

WINTER 2012

# CROSS SECTION

## Member Profile: Isabella Corporation

Page 14

## Associate Member Profile G2 Consulting Group, LLC

Page 16

## National Health Care Update

Page 11

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

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

**mita**  
Michigan Infrastructure &  
Transportation Association



**Get exceptional value  
with small business  
and individual health  
coverage from the Blues.**

Contact our Blues Administrator, Association Benefits Company, today to learn about the benefits that are available to MITA members. They work with all insurance agents.

**248.356.3366**

association

benefits

company

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





# We're saving 7% on our fuel costs with Orion 5000-EL



**If you're paying more than \$3.00 a gallon for diesel or gas then you need Orion 5000-EL.**

## **MITA Member's Fuel Lubricant Saves You 6% to 9% on Your Fuel Bill**

If you're paying more than \$3.00 a gallon for diesel or gas then you need Orion 5000-EL.

Orion 5000-EL is a synthetic engine and fuel lubricant that improves fuel efficiency. MITA members that add Orion to their fuel tanks have already saved 6% to 9% on fuel costs.

- One MITA member is saving 7% on their annual diesel fuel budget. They are projected to save over \$2 million dollars the first year.
- Another MITA member reduced its fuel consumption by 10%.

How much money could your organization save by making Orion 5000-EL a part of your diesel fuel program?



## **orion®5000-EL**

[www.orion5000.com](http://www.orion5000.com)

**888-785-8450   sales@orion5000.com**

© 2011 Orion Industrial, LLC

## **Special MITA Member Offer: Save 10% Off Any Size Orion 5000-EL**

MITA members can now save 10% off any size of Orion 5000-EL engine and fuel lubricant. Just go to



**<http://store.orion5000.com>**  
and order the container size you need. At check-out, type in this promo code: **MITA** and you'll save 10% off the regular price.



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

# MITA MEMBER SERVICES

## CONSULTATION SERVICES

MITA'S BCBSM/BCN Health Insurance Program  
Environmental Guidance  
Legislative Involvement  
MDOT Involvement  
Trucking Issues and Fleet Inspections  
Utility Damage Prevention Consultation

## INFORMATIONAL SERVICES

Blue Book Rates  
Cross-Section Magazine  
DBE-MBE/WBE Online Advertising  
Industry Related Bulletins  
Job Resource Center  
Membership Directory & Buyer's Guide  
Online Labor Agreements  
Project Advertisement Website

## LEGAL SERVICES

Construction Lien Law Forms  
MDOT/Public Works Sworn Statement/  
Lien Waiver Forms  
Employment Application  
MDOT Bond Claim  
Non-MDOT Bond Claim  
Outside Legal Counsel

## MATERIAL SERVICES

Access Cards  
Crisis Communication Program  
Danger Signs  
Drug Abuse Program  
EEOC Manual  
Job Site Posters  
MSDS Binders  
Penetrometers  
Safety Video Library  
Stolen Equipment Forms  
Trucking Regulation Packets  
What's Going On In Your Neighborhood

## NETWORKING SERVICES

MITA Annual Meeting  
European Hunts  
Golf Outings  
Management Conference  
MITA Night Out  
MITA Regional Holiday Parties  
Ski Weekend  
Summer Conference  
Washington D.C. Fly-in

## SAFETY COMPLIANCE SERVICES

Accident Prevention Program  
Injury/Illness Reporting  
MIOSHA Citation Appeal Service  
MIOSHA Injury/Illness Posting  
MISS-DIG Compliant Service  
Site Review With Regard To MIOSHA Compliance  
Substance Abuse Deterrence Program

## SAFETY LITERATURE

Best Practices Utility Locating Card  
MITA Fall Protection Handbook  
MDOT Michigan Manual of Uniform Traffic Control Devices  
Rigging and Lifting Training Materials  
Safety Program Binder  
Tool Box Talks  
MITA Trench Safety Handbook

## TRAINING OPPORTUNITIES

CPR and First-Aid Training  
Confined Space Training  
Fall Protection  
Forklift Training  
MITA Future Leaders Program  
Haz Whopper  
Hazardous Waste Removal Training  
Mine Safety & Health  
MIOSHA All Trades  
OSHA 10 & 30 Hours Outreach Training  
Reasonable suspicion (For Drugs/  
Alcohol)  
Storm Water Operator Training  
Trenching Excavating & Shoring

For brief explanations on these services and products, visit the mita website at [www.mi-ita.com](http://www.mi-ita.com) or feel free to call the office at (517) 347-8336.



*Michigan Infrastructure & Transportation Association*

# CROSS SECTION

## features

20 Executive Vice President Comment

21 Vice President of Engineering Services Comment

## also in this issue

9 Letters to MITA

11 New MITA Members

14 Member Profile

16 Associate Member Profile

18 Did You Know?

24 Director of Safety Comment

26 DBE Spotlight

27 Underground News

28 Legislative Q&A

30 Legislative Bill Update

31 Problem Solver

34, 58 Legal Issues

47 Member Voice

48 Member News

61 Calendar of Events

62 Ad Index, Bulletin Index

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

© 2012 Cross-Section. All rights reserved. Reprints or reproductions only with written consent of MITA.



Michigan Infrastructure &  
Transportation Association

### MITA 2012 BOARD OF DIRECTORS

President  
**CHRIS SHEA**  
P.K. Contracting, Inc.

President-Elect  
**DARRELL KALTZ**  
Kaltz Excavating Co., Inc.

Executive Vice President/Secretary

**MIKE NYSTROM**

Vice-President  
**KEITH ROSE**  
Rieth-Riley Construction Co.

Treasurer  
**SCOTT BAZINET**  
Lowe Construction

### DIRECTORS

**JIM KLOOTE**  
J.E. Kloote Contracting, Inc.  
Past President

**STEPHEN JACKSON**  
Jackson-Merkey Contractors  
Director at Large

**KURT POLL**  
Kamminga & Roodvoets, Inc.  
Director at Large

**MIKE MALLOURE**  
C.A. Hull Company, Inc.  
Director at Large

**BOB ADCOCK**  
Angelo Iafate Construction Co.  
Director at Large

**CHERYL HUGHES**  
C & D Hughes, Inc.  
Director at Large

**GREGG CAMPBELL**  
Michigan Paving & Materials Co.  
Director at Large

**BRIAN HOFFMAN**  
Hoffman Bros., Inc.  
Director at Large

**TOM WAGENMAKER**  
Anlaan Corporation  
Structures

**BRUCE LOWING**  
Hardman Construction, Inc.  
Past President

**MARK JOHNSTON**  
Ajax Paving Industries\l  
Director at Large

### ASSOCIATE MEMBER COUNCIL

**MANOJ MULKI**  
M & K Supply, LLC

**MARK MADDEN**  
Guy, Hurley, Blaser & Heuer, LLC

**TOM STOVER**  
Walter Toebe Construction Co.  
Director at Large

**JEFF BALKEMA**  
Balkema Excavating, Inc.  
Director at Large

**JIM DOESCHER**  
Dan's Excavating  
Director at Large

**RINALDO ACCIAVATTI**  
Pamar Enterprises, Inc.  
Director at Large

**JIM D'AGOSTINI**  
L. D'Agostini & Sons, Inc.  
Director at Large

**VANCE JOHNSON**  
Central Asphalt, Inc.  
Bituminous

**FRANK DIPONIO**  
DiPonio Contracting, Inc.  
Underground

**PAT DUNIGAN**  
Dunigan Bros., Inc.  
Utilities

**DAN BABCOCK**  
Give 'Em A Brake Safety  
Specialties

**ANGELO LANNI**  
Florence Cement Company  
Concrete

**BRANDIE MEISNER**  
M & M Excavating Company  
Excavating

### MITA STAFF

**MIKE NYSTROM**  
Executive Vice President  
[mikenystrom@mi-ita.com](mailto:mikenystrom@mi-ita.com)

**ROB COPPERSMITH**  
Vice President of Membership Service  
[roboppersmith@mi-ita.com](mailto:roboppersmith@mi-ita.com)

**GLENN BUKOSKI, P.E.**  
Vice President of Engineering Services  
[glennbukoski@mi-ita.com](mailto:glennbukoski@mi-ita.com)

**LANCE BINONIEMI**  
Vice President of Government Affairs  
[lancebinoniemi@mi-ita.com](mailto:lancebinoniemi@mi-ita.com)

**DOUG NEEDHAM**  
Vice President of Industry Relations  
[douglasneedham@mi-ita.com](mailto:douglasneedham@mi-ita.com)

**NANCY BROWN**  
Director of Communications  
[nancybrown@mi-ita.com](mailto:nancybrown@mi-ita.com)

**PATRICK BROWN**  
Director of Safety & Workforce Development  
[patrickbrown@mi-ita.com](mailto:patrickbrown@mi-ita.com)

**NICOLE COOK**  
Outreach Coordinator  
[nicolecook@mi-ita.com](mailto:nicolecook@mi-ita.com)

**DANIELLE COPPERSMITH**  
Events Coordinator  
[daniellecoppersmith@mi-ita.com](mailto:daniellecoppersmith@mi-ita.com)

**TIYA KUNAIYI-AKPANAH**  
Member Services Coordinator  
[tiyakunaiyi@mi-ita.com](mailto:tiyakunaiyi@mi-ita.com)

**ANITA LINDSAY**  
Online Information Coordinator  
[anitalindsay@mi-ita.com](mailto:anitalindsay@mi-ita.com)

**MARY MOODY**  
Accounting Coordinator  
[marymoody@mi-ita.com](mailto:marymoody@mi-ita.com)

**JANIS STRANG**  
Executive Assistant  
[janisstrang@mi-ita.com](mailto:janisstrang@mi-ita.com)

**MITA INTERNS**  
Katherine Becsey  
Matthew Brown



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

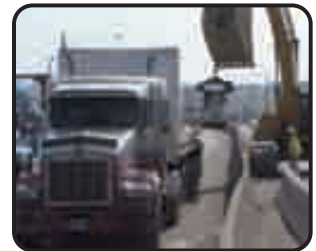


At James Burg Trucking Company, our lightweight equipment can scale over 115,000 pounds. Which means

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



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



In fact, our on-time delivery ratio exceeds 99%. So whether

you need one truck for one load or twenty trucks for two weeks, call us. Because when it comes to superior customer service and on-time delivery, we're the heavyweights.



On time. Time and again.

# MICHIGAN LABORERS' TRAINING & APPRENTICESHIP INSTITUTE



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

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

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

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

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

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



Michigan Laborers Training and Apprenticeship Institute  
11155 S. Beardslee Road, Perry, MI 48872-9774  
517-625-4046 [www.mi-laborers.org](http://www.mi-laborers.org)

# America's Trench Box Builder™

**Efficiency Production, Inc.**

## **MITA Contractor's Choice for Trench Shielding & Shoring**

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



**Steel Trench Shields**



**Hydraulic Shores**



**Build-A-Box™**



**Porta Tank™**



**Stone Mizer®**



**Slide Rail System**

***Call us for Factory-Direct  
Sales and Rentals***

**800-552-8800**

[www.usatrenchboxbuilder.com](http://www.usatrenchboxbuilder.com)

685 Hull Rd., Mason, MI 48854





# you said it

## Letters to MITA

Dear Doug:

On behalf of Airport Lighting and Eastlund Concrete Construction, I want to extend our appreciation for your time and effort in helping to secure an equitable settlement over the last 2 1/2 years.

John Howell  
*Airport Lighting LLC*

Dear Rob:

Two weeks ago Mel and I had a booth at the APC/PennDot annual conference in Hershey, Pa. The conference was very well organized attended. I think they had close to 2000 there. After the show, Mel and I were comparing our experience with MITA vs. APC. I know it was only our first year, but we really didn't feel welcome or that APC cared we were there. I only met three people from APC and none of them really made an attempt to get to know me or what I offered to their members.

So, thank you and everyone at MITA for being such a great group to us. I appreciate everything you and MITA have done to help get our plan in front of your members. Thank you for your support and always making us feel welcome.

Rachel M. Snyder  
*National Sales Manager  
BCT Benefits*

Dear Mike:

Thank you for the opportunity to sit on the board of MITA. I consider it a privilege and great opportunity. I enjoyed learning what makes some of the general members tick, and made some friendships that will last a lifetime.

Sincerely,  
Brad Poggi  
*Pinnacle Insurance Partners, LLC*

To MITA Staff:

Just a quick note to say thanks to all of you for putting on the best conference I have attended over the last 32 years! I'm sure you guys don't get a lot of feedback except when things go bad, so please know that what you did at the conference and do all year is appreciated. Looking forward to more of the same in the future. Thanks again.

Bruce A. Lowing  
President  
Hardman Construction, Inc.

Dear Doug:

I wanted to thank you and all from MITA for this past couple of days. It was a fantastic, and very informational conference. Your hard work is very much appreciated, and hopefully will be recognized by all, as it should be!

