks need to be separated from automobiles wherever possible. And cars need to be built slower and stronger.

But every solution is readily opposed by someone: manufacturers, industrial unions, truckers, consumers, taxpayers - though all are potential victims themselves. The public is not to blame. Apparently no medium is willing to bludgeon people - as they need to be - with statistics and trends on the dangers facing them every time they set out in their automobiles.

Only if there is a public outcry will this situation get the attention due it. Only when people full realize the absurd and avoidable costs of the dangers that stalk them on the road - and then become the story of the year, as it should be.

Reprinted with permission from the author, who is a professor of political science at Fairleigh Dickinson University in Madison, New Jersey, and executive director of PublicMind (http://publicmind.fdu.edu), a public opinion research group there. You can contact him at woolley@fdu.edu.



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Legal Issues

What is Willful? A Recent Michigan Court of Appeals Weighs in on Criminal Willful Citations Highlighting Industry Concerns

By Daniel J. Dulworth, Esq., Shareholder, Butzel Long

For years, MITA, its members and its outside counsel have been concerned that the definition of "willful" behavior for purposes of a MIOSHA citation has been an ill-defined "moving target." This concern has been heightened in recent years because MIOSHA has apparently grown more comfortable with issuing multiple willful citations, especially in those unfortunate workplace incidents involving a fatality. In assisting its members in vigorous defense of many willful citations over the past few years, MITA and its counsel became aware that there is precious little structure to the definition and analysis of "willful" citations before they are issued. Recognizing the construction industry's need for fairness and certainty in understanding and responding to these citations, MITA took steps to introduce a clear and fair definition of "willful" to the Michigan Legislature in 2003. MITA and its counsel wrote proposed defining legislation, presented it to the Legislature, and testified in support of the definition in key legislative hearings. While Michigan's Legislature acted on, and approved, legislation defining the criteria for issuing a "willful" citation, it was vetoed by the Governor. Consequently, MIOSHA and the members of Michigan's construction industry are working without a fair

and clear definition of "willful" for civil purposes. This lack of clarity is especially troubling given the enormous financial and commercial risks associated with willful citations.

A recent Michigan Court of Appeals decision highlights the risks associated with allowing MIOSHA and the Michigan Attorney General's Office to operate without legislative guidance on the definition of "willful" for purposes of issuing MIOSHA citations and pursuing associated criminal prosecutions. On Oct. 17, 2006, the Michigan Court of Appeals issued an opinion upholding the criminal felony conviction of the Lanzo Construction Co. ("Lanzo") for willfully violating the Michigan Occupational Safety and Health Act (MIOSHA) after an employee died when a trench collapsed. This unprecedented decision is the first time a Michigan construction company was criminally convicted of a MIOSHA violation following a full criminal trial.

The case arose out of a sanitary sewer project in Southfield in which Lanzo hired Robert Whiteye, and others, to install the sewer pipe under the supervision of Lanzo foremen. On May 24, 1999, Whiteye was working Continues on pg. 67



MDOT News A Look at MDOT's Intelligent Transportation Systems

By Jeff Grossklaus, P.E. Construction Staff Engineer MDOT Construction and Technology Support Area

MDOT continues to experiment with Intelligent Transportation Systems (ITS) in work zones in order to improve safety and mobility. Two new systems were used in 2006 with promising results: the Dynamic Late Lane Merge (DLLM) and Real Time Information.

When approaching a lane closure on high volume roadways, motorists tend to merge early to the through lane, sometimes creating a long queue in one lane. This reduces the capacity of the roadway, increases delay times and entices aggressive driving behavior causing safety hazards. The DLLM directs the motorists to merge at a defined point increasing the road capacity, decreasing the delay time and discouraging aggressive driving behavior. The DLLM is made of roadside traffic sensors, three portable changeable message boards and a computer, all connected by wireless communications. When the speed of the traffic reaching the taper of a work zone slows to a preset value, the DLLM automatically turns on. The portable changeable messages boards display messages of:

SLOW TRAFFIC AHEAD/ USE BOTH LANES (farthest from taper)

USE BOTH LANES/ STAY IN YOUR LANE

TAKE YOUR TURN/ MERGE HERE (at taper)

The defined merge point creates a "zipper effect" of the movement of vehicles.

MDOT placed the DLLM on I-69 near Durand and on I-94 near Paw Paw. Wayne State University studied the systems in place to observe motorists compliance, DLLM effectiveness and to offer improvements for future deployments. Preliminary results show that, as with any new concept, motorists do not adopt to change



quickly. The systems were in place for a period of time before real compliance was observed. Also. it was determined that the DLLM is useful only for high traffic volume roadways with at least a two hour peak period per day. The Real

The Real Time Information System is used to inform the motorists





what to expect as they approach a work zone. Specifically, motorists are told how much longer than normal it will take them to travel to the beginning of the work zone, also called delay time. The information is used by the motorists to determine if they should take an alternative route, if one is available, and it gives them a comfort level by knowing what to expect ahead in turn reducing aggressive driving. The system consists of roadside traffic sensors, a changeable number block within static signs and a computer, all connected by wireless communications. The sensors detect the characteristics of the traffic, the computer analyzes the data and a message is then sent and displayed on the changeable number block, which shows the number of minutes of delay to the beginning of the work zone.

In 2006, MDOT deployed the Real Time Information System on I-696/M-10 near Southfield and on M-14 between Ann Arbor and Plymouth. Permanently installed sensors used by Michigan Intelligent Transportation Systems (MITS) center were incorporated into the Real Time Information System to provide more data and, in turn, more accuracy of the delay time. The system was expanded by adding portable cameras to the M-14 project to give the MITS center another set of eyes to view incidents in the work zone. When an incident was observed, MITS displayed a message on the portable changeable message signs within the project limits, providing the motorists with additional Real Time Information.

These two Intelligent Transportation Systems have a future on MDOT roadways. This year the Real Time Information System will be used on M-10 (Lodge Freeway) in Detroit. The system will display travel time (time it will take the motorist to get from one point to another). The system will be on the detour routes and other major routes while the Lodge is closed for construction. Further deployments of the DLLM are expected to take place, though none are currently scheduled for the 2007 season.

The DLLM and Real Time Information have been added to MDOT's "tool box" of available resources, including the Dynamic Early Merge System, to help improve the safety and mobility in and around work zones.



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Questions and Answers

Speaker of the House Andy Dillon

Q: What are your legislative priorities?

- **A:** The Legislature is going to tackle our challenges head-on and address key issues to move Michigan in a new direction. The six new priority areas are:
- Replacing Michigan's Single Business Tax with a new tax system that will attract businesses to Michigan and encourage growth;
- Reducing the high cost of health care, which is breaking the backs of businesses and straining the wallets of our working families;
- Strengthening our schools and expanding educational opportunities for all students. A highly skilled workforce is a magnet for jobs, and Michigan cannot afford to get left behind;
- Addressing Michigan's energy needs. Michigan must be a leader in energy policy to meet looming power shortages and to compete in a 21st-Century economy;
- Stimulating the real estate market by temporarily eliminating the property tax elevation that occurs when a real estate transaction takes place;
- Restoring integrity in the House by strengthening ethics rules, including banning lawmakers from lobbying within one year after leaving office and reducing conflicts of interest; and
- Protecting Michigan's Great Lakes and fighting imported trash, which threaten our special quality of life.

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and will build a better Michigan in the near future and for generations to come.

Q: Michigan has an estimated funding shortfall of \$700 million for its state transportation system and at least \$2 billion more for its local roads. What creative ideas are being discussed in the legislature to address this funding problem?



State Rep. Andy Dillon (D-Redford Township)

A: Transportation is vital for economic growth and development. Roads connect job providers with workers, doctors with patients and communities together. Companies have said time and time again that good roads are a determining factor in influencing where they invest.

I am aware that MITA has suggested boosting the gasoline tax – last raised in 1997 – by 3 cents a gallon for three years. Some groups have also suggested diesel fuel tax should at least be increased to 19 cents a gallon from its current 15 cents a gallon.

Michigan needs to be creative in how we approach funding for our roads since revenue from the traditional gasoline tax is expected to shrink further in coming years with the development of more fuel efficient vehicles.

- **Q:** What is your opinion on the level of state-funded investment in our state's transportation system (gas and diesel user fees)?
- **A:** I believe our investments in transportation can and must be improved. Good roads and a strong transportation system are vital to our economy. Businesses have said time and time again that they will invest in communities with strong infrastructure, and that includes solid roads. We need to make sure the federal government pays its fair share as Michigan continues to be a donor state. We must find a fair, equitable way to fund our roads.
- **Q:** What is your approach to a long-term funding investment in a jobs program for Michigan? Does the approach include an investment in our supporting infrastructure, such as sewers and roads?
- **A:** In the previous session, I worked in a bipartisan way to author the 21st-Century Jobs plan, which creates a \$2-billion fund without cost to taxpayers to generate jobs in emerging, high-tech fields and strengthen investments in these areas.

I am also a strong supporter of Governor Granholm's Jobs Today program, which accelerates 10 years' worth of construction projects, totaling nearly \$4 billion, into three years. The projects range from road construction, sewer projects and pollution clean-up to building nursing homes and other public works projects. In 2006 and 2007, the construction projects under Jobs Today are expected to generate more than 7,000 jobs in local communities across Michigan.

- **Q:** In 2005 there was almost 20 billion gallons of untreated or partially treated sewage that was released into our freshwater. What do you feel could be done to stop this pollution?
- **A:** The Great Lakes and its connecting waters define Michigan, culturally and economically. We must make sure we protect this vital natural resource, which provides enjoyment to our families and drives our tourism industry. That's why we must do all that we can to reduce the problem of untreated sewage.

Michigan is committed to upgrading and repairing sewer and

Continues on pg. 74

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Sales & Rental of Highway Traffic Safety Devices 1840 Tupelo Trail Holt, Mich. 48842 Phone: 517-372-1291 Fax: 517-694-6123 Diana M. Folleth, president, folleth@sbcglobal.net

Civil Site Work Inc.

Commercial and Industrial Site Work, along with Sewer and Watermain 19871 Northland Dr. Big Rapids, Mich. 49307 Phone: 231-796-7777 Fax: 231-796-7778 Brad Lubahn, president, civilswork@sbcglobal.net

Imperial Construction Co., Inc.

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Job Site Services Inc.

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Miller Co. Ltd.

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Continues on pg. 54

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MITA Cross-section 53

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Continued from pg. 53

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Liberty Mutual Surety

Bonds, Surety www.libertymutual.com 5600 New King Street, Suite 360 Troy, Mich. 48098 Phone: 248-641-0552 Fax: 248-641-9186 Steve DeVore, bond manager, stephen.devore@libertymutual.com

Mactec Engineering & Consulting, Inc.

Civil Engineering, Structural Underground Design www.mactec.com 46850 Magellan Drive, Suite 190 Novi, Mich. 48377 Phone: 248-926-4008 Fax: 248-926-4009 Joel A. Dermid, P.E., senior principal engineer, jadermid@mactec.com

Tri-Star Industries

Civil Engineering, Structural Underground Design, Testing Inspection, Scheduling, Claims, etc. 888 W. Big Beaver, Ste. 790 Troy, Mich. 48084 Phone: 248-515-0777 Michael Donohoe, president, tristarindustries@comcast.net

Veritas Benefits Group LLC

Employee Benefits – Group Insurance Sales 1080 Kirts Boulevard, Suite 300 Troy, Mich. 48084 Phone: 248-519-1300 Fax: 248-519-1301 Leslie M. Loftus, chief operating officer, Iloftus@ghbh.com

etters to MITA Continued from pg. 9

Dear Nancy Brown:

We are in receipt of the lovely framed MITA article about Oakland Companies. Thank you so much. We will hang it proudly.

> Rochelle Miller Vice President of Operations Oakland Companies

Dear Mike:

As I bring to a close 16 years of service in the Michigan legislature, I would like to express my gratitude for the role you have had in helping create good public policy. Far too often, the input the lobby core and associations have in the legislative process goes unappreciated. We have worked on so many activities and issues together that it is difficult to even count them all. Yet, the constant theme is how valuable your assistance was, and I thank you very much for that.

It has been my goal to approach my legislative duties with an open door and an open mind. I also wanted to be straightforward and honest in my assessment of the issues, even when it may not have been the response you desired to hear. I felt having honesty in our relationship would transcend any difference in opinion on any given issue. Your input was appreciated because it helped shape a better analysis of the information. I always believed an open dialogue, on even the most controversial of issues, usually led to a better end result.

Thank you for being such an important part of my legislative career. It was a tremendous opportunity to serve in the legislature and along the way we achieved some great results for the people of Michigan. I look forward to the future and hope that our paths will cross again.

Dianne Byrum

Dear Glenn:

I just wanted to take a minute and thank you for your work on this issue (max lump sum pay item resolution) and all the other things you work on for the membership. Your diligence and commitment to us is much appreciated. Good job!

> Scott Huber Old Castle Materials

Dear Glenn:

On behalf of the State Transportation Commission I would like to thank you for taking the time out of your busy schedule to give your presentation to the Commission regarding project estimating and material indexing. The information presented is valuable to the Commission.

They (Commission) are just beginning to review all avenues on this topic in order to make an informed decision on whether a policy change is appropriate. Your information will be an integral piece of that decision.

Thanks again for your time.

Frank E. Kelley State Transportation Commission Advisor

Dear Glenn and Doug:

Thank you for the invitation for the Michigan Department of Transportation staff to participate in the annual conference held in Mt. Pleasant. I believe we had a strong attendance, which demonstrates our commitment to an ongoing partnership.

I want to commend you both on the coordination of the round table discussion on bidding at the conference. This was a great session and provided a level of exchange between your membership and the MDOT staff.

The Michigan Department of Transportation takes our relationship seriously within the construction industry and appreciates the role of MITA and specifically your leadership role. We look forward to great success in the future as we continue to work together to improve our industry and the quality of the products delivered to the citizens of Michigan.

> Mark Chaput University Region Engineer



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MITA Cross-section 55

Real Estate Investment Trusts Continued from pg. 19

► REITs are subject to changes in the value of their underlying portfolios, and their prices may fluctuate with changes in their real estate holdings.

► REITs may be interest-rate sensitive over a short-term investment horizon. Rising rates not only can negatively impact the relative return

of competitive yield investments, but also increase borrowing costs. ➤ The multi-year outperformance of the broader market finds REITs at high historically high valuations and at risk of share price declines due to a general investor sector rotation. However, underlying operating fundamentals remain strong for almost all commercial real estate





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property types.

Real estate remains a classic investment in America's future, and REITs make this investment a great way to add total return potential to a diversified, long-term portfolio. Your financial advisor can help you determine ways to incorporate these professionally managed investments into your portfolio.

Al Loomis, a Senior Investment Consultant and a Vice President of Investments, and Mircea Dobre, Senior Investment Consultant, are members of The Loomis Dobre Group at the Grand Rapids office of Robert W. Baird & Co., member NYSE and SIPC. They may be reached at (616) 233-8729.

CHECK US OUT ONLINE: www.mi-ita.com

MITA Political Action Committee

MITA, INC. P.O. BOX 1640, OKEMOS, MI 48805-1640 • PHONE 517-347-8336 FAX 517-349-8344

"All that is necessary for evil to triumph is for all good men to stand by and do nothing."

– Sir Edmund Burke

This quote is as relevant now as it was when Burke coined it some 100 plus years ago. When it comes to the legislative arena your survival and ability to make a profit is tied directly to your aggressiveness in financing the campaigns of those who understand the difficulties associated with Michigan's heavy/highway construction industry. Contrary to what you may think, through the collective power of MITA you can affect the legislative process.