Frank Kramarz  
Stante/B & V Construction

## Seize Control



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

Levy a Pre-Qualified State Aggregate Supplier with:

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

Seize your phone and call (313) 429-LEVY.  
Or contact our web site: [www.educlevy.com](http://www.educlevy.com)





# Pro-Tec Equipment



Over 15 years of serving Michigan contractors

Factory direct knowledge

Multiple locations- Grand Rapids area, Lansing area, Detroit area

Michigan's largest, most diverse trench shoring and site access fleet!

Contact Pro-Tec Equipment today!  
1-800-292-1225



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

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

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

[www.pro-tecequipment.com](http://www.pro-tecequipment.com)



Versa Bridge Systems



Trench Shields



Rumble Grids



Street Plates



Temporary Roads



Overlap Sheet Pile



Slide Rail Systems



Aluminum Trench Shields



Stone Savers

# National Health Care Update

One of the biggest challenges facing businesses today is finding health insurance coverage at an affordable cost, especially at a time when health care is in transition. The federal health reform law, also known as the Affordable Care Act (ACA), is expected to be fully rolled out by 2014 (a number of provisions are already in effect).

Kurt Shea, of MITA Contractor Member Company P.K. Contracting, said that the complex law has many positive aspects, and will be beneficial to his employees.

"At P.K. Contracting, I have the role of helping our company develop a health insurance benefits strategy that will allow us to provide great coverage for employees at the most affordable cost," Shea said. "I also participate as a board member on the Borgess Foundation, a charitable organization affiliated with Borgess Health in Kalamazoo, where I have learned about opportunities for all types of business."

At close to a thousand pages, it is true that the ACA is highly complex, said MITA's Health Insurance Administrator, Mike Buck, of Association Benefits. He also said that many MITA members might not know that there are provisions within the law that may benefit both small and large businesses.

"It's also true that many individuals from both sides of the political spectrum believe time needs to be spent refining and improving the law rather than repealing it," Buck said. "However, it is important for MITA members to invest time to learn more about health care reform and make health care reform work for them."

Buck said there are three provisions within the law that are of particular importance to business owners. He said MITA members should take time to look further into these provisions and find out what steps they can take to proactively prepare their business for the full implementation of the ACA.

## Insurance Exchanges

First, health insurance exchanges are designed to offer consumers health insurance choices in a competitive marketplace. States are required by the ACA to establish health insurance exchanges by 2014; in states that fail to create their own exchange, the federal government

will do so for them. Proponents of the plan feel that state exchanges will provide the same economies of scale enjoyed by large companies when buying health insurance. They are also expected to facilitate more choice of coverage options for small business and ease the process of making choices among those options. Governor Snyder supports and is working to establish a Michigan-based on-line health insurance exchange.

## Small Employer Tax Credits

A second major provision of the ACA available to small business is the small employer health insurance tax credits. These tax credits are designed to make it more affordable for small businesses to cover their employees and their families by helping to offset premium costs. Effective in 2010, small businesses that meet certain criteria qualified for a small business tax credit of up to 35 percent of the premium that the employer paid for the company health plan. The tax credit will increase to 50 percent in 2014. The savings can be significant. To find out if a particular business qualifies for tax credits, visit an IRS web site at <http://goo.gl/tm54R>.

## Reforms

Third, the ACA is supposed to reform the way in which health insurers price the coverage they sell to small businesses. Beginning in 2014, they will no longer be able to charge a small business more because one or more employees (or their dependents) have a pre-existing health condition. They also will not be allowed to charge more on the basis of gender or type of industry. In addition, health status as a means to justify rate increases from year to year will no longer be permitted. The coverage that insurers offer will also have to meet certain standards to ensure that it does not exclude important services, such as prescription drugs and maternity care. Certain reforms are already in effect. For example, insurers may no longer impose lifetime limits on the coverage under a policy; nor can they impose pre-existing condition exclusions on the coverage of children under 19 years of age.

**For questions, please contact Association Benefits Company at 248-356-3366.**



## MITA New Members

### Contractor Members

Audia Concrete Const., Inc.  
B&Z Company, Inc.  
Cut and Core Concrete Cutting LLC  
Dominic Gaglio Const., Inc.  
Front Range Environmental  
G&J Silt Fencing, Inc.  
Gemelli Concrete LLC  
Georgetown Construction

Majestic Contractors, LLC  
Mead Bros. Excavating, Inc.  
Rocwall Co.  
Smith's Waterproofing, LLC  
Tooles Contracting Group, LLC  
Tri-City Groundbreakers, Inc.  
Z Contractors, Inc.

### Associate Members

Carleton Equipment Company, Inc.  
Cox Brothers Machining  
DHT Inc.  
Iannuzzi Manetta & Company, PC  
Shelly's Trucking LLC  
SiltShield LLC  
Sitech Michigan  
United Rental  
Cox Brothers Machining



## 2012: Transportation Construction Market Outlook Mixed

by Alison Black

**N**o matter how you slice it, the American Road & Transportation Builders Association's (ARTBA) outlook for the 2012 transportation construction market is mixed.

First the bad news: the highway and bridge construction market is expected to contract six percent, to \$72.6 billion from an estimated \$77.0 billion in 2011. The subway and light rail markets will be down even more.

The good news: the railroad market, driven largely by private sector investment, is expected to increase by nearly four percent; and the value of construction for ports and waterways is expected to grow by six percent, driven by work on both coasts in preparation for the 2014 expansion of the Panama Canal. Also in the good news category, the transportation construction market sector, as has been the case for the past five years, will remain the most stable industry sector.

The main factors driving the decline in highway and bridge construction are not surprising: the winding down of infrastructure investment under the American Recovery & Reinvestment Act (ARRA), continued weak growth in the U.S. economy, persistent state and local budget challenges, and a static federal-aid highway program.

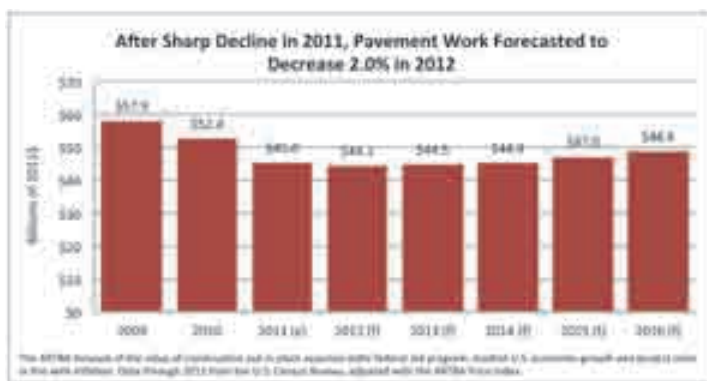
Of course, the long-delayed highway/transit reauthorization bill remains a "wild card." If Congress in early 2012 passes a multi-year bill, that at minimum, maintains current investment levels, it could help interject greater certainty in the market. Both the Senate and House proposals also contain language to expand the Transportation Infrastructure Finance and Innovation Act (TIFIA), which if leveraged quickly, could offer another market boost.

### The Most Stable Construction Market

The transportation construction sector remains stable compared to other construction markets. Between 2007 and 2011, the real value of highway and bridge construction, adjusted with the ARTBA Price Index for material prices, wages and inflation, fell only 10 percent. Over the same period, the real value of total construction work in the U.S. fell by one third from \$1.1 trillion to an estimated \$769 billion. And the real value of residential construction tanked more than 50 percent from \$500.5 billion in 2007 to \$236.5 billion in 2011.

The historical stability of the

transportation market is in large part due to the role of public sector financing. Federal investment, through the highway program and ARRA, has increased significantly over the last few years, and accounts for nearly 45 percent of all highway and bridge construction spending. And although state and local governments continue to have budget challenges that impact their discretionary highway and bridge spending, most state highway user fee revenues are constitutionally protected and must be used for transportation purposes. So although the transportation construction market is not immune to the overall U.S. economy, it is significantly less volatile than other construction sectors, which are more dependent on general economic conditions.



### Slight Decline in Pavement Work for 2012

After a sharp decline of 14 percent to an estimated \$45 billion in 2011, pavement work in 2012 is expected to decrease by two percent to \$44.1 billion, again attributable to less ARRA money in the marketplace.

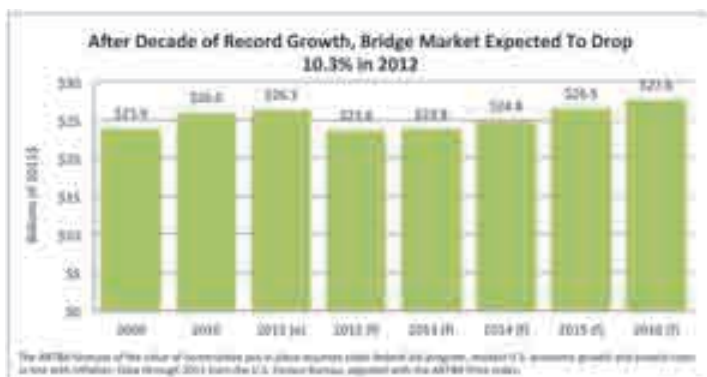
### Bridge Market Slow Down Dramatic

The value of bridge work in 2012 is expected to drop by 10 percent from \$26.3 billion to \$23.6 billion. The bridge market has continued to grow over the last three years, despite the recession, for two reasons: projects are often larger and work has continued on projects that were awarded and underway before the economic downturn; and second, state DOTs and local governments have put \$3.2 billion in ARRA

Market	2012 value (\$ billions)	% change from 2011
Pavement	\$44.1	-2.0%
Bridge	\$23.6	-10.3%
Runways	\$4.7	-3.7%
Subway & Light Rail	\$4.6	-15.7%
Railroads	\$10.6	3.6%
Ports & Waterways	\$2.0	5.7%

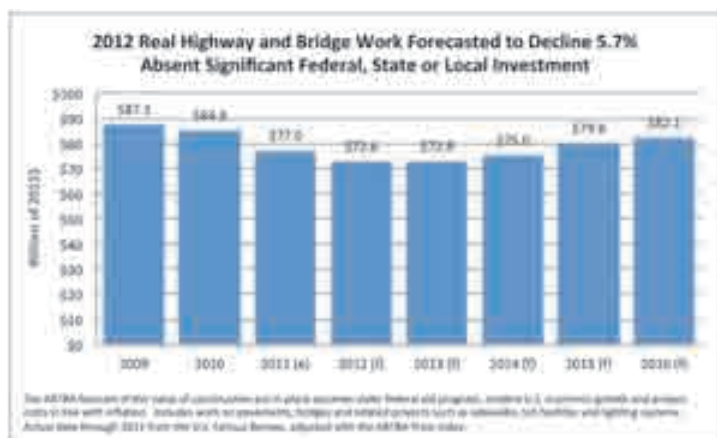
Year	Highway & Bridge Construction Total Employment (thousands \$)	Annual % Change
2001	145.3	0.0%
2002	145.9	0.4%
2003	140.1	-4.1%
2004	147	5.0%
2005	150.8	2.6%
2006	148.3	-1.7%
2007	144.5	-2.6%
2008	127.3	-12.0%
2009	125.3	-1.6%
2010	128	2.4%
2011 (a)	121.8	-4.8%

Source: U.S. Bureau of Economic Analysis (BEA) and ARTBA. (a) 2011 estimate.





Established in 1902, ARTBA represents the U.S. transportation design and construction industry before Congress, the White House, federal agencies, news media and general public.



funds toward bridge work.

Part of the forecasted decline in bridge work is because nearly all the projects that include ARRA investments are finished or underway. State DOTs and local governments are now pulling back on new projects. This is likely due to a combination of the delayed federal reauthorization legislation and continued state and local budget challenges.

### Uneven Growth Among States

Despite the national downturn in market activity, some states are poised for growth. There are 18 states where the value of state and local government highway and bridge contract awards for fiscal year 2011 is higher compared to fiscal year 2010. This is an indicator that the value of work in those states will likely increase in the coming year as those projects are underway. The value of contract awards is down in 19 states and Washington D.C. Contract awards in the remaining eight states were relatively stable, either up or down within five percent.

### Airports Runway Work Slated to Dip

The value of work done on airport runways is expected to fall four percent from \$4.9 billion in 2011 to \$4.7 billion in 2012, primarily because of flat funding for the Airport Improvement Program and continued failure by Congress to pass a new aviation reauthorization program.