The primary focus of MITA's legislative agenda will be long-term, adequate and stable funding for Michigan's supporting infrastructure. It is essential that we convince our elected officials that public works are an investment in our future, improves the quality of life and provides real and meaningful job programs and tax stream. The "no new tax" platform and attitude of many politicians must be changed and this change will require a calculated not emotional approach to this issue. Before we get to this mode, we must have the ear of those who control state government. It is your PAC dollars, and yours alone, that will allow MITA to open the necessary doors in Lansing in our mission to convince lawmakers as to the importance of funding infrastructure improvements.

We need your commitment and investment in MITA-PAC today! Those of you who are content with "letting the other guy carry your weight" are only cheating yourself and short changing our industry.

Send your personal check or money order now to MITA PAC and remember that democracy is not a spectator sport.

What is MITA PAC?

The MITA POLITICAL ACTION COMMITTEE is the legislative voice of Michigan's heavy construction industry. MITA PAC is the most effective tool our industry has to support candidates who will fight for contractors in the Michigan legislature. Your financial support of the MITA PAC gives all of us who care about the future of heavy construction and free enterprise a strong influence in the political process.

Why Do We Need a PAC and Why Should I Support It?

The infrastructure and transportation construction industry survives on public funding. Without your support, our level of influence to promote adequate public funding is diminished. We must also fight negative public policy. Our industry is also constantly under attack in the Michigan legislature. Not a day goes by that some legislators in the Michigan House and Senate aren't proposing legislation that would boost our workers' compensation costs, negatively impact our labor force, raise taxes on personal property, increase business liability – the list goes on and on. Our ability to provide jobs and protect our bottom line is profoundly affected by the legislative and regulatory process.

If we do not prevail in the legislative and regulatory process, we will cease to exist in our business as we know it. We will not be able to provide jobs. We may not be in business!

We have full-time lobbyists fighting for us in Lansing and communities around Michigan. We have spent a great deal of time educating the men and women who decide our fate in Lansing. However, term limits have made this task even harder and there are still some lawmakers who may not have a grasp of our issues or the impact that their decisions have on our industry and you. But, the law allows us to band together under MITA PAC. Instead of lobbying elected officials who don't know or don't care about our ability to provide jobs, our PAC allows us the opportunity to find and fund candidates who believe in us and our employees. The MITA PAC is now one of the top PACs in Michigan. But, only 20 percent of our members provide 100 percent of the funds raised to support candidates who will fight for us – all of us. If the 80 percent of our members who don't participate gave just \$200, we would be an even more potent force for the heavy construction industry.

Do Candidates Really Need Our Help?

Absolutely! Each State House district has 87,000 people in it. Each State Senate district has 250,000, and Michigan has over nine million people. Just as we need to advertise our services, every candidate for office must be able to communicate with tens of thousands of voters. This takes money. Lots of it. Money for brochures, TV ads, radio ads, billboards and other devices. Our PAC can help the candidates we support get their message out and get elected. These are the elected officials who will listen to us and champion our issues.

What Can I Do?

MITA PAC needs your financial support. We are asking every member to step up and contribute. Don't let others carry your load.

Make Your Voice Heard. Support the MITA PAC.

"Those who choose not to be involved in democracy are doomed to be controlled by those who do." – Abraham Lincoln

MITA PAC Contribution Form					
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If you have questions regarding the MITA PAC, please contact Mike Nystrom, MITA vice president of government and public relations at mikenystrom@mi-ita.com or call 517-347-8336.					

MITA Cross-section 57



Founded in 1902, ARTBA is the only national association that exclusively represents the collective interests of all sectors of the U.S. transportation construction industry before the White House, Congress, federal agencies, media and the public. Information about the association can be found online at www.artba.org.

www.artba.org

ARTBA Urges Repeal of Mandatory Withholding Provision

The American Road & Transportation Builders Association (ARTBA) is actively working to repeal a contractual withholding provision scheduled to take effect in 2011 or sooner.

In April 2006, Congress passed a large tax bill that included a last-minute provision mandating that federal, state and local governments withhold three percent of the value of all contracts for goods and services. This provision, known as Section 511, applies to construction contracts among others, but is not scheduled to take effect until 2011. However, in recent months there have been multiple efforts on Capitol Hill to move up the effective date for the provision, perhaps to as early as this year.

Congress' stated reason for passing this provision was to achieve better federal tax compliance. From a budgetary standpoint, Congress also used the amount withheld to "offset" certain tax cuts that will remain in effect in 2011 and beyond. As some members of Congress seek ways to offset additional spending, they are using this same rationale to propose moving up the effective date for the withholding.

Since its enactment, ARTBA has been actively working to repeal Section 511, both independently and as a member of the Government Withholding Relief Coalition (GWRC). In the last Congress, Sen. Larry Craig (R-Idaho) and Rep. Wally Herger (R-Calif.) introduced bills in their respective chambers to repeal the mandate. The last Congress did not act on these bills and ARTBA is among the groups working for similar repeal legislation to be introduced in the new Congress. Besides working for repeal, ARTBA and our coalition partners are working to ensure that Section 511's effective date is not moved up.

ARTBA and the coalition are making a number of arguments to Congress, including:

- The cost of implementing the withholding mandate will be more than the increased revenue for the government.
- Transportation construction firms often realize a profit at the end of a project, but would instead have funds withheld throughout.
- The three percent mandated withholding will often be more than the contractor's actual profit margin.
- Withholding costs will be passed through to the government in the form of higher bids, and/or passed on to subcontractors.
- With various government entities, prime contractors, and subcontractors involved, the logistics of implementing the mandate will be very difficult.

Please help ARTBA make the case to Congress that Section 511 should be repealed.

Contact your two U.S. Senators and U.S. representative by using the toll-free ARTBA Action Hotline at 1-888-448-2782. Ask for the member of Congress or their legislative assistant who handles transportation issues. Explain why Section 511 of the Internal Revenue Code will hurt your business and urge them to support legislation repealing it.



PROGRESS REPORT The New MITA Building

Work is continuing on the new MITA facility in Okemos. In addition to MITA, the building will house the Asphalt Pavement Association of Michigan and the Michigan Concrete Paving Association.

The 20,000-squarefoot facility will feature increased space for training and meetings for the membership and staff. The expected completion date is August 2007.





WINTER | 2007

BOLD CHANGES NEEDED IN STATE PERMITTING Continued from pg. 20

All permitting and licensing functions should be housed in a new and separate department. This change is the single most important action that could be taken to reverse the stifling regulatory climate in Michigan. A one-stop shopping approach would simplify the regulatory hurdles faced by companies. More important, this change would alter the anti-business culture that pervades DEQ. Currently, many state regulators possess knowledge limited only to their area of expertise; they often have little regard for larger issues such as private property rights or job creation. A combination of clear legislative direction and a new department would make it difficult for employees to pursue their own agenda.

The agency would be much more accountable to the Legislature and residents as its efficiency in responding to permit applications would be easier to track. Instead on handling myriad functions, the agency's effectiveness would be measured on how well it processes permits. Environmental protection would not be sacrificed because the laws protecting the environment would not change.

These changes should be taken up with urgency. It is the responsibility of the Legislature to write environmental laws that are simple and clear. It is the duty of the administration to provide government that is accountable and transparent. If it is too time-



consuming or expensive to obtain permits, businesses will take their jobs elsewhere, an outcome the state's sagging economy can ill afford.

Russ Harding is senior environmental policy analyst for the Mackinac Center for Public Policy, a research and educational institute headquartered in Midland, Mich. For more information about the Mackinac Center, visit http://www.mackinac.org.

Vice President of Membership Services Comment Continued from pg. 23

put to some form of litmus test to determine if it will work. The combining of the two associations came up for discussion in some way, shape or form every year I have worked in this industry for what now is rapidly approaching 13 years. Never was the combining of the two associations looked upon as a bad idea. The real question was how do we get there. That question has been answered now for over two years.

From a nuts and bolts standpoint, your association is locked and moving forward at lighting speed on a variety of issues. From a social standpoint, we are lacking a little. Cultures don't form overnight, they evolve. I think it is important that all members be a part of the evolution. The only way to do that is to get involved and meet new people. Don't worry, this is happening. It's just one of my jobs to help foster the process. The make-up of our Board of Directors and MITA staff will ensure equity between the different facets of the heavy construction industry. However, needs must be addressed as they arise or are anticipated.

If you're having trouble keeping up with your changing association, ask yourself: "what has really changed for my organization?" I suspect at a gut level your answer will be nothing. In reality, you enjoy expanded service brought on by the addition of staff. From a safety standpoint, we are able to provide more jobsite inspections and training. We can dedicate more time to tough MIOSHA appeals. We have expanded our influence with local governmental agencies and municipalities and are intimately involved with specification issues. Legislatively, we have tackled and won hard issues like hours of service, not to mention greater involvement in other regulatory areas that impact your business.

Personally I'm tired of non-members getting a free ride from all the hard work MITA performs on behalf of hardworking, dues paying members. MITA staff is committed to expanding its member base. For that we need your help. Our best method of solicitation comes from members encouraging other contractors to join. To that end, please call me if I can assist you with MITA materials or an appearance at a potential member's office.

In some way shape or form all the issues MITA works on impact the heavy construction industry as a whole, not as a division. With unity comes power. The power to create the type of influence our members want, demand, need and deserve.

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

Confined Space Training Center Opens with Member and MITA Help

Material donations from MITA and member Grand Valley Concrete Products of Grand Rapids helped make a new confined space training prop a reality at the new Walker, Mich. Fire Department.

William Schmidt, City of Walker fire chief, said the donations allowed the department to construct an actual mock up of a storm sewer underground using actual components.

"This training prop will allow our firefighters to practice and train in a real life environment," Schmidt said, "and to better prepare them in the event we need to perform a confined space rescue."

Rob Coppersmith, MITA's vice president of membership services, said the prop will help provide members a higher level of rescue service as well as create a facility that MITA may be able to use for future training efforts.



Rapids are now a part of a confined space training prop in Walker. MITA donated funds to help with the project.

From left to right: Dave Sturrus, president of Grand Valley Concrete Products; and Todd Sturrus, vice president, attended the recent dedication of the new City of Walker Fire Department.





Legal Issues

contract documents require the prime contractor to issue schedule updates. Incorporation of these contractual requirements into the subcontract should provide a court with ample support to enforce a reasonable modification against the subcontractor.

3. If major schedule modifications interfere with a subcontractor's performance, a prime contractor may be liable for the subcontractor's costs of compliance with the new schedule.

A prime contractor's right to schedule, sequence, and coordinate a subcontractor's work is limited to its reasonable implication. ⁹ This limit is set by the prime contractor's duty to reasonably schedule and coordinate the work of subcontractors and its duty to avoid interfering with the subcontractor's performance. ¹⁰

Expressly ordered acceleration or re-sequencing is seldom litigated because it is generally recognized that a subcontractor is entitled to its full contract term to complete its work, and costs are usually negotiated before performance under the new schedule begins. ¹¹ The few cases that discuss dramatic schedule changes under subcontracts that expressly permit adjustment of the schedule indicate reasonableness of the change is the most important factor when determining responsibility for the additional costs.

The leading case on the subject is *Bat Masonry Company, Inc. v Pike-Paschen Joint Venture III,* ¹² in which the prime contractor accelerated and re-sequenced the subcontractor's work to recover from earlier project delays. While the CPM schedule was expressly part of the subcontract, and was subject to modification, the subcontractor was not responsible for costs stemming



from its failure to meet the new schedule because it exceeded the bounds of reasonableness:

The Court finds, however, that although the CPM schedule was subject to modification, Bat was justified in the assumption that Pike-Paschen would not radically depart from the schedule, i.e., Bat could reasonably assume that Pike-Paschen would not completely re-sequence the project and work on the upper levels before the lower levels, that Pike-Paschen would not require the walls to be completed in very small segments, or that Bat would be forced to demobilize the job in the middle of the Project. ¹³

Because the schedule differed so greatly from the baseline schedule, the court permitted the Bat Masonry subcontractor to recover its costs in attempting to comply with it.

Similarly, a prime contractor's ability to modify the schedule will not insulate it from the effects of lengthy delays. For example, in *Kroeger* ν *Franchise Equities Incorporated*,¹⁴ a prime contractor could not rely on its right to modify the schedule to avoid liability for a five month delay:

We believe that a delay in all construction from December to April was not a 'revision' of the critical path schedule within the meaning of the contract and the contemplation of the parties.

Further, the validity of the revised schedule has been an important factor when the costs of delay are allocated between prime and subcontractors. To support a claim for delay, a CPM schedule must be updated to reflect actual project conditions.¹⁵ A prime contractor that bases its schedule on erroneous data may not be able to hold subcontractors liable for costs associated with missed schedule dates, as happened in *US ex rel. R. W. Vaught Co. v F. D. Rich Co., Inc.*¹⁶ Calling the schedule deadlines "arbitrary" and "theoretical aspirations," the court refused to find a contractual commitment to them by the subcontractor.

Finally, a prime contractor's failure to update its schedule can be interpreted as interfering with the subcontractor's performance. For example, in *Natkin & Company v George A Fuller Company*, ¹⁷ a subcontractor successfully claimed constructive acceleration after the prime contractor failed to update its schedule on a timely manner during the project and refused to give the subcontractor a time extension for delays caused by the owner and others. To support this award, the court relied upon the prime contractor's implied duty to avoid hindering a subcontractor's work.¹⁸ The court took the prime contractor to task for failing to maintain the schedule as well as for failing to grant the extension, stating:

The defendants elected to take their chances as to whether their action might violate Natkin's contractual rights.¹⁹

The common theme in these cases is the prime contractor's duty to properly schedule and coordinate the work of subcontractors. A prime contractor that fails to meet this obligation is likely to be liable for the cost of unreasonable schedule modifications.

4. Major schedule modifications should be treated as changes to the contract.

The courts have not quantified a "reasonable" schedule modification. In fact, they have done the opposite. Some judges view delays of one or two months as unreasonable, as happened in *Quaker-Empire Construction Co. v D. A. Collins Construction Co, Inc.*²⁰ Other judges have denied subcontractor claims for delays in excess of 18 months, as happened in *Port Chester Electrical Construction Corp. v HBE Corporation.*²¹ Further most judicial opinions do not even describe the specification of the delay or degree of disruption.

62 MITA Cross-section

So how does a prime contractor implement a major schedule modification without triggering a claim for delay, disruption, or acceleration? The answer is to amend the subcontract. This should be done as soon as possible, because a subcontractor is unlikely to sign a change order at a later date if it puts the subcontractor in default. The modification to the subcontract can be in writing, as with a written change order, or in some cases it can be oral, as such agreements made during project meetings. Even contracts with clauses forbidding oral modifications are sometimes modified orally, if the parties mutually agree to the oral modification.²²

When there is evidence of a subcontractor's oral or written agreement to a modified schedule, enforcing the schedule is usually successful because the subcontractor has waived any contractual right to protest it. However, when a subcontractor responds to a major schedule modification with silence, the subcontractor's waiver of its right to work under the original schedule is not so clear. In these situations, a prime contractor must resort to the subcontractor's course of conduct to establish its assent to the new schedule. In Quality Products and Concepts Company v Nagel Precision, Inc., the Michigan Supreme Court stated clear and convincing evidence that a contracting party knowingly waived enforcement of contractual terms is required when assent to a modified contract is established through course of conduct.²³ By requiring clear and convincing evidence, the court has set a high standard: prime contractors must have excellent documentation if they rely on a subcontractor's course of conduct as evidence of the subcontractor's agreement to the modified schedule. On the other hand, subcontractors cannot use silence to their advantage: a subcontractor's performance under the new schedule without making a claim is likely to provide sufficient proof of its assent to the new terms.²⁴ Indeed, in the scenario presented at the beginning of this article, the subcontractor's promise to try to meet the new schedule deadlines was one of the factors that supported the arbitrator's decision to bind the subcontractor to the modified schedule.