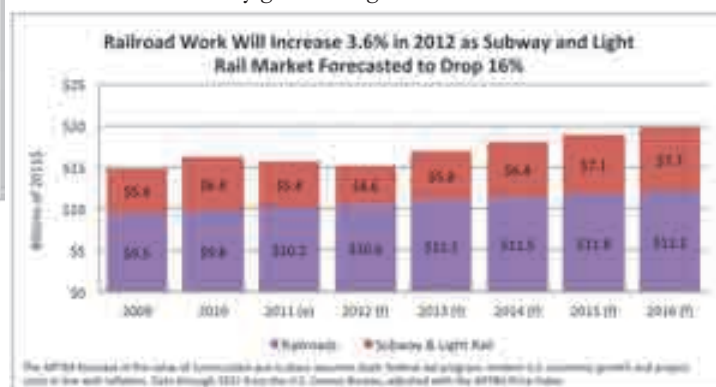
### No Fast Track for Subway & Light Rail

After a decade of rapid growth, the real value of subway and light rail construction is expected to decline nearly 16 percent from an estimated \$5.4 billion in 2011 to \$4.6 billion in 2012. This drop is in large part due to the continued delay in the reauthorization of the federal surface transportation bill. State and local government contract awards

for subway and light rail are down sharply in 2011, indicating transit agencies are pulling back on projects.

### Private Investment Spurs Railroad Market

The railroad market, driven largely by private investment, is expected to increase 3.6 percent from an estimated \$10.2 billion in 2011 to \$10.6 billion in 2012. The sector is expected to grow in the long run as the U.S. economic recovery gains strength.



### Ports & Waterways Floating Higher

The value of construction work for docks, piers and wharves is expected to grow nearly six percent from \$1.9 billion in 2011 to \$2 billion in 2012. ARTBA expects continued growth over the next five years. A number of East Coast ports are taking on projects in anticipation of the opening of the Panama Canal in 2014. West Coast ports are also investing in infrastructure improvements. Spending by the Army Corps of Engineers for inland waterway projects is expected to decline next year compared to 2011 levels.

### About the Models

ARTBA has a series of econometric models that take into account current economic conditions, state and local funding and federal investment.

The ARTBA forecast model assumes: 1) the U.S. economy will continue to show modest growth in the coming years; 2) material prices and project costs will be in line with inflation and 3) there is no major increase or decrease in federal investment over the next five years. The outlook would change if either federal, state or local governments provided significant increases in their investment levels.

**Editor's Note:** Alison Black outlined her comprehensive 2012 forecast during a 90-minute webinar on Dec. 12. ARTBA Senior Vice President of Government Relations Dave Bauer also provided a reauthorization update. Visit [www.artba.org](http://www.artba.org) to purchase a copy. Alison Black is ARTBA's senior economist. Contact information: [ablack@artba.org](mailto:ablack@artba.org) or 202.289.4434.



# Member Profile

Photos by Jeremy Zalud

## Isabella Corporation

In 1975, with a home office in his basement, a 450C John Deere dozer and 500C backhoe, Charles Zalud started a site development company in Mt. Pleasant, and from these humble beginnings watched his family's business grow.

Isabella Corporation, which was sold to Charles' three sons, daughter and a long time superintendent in 1994, today handles a variety of jobs within a 40-mile radius of Mt. Pleasant. Their primary focus is underground and road construction, but over the years they have developed several niche markets such as directional drilling, small diameter horizontal cased bores, water main live taps and sewer cleaning. They also own Montcalm Aggregates, which operates several pits in Montcalm County.

Jim is the company president; brother, Dan, runs the aggregate operation; brother, Fred, is responsible for earthwork; and sister, Dee, handles the books. Jerome Beck handles the "All Around" crew, which does the bulk of municipal service work as well as testing and cleanup for the company.

"One of the keys to a successful family business is to have each sibling responsible for a different operation," said Jim, a Michigan Tech mechanical engineer, who first worked for Exxon before joining the family business in 1985. "By giving each of us separate responsibilities, we grew the company and it was much easier to get along." At the peak of the season, 25 employees are kept busy. Key employees also include Byron Jubeck, company estimator, who graduated with a degree in civil engineering from Michigan State University.

"One of the great things about a family business is that it has allowed us to stay in the area we grew up in, and has provided an

opportunity for all 10 grandkids to work for the company," Jim said.

Isabella Corporation was blessed in 2011, he said, by getting started early and being able to work to Christmas, instead of struggling to make it to deer season. Key projects included the site work for a new water park and hotel in Mt. Pleasant. Operated by the Saginaw Chippewa Tribe, the project is being billed as the largest indoor water park in the state and will open this Memorial Day. In addition, Isabella Corporation is working on a RV park adjacent to the water park. Another project is the complete renovation of the wastewater lagoon system for the Village of Edmore in Montcalm County.

Being a member of MITA helps Isabella Corporation, Jim said, because MITA works hard at the local and state level so that infrastructure spending won't "fall off the map." MITA has also assisted him with MIOSHA and prevailing wage issues.

When he is not busy overseeing the business, Jim enjoys golfing and vacationing with his wife of 30 years, Bryn.

Jim is optimistic about the company's future. The company barely survived the recession of the early 1980's, but the key lessons learned provided the basis for the company's success since then.

"Our success is due to many factors," Jim said. "Great employees, relationships with local owners, subcontractors, suppliers and engineers, and a reputation for being able to do tough jobs. The business philosophy is the Golden Rule; treat the people we do business with like we would like to be treated."







#### CONTACT INFORMATION

### Isabella Corporation

2201 Commerce St.  
Mt. Pleasant, Mich.  
Phone: 989-772-5890  
Fax: 989-773-2978

Main contact:  
Jim Zalud, President  
[jzalud@isabellacorporation.com](mailto:jzalud@isabellacorporation.com)



## Great Lakes Aggregates Inc.

Great Lakes Aggregates Inc. offers a wide variety of value-added materials with specialized performance characteristics to meet your needs.

### 2 Convenient Limestone Locations

South Rockwood  
Newport

### MDOT Certified Crushed Concrete

Taylor  
New Haven  
Warren  
Rochester Hills  
Salem Twp  
Highland Park

### Great Lakes Aggregates Companies

Sales Office 734-783-7474

5699 Ready Rd P.O. Box 406 S Rockwood, MI 48179 Phone 734-783-7400 Fax 734-379-0311 [www.greatlakesagg.net](http://www.greatlakesagg.net)

# Associate Member Profile

## G2 Consulting Group, LLC

### A BRIEF HISTORY OF G2

After the company was founded in 1994, it quickly developed a core of successful clients and outgrew its humble beginnings in the basement of a suburban Detroit home. In 1997, G2 built a new headquarters in Troy, complete with materials testing laboratories and room for the firm's growing fleet of vehicles. New branch offices soon followed in Chicago in 2000 and Brighton in 2006.

Today, G2 employs more than 40 people, including professional engineers who are licensed in more than 30 states. Their constantly expanding client list includes public agencies, recognized developers, leading civil engineers, top architectural firms, well-known general and specialty contractors, national corporations, municipalities and private firms.

### G2 CONSULTING SPECIALTIES LIST

- Consultants: Structural Underground Design, Testing and Inspection, Claims
- Consultants: Environmental, Transportation
- Consultants: Soils and Concrete Testing
- Environmental Drilling and Sampling
- Geotechnical Engineering
- Soil Erosion, Control, Stabilization, Retention
- Little known services that they provide: the design of dewatering systems to lower groundwater to facilitate dry construction; low strain integrity testing to confirm the length and consistency of augercast or drilled pier foundations; and forensic engineering.



**G**2 Consulting Group, LLC, prides itself in helping clients build better foundations, so it is not that ironic that the company started in the basement of Noel Hargrave-Thomas' suburban Detroit home.

Hargrave-Thomas, and two other professional engineers, Mark Smolinski and Bruce Wilberding, launched the company in August of 1994 with one goal: to deliver responsive, specialized geotechnical, environmental and construction engineering services that help clients build better, build smarter and build profits. To accomplish this goal, the company focused on investigating construction sites from topsoil to bedrock to find potential obstacles and opportunities. Then, they designed precise solutions for everything from value-engineering foundation designs to jobsite testing of construction materials to make it all work well for their clients.

Today, the three professional engineers, who are principals in the company, are joined by Mark Stapleton, P.E., as project manager, and several other project managers, making up approximately 40 staff in three offices. G2 has Michigan offices in Troy and Brighton, and Wheeling, Illinois, a northwest suburb of Chicago. The company is also registered in 32 states to provide all of its geotechnical engineering services.

"No matter what state we work in, we want to be the geo-logical choice to help build better profits," said Mark Smolinski, P.E., "and we are among the top firms in Michigan that provide geotechnical services. We do the majority of the pile dynamic analysis (PDA) work for MDOT projects, and we are the gold standard for temporary earth support systems."

Mark Stapleton, P.E., said that his firm assists clients meet the challenges of the current economy by making sure every dollar that is spent on a project is spent wisely. "Our high tech solutions must be compatible with ground conditions. We know technology and we know contractors. We tailor solutions to the ground conditions and to the capabilities of our clients."





*US-24 Lower Rouge Reinforced Backfill*



Current clients include many MITA members. G2 is working with Hardman Construction on PDA testing for a bridge in Ada over the Grand River. For Dan's Excavating and C.A. Hull, they are working on the Black River Bridge project in Port Huron.

Being a member of MITA puts the company in front of many other members at various gatherings, Smolinski said, and allows them to be involved in MDOT specification review committees, handled by MITA's Vice President of Industry Relations, Douglas Needham, P.E.

"MITA meets with various owner agencies and designers throughout the year," Needham said, "and G2 Consulting has been an extremely valuable participant in these meetings by providing in-depth review and analysis of the various geotechnical issues that face the contracting community."

As G2 heads into 2012 and beyond, they will continue to stay sharp not only on spec issues, but also technical matters, Stapleton said, such as techniques for monitoring and testing that will allow them, through wireless technology, to not be on a construction site.

"There will always be a need to improve infrastructure in Michigan," Smolinski added. "We want to continue to be the go to consultant for MITA members."

*I-696 and Evergreen Emergency Repairs*



#### CONTACT INFORMATION

##### **G2 Consulting Group, LLC**

[www.g2consultinggroup.com](http://www.g2consultinggroup.com)

1866 Woodslee

Troy, Mich. 48083

Phone: 248-680-0400

Fax: 248-680-9745

#### MAIN CONTACTS:

Mark Stapleton, P.E., Project Manager  
[mstapleton@g2consultinggroup.com](mailto:mstapleton@g2consultinggroup.com)

Mark Smolinski, P.E., Principal  
[msmolinski@g2consultinggroup.com](mailto:msmolinski@g2consultinggroup.com)

Noel Hargrave-Thomas, P.E., Principal  
[njht@g2consultinggroup.com](mailto:njht@g2consultinggroup.com)

Bruce Wilberding, P.E., Principal

Amy Schneider, P.E., Project Manager

Chris Nicol, P.E., Project Manager

Jennifer Casey, P.E., Project Engineer



## Did You Know?

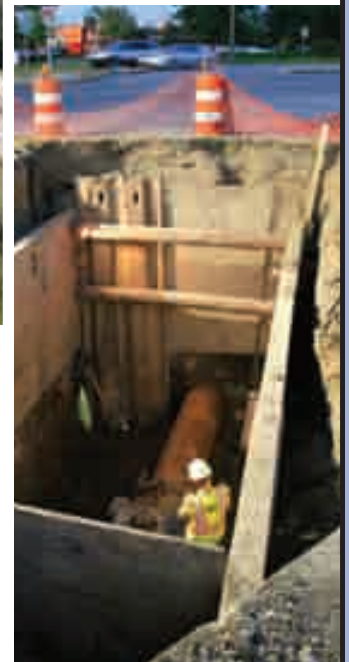
**M**ITA recently launched a new tool in the legislative section of [www.mi-ita.com](http://www.mi-ita.com). The new tool allows you to:

- Locate your elected officials based on a specific address.
- Quickly and easily communicate with your elected officials.
- Communicate with both the House and Senate leadership.
- Locate members on certain legislative committees in both the House and Senate.
- Access a guide to upcoming state and federal elections.
- Complete and mail a voter registration form.
- Have access to the contact information for local media outlets and send instant messages for possible publication.

If you have any questions, please contact Nicole Cook, MITA's outreach coordinator, at [nicolecook@mi-ita.com](mailto:nicolecook@mi-ita.com), or call 517-347-8336.



*Trusted professionals  
delivering America's  
infrastructure solutions*



Construction Engineering • Highway Design • Bridge Design • Transportation Planning • Surveying



**WADETRIM**

800.482.2864 • [www.wadetrim.com](http://www.wadetrim.com)



# **ATSALIS BROS.** **PAINTING**

*Your Answer To Lead-Based  
Paint Compliance*



## ***Setting the Standard for Tomorrow***

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

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

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

(586) 790-0123

Fax: (586) 790-9065



## Executive Vice President



**Mike Nystrom**

### A Glimmer of Hope

It seems as though lately, many of us here in Michigan particularly in the construction industry are seeing our state's economy, rhetorically speaking, as the cup that is half empty. Our economy continues to sputter along. The stock market continues to take wild swings of record highs and then amazing plunges downward based on the news of the day. The politics of our own nation and our state seem to be in constant turmoil of gridlock with partisan bickering that seems to inhibit any progress forward.

And yet, with all of that negativity swirling about there is some glimmer of promise that Michigan is moving forward.

Under the leadership of Governor Snyder we have seen numerous changes that have set our state up for a very prosperous future. The State Business Tax was simplified and trimmed by \$600 million. Unemployment benefits were reduced by 6 weeks, saving taxpayers (particularly the construction industry) over \$240 million annually. Schools and municipalities across the state have been offered incentives to reduce their annual costs and be more efficient and effective in their business operations. Finally, this governor is laying out plans for the future by coming up with bold messages on a variety of subjects including future investment in our infrastructure system across the state. Within our own industry, there is recognition that change for the future is needed. During these lean times many

companies have found ways to survive by cutting out the sloth and producing leaner more effective companies that will likely thrive in the new economy of the future.

Our partners in organized labor particularly the Operating Engineers and the Laborers have recognized the need for change as well, and have implemented significant changes by reducing benefits to their health-care plans as well as the pension plans that are offered to their members.

As we talk with members across the state, we are also hearing that there may be more and more private industry work breaking loose, which coupled with an uptick in the commercial building market are both positive signs that Michigan's economy is truly starting to rebound.

As an organization, MITA continues to move forward through these difficult times trying at every turn to be a positive force for the heavy construction industry. We will continue to take on the governor's mantra of "relentless positive action" as we look forward to being a major player of Michigan's economic turnaround.

---

**Contact Mike Nystrom, MITA's Executive Vice President, at [mikenystrom@mi-ita.com](mailto:mikenystrom@mi-ita.com) or call him at (517) 347-8336 with any questions or comments.**

### **CORRIGAN PROPANE** A Division of CORRIGAN OIL CO.

Home Heating • Construction Heat  
Propane Dispensing Stations and Cylinder Exchange Service

775 N. Second • Brighton, MI 48116  
(810) 229-6323 • (800) FAST-OIL  
Fax (810) 229-4970



### 2011... A Challenging Yet Successful Year

**A**lthough 2011 did not turn out to be the recovery year we all looked forward to, we did see a few glimmers of hope for the much-needed turn-around of our industry here in Michigan. Some new activity in the private market brings hope that it may finally be on its way back, while unfortunately, the generally stable public works market took on a life of unprecedented uncertainty. Although these were trying times that gave rise to many interesting and dynamic challenges, we maintained a strong and aggressive voice for the heavy construction industry, and we were able to achieve many noteworthy 2011 accomplishments, which include:

- Completion of the industry review and comment process that supported MDOT's efforts to publish their 2012 Standard Specifications for Construction. A special "Thank You" to all MITA members who volunteered their energy, time, and insight to this effort by participating on an industry review committee.
- MITA/MDOT Emerging Business Pilot Program ... The first of its kind, this innovative program added eighteen new DBE certified and MDOT prequalified companies to the MITA membership. The goal of the program is to foster the success of these emerging companies through targeted support and networking opportunities.
- Successful collaboration with MDOT in the development of the current version of the Special Provision for Prompt Payment. This special provision acknowledges a sworn statement and lien waiver process as a tool contractors can utilize to protect themselves from down-stream double payment risk.
- Facilitation of the 3rd Annual Michigan Utility Coordination Conference (MUCC). This event is sponsored by the Design Task Force, Utility Subgroup, a

collaborative partnership of owner agency, design firm, utility company, and contractor representatives working together to find ways to minimize utility related issues during construction.

- Successful negotiation with the Michigan Department of Licensing & Regulatory Affairs (LARA) that resulted in their agreement to adopt the USDOL definitions for "site of work" and "de minimis". By adopting these definitions LARA can establish state prevailing wage rules that mirror the federal Davis-Bacon prevailing wage rules for truck drivers. MITA cited less confusion, better compliance, and simplified enforcement as the resulting benefits consistency in the rules would provide.
- Continued efforts with MDOT leadership on positive enhancements to their Disadvantaged Business Enterprise (DBE) Program. The successes include MDOT's implementation of MITA's proposed algorithm for determining project specific DBE participation goals, and MDOT's commitment to transparency in their goal setting process.
- Successful collaboration with Michigan Department of Environmental Quality, State Revolving Fund leadership in developing DBE "good faith effort" expectations and protocols for projects funded by the Environmental Protection Agency.
- Successful advocacy with MDOT leadership that resulted in significant improvements to the MDOT contract modification process. With an overall goal of getting contractors paid for contract changes promptly, the most significant improvement is the removal of the time consuming State Administrative Board approval process that is now replaced by an internal MDOT approval process with specific timeframes for ad-



Glenn Bukoski, P.E.

vancement of the contract modification.

- Continued leadership on various standing technical committees that include, the Work Zone Operations Committee, the Bridge Operations Committee, the MITA/MDOT Quarterly DBE Committee, the Pavement Marking Operations Committee, the MITA/MDOT Traffic Signal Committee, the Joint Pipe Operations Committee, the MITA/MDOT Quarterly Meeting, the Bi-Annual Work Zone Safety Meeting, the MITA Traffic Control and Pavement Marking Committee, the MITA Signal Committee, and the CRAM Engineering Committee. If you are interested in participating on any of these committees give us a call.

We look forward to 2012 with much optimism that the economic challenges we faced as an industry in 2011, will be eased by expanded growth in the private market, and a return to stability in the public works market through the passage of long-term funding solutions at both the federal and state level. Whatever the outcome however, we will be here working hard on your behalf.

---

To contact Glenn Bukoski, P.E.,  
e-mail him at [glennbukoski@mi-ita.com](mailto:glennbukoski@mi-ita.com)  
or call 517-347-8336.

## Vice President of Government Affairs



Lance Binoniemi

### The Year Ahead

The much-anticipated Infrastructure Message from Governor Rick Snyder occurred on October 26 at Lawrence Technological University. Many MITA members were in attendance for this important address that laid the groundwork for the Legislature and heavy construction industry to find a solution to adequately funding Michigan's roads, bridges and underground infrastructure. What has happened since and will continue to occur throughout 2012 is a series of many different moving parts with one objective in mind, adequate infrastructure investment.

#### Legislation

At the beginning of 2012, there will be several pieces of legislation introduced to

cover the governor's recommendations in his Infrastructure message. In addition, various lawmakers outlining their own concepts on how infrastructure in Michigan should be funded and at what levels will introduce several other bills. The intended goal is to find the right mix of proposals that will eventually gain enough support in the Legislature and obtain the governor's signature. The final outcome that we are pushing for will likely include a mixture of reforms, metrics on where money is being distributed to; and, of course, the necessary revenue generator that will eventually fund Michigan's infrastructure for years to come.

The governor's message called for an additional \$1.4 billion a year in increased revenue for roads. The Snyder plan outlined



Lake Orion  
(248) 370-0000



Toll Free:  
(866) 597-0716



*Serving Michigan's Municipalities Since 1951*



several key components:

- Eliminating the state's gas tax.
- Instituting a percentage tax based on fuel prices at the wholesale level.
- Eliminating registration loopholes like the three-year 10 percent reduction on new vehicles.
- Phasing in an increase in vehicle registration fees by \$120 per year.
- Consolidation of road agencies.

Just because the governor proposes a bold solution does not mean that the Legislature will quickly rubberstamp it. The Legislature's response has been slow and cautious.

Other concepts that have been discussed within the Michigan Legislature include increasing the state's sales tax and dedicating those revenues strictly for the Michigan Transportation Fund:

- Allowing local units of government to put up their own matching funds if the state cannot come up with the necessary revenues for full match from the federal government.
- Switching to a wholesale tax on gasoline that isn't revenue neutral and raises additional funds.
- Other shifts and funding concepts that bring in significantly smaller amounts than the \$1.4 billion need, which, however, could help in reaching that goal.

## Public Education

In order to be successful in securing adequate funding for infrastructure in Michigan, getting the public to agree that something has to be done will help persuade some lawmakers that may be questioning the need for increased revenues. This support can happen in a multitude of ways, and we are looking to our members to assist in getting their neighbors and communities on board. There are several things that are going on through our efforts including media coverage, billboards, letter writing campaigns and local outreach to our members. We hope to also include radio and television ads as momentum increases in the Legislature towards our final goal.

What is even more important than what can be done out of the MITA office is what our members can do in their own communities. Lawmakers see and hear from the various interests groups on a daily basis, but they listen more intently to those voters and business owners within their districts.

Many of you belong to various civic organizations within your community. MITA staff is organizing members throughout the

state to meet with those groups; the local Chamber of Commerce, Rotary, Aquinas, and other business and community organizations for the purpose of starting a dialogue on this important initiative. Typically those that attend these events are the most active members within a community. Getting them to start talking about the need that exists in Michigan for increased infrastructure investment will have a tremendous impact on making legislators aware of their constituents' concerns.

If you see an opportunity to attend one of these meetings, we highly urge you to do so. While you're there, ask to be on the agenda for the next meeting or see if there is an opportunity to speak at the one you're attending. We are happy to develop talking points for you and potentially get another MITA member or staff individual to also attend the meeting. Hearing from business owners within their community will have a resounding positive impact on this debate.

One additional way that our members can reach their elected officials is by setting up meetings with them in the district. Almost every state representative and senator has a variety of in district meetings open to the public. This is a great opportunity to meet one on one with your elected officials and have a frank discussion on how we can improve our infrastructure. While you are there, invite them to your business or even one of your job sites and let them see the work that's being done and the people that you employ.

## Push from Governor

As mentioned above, there will be several bills debated over the first few months of 2012 and beyond. Given the governor's support in his infrastructure message and the follow up from that, we anticipate that he will continue with that into the New Year. The governor can help educate and inform the public by continually reminding the citizens of Michigan and the elected officials that represent them that this crisis is not going to go away on its own. We need to have a real debate on solving the real problems this state faces in infrastructure. We are at a point in our infrastructure where roads and bridges are already unsafe to travel on and its only getting worse. Pay now or pay more later.

---

**Contact Lance Binoniemi, Vice President of Government Affairs, at [lancebinoniemi@mi-ita.com](mailto:lancebinoniemi@mi-ita.com) or call him at 517-347-8336 with any questions or comments.**

**TELL CONGRESS TO PASS A ROBUST, MULTI-YEAR  
HIGHWAY & TRANSIT INVESTMENT BILL!**

ARTBA Action Hotline: 888.448.2782

**ARTBA** American Road &  
Transportation Builders  
Association



## Director of Safety & Workforce Development



Patrick Brown

### Positive Changes on the Horizon

As an industry leader in safety issues and training, MITA is always looking to make advancements. MIOSHA has placed an emphasis on promoting health and safety programs in the construction industry. The Consultation Education and Training (CET) division of MIOSHA has awarded MITA a grant to assist contractors in developing a safety program that is tailored to their needs and type of work. Most safety and health programs include redundant and sometimes useless information that may not apply to a company's scope of work. MITA will be building a system and once in place it will help members when it comes to building a written safety program. This new system will simplify the process and make it easy to develop a program that covers the work your company is performing on a specific site.

The new MITA build your own safety program is a web-based program that will allow you to check icons related to the type of work you perform and then will input them into a program that covers all the items that apply to that site. In the end, you will print out a document with your company name inserted where needed that could be as thin as dime or thick as a brick depending on site conditions and anticipated hazards. MITA will be building the site over the next year and anticipates that contractors will be able to utilize it next winter. MITA will be suggesting that contractors take this opportunity to develop a company wide program and then narrow the scope by developing shorter more tailored programs when asked to develop a site specific program by the project owner.

Please remember, your employees need to communicate and train with regards to the content contained within your company's safety and health program, so if you make changes for a project, the affected employees should understand the scope of those changes and if any training should occur. Overall, MITA believes this system will be a great tool for contractors and potentially save time and money.

Another pressing issue in the industry is the implementation of Certified Crane Operator Certification (NCCCO) as well as having qualified riggers and certified signal persons on site.

OSHA regulations require all crane operators to be certified by November 2014. Several general contractors are currently requiring this certification to work on their jobsites. Don't risk not being awarded a job because your operator is not certified or you do not have qualified riggers and signal persons. This training will be difficult to schedule and obtain at the onset. Crane classes require hands on practical exams administered by an NCCCO approved trainer.

MITA is working with ATS Specialized Equipment out of Wisconsin to provide this training here in Michigan. ATS is an accredited company, (one of only a few) which provides this training. MITA will be hosting a four-day NCCCO class in late February along with a one-day rigging/signaling class. Contact Patrick Brown at [patrickbrown@mi-ita.com](mailto:patrickbrown@mi-ita.com) or call the MITA office 517-347-8336 for details. This class will be available to both members and non-members.