5. Conclusion

Subcontractors must generally perform their work in accordance with revised project schedules as the prime contractor updates them throughout the course of the project. A prime contractor may unilaterally issue these schedules and require subcontractors to follow them at no additional cost so long as the revisions are reasonable. But if those revisions are deemed unreasonable, a prime contractor may be liable for the subcontractor's cost in meeting the new time or sequence requirements. Prime contractors and subcontractors who treat major schedule modifications as changes to their contract will have better success in avoiding claims and in avoiding uncertainty over the enforceability of the schedule modification. 1 See e.g., Friedman v Winshall, 343 Mich 647, 655; 73 NW2d 248 (1955) ("An examination of the cases will show, however, that [the words "time is of the essence"] are not essential.").

2 AIA A201, General Conditions of the Contract for Construction, Section 3.3.1.

3 Allied Fire & Safety Equipment Company, Inc. v Dick Enterprises, 972 FSupp 922 (ED Penn, 1997) (General contractor not liable for altering sequence unless schedule part of contract), Southern Fireproofing Company v R. F. Ball Construction Company, Inc., 334 F2d 122 (CA 8, 1964) (same), Northway Decking & Sheet Metal Corp. v Inland Ryerson Construction Products Company, 426 FSupp 417 (D RI, 1977) (Subcontractor had no duty to accelerate without contractual obligation to do so). 4 Carrington v W. A. Soefker & Son, Inc., 624 SW2d 894 (Tenn App, 1981) (Subcontractor in breach of contract by failing to provide adequate assurances that it would meet schedule), Arrow Sheet Metal Works, Inc. v Bryant & Detwiler Co., 338 Mich 68, 61 NW2d 125 (1953) (subcontractor delay claim barred by clause that permitted general contractor the right to direct time and manner of subcontractor's work)

5 See e.g. A-401, Article 1.1 and Article 2.1.

6 338 Mich 68, 61 NW2d 125 (1953)

7 Arrow Sheet Metal Works at 75 - 76. See also, Hensel Phelps Construction Co. v King County, 57 Wash App 170, 177, 787 P2d 58 (1990) (subcontractor's acceleration claim barred by clause that directed subcontractor to complete the work as modified by general contractor).

8 Fortec Constructors v US, 8 Cl Ct 490, 505 – 506 (1985) (noting that if CPM is used to manage a project, it must be kept current).

9 See, Bruner and O'Connor on Construction Law, \$15:19 (2004)

10 Blake Construction Co. v C. J. Coakley, Co., Inc., 431 A2d 569 (DC App, 1981) (setting forth general contractor's duties to subcontractors)

11 See, Bramble and Callahan, Construction Delay Claims, 3rd Edition, §6.02, p. 6-47 (2000)

12 842 FSupp 174 (D Md, 1993)

13 Bat Masonry at 178.

14 190 Neb 731, 732 212 NW2d 348 (1973)

15 Fortec Constructors v United States, 8 ClCt 490 (1985)

16 439 F2d 8954 (CA 8, 1971)

347 FSupp 17 (WD Mo., 1972).
 Natkin & Company at 35

- 18 Natkin & Compo 19 Id. at 17
- 20 452 NYS2d 692; 88 AD2d 1043 (1982)
- 21 978 F2d 820 (CA 2, 1992).

22 Id. at 372.

23 469 Mich 362, 374; 666 NW2d 251 (2003)

24 See, Kvaerner U.S., Inc. v Hakim Plast Company, 74 FSupp2d 709, 714 (1999) (voluntarily undertaking unequivocal acts, such as performance, sufficient to create a contract).

JEFFREY M. SANGSTER, ESQ.

Sangster is a shareholder of Kotz Sangster. For over 25 years, his practice has focused on all aspects of construction law, from construction contract review and negotiation through claims litigation, mediation, and arbitration. He is a member of the State Bar of Michigan, Associated General Contractors, Construction Association of Michigan, and the Michigan Infrastructure & Transportation Association.

R. EDWARD BOUCHER, ESQ.

Boucher is a senior litigation associate at Kotz, Sangster. He concentrates his practice on construction litigation and arbitration, with cases concerning such issues as delay and disruption damages, lien and bond claims, and insurance coverage. He is a member of the State Bar of Michigan, the Michigan Infrastructure & Transportation Association, and regularly presents seminars on construction law issues through CAMTEC.



Director of Safety & Workforce Development Comment Continued from pg. 25

to their employer. Employees need to be held accountable for their actions as well, and the qualified person needs to document cases of misconduct as well. Management should document the short comings of the qualified person and remove them from their position if continual problems exist. This will benefit you in two ways: first it shows MIOSHA you're monitoring the jobsite and, secondly, it increases the safety of the jobsite through communication.

The MITA safety committee has been hard at work dealing with some key issues that could affect the entire industry in a positive manner. Members of the safety committee met with MIOSHA officials to discuss parts of the tunnel standard and how several rules in the standard don't fit in regard to shorter and smaller tunnel runs. MITA is optimistic that changes will be made in this standard.

If you recall, in the fall issue of Cross Section I mentioned members of the MITA safety committee are working with MIOSHA to gain some flexibility in the construction of false decking. To refresh your memory, MIOSHA standards require contractors to use 2" X 10" planks, 24" on center, and if it's a load carrying member, the work surface must have a minimum 5/8" of thickness. MITA has the task of developing span charts that spell out types and dimensions of lumber used along with how they're constructed. This is a time-consuming process, but with the assistance of Orchard, Hiltz & McCliment (OHM) an engineering firm out of Livonia, span charts are being developed to allow contractors the flexibility to use various sizes and dimensions of lumber to construct false decking. The end result will be a more flexible standard that will give contractors the ability to determine what materials they want to use for false decking. Late last year, a MITA member was cited for using a telescoping aerial work platform on a barge. This came as a shock to some, but if you look closely at part 32 of the construction safety standards rule 3209(29) it states, "the aerial work platform shall not be operated from a position on a truck, trailer, railway car, floating vessel, scaffold or similar equipment." Now it only makes sense from a safety standpoint not to have personnel building or climbing scaffold on a barge over water, when they could step into an aerial lift to be raised and lowered with ease. The ability to use a telescoping work platform on a barge to reach those hard-to-reach areas is moving along. A variance has been applied for and MITA is working with MIOSHA to make this happen.

With spring fast approaching, now is a good time to make sure everything is ready to go. It's kind of like changing the battery in your smoke detector. Annual inspections on all lifting and digging equipment (i.e., cranes and excavators) should be done and these documents should be available on every jobsite where the equipment is. It's also a good time to update MSDS sheets, safety program and any other pertinent documents. MITA has revamped and refined the trench safety and fall protection handbooks, which are also now available in Spanish. Tool Box talks will be available in Spanish as well. The MITA safety program has undergone some modification to meet the needs of all contractors. Do yourself a favor and contact the MITA office and obtain the materials necessary to help you comply with MIOSHA standards.

> If you have any questions or comments, contact Pat Brown by e-mail at patrickbrown@mi-ita.com or call (517) 347-8336.



WINTER | 2007





Rob Coppersmith, MITA vice president of membership services congratulates the winner of the 50/50 raffle in Grand Rapids - Mark Robinson of Diversco Construction Co., Inc.

MITA **Holiday Parties**

Hundreds of MITA members celebrated the season in Grand Rapids, Detroit and Lansing in December. Hors d'oeuvres, cocktails and plenty of holiday spirit (no speeches or presentations) were served free of charge.

MITA 2007 Calendar

For details, visit www.mi-ita.com, or e-mail MITA's Events Coordinator Danielle Keating at daniellekeating@mi-ita.com.