As the annual training season is upon us, be sure to contact the MITA office to schedule your company training or visit the MITA website for upcoming training at the MITA training center.

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

# BACCO

CONSTRUCTION COMPANY

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

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

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



# MITA Announces Staff Changes



**Doug Needham, P.E.**  
Vice President of Industry Relations

**M**ITA is pleased to announce the promotion of Douglas Needham, P.E., to vice president of industry relations. Needham has over 18 years of experience working in the heavy highway construction industry.

For the past six years, he has worked as MITA's director of technical services providing professional expertise in many areas including: resolving construction issues relating to publicly and privately funded projects; expanding workforce development; and working with utility companies and contractors to minimize construction impacts and delays.

In his new role, Doug will continue with his current duties while expanding his involvement in utility coordination, labor relations, youth workforce development, and advocating on behalf of MITA members with other industry organizations.

Prior to joining MITA, Needham worked for the Michigan Department of Transportation in a variety of roles ranging from construction to program manager. Needham is a registered professional engineer in Michigan, and has a bachelor's degree in civil engineering from Michigan Technological University.

In other staff news, Keith Ledbetter, MITA's director of legislative affairs, has accepted a position as a State Relations Manager for the Chrysler Corporation. For the past six years, he has been an important part of MITA's government relations team, and his contributions to the state funding effort have been recognized with numerous public relations awards. We at MITA wish him all the best in his new role.

{ 1+1=1 great firm. }

We are happy to announce the merger of  
Plante Moran and Stuart, Franey, Matthews,  
& Chantres P.C. Together we bring clients

a higher return on experience.

[plantemoran.com](http://plantemoran.com)

plante  
moran

audit • tax • consulting

## DBE Spotlight



By Katherine Becsey

MITA Intern

**M**& K Construction Supply, LLC, is a minority owned company headquartered in Byron Center, Mich. The company was founded in 2006 by Karen and Manoj Mulki, and has seen considerable growth over the last five years. M & K Construction Supply has built unique relationships with both contractors and manufacturers since the company started, and is dedicated to consistently meeting or exceeding customer needs and expectations of price, service and selection. The company's growth can be attributed to its strong business philosophy, which is to provide high quality products that combine performance with value pricing. The company also strives to establish a successful relationship with customers and suppliers.

M & K Construction Supply offers a variety of value-added aggregate materials, such as gravel, limestone, blast furnace and steel furnace slag. These aggregates are used in five categories of products, including base, asphalt, concrete, block and specialty products. Currently the

company owns eight trucks to transport aggregate and other materials. Custom crushing and screening is a unique service that M & K Construction offers. With portable crushing capabilities, they are able to crush gravel and broken concrete, as well as screen sand and topsoil.

Manoj Mulki is confident that the company's strong partnership with the market is what sets them apart from other suppliers. "Not only do we offer competitive pricing for materials and trucking, but we have been able to establish lasting relationships with our customers by providing excellent customer service," says Mulki.

M & K Construction Supply has been responsible for supplying materials and trucking for several notable projects all throughout Michigan. Most recently, they provided aggregate and trucking for the reconstruction of I-196 in Grand Rapids. They have also worked on projects at Grand Valley State University, Battle Creek Airport and the Muskegon County Airport. Visit M & K Construction Supply's website at [www.mnksupply.com/jobs](http://www.mnksupply.com/jobs) for a complete list of jobs.

MITA membership has allowed M & K Construction Supply to network with prime contractors throughout the state. "The networking sessions through MITA have helped us build relationships with several contractors that we may not have otherwise had contact with," says Mulki. The company also appreciates the up-to-date information on MITA's website. "Knowing if anything has changed on the projects we are involved in really helps us out," he says.

M & K Construction Supply, LLC is located at 675 Clyde Ct, P. O. Box 379, Byron Center, Mich. 49315. Contact Karen Mulki at 616-516-9798 and Manoj Mulki at 616-516-9797 or visit their website at [www.mnksupply.com](http://www.mnksupply.com).

Contractors Insurance   Bonds   Pension Plans  
Group Health & Life



**ZERVOS GROUP, INC.**  
INSURANCE & BONDS

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

Staff of 40 to provide "Service with Zervos"

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



# Underground News

**A**fter eight months of discussion and review, a statewide study of Michigan's water and sewer financing system was completed in August with assistance from MITA staff. Governor Snyder showed support for the State Water Pollution Control Revolving Fund Advisory Committee Report by endorsing the findings in his October infrastructure message. So, what happens now?

MITA staff has been making the rounds of the state Capitol to discuss the report recommendations with a number of legislators. There seems to be some sympathy and support for increasing infrastructure investment. Of course, the devil is always in the details.

The Department of Environmental Quality and the administration are working together to prepare legislation for introduction. The proposals are focused in two areas: providing new dollars for investment and reforming the existing State Revolving Fund financing system. Details of the recommendations can be found by visiting MITA's website at [www.mi-ita.com](http://www.mi-ita.com).

As experienced during the road funding debate, legislators believe they have access to few additional dollars for new investment. However, water and sewer investment is different than road funding in that smaller dollars are needed in order to jump start large projects since the state loans money to local communities and they amortize the project costs over 20 years. In addition, local communities repay the loans to the state, allowing for repeated investment of those same dollars. It has been calculated that \$1 in SRF investment yields roughly \$4 of underground work over 20 years.

In addition to the obvious goal of providing more money, MITA staff has tried to focus policy reforms in areas that will spur greater demand. For example, the report calls for streamlining the loan application process and substantially reducing those costs. Today, communities have a disincentive for sewer investment because they often have to pay significant up front planning and engineering costs before they receive any feedback from the state as to whether their project would be eligible for a loan. By streamlining the process, local communities would be more likely to begin the application process to apply for sewer loans.

Other recommendations of the report include providing grant money to pay for up front planning costs and lowering the interest rates that local communities pay.

MITA staff will continue to keep members informed of progress through association weekly email bulletins.



## DEWATERING & SPECIALIZED TRENCHING

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



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



**TRENCH TECH, INC.**  
16580 144th Ave. Spring Lake, MI 49456 PH: 616.842.8655  
[www.trenchtechinc.com](http://www.trenchtechinc.com)

# Questions for State Senate Transportation Committee Chairman Tom Casperson

1. **Q: How has your background as an owner and operator at your family's log trucking business helped prepare you as the Senate Transportation Committee Chair?** Small business owners have to be problem solvers, because they don't have the executive structure within the company to pass that responsibility along to anyone else. That was my experience, and with the particular kind of business that we owned, I gained a first-hand understanding of the need for good roads and other elements of transportation infrastructure.
2. **Q: What legislative priorities do you have?** We need to bring constitutional change to the Natural Resources Trust Fund. Its current use as a land-purchase pot of gold by special interests is swiping huge amounts of land out of the property tax base and thereby undermining the ability of our local units of government to provide services to area residents. We also need to overhaul the funding mechanism for road construction and maintenance in Michigan. One challenge is that we live in an era of vehicles that get higher fuel mileage, and those vehicles were not envisioned by those who put in place our current funding system. The old funding mechanism worked in its day, but it is failing us now.
3. **Q: What are your thoughts or comments on your relationship with MITA and the heavy / highway construction industry?** We have had a constructive, open relationship, and that openness has

allowed us to communicate freely with each other. That has been encouraging to me, and it will enable us to work together toward a solution for the transportation infrastructure funding problem.

4. **Q: What is your reaction to Governor Snyder's infrastructure message?** I appreciate the fact that the Governor has started the dialogue. It leaves no doubt that he is being proactive—and publicly so—in finding a solution to the problem. And from where I sit, it looks like all possible solutions are on the table.
5. **Q: Governor Snyder called for a significant investment in Michigan's roads, bridges and underground infrastructure. As Chairman of the Senate Transportation Committee, what do you feel is the next step towards adequately funding our infrastructure in Michigan for your committee as well as the entire Michigan Senate?** Several avenues have been suggested and the challenge is to make the most constructive choice. A change in the tax on the wholesale price, or a change in how the sales tax is applied to road funding, or a combination of various avenues may be the way forward. I expect Senator Proos' bill, which is before the Senate now, to be helpful in that regard.
6. **Q: What is your opinion on the current level of state-funded investment in our state's transportation system?** It is clearly low, based on the condition of our roads and bridges.
7. **Q: When do you believe the State Legislature will debate and**



810.989.5011

[fastconceptsonline.com](http://fastconceptsonline.com)

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



**"In Business to Create Business"**

Featured Customers:





**enact substantive changes to how we pay for our transportation infrastructure?** I wish I could predict this with a fair degree of certainty, but for now the best I can say is that I hope positive change will be enacted soon, and by “soon” I mean within the next six months. Campaign seasons being what they are, major moves in revenue would be difficult after we get past spring 2012.

**8. Q: You are the sponsor for legislation that eases length requirements for lowboy trailers in Michigan. What other trucking policies do you see that can be improved upon?** Our permit pro-

cess needs to be simplified. Just about anyone who has had to go through it can testify to that. Also, changes that can create a more uniform trucking code across the board in Michigan should be considered. I do not see the logic behind different allowable lengths for different kinds of haulers and different allowable hitches, etc. We also need to work on creating better uniformity in regulations for those using county roads. Conflicting regulations across county lines create some unnecessary inefficiency at a time when we in Michigan should be seeking efficiency.



Sen. Tom Casperson  
(R, Escanaba)

#### TOM CASPERSON BACKGROUND:

Tom Casperson served in the Michigan House of Representatives for six years, from 2002 to 2008. In 2010, he was elected to the Michigan Senate, making him the first Republican to represent the 38th Senate District. The 38th District includes 13 of the Upper Peninsula's 15 counties, making it bigger geographically than nine states.

Prior to being first elected to the legislature, Casperson worked for 27 years in his family's log trucking business, including 12 years as its owner and operator. That business, Casperson & Son Trucking, was started by his grandfather.

While in the House, Casperson served as an Assistant Majority Whip and as Chair of the House Conservation, Forestry and Outdoor Recreation Committee and Vice-Chair of the Transportation Committee. In the Senate, Casperson has the distinction of being one of only two state senators to chair two Senate policy committees. He serves as chair of the Transportation Committee and the Natural Resources, Environment and Great Lakes Committee. In addition, he is a member of the Senate's Outdoor Recreation and Tourism Committee and the Reforms, Restructuring and Reinventing Committee.

#### AFFILIATIONS:

Casperson is a member of the National Rifle Association, the National Federation of Independent Business, and the Michigan Coalition for Responsible Gun Owners.

#### HONORS & AWARDS:

Casperson has been the recipient of numerous awards, including Advocate of the Year from the Michigan Manufacturers Association, The Tuebor Award from the Michigan Forest Products Council, Legislative Leadership awards from the County Road Association and the Great Lakes Timber Professionals, the Special Volunteer Award from the Michigan Association of Timbermen, and the National Logging Safety & Innovations Award from the American Logging Council.

#### LEGISLATIVE ACCOMPLISHMENTS:

While serving as a State Representative, Casperson authored twenty Public Acts, including: the “Crib Truck Bill” (Public Act 142 of 2003), which addressed the cause of a fatal log spill accident, a tragedy that led to Casperson's first run for elected office; the “Healthy Forest Package” (Public Act 125 of 2004), a group of bills requiring the Department of Natural Resources to certify Michigan's forests as sustainable forests; Public Act 449 of 2004, legislation that permitted metallic mining in Michigan; “The Castle Doctrine” (Public Act 313 of 2006), an Act that gives Michigan citizens the right to use force to defend themselves and provides law-abiding citizens with civil immunity;

and Public Act 332 of 2005, legislation that prevented the State from seizing control of the Mackinac Bridge.

Since taking office as a state senator on January 3rd, 2011, Casperson has introduced eight bills, including: legislation to keep state campgrounds open by turning ownership over to local units of government; a bill that would prevent the Department of Natural Resources from purchasing additional land unless it sells some of the 4.6 million acres it presently owns; and legislation to ease the burden on road commissions by streamlining wetland regulations that prevent them from repairing local roads.

Casperson and his wife Diane, whom he married in 1982, continue to reside in Escanaba with two of their four children: Hillary, and Dane. Their son Tom is a student at Western Michigan University, while their daughter Ashley lives in San Diego with her husband, Chan, who serves in the U.S. Navy.

## Build a Better Future

### Distinctive Degrees for Construction Leaders

**Associate** > Construction Engineering Technology

**Bachelor's** > Architectural Engineering  
*(combined bachelor's and master's program)*

- > Civil Engineering
- > Construction Management
- > Engineering Technology

**Master's** > Civil Engineering

- > Construction Engineering Management
- > Engineering Management

**Doctorate** > Civil Engineering

**2011**  
AMERICA'S BEST  
UNIVERSITIES  
U.S. News & World Report

**2012**  
BEST COLLEGES  
in the Midwest  
Princeton Review

**2012**  
MILITARY  
FRIENDLY  
SCHOOL  
G.I. Jobs

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

## Lawrence Tech

... ..

Lawrence Technological University  
21000 West Ten Mile Road, Southfield, MI 48075-1058  
800.225.5588 | [www.ltu.edu](http://www.ltu.edu)

# Legislative Update

## BILLS AT A GLANCE

BILL	SUMMARY	POSITION	STATUS
HB 4224 - 4226	Repeals prevailing wage and fringe benefits on state projects.	Oppose	Referred to the Committee on Oversight, Reform and Ethics.
HB 4287	Would not allow project labor agreements on public construction contracts.	Support	Reported from the House with recommendation for referral to Committee on Commerce.
HB 4453	Requires road agencies to competitively bid public works construction projects.	Support	Pending in the House Oversight, Reforms and Ethics Committee.
HB 4521	Distribution of a portion of the sales tax into the Michigan Transportation Fund.	Support	Referred to the Committee on Transportation.
HB 4694	Construction contracts with certain public agencies and specific bid specification requirements.	Support	Referred to the Committee on Commerce.
HB 4747	Transportation; funds; disposition and use of revenues from fee increases; modify, and earmark into state trunkline fund.	Support	Passed the House; Passed the Senate; Returned to the House.
HB 4790	Requirement for competitive bidding by county road commissions on certain projects involving townships.	Support	Passed the House and referred to the Senate Committee on Transportation.
HB 5007	Amends PA 51 of 1951 (known as Act 51) to require that additional audit procedures and reporting requirements be developed for both county road commissions and cities and villages to determine whether transportation funds were expended in compliance with the act.	Support	Passed the House and referred to the Senate Committee on Transportation.
HB 5118	Amends the Motor Fuel Tax Act by amending sections 14, 82 & 87 to not allow a supplier to take a deduction of the quantities sold after October 1, 2012.	Support	Referred to the Committee on Transportation.
HB 5298	Would convert the current fuel tax to a wholesale tax with an effective rate of 28.3 cents.	Support	Referred to the Committee on Transportation.
HB 5299	Would amend the motor carrier fuel tax act to repeal the diesel excise tax and the excise tax on biodiesel.	Support	Referred to the Committee on Transportation.
HB 5300	Would modify vehicle registration fees to an on average increase of 67%.	Support	Referred to the Committee on Transportation.
HB 5303	Would create the Commercial Corridor Fund and require satisfaction of certain conditions for funding. The basic effect would be to prioritize roads, which are vital for economic activity and growth.	Neutral	Referred to the Committee on Transportation.
HB 5305	Would provide that all road projects may be subject to competitive bid regardless of cost.	Support	Referred to the Committee on Transportation.
SB 14	Would repeal the Michigan Occupational Safety and Health Act (MIOSHA).	Oppose	Referred to the Committee on Appropriations.
SB 95 - 97	Repeals prevailing wage and fringe benefits on state projects.	Oppose	Referred to the Committee on Economic Development.
SB 351	Provides for the re-distribution of sales tax on gas and diesel.	Support	Referred to the Senate Committee on Transportation.
SB 582	Amends the Michigan Vehicle Code to modify the overall length of truck tractor and lowboy trailer combinations.	Support	Passed the Senate and referred to the House Committee on Transportation.
SB 714 & 715 & SJR N	Repeals the Motor Carrier Fuel Tax Act (714) & the Motor Fuel Tax Act (715). Increase sales tax on retailers at an additional 1% and deposit the funds in the MTF.	Neutral	Referred to the Committee on Finance.
SB 819	Would prohibit idling of a vehicle for more than five minutes during any 60-minute period.	Neutral due to recently included exemptions.	Referred to the Committee on Transportation.
SB 918	Would convert the current fuel tax to a wholesale tax with an effective rate of 28.3 cents.	Support	Referred to the Committee on Appropriations.
SB 920	Would amend the motor carrier fuel tax act to repeal the diesel excise tax and the excise tax on biodiesel.	Support	Referred to the Committee on Appropriations.
SB 919	Would modify vehicle registration fees to an on average increase of 67%.	Support	Referred to the Committee on Transportation.



# Problem Solver

## Lowboy Trailer Movement

The movement of construction equipment around the state can present itself with many problems (i.e., the recently released MiTrip permit system, frost laws, active construction projects). Often, one of the most frustrating problems is dealing with the actions of the Motor Carrier Division of the MSP.

During a recent movement of some equipment on a lowboy trailer the driver was pulled over and cited for an over length load due to the fact that the 4th axle was not lifted. Frustrated with the attitude of the officer and the fact that truck drivers are subject to the accumulation of points on their CSA profile, the contractor contacted MITA for assistance.

MITA contacted the MSP and argued the case that the 4th axle was down to help distribute the load to as many axles as possible to lessen the impact to the roadway. MSP reviewed the citation and agreed that the officer is not in a position to make the determination relative to whether the 4th axle should be up or down. With that decision the over length citation was removed from the drivers vehicle inspection log and CSA profile.



**Construction Industry Specialists**

**Contract Bonds**

**Safety Programs**

**Insurance Programs**

**Claims Management**

**Captives and Self Insurance**

**Employee Benefits**

**Construction Team:**

**Brad Poggi**  
bradp@pipgrmi.com

**Mike Poggi**  
mikep@pipgrmi.com

**Penny Kirk**  
pennyk@pipgrmi.com

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

## FieldManager Contractor Software Benefits

---

- *Create discrepancy reports comparing the owner-agency contract with your working copy.*
- *Create a daily progress discrepancy by item*
- *Establish the basis of a subcontract; assign contract items to different contractors, or split them among multiple contractors.*
- *Easily calculate a subcontractor total dollar amount and track DBE totals.*
- *Import your Expedite™ Bid (.ebs) file or another contract file to create a mirror copy of the owner's contract, or manage your own contract*
- *Track costs of personnel, equipment, and materials daily and to date*
- *Specify the quantity for each item to pay to your subs and calculate the dollar amount due, creating the payment reports for subs.*
- *Export payment and cost data to your accounting system*
- *Built-in reporting on all aspects of the contract*
- *Manage any job type*
- *All of the functionality of the FieldManager Read-Only software, plus much more!*

# FieldManager® Contractor

*Do you find yourself working with multiple systems that don't follow the same standards and, even worse, don't connect to each other? The FieldManager Contractor® software is the answer. With the FieldManager contractor software, discrepancies are easy to spot so you can resolve them faster and get paid accurately and on time. The FieldManager Contractor software was designed by contractors just like you, so you know it is an intuitive and results-oriented application with a focus on ROI.*

There is a vital need to get accurate data from the owner agency during a construction project. When you can see a discrepancy instantly and work to resolve it, you can ensure timely and accurate payments. If your owner agency uses FieldManager software, then FieldManager Contractor software makes this a reality. It takes all of the functionality of FieldManager Read-Only software, and adds a host of features that contractors requested to manage their own projects effectively.

The FieldManager Contractor software automatically creates discrepancy reports that compare the information sent from the owner agency (via their read-only file) to your own working copy. This compares the owner agency quantities placed and paid verses your records and calculates the dollar amount difference. Imagine being able to see this data after each read-only pass and resolving it on the spot. In addition, there is a daily progress discrepancy by item showing the Daily Report dates with quantity discrepancies between your records and the owner agency.

You can populate the data of your own working copy of the contract using the bidding file (.ebs) that you created in the Expedite™ Bid software or other file types/sources. For work from agencies using the FieldManager software, just import the .ebs file and you have a mirror working copy of the FieldManager software read-only file. This allows you to have a full working copy of the FieldManager software, so you can manage your contract in conjunction with the owner agency. For all other work, load the file to begin managing your contract.

The FieldManager Contractor software has an enhanced contractor area where basis of a subcontract may be established, making it easy to manage subcontractors. The contract items can be assigned to different

**info**  
**TECH**



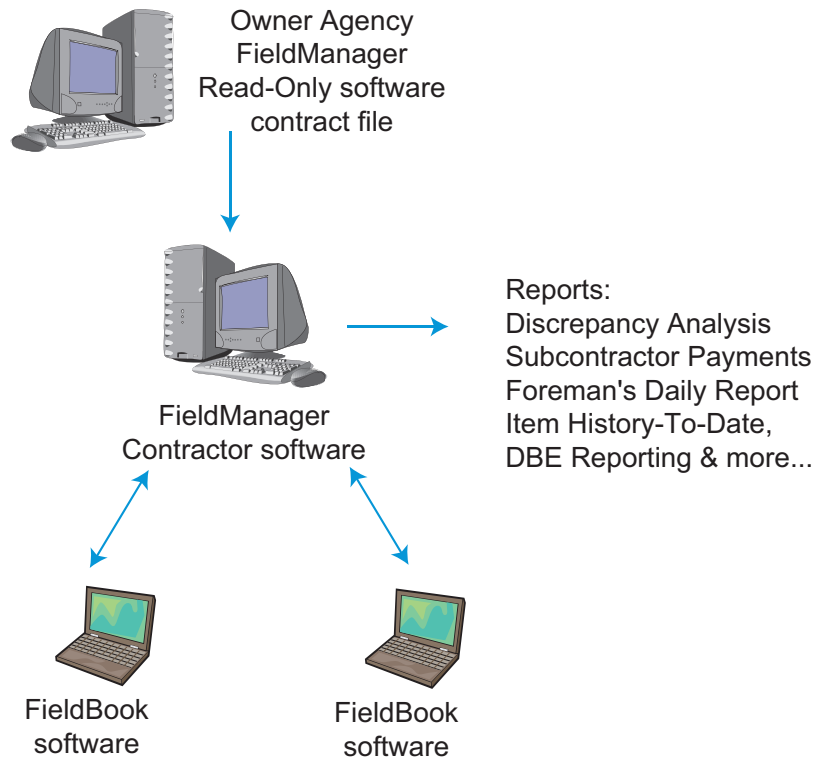


# FieldManager Contractor

contractors, or split among multiple contractors. A subcontractor quantity, unit price, task, and bonds and dues percentage can be added, calculating a subcontractor total dollar amount. You can also calculate subcontractor payments by specifying the quantity per item that your subs get paid. The FieldManager Contractor software will calculate the amount due, thus creating a payment report for all subcontractors assigned to the contract.

Want to track your daily costs for personnel, equipment, and materials? The FieldManager Contractor software can do it. When you enter work performed and minus your expenses for the day, you can see your daily profit and catch overruns before they become an issue. You can also track profit by item for an even closer look at where the money is going.

The FieldManager Contractor software allows you to be more informed about every aspect of your project so you get the job done faster, have improved communication with the owner agency, resolve discrepancies, manage subcontractors, see your profit margins, and get paid on time.



*The FieldManager Contractor software allows you to be more informed about every aspect of your project so you get the job done faster, have improved communication with the owner agency, resolve discrepancies, manage subcontractors, see your profit margins, and get paid on time.*



5700 SW 34th Street, Suite 1235, Gainesville, FL 32608  
phone: (352) 381-4400 • fax: (352) 381-4444 • [www.infotechfl.com](http://www.infotechfl.com)



## What are the Limitations Periods for Michigan Design/Construction Claims After SB 77 and *Miller-Davis v. Ahrens*?

### Introduction

Two significant developments occurred in 2011 related to the periods of limitation and repose applicable to Michigan architects, engineers, surveyors and contractors. First, the Michigan Supreme Court issued its ruling in *Miller-Davis v. Ahrens*, 489 Mich 355, 802 NW2d 33 (2011). *Miller-Davis* re-interpreted Michigan's special construction industry statute of repose. Second, SB 77 was signed into law by Governor Snyder on October 4, 2011, and will take effect on January 1, 2012 as Public Act 162 of 2011. The new law amends MCL 600.5805 and 600.5839. PA 162 restores the statutes of limitation for the design and construction industry in Michigan to the law as it existed previous to February 2006, when the Michigan Supreme Court's released its ruling in *Ostroth v. Warren Regency*, 474 Mich 36; 709 NW 2d 589 (2006).

This article provides background on the new law and identifies the periods of limitations and repose that can be expected to apply in light of the new statute and *Miller-Davis*.

### Statutes of Limitation and Statutes of Repose

A statute of limitations bars a claim unless a lawsuit is filed within a specified period of time after a claim "accrues." The periods are determined by the Legislature and are set at different lengths for different causes of action. Accrual is defined by statute (See MCL 600.5827, and 600.5829-5838). Accrual is often set as the time of the wrongful conduct, injury or discovery thereof. Malpractice claims are an exception, because in Michigan such claims accrue at the time the defendant ceases rendering professional services.