2007 MITA BOARD MEETINGS

Wednesday, April 18, 1 p.m. — The University Club Tuesday, June 12, 9 a.m. — The Country Club of Lansing Tuesday, August 14, 1 p.m. — MITA Headquarters (U Club back-up) Tuesday, October 16, 9 a.m. — Hunter's Ridge Hunt Club Friday, December 14, 8:30 a.m. — The Country Club of Lansing

MDOT BID LETTINGS

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MARCH 2007

3-10	MITA Management Conference, Marriott Frenchman's Reef Resort, St. Thomas, U.S. Virgin Islands
14	Industry Night, 6 pm., Noto's, Grand Rapids
16	Confined Space Seminar, 8 a.m. Argus Group Training Center, Chesterfield
21	Industry Night, 6 p.m., Italian American Club, Livonia
23	Confined Space Seminar, 8 a.m., Argus Group Training Center, Chesterfield
28	Industry Night, 6 p.m., The University Club, Lansing
30	Confined Space Seminar, 8 a.m., MITA office, Okemos

APRIL 2007

13 Confined Space Seminar, 8 a.m., MITA office, Okemos (Tentative)

MAY 2007

7-9	Washington Fly-In
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23 Soil Testing Seminar, Boulder Creek Golf Club, Belmont

JUNE 2007

6 MITA Central Golf Outing, Buck's Run Golf Course, Mt. Pleasant

JULY 2007

19 MITA Metro Golf Outing, Fox Hills Golf and Country Club, Plymouth

26-29 MITA Summer Conference, Crystal Mountain



What is Willful? Continued from pg. 49

in a trench that was 15 to 20 feet deep with vertical walls unsupported by protective shoring devices. He performed most of his work from inside a trench box but left the trench box after encountering a gas line. While working to connect pipe to a manhole near the gas line, the trench walls collapsed and partially buried him.

Jennifer Granholm, then Michigan's Attorney General, brought criminal charges against Lanzo, accusing it of willfully violating MIOSHA regulations and involuntary manslaughter. Many observers were concerned that the case, and attendant publicity driven by frequent press statements from MIOSHA and the Attorney General's office, was politically motivated. Lanzo vigorously contested the charges. At the conclusion of trial, the trial court acquitted Lanzo of involuntary manslaughter but convicted the company of willfully violating MIOSHA, a felony. The Lanzo company was ultimately sentenced to a \$10,000 fine and 2 years of probation. Lanzo appealed the trial court's criminal conviction to the Michigan Court of Appeals.

Lanzo argued that it did not willfully cause Whiteye's death. It maintained that in a case that does not involve evil intentions, such as this one, the prosecution should have to prove that the employer's acts were more than ordinary negligence and that the prosecution's proofs amounted to the same gross negligence standard necessary for proving involuntary manslaughter. Proving gross negligence in the context of manslaughter requires the prosecution to show that the employer knew of the existence of a situation that would have required ordinary care to avoid injury to its employees, that it had the ability to use that ordinary care, and that it failed to use that ordinary care to avert danger when it should have been obvious that a "disastrous" accident would very likely occur. The Court of Appeals, however, disagreed that the prosecution had to prove this level of gross negligence and, in doing so, adopted a broad standard for "willful." The Court held that for the State to prove that an employer's violation of MIOSHA is criminally willful, the State is required only to show that an employer either intentionally disregarded a requirement of MIOSHA, or was knowingly and purposely indifferent to a requirement of MIOSHA.

Applying this broader standard to the facts in the Lanzo case, the Court of Appeals ruled that the trial court had ample evidence to prove that Lanzo's conduct was willful. The Court explained that MIOSHA requires employers to install protective shoring devices inside trenches more than 5 feet deep, which Lanzo did not do. On the day of the accident it was raining, making the trench more unstable than usual, but Lanzo's foreman failed to stop work even after Whiteye suggested that they should. According to the prosecution, the trench box Whiteye was using was too small and positioned in the wrong part of the trench to give him maximum protection. The trial court found that Lanzo was aware of all these conditions yet took no action. Under these circumstances, the Court of Appeals determined that there was sufficient evidence to uphold the finding that Lanzo willfully violated MIOSHA.

Lanzo also argued that it should not be subject to criminal liability for the acts of its foremen because MIOSHA does not contain any express provision for an employer's criminal liability for its employee's act. The Court of Appeals disagreed. While MIOSHA does not contain any specific provision providing for employer liability for employee criminal conduct, Continues on pg. 69

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Julie Hartwell considers MLTAI and the apprenticeship program an important part of her professional growth. Hartwell stated,

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"I learn something new on the job every day. The on-the-job training I receive each day combined with the classroom training required by the apprenticeship program will prepare me to eventually move up the professional ladder."

> Michigan Laborers' Training and Apprenticeship Institute provides training to Apprentices and Journeypersons alike. Our instructors have a wide range of field expertise to provide our members with top-notch training and cutting edge technology. Our state-of-the-art training facilities located in the City of Wayne, Perry, and Iron Mountain, accommodate on average 2500 members annually. Courses range from 2 hours to 120 hours in length and include environmental training, construction training, life skills courses and on-line courses.

Persons reaching Journey worker status will receive 64 of the 96-quarter credits required at Baker College to earn an Associate of Applied Science Degree in Industrial Technology.

Union trades are similar to many other professions in the sense that each trade has specialized work areas and jurisdictions. Just as a heart specialist wouldn't attempt brain surgery, a Construction Craft Laborer wouldn't attempt to perform an Electrician's job duties. MLTAI and the Construction Craft Laborers Apprenticeship Program produce Laborers skilled in their field, dedicated and trained.

While Ms. Hartwell enjoys her current position and the challenges that each day brings, she expects to someday pursue one of the many career paths open to those Construction Craft Laborers that have good work ethic and a commitment to education.

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 the Michigan Laborers Training and Apprenticeship Institute.

Sincerely, Lynn Coleman Director Michigan Laborers Training And Apprenticeship Institute

What is Willful? Continued from pg. 67

the Court nevertheless held that the criminal intent of an employee or agent of a corporation can be charged to the corporation where the employee or agent is a "high management official" of the corporation. In order to be considered a "high management official" sufficient to impose criminal liability upon an employer under MIOSHA, the Court stated that the employee whose criminal actions are to be charged to the employer must have had supervisory responsibility over the subject matter of the offense and was acting within the scope of his employment on behalf of the corporation.

In Lanzo's case, the Court found that the two Lanzo foremen involved in the accident were "high management officials" because they were overseeing and supervising the work; they had the ability to decide whether the worksite was adequately safe (or whether extra safety precautions were needed); they were responsible for making field decisions based on worksite conditions; and they had ultimate responsibility at the site for safety. In short, they were "qualified persons" under MIOSHA.

Based upon the Court of Appeals' decision in the Lanzo case, it is now evident that construction companies and other employers regulated by MIOSHA can be held criminally liable where an employee dies in a workplace accident and the employer's "qualified person" is found by the State to have willfully violated a safety rule. The State is increasing prosecutions against companies as well as individual owners, managers and other supervisors of such companies.

In deciding whether to bring felony charges in cases involving the death of an employee, the State is supposed to investigate and gather evidence in a very deliberate fashion to first decide whether the death resulted because of a safety rule violation and whether the violation was willful. In determining whether a violation was willful, MIOSHA officials are supposed to consider and document such evidence as:

- Whether the company (or foreman or supervisor) knew the hazardous condition existed.
- Whether the company (or foreman or supervisor) knew the condition violated a MIOSHA safety rule.
- Whether the company was utilizing safety equipment or procedures to avoid or limit the hazardous condition.
- Whether the company had a history of violations of MIOSHA.
- Whether the company had anything to gain by not complying with safety regulations.
- Whether there was evidence of a purposeful disregard of or an indifference to safety rules.

Notwithstanding the obligation to collect and document such information, a review of MIOSHA willful citations and supporting documentation suggests that MIOSHA's review and collection of such information is inconsistent. Some cases contain completed "willful worksheets" setting forth whether these factors exist in a specific case, while others contain virtually no explanation of the basis for willful citations other than the presence of a significant injury or fatality. Under these circumstances, the companies defending willful citations are faced with the daunting prospect of guessing why they were charged with willful violations rather than a less significant serious or other than serious violation.

Given MIOSHA's aggressive and mounting penchant for issuing willful citations, especially where a company has received past citations, Continues on pg. 74

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PLASTERERS LOCAL 67

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

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

EMERGING TECHNOLOGIES IN WINTER ROAD MAINTENANCE Continued from pg. 33



US-131, S-Curve in Downtown Grand Rapids ©State of Michigan – Michigan Department of Transportation



Michigan Intrastructure & Transportation Assn. Wisconsin Transportation Builders Assn. MI Associated General Contractor Michigan Asphalt Paving Assn. National Asphalt Pavement Assn. **Carbohydrate-based solutions (corn or beet byproducts),** when blended with magnesium chloride, are effective de-icers and anti-icers. The combination is not as slippery as magnesium chloride alone and may even cause surfaces to become tacky. The mixture costs less and is less corrosive than straight magnesium chloride. These solutions are also safe for the environment.