A statute of repose, by contrast, terminates a right of action after a specified period of time has elapsed, regardless of whether or not

there has been an injury. In other words, once the period has expired a plaintiff may be aggrieved but can have no legal rights against the protected defendant. Michigan has enacted a special statute of repose for the design and construction industries, MCL 600.5839. The Michigan repose period is six years and begins to run at first use, occupancy or acceptance of the improvement.

### *Ostroth v. Warren Regency*

Prior to *Ostroth*, Michigan law was controlled by *Witherspoon v. Guilford*, 203 Mich. App. 240; 511 N.W.2d 720, a 1994 Court of Appeals ruling, which held that for claims against architects, engineers, surveyors and contractors, both the generally applicable statute of limitations and the special construction industry statute of repose must be applied. The *Ostroth* court overruled *Witherspoon* and established a rule that for claims against architects, engineers, surveyors and contractors, courts must only apply the period prescribed in 600.5839 (the statute of repose).

As a practical matter, application of *Ostroth* significantly lengthened the limitations periods for most claims arising from improvements to real property. Unlike the statutes of limitation, the six-year statute of repose does not begin to run at accrual of a claim as defined by MCL sections 600.5827, and 600.5829-5838. Rather, the repose period begins to run at first use, occupancy or acceptance of the improvement, which may happen long after the alleged wrong is committed or discovered. Another impact of *Ostroth* arises in cases where a troubled project may lose funding or otherwise is abandoned before first use, occupancy or acceptance ever occurs. For those cases where projects are left uncompleted, *Ostroth* eliminated any identifiable statute of limitations whatsoever.



Boring and Jacking  
Pipe Jacking  
Tunneling

Scott Bazinet or Dick Lowe

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



## Senate Bill 77

The lengthening of the periods of limitation, and the elimination of a limitations period for uncompleted projects were problems that engendered legislative efforts by industry groups to vacate the Ostroth decision by statute. The proponents of SB 77 sought to restore the law as it was previously established by the Witherspoon decision.

In fact, the effort to legislatively correct the problems created by Ostroth began in 2006 shortly after the decision was published. Since 2006, a number of bills to reverse Ostroth were introduced, by members of both parties. Democrat Richard LeBlanc and Republicans Phillip LaJoy, Mike Callton, Alan Sanborn and Tonya Schuitmaker all served as sponsors for legislation to reverse Ostroth. However, the split in control of the House and Senate during 2006-2010 prevented passage of any Ostroth bill.

## Miller-Davis v Ahrens

In July of 2011, while the Michigan House of Representatives was still considering SB 77, the Michigan Supreme Court issued Miller-Davis v. Ahrens, 489 Mich 355; 802 NW2d 33 (2011). Miller-Davis provided a new interpretation of the statute of repose, MCL 600.5839. Previous controlling precedent was set forth in Michigan Millers Mutual Insurance Co. v West Detroit Building Co, 196 Mich App 367; 494 NW2d 1 (1992) and Travelers Insurance Company v Guardian Alarm Co of Michigan, 231 Mich App 473; 596 NW2d 760 (1998). Michigan Millers and Travelers held that the special construction industry statute of repose applied to both tort claims and contractual claims.

The Miller-Davis court held that the statute of repose applies only to tort claims and not contract claims. Miller-Davis expressly overruled both Michigan Millers and Travelers. Like Ostroth, Miller-Davis will also have the effect of lengthening the period of liability

exposure for construction industry participants. After Miller-Davis, to the extent claims may be fashioned as contractual claims, the period of repose does not apply. Because warranty claims accrue only upon discovery of the breach, without the six-year limit provided by the statute of repose, warranty claims may arise long after the project is completed. As a practical matter, application of Miller-Davis is likely to significantly extend the period of liability exposure for breach of warranty claims. Under common law architects and engineers do not warrant their drawings, so the greatest impact of Miller-Davis can be expected to fall upon contractors.

## PA 162 of 2011

After Miller-Davis was published in July 2011, SB 77 proceeded to passage in October 2011. PA 162 of 2011 will take effect on January 1, 2012, and restores the statutes of limitations as they existed before the Ostroth decision in 2006. However, SB 77 has no effect on Miller-Davis, so application of the statute of repose remains limited to tort claims, only. Therefore, even with the restoration of the previous periods of limitation, Michigan construction industry participants are nonetheless facing a new liability environment where the period of repose does not afford the protection it once did.

By its terms, PA 162 applies to claims that accrue on or after January 1, 2012. The below table identifies the periods of limitation and repose that can be expected to apply to claims against Michigan architects, engineers, surveyors and contractors for causes of action arising from improvements to real property that accrue both before and after January 1, 2012. The periods identified assume no factors that might toll the running of the periods, such as infancy, disability, insanity, war, absence of the defendant from the state or fraudulent concealment.

Continues on pg.36

**SWAD & COMPANY**  
**Certified Public Accountants**  
"Serving the accounting, auditing, and taxation needs  
of Michigan's construction industry."

*Edmond A. Swad, CPA*  
*James W. Forkner, CPA*  
*Edmond A. Swad Jr., CPA*  
*Gary M. Blanck, CPA*

**Call (734) 462-9333 to schedule an appointment.**

*38701 Seven Mile Rd., Ste. 245, Livonia, MI, 48152*



## Michigan Limitations and Repose Periods for Claims Against Architects, Engineers, Surveyors and Contractors

### Contractual Claims Against Contractors

Limitations Period before 1/1/12:	6 years from the time of the breach (600.5807(8))
Limitations Period after 1/1/12:	6 years from the time of the breach (600.5807(8))
Repose Period:	No repose period applicable (Miller-Davis)

### Warranty Claims Against Contractors

Limitations Period before 1/1/12:	6 years from the time breach of the warranty is discovered or reasonably should be discovered (600.5833)
Limitations Period after 1/1/12:	6 years from the time breach of the warranty is discovered or reasonably should be discovered (600.5833)
Repose Period:	No repose period applicable (Miller-Davis)



Limestone

AG Lime

MDOT Pre-Qualified

Rip Rap

Topsoil / Sand

Recycled Concrete

Natural Gravel

Material Delivery

Rail Logistics

[www.stoneco.net](http://www.stoneco.net)

### **Construction Materials**

**Stoneco Eastern Division (734) 241-8966**

Ottawa Lake • Maybee • Monroe • Newport • Ann Arbor • Ida

**Stoneco Western Division (269) 795-3500**

Grand Rapids • Kalamazoo • Moscow

**Conrad Yelvingston Distributors Inc. (CYDI)**

Flint • Lansing

**(810) 785-5802**

**Providing All grades of Construction Limestone, Sand & Gravel**

## Michigan Limitations and Repose Periods for Claims Against Architects, Engineers, Surveyors and Contractors

### Negligence Claims Against Contractors

Limitations before 1/1/12:	6 years from first use, occupancy or acceptance of the improvement or, 1 year after the defect is discovered or should have been discovered in cases of gross negligence, within 10 years of use occupancy or acceptance (600.5839(1))
Limitations after 1/1/12:	3 years from the time of the death or injury (600.5805(10))
Repose:	6 years from first use, occupancy or acceptance of the improvement or, 1 year after the defect is discovered or should have been discovered in cases of gross negligence, within 10 years of use occupancy or acceptance (600.5839(1))

Continues on pg.38

INSURANCE



WESTFIELD  
INSURANCE

Sharing Knowledge. Building Trust.®

BONDING

# OAKLAND COMPANIES

INTEGRITY • COMMITMENT • SECURITY

### Our Primary Client Goals:

Protect Your Assets • Control Your Costs • Provide Exceptional Service

ISO 9001:2000  
Certified Co.



**NASBP**



**mita**



888 West Big Beaver, Suite 1200, Troy Michigan 48084  
www.oaklandcompanies.net

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





## Michigan Limitations and Repose Periods for Claims Against Architects, Engineers, Surveyors and Contractors

### Malpractice Claims Against Architects/Engineers

Limitations Period before 1/1/12:	6 years from first use, occupancy or acceptance of the improvement or, 1 year after the defect is discovered or should have been discovered in cases of gross negligence, within 10 years of use occupancy or acceptance (600.5839(1))
Limitations Period after 1/1/12:	2 years from the time that person discontinues serving the plaintiff in a professional capacity or within 6 months after the plaintiff discovers or should have discovered the existence of the claim, whichever is later (600.5805(6); 600.5838(2))
Repose Period:	6 years from first use, occupancy or acceptance of the improvement or, 1 year after the defect is discovered or should have been discovered in cases of gross negligence, within 10 years of use occupancy or acceptance (600.5839(1))

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

#### **PLASTERERS & CEMENT MASONS LOCAL 16**

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

#### **CEMENT MASONS LOCAL 514**

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



#### **PLASTERERS LOCAL 67**

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

#### **PLASTERERS & CEMENT MASONS LOCAL 886**

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

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

## Michigan Limitations and Repose Periods for Claims Against Architects, Engineers, Surveyors and Contractors

### Malpractice Claims Against Surveyors

Limitations Period before 1/1/12:	6 years from delivery of the survey or report (600.5839(2))
Limitations Period after 1/1/12:	2 years from the time that person discontinues serving the plaintiff in a professional capacity or within 6 months after the plaintiff discovers or should have discovered the existence of the claim, whichever is later (600.5805(6); 600.5838(2))
Repose Period:	6 years from delivery of the survey or report (600.5839(2))

### Contractual Claims Against Architects/Engineers/Surveyors

Limitations Period before 1/1/12:	6 years from first use, occupancy or acceptance of the improvement or, 1 year after the defect is discovered or should have been discovered in cases of gross negligence, within 10 years of use occupancy or acceptance (600.5839(1))
-----------------------------------	--

Continues on pg.40



## Michigan Pipe & Valve, Inc.

### Complete Water & Sewer Supplies Distributor

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

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

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

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

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

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

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



- Ductile Iron Pipe
- Ductile Fittings
- Restrained Joint Products
- PVC Water and Sewer Pipe
- PVC Pressure/DWV Fittings
- Schedule 40 PVC Pipe
- Storm Sewer Pipe
- Water Service Tubing
- Corps, Curbs, Slopes and Boxes
- Fire Hydrants
- Gate Valves
- Tapping Sleeves
- Tapping Machines
- Repair Clamps
- Flexible Couplings

- Pipe Couplings
- Water Meters
- Water Meter Boxes
- Tools & Test Equipment
- Concrete Products
- Polywrap
- Erosion Control Products
- Corrugated Metal & Plastic Pipe
- HDPE Piping & Fusion Equipment
- Specialty Valves
- Butterfly Valves
- Air & Vacuum Valves
- Detector Check Valves
- Back Flow Preventers

**Servicing Contractors, Developers & Municipalities**



## Legal Issues

Continued from pg.39

### Michigan Limitations and Repose Periods for Claims Against Architects, Engineers, Surveyors and Contractors

#### Contractual Claims Against Architects/Engineers/Surveyors (continued)

Limitations Period after 1/1/12:	6 years from the time of the breach (600.5807(8))
Repose Period:	No repose period applicable (Miller-Davis)



Gary D. Quesada is a partner with the construction law firm of CAVANAUGH | QUESADA, PLC

Mr. Quesada served as the point person for legal issues for the American Institute of Architects of Michigan, American Council of Engineering Companies, Michigan Society of Professional Engineers and the Michigan Society of Professional Surveyors throughout the 5-year campaign to overturn the Ostroth decision. Mr. Quesada testified concerning statute of limitations legislation on numerous occasions before Judiciary Committees in both the Michigan House and Senate.

For more information see [www.MichiganConstructionLaw.com](http://www.MichiganConstructionLaw.com), or e-mail [gquesada@cqlawfirm.com](mailto:gquesada@cqlawfirm.com).

## Michigan's Largest Distributor of ADA Tiles



**Compliant with MDOT & City of Detroit**

**Cast in Place • Surface Mount • Replaceable**

**Available in Assorted Colors & Sizes**



**IN STOCK NOW**

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

Visiting us online at [www.acecutting.com](http://www.acecutting.com)



# MITA Member Outreach Update

**M**ITA members and staff have been working diligently this legislative session to propel legislation forward that will bring about improvement and stability to the industry. A brief list of some of the activities that have been undertaken to-date to further these goals is as follows:

**Member meetings with legislators:** MITA members have initiated a number of meetings with their elected officials this year. These meetings resulted in a transfer and dialog of information and facts between members and their elected officials. The end results of these meetings are the development of an ongoing relationship with policymakers in Michigan.

**Coffee/District Office Hours:** MITA staff has been posting the upcoming coffee/district office hours on the MITA website to encourage members to take 10 – 15 minutes to get in some face time with their elected officials and begin the dialog on the issues.

**Contact Your Legislator Webpage:** MITA staff recently upgraded the "Contact Your Legislator" webpage to make it a more useful outreach tool for members. Not only can you find recent legislative information, you can also communicate with your elected officials directly from this webpage.