Calcium magnesium acetate (CMA) is recommended for use as an anti-icer on bridges to minimize corrosion and environmental impact in sensitive areas. Compared to salt, CMA is more expensive and twice the amount is needed. Although CMA may have less adverse impact on the environment, high concentrations can still reduce oxygen levels in lakes and streams.

Potassium acetate can be used as a pre-wetting agent for solids including salt, sand or CMA. It works well as a de-icer and anti-icer at very low temperatures. It is not corrosive and is biodegradable. It costs eights times more than sodium chloride, can cause pavement slickness and can lower oxygen levels in waterbodies.

AUTOMATED ANTI-ICING SPRAY SYSTEMS

As US-131 passes through downtown Grand Rapids, it makes a tight s-curve around 100-year-old buildings. The freeway carries 120,000 vehicles per day and is the fourth busiest in the state. The s-curve spans over a mile and includes five bridges one crossing the Grand River. In 2000, MDOT reconstructed the highway and incorporated an anti-icing system. The roadway and bridge decks have 175 spray nozzles that distribute anti-

EMERGING TECHNOLOGIES IN WINTER ROAD MAINTENANCE Continued from pg. 70

icing chemicals which improve winter driving safety. The system starts the automated spraying cycle of potassium acetate (CF-7) anti-icing solution when manually activated by phone. The automated spraying system pumps fluid through the nozzles onto the roadway and takes approximately 30 minutes to complete the cycle. With each nozzle dispensing approximately 1.8 gallons, each automated cycle places about 315 gallons of material on the roadway, bridges and ramps. The fluid is less corrosive than road salt and is environmentally safe. This anti-icing system is the largest of its type in the U.S., and it is the first to treat roadway surfaces as well as the bridge deck.Surface Overlay Systems

This year, MDOT is trying something new: a smart bridge that can de-ice itself. The SafeLane [™] Surface Overlay system was installed on the Looking Glass River Bridge on U.S. Highway 127 just north of Lansing. This is the first test site in Michigan for the new technology developed at Michigan Technology University to produce safer roads with less maintenance. SafeLane[™] is made up of a patented combination of epoxy and aggregate. Liquid anti-icing chemicals are applied to the overlay before a snow storm hits. The material acts like a rigid sponge, storing the chemicals inside, and then automatically releasing them as conditions develop for the formation of ice. SafeLane[™] keeps releasing the anti-icing chemicals over multiple events, greatly reducing the need to send out highway maintenance crews in the midst of a storm. Installation costs for SafeLane[™] average a few dollars more per square foot than standard epoxy overlays. However, the SafeLane[™] overlay material extends bridge life by minimizing water seepage and intrusion of corrosive agents like chlorides, while improving skid resistance and surface appearance.

Road Weather Information Systems (RWIS)

RWIS, originally developed by the Strategic Highway Research Program (SHRP) unit of the National Research Council, can be used to maximize ice removal effectiveness by prioritizing areas in need. These systems include meteorological and pavement sensors, communications and planning. Real-time readings can help operators decide whether to apply salt as liquid brine during dry, icy conditions or as dry salt in freezing rain. If the temperature is really low, other de-icers such as calcium chloride, magnesium chloride or potassium acetate can be added to the mix. Maintenance crews can also take wind into consideration when spreading materials. With RWIS, less salt and chemicals are needed. To help highway agencies adopt these technologies, SHRP developed guidelines on purchasing, installing and using RWIS, and on implementing anti-icing strategies.

MDOT's Superior Region, under the Intelligent Transportation Services (ITS) program is currently developing a special provision for RWIS stations for deployment throughout the Region. These sensors will be used for assistance in decision support systems for winter maintenance activities, bridge operations and traveler information systems. Deployment of these stations will be phased over multiple years.

IMPROVED EQUIPMENT

Global Position Satellite (GPS) Systems

In Kalamazoo, MDOT is using an anti-icing truck equipped with

a 5,000-gallon tank. The truck can cover 165-250 lane miles with anti-icing material in one tank load. The truck cab is equipped with a GPS system and a computer-controlled spray bar. The system's monitors provide real-time readings of the route, road temperature, truck speed, and rate and time of chemical application. This ensures uniform coverage of anti-icing material and allows drivers to pick up where a previous driver ended.

State-of-the-Art Ground Speed Control

MDOT has salt trucks equipped with state-of-the-art ground speed control, which maintains a consistent flow of material out of the spreader chute at any speed. When the truck slows down or stops for an intersection, the flight chain simultaneously slows down or stops. This eliminates excessive salt spread at low speeds. Calibrated spreaders are also used that eject salt onto the road surface at zero velocity relative to the roadway, thereby reducing the bouncing action that can throw the salt off the roadway surface.

SUMMARY AND CONCLUSION

With dedication to safety and environmental awareness, Michigan is at the forefront of implementing innovative winter road maintenance techniques, while preserving our streams, riversand lakes to enjoy year round.



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THE MICHIGAN CONCRETE PAVING ASSOCIATION

The Michigan Concrete Paving Association (MCPA) is the statewide professional organization of the concrete pavement industry. MCPA members include contractors, cement companies, equipment manufacturers, bonding and insurance companies, consulting firms and others allied with the surface transportation industry. Founded in 1968, the MCPA represents its members on all matters affecting the industry's relationship with public agencies, the general public and the industry-at-large. MCPA is recognized by public officials, engineers, contractors and paving experts as the voice of the concrete paving industry in Michigan. Our mission is to be a full service resource for both agencies and members and to make both comfortable using concrete as the pavement of choice. The concrete paving industry employs more than 1,000 residents across Michigan. We are a partner in Michigan's progress and your neighbor.

MCPA's professional staff totals six full time people: the executive director, two engineers, an accounting manager, an office administrator and a lobbyist/staff attorney. The office is located in Okemos while the two engineers cover the west and east sides of the state and work from their homes.

Dan DeGraaf, executive director and chief executive officer, has

been at the helm since April 2006. He previously was the director of engineering for West Michigan for six years. Dan has served in a variety of capacities for numerous contractors over his career spanning more than 30 years and 20 states. His service as a foreman, superintendent, estimator, project manager and general manager for both asphalt and concrete paving companies has provided him with invaluable skills and a solid understanding of the road construction industry. "I began my career with the industry," explained DeGraaf. "Those many years of service have allowed me to have a firm grasp of the process and to be a strong advocate for our industry with agencies, public officials and other contractors."

Kerry Sutton has served as director of engineering - southeast Michigan since 1999. In this role she acts as the technical and informational field representative working with engineers, contracting authorities and other decision-makers throughout the region. Ms. Sutton's background is in civil/environmental engineering, and she has worked in the engineering consulting field as well as the cement industry. "I enjoy the trials of being in the field and my background and education allow me to meet those challenges by working with our members and customers," said Sutton.

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Steve Waalkes joined the Michigan Concrete Paving Association in July 2006 as the director of engineering – west Michigan. "This is a new endeavor for me and I am enjoying working with our members, "Waalkes said. Most recently he was with the American Concrete Pavement Association for the last six years as the managing director of technical services and the director of engineering and rehabilitation. In those roles, he assisted contractor and other members with troubleshooting and technical issues and developed technical publications and products on concrete pavement design, construction, and rehabilitation. Waalkes has also given workshops and presentations around North America on concrete pavement practices, technology and research.

Michael Frederick is currently director of public affairs and general counsel, a position he has held since 2001. He was voted the Most Effective Road Association Lobbyist for two years in a row in a survey by Michigan Information and Research Service, Inc. Participants in the Annual State Capital Survey included lawmakers, lobbyists, and other political insiders. Frederick explained, "I enjoy the challenge representing the industry and look forward to continuing our work with the policymakers on concrete paving industry issues." Prior to coming to MCPA, he was a legislative aide to Senator George McManus, Jr. where he handled budget, policy and constituent matters for the senator. Frederick also spent four years with the speaker of the Michigan House of Representatives where he was a legislative analyst charged with various responsibilities including political activities and elections.

Kim Moore joined the association in 1996 as its second full-time employee. She currently holds the position of office administrator for the association. Her responsibilities include meeting planning, human resources, IT support as well as making sure that the association keeps on a smooth course.

Marina Easterbrook joined the association in 2002 as the part-time bookkeeper for the association. After completing her degree she was hired as the full-time accounting manager for the Association.

In addition to the full time staff, MCPA has two student employees who assist with certification and general office functions. The MCPA staff is here to assist its members and promote concrete paving.

Feel free to contact your MCPA staff for assistance! They are here to help you.

MICHIGAN CONCRETE PAVING ASSOCIATION

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Dan DeGraaf, executive director and CEO, Michigan Concrete Paving Association (MCPA).



Michael Frederick, director of public affairs and general counsel.



Kerry Sutton, director of engineering – southeast Michigan.



Steve Waalkes, director of engineering – west Michigan.



Kim Moore, office administrator.



Marina Easterbrook, <u>bookkeepe</u>r.



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MITA Cross-section 73

What is Willful? Continued from pg. 69

construction companies in this state, more than ever, must be vigilant in implementing and enforcing safety rules and procedures. MITA is committed to saving lives, preventing injuries and ensuring the overall safety of workers in the road and bridge building industry. We therefore strongly encourage MITA members to take advantage of your association's safety compliance services, including an office and/or job site visit with MITA's Safety Director to make sure your company is following all MIOSHA safety procedures.

While making safety a priority is essential in instances where a company receives a citation, no matter how seemingly minor, the company is best served by critically examining whether the citation should be appealed and then contesting such citations whenever appropriate. MITA continues to provide effective representation to its members in this analysis and defense.



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MITA recognizes the challenges faced by its membership in light of the uncertain "definition" of "willful" currently being interpreted by MIOSHA and the courts. Consequently, MITA continues to work with its outside counsel to press for a fair and clear definition so that parties faced with willful citations can understand the basis for those citations and, where appropriate, challenge them accordingly. MITA will continue to press for fairness using every available means and intends to reintroduce the proposed definition of willful to the Legislature at its earliest opportunity.

Questions and Answers Michigan Infrastructure and Transportation Association

Continued from pg. 52

wastewater treatment infrastructure. Some of the steps we have taken include authorizing \$1 billion in bond funds in 2002 and enacting legislation last session to provide \$40 million in grants to local communities required to subsidize planning costs required to access the state's Revolving Fund loans. We will continue to work with the Department of Environmental Quality and local communities to ensure that all upgrades can be completed in the required timeframes.

Michigan will also work in a regional context to pressure Congress to fully fund recommendations that will help restore the Great Lakes, as made by the Great Lakes Regional Collaboration. The recommendations are critical because they include significant federal investments in Michigan for wastewater system upgrades. Michigan will work to match the federal funds.

- **Q:** Last year, the state provided \$40 million in grants to municipalities for start up costs associated with clean water projects. Would you favor an expansion of this program?
- **A:** Around \$37 million of the \$40 million available has now been granted to local municipalities to help them get state loans for their wastewater infrastructure projects. In these tough economic times, Michigan must assess the effectiveness of the initial program before expanding the grants beyond the \$40 million.



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MEMBERSHIP

2/1/2007.	 MITA Annual Super Conferer		ice —	
		lt's	Training	Time!

2/21/2007	Construction Advisory/SS/ NTB L	Jodate

12/7/2006November Appeals 11/21/2006 New Installment of Tool Box Talks Now Available

.....Quality Control Errata

Development Conference

(FUSP) Update

Greg Newsom, training director, Operating Engineers Education Center, and Kerry Gedge standing on the jobsite in front of one of the cranes she is responsible for as an apprentice.

Kerry Gedge Named Apprentice of the Year

A former Georgia police officer has been named the 2006 "Apprentice of the Year" by the Michigan Apprenticeship Steering Committee, Inc. (MASCI), a partnership of labor, management, education, government and the public founded in 1977 to promote apprenticeship in Michigan. Kerry Gedge of Alanson, Mich., an Operating Engineer Apprentice, was selected for her "integrity, work ethic and commitment" according to MASCI spokesperson Barbara S. Strachan.

Now in its sixth year, the Apprentice of the Year Award is open to all active apprentices in the more than 100 building and manufacturing trades in Michigan.

Gregg A. Newsom, training director of the Journeyman & Apprentice Training Fund's 515 acre Howell Education Center, where Gedge trained for the last four years, says she will make an outstanding journeyman operating engineer.

"Kerry Gedge is a remarkable young woman, who has demonstrated over and over the importance of having a positive attitude, self respect and a strong work ethic," says Newsom. "Even as an apprentice, Kerry leads by example and positively affects those around her. She will make a valuable addition to any contractor's team."

According to MASCI, criteria for the award include attendance and punctuality in class and on the job; outstanding craft mastery and productivity; leadership skills and teamwork; safety awareness; spirit of competitiveness; community service; commitment to their craft, their employer, their union and community.

"One of the reasons we do this is to help promote pride in the lives of the apprentices," adds Strachan. "When an apprentice is finished with their program, that's really an accomplishment, and they should be proud of it. It all boils down to work ethic and personal integrity. Kerry Gedge has both."

According to Strachan, Gedge is the third operating engineer

apprentice to win the award in Michigan since 2003. The others were Pam Walker and Clenton Weston, Jr.

Gedge, who will graduated recently as a journeyman operating engineer, is currently working as a crane oiler at the Consumers Energy J.H. Campbell Power Plant in West Olive, Mich., near Grand Haven. Previously, Gedge was a police officer in the city of Statesboro, Ga. She earned a bachelor of science degree in criminal justice from Georgia Southern University. Gedge is a resident of Alanson, Mich., near Petoskey, where she resides with her husband, Patrick Callahan.

About the JATF's Howell Education Center

The Howell Education Center is supported by the Journeyman & Apprentice Training Fund, Inc. (JATF), which is funded solely by the members of Local 324 and administered jointly by the JATF Trustees and signatory contractors including: The Associated General Contractors of America-Detroit Chapter, Great Lakes Fabricators & Erectors Association of Michigan, Michigan Distribution Contractors Association and Michigan Infrastructure & Transportation Association. The JATF is Michigan's only self-funded, hands-on Apprentice training program offering heavy equipment training annually to 14,000 of Local 324's Apprentice and Journeyman Operating Engineers.

Located on 515 acres, JATF technical and state-of-the-art classroom facilities provide critical experience so members can safely learn and update their skills for changing technologies in the heavy construction industry. Organized in 1896, IUOE Local 324 is a 14,000-member trade union representing operating engineers who work in the construction industry as heavy equipment operators. Local 324 provides its members many important services including collective bargaining, education and training, improved wages and working conditions and excellent fringe benefits, including health care and pension.

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Local 324 Officers, Agents, Staff and most importantly, the Membership are highly motivated to be the best VALUE in the Construction Marketplace.

Our JATF Training Center located on 500+ acres in Howell, Michigan sets the industry standard for producing the most highly skilled, technically competent and safety conscious Construction Equipment Operators to be found anywhere!

The Local 324 Labor-Management Education Committee stands ready to facilitate positive interaction between Labor, Contractors and Project Owners. The committee also actively markets and promotes the use of Signatory Contractors on all types of construction projects.



All of us at Team 324 are committed to providing the highest level of Productivity and Value to our Contractors and Project Owners.

We invite contractors not already reaping the benefits of employing Local 324 members to join us for a MUTUALLY PROFITABLE partnership.

Contact:

Local 324 37450 Schoolcraft Road Ste. 110 Livonia, MI 48150 734-462-3660 www.iuoe324.org Lining Center

Training Center 275 E. Highland Road Howell, MI 48843 517-546-9610 www.oe324jatf.org



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