**Letter Writing Campaign:** MITA staff undertook a letter writing campaign, asking members to provide their own authentic letters to be mailed not only to their State Senator and Representative, but also to the 146 remaining legislators, Lt. Governor, Governor and Congress. In total each letter was mailed to 168 elected officials at both the state and national level. Due to the outpouring of support from the MITA members, 240 letters were secured towards this initiative. The result of these efforts was a total of 40,320 letters mailed to elected officials regarding transportation and infrastructure investment.

These initiatives are only a success due to the support, participation and involvement of each MITA member.

If you are interested in learning how you can become more involved, please contact Nicole Cook, MITA Outreach Coordinator, via email at [nicolecook@mi-ita.com](mailto:nicolecook@mi-ita.com) or by phone at (517) 347-8336.

## INSURANCE AND BONDING *For the Construction Industry*

### General Insurance ♦ Surety Bonds



1175 West Long Lake Rd.,  
Suite 200, Troy, MI 48098  
248-828-3377  
Fax 248-828-4290 Bonding  
248-828-3741 Insurance  
[www.vtcins.com](http://www.vtcins.com)



GRIFFIN, SMALLEY & WILKERSON, INC.

37000 Grand River, Suite 150  
Farmington Hills, MI 48335  
248 471-0970  
FAX 248 471-0641  
[www.gswins.com](http://www.gswins.com)

 VTC INSURANCE GROUP  
Representing



## Kirk Steudle Elected 2012 AASHTO President

**M**DOT Director Kirk T. Steudle is the president of the American Association of State Highway and Transportation Officials (AASHTO) for 2012.

As president, Steudle will lead the organization's work to educate the public and policymakers about transportation's crucial role in our nation's economy, and strengthening the relationships between state departments of transportation and the federal government.

"Director Steudle keenly understands infrastructure's role in economic growth here in Michigan and throughout the country," said Gov. Rick Snyder. "We're proud that AASHTO has chosen him to lead its members in 2012. We know his leadership and expertise will be invaluable as our state and nation embrace 21st century transportation opportunities."

As director, Steudle oversees MDOT's more than \$3 billion budget and is responsible for the construction, maintenance and operation of nearly 10,000 miles of state highways and more than 4,000 state highway bridges, at a department with 2,500 employees. He also oversees administration of a wide range of multi-modal transportation

programs, including aviation, public transit, rail, marine and nonmotorized transportation.

Steudle was the 2010-2011 vice president of AASHTO, and serves on the AASHTO executive committee. He also chairs the AASHTO standing committee on performance management and the subcommittee on asset management.

Steudle currently plays a leadership role in the development of connected vehicle technology, which enables vehicles to communicate with the road network and with each other to promote greater safety and mobility. Steudle is on the board of directors of the Intelligent Transportation Society of America, the Engineering Society of Detroit, and is chair of the University of Michigan Transportation Research Institute advisory board. He also serves on the Strategic Highway Research Program II oversight committee and chairs the group's implementation report to the U.S. Congress.

A graduate of Adrian High School and Lawrence Technological University, Steudle earned a bachelor of science degree in construction engineering.

AASHTO is a nonprofit, nonpartisan association representing highway and transportation departments in the 50 states, the District of Columbia and Puerto Rico. It represents all five transportation modes: air, highways, public transportation, rail and water. Its primary goal is to foster the development, operation and maintenance of an integrated national transportation system.

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

#### CAPITOL BARRICADING, INC.

##### Providing:

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

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

##### Contact us today!

Phone: 517.372.1291

Fax: 517.694.6123

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



**Capitol  
Barricading,  
Inc.**

MDOT DBE  
Certified





## Inventor of Highway Centerline Receives International Honor

**T**he late Edward N. Hines, a Michigan resident who invented the highway centerline, was honored recently with the first Paul Mijksenaar Design for Function Award in Amsterdam, the Netherlands.

Widely recognized as one of the great innovators in highway development, Hines was a charter member of the Wayne County Road Commission in 1906 and served until his death in 1938. In 1911, Hines conceived the idea of painting a centerline on roads to separate traffic. The idea came to him after watching a leaky milk wagon leave a white trail down a road.

Painted centerlines were first used in 1911 on Trenton's River road in Wayne County. In 1917, the nation's first centerline on a rural state highway was painted on what is now County road 492 in Marquette County.

In 1972, Hines was inducted posthumously into the Michigan Transportation Hall of Honor in Lansing. State Transportation Director Kirk T. Steudle accepted the design award on behalf of Hines via a videotaped message.

"On behalf of the Hines family and MDOT, we thank Foundation Paul Mijksenaar for this tremendous honor," Steudle said. "The highway centerline has been called the single most important traffic safety device in the history of automobile transportation, and Edward Hines originated right here in Michigan."

The Paul Mijksenaar Design for Function Award is an initiative of Foundation Paul Mijksenaar, a global multi-disciplinary center for research and debate in the field of information design and architecture in the modern world. Paul Mijksenaar is a designer of visual information systems, and the founder and director of the international design bureau Mijksenaar.

**O**ne of the most important ways we can accomplish our goal for adequate infrastructure investment is by engaging the public and getting the message out that we are in a crisis regarding our roads and bridges in Michigan. As Governor Snyder said, "[We are] living on borrowed time". We NEED YOU to help strengthen our advocacy in your own communities and help get the public on board to convince their elected officials that investment needs to be increased now. MITA staff is organizing members throughout the state to meet with civic organizations within their community; the local Chamber of Commerce, Rotary, Aquinas, and other business and community groups for the purpose of starting a dialogue on this important initiative.

Nicole Cook, MITA Outreach Coordinator, will contact members as these meetings are scheduled throughout the state. If you belong to one of these organizations and see a meeting scheduled in your area, please contact Nicole at [nicolecook@mi-ita.com](mailto:nicolecook@mi-ita.com) or by phone at (517) 347-8336. Our office will work with our members to help prepare talking points for discussion at these meetings and can add additional assistance if needed.

### Construction Related Engineering Services

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

## EverydayBrilliance

Brilliant engineering solutions - delivered daily.



**NTH Consultants, Ltd.**

Infrastructure Engineering  
and Environmental Services

(800) 736-6842  
[www.nthconsultants.com](http://www.nthconsultants.com)





PARTS & SERVICE



REMARKETING



CUSTOMER  
SUPPORT AGREEMENTS



VOLVO FINANCIAL SERVICES



CARETRACK

# LET'S WORK.

**Get it done from one source: your Volvo dealer, Alta Equipment Company.**

Whatever you do. **Your Volvo dealer** is there to help you do it. **Dependable equipment** – from construction and road building to forestry, utilities and more. **Support** – from sales and remarketing to reliable parts and service. **Offerings** – to get you working and keep you working – from Customer Support Agreements and CareTrack telematics to full-service financial solutions through Volvo Financial Services. It's all delivered directly through one source: **Alta Equipment Company.**

We're the solution you can trust – before and after the sale. Let's work together. Contact your nearest **Alta** location today.

[www.volvoce.com/na](http://www.volvoce.com/na)

**MORE CARE. BUILT IN.**

**VOLVO CONSTRUCTION EQUIPMENT**



**ALTA EQUIPMENT  
COMPANY**

[www.altaconstructionequipment.com](http://www.altaconstructionequipment.com)

West Side  
(616) 878-7450

Detroit Metro  
(248) 356-5200

East Side  
(586) 977-6000

## Member Voice

From time to time we ask MITA members to comment on issues of importance to the industry. Some of the answers are published here.

**With the recent failed attempt to pass legislation authorizing the New International Trade Crossing (NITC), this issue is still being discussed in Lansing and is expected to heat up in the near future. What are your thoughts on this project? Do you support the building of a public bridge? Why or why not?**

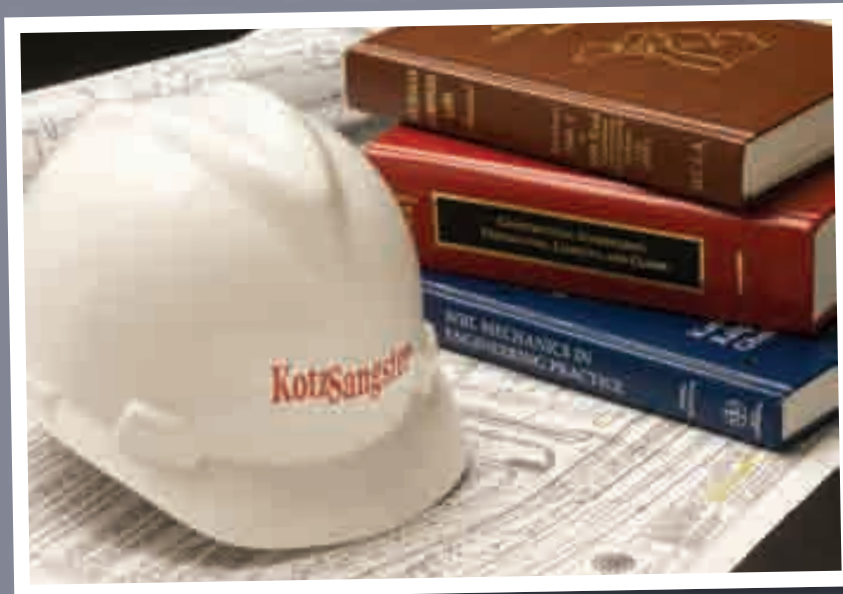
The current Ambassador Bridge is over 80 years old. We should not be relying on such an old element of infrastructure in any case, but especially when so much economic activity relies upon it. Both trucking and commuting between the U.S. and Canada, and Detroit and Windsor rely heavily upon the Ambassador Bridge. The current owner has had plenty of time to initiate a valid engineering effort to replace the bridge and they have not done much. In addition, the bridge location is an early 1900's idea. The Ambassador Bridge location does not work for the 21st century in Canada. Therefore, the public initiative is

the best option and is needed now. Canada realizes that the bridge is needed because of access issues on their side, therefore they are willing to pay for the bridge. Their motive is simply their weak negotiating position when determining the basic reason for relocating the bridge to the proposed NITC location. In addition, publicly initiated bridges is the primary delivery mechanism around the world. The method works and can be applied at this location successfully.

Mike Guter, P.E.  
URS Corporation

Continues on pg.47

## What Our Thinking Cap Looks Like



### CONSTRUCTION COUNSEL

Kotz Sangster knows the construction industry. When you need practical, service-oriented lawyers who can answer your questions, we are the law firm to call. We understand the types of risk you face on each project, and we add value to your business by helping you develop and implement effective risk mitigation strategies. However, in the event litigation is required, we are also aggressive, experienced litigators who protect your business interests.



Kotz Sangster Wysocki P.C.

BIRMINGHAM COUNTY  
248.646.1050

GRAND RAPIDS  
616.940.0230

DETROIT  
313.259.8300

NILES  
269.591.6915

ORANGE COUNTY  
951.413.0017

Call Jeff Sangster @ (313) 259-8300  
[www.kotzsangster.com](http://www.kotzsangster.com)





# THE **MEASURE** OF YOUR SUCCESS

- ◆ UNDERGROUND ENGINEERING
- ◆ EARTH RETENTION DESIGN
- ◆ VIBRATION MONITORING & CONSULTING
- ◆ GEOTECHNICAL & STRUCTURAL INSTRUMENTATION
- ◆ TUNNELS
- ◆ SLOPE STABILITY STUDIES
- ◆ GEOTECHNICAL INVESTIGATIONS
- ◆ DEEP FOUNDATION DESIGN & MONITORING
- ◆ CONSTRUCTION MATERIALS TESTING

**INSPECSOL**  
ENGINEERING INC.  
MEMBER OF THE CRA FAMILY OF COMPANIES

14496 SHELDON RD., SUITE 200  
PLYMOUTH, MI 48170  
MICHAEL GENTNER, PE 734-453-5123  
[WWW.INSPECSOL.COM](http://WWW.INSPECSOL.COM)



## Member Voice

Continued from pg. 45

The construction of the new bridge referred to as NITC is absolutely vital to the state and to the City of Detroit. It has been a self-centered thought process that has hindered the beginning of the bridge so far. Large public works projects cause economic benefit for the public. Construction of the Hoover Dam enabled much of the western states to develop. Las Vegas would not exist without it. The building of the Mackinac Bridge enabled the UP to grow as well as the areas adjacent to the bridge. If we are serious about the resurrection of the economy of this state and the City of Detroit, then investing in the NITC is absolutely necessary.

Scott Bazinet  
*Lowe Construction Co.*

I feel that it would be an asset to the state of Michigan and others that travel our highways in route to and from Canada. It would be nice if it used local labor and companies to build it, as we all know this happens quite often due to the bidding process and it ends up going to an out of state contractor. I feel that anything that will pay for itself by way of tolls or fares is a good thing. If it creates 300 jobs that would be 300 jobs we did not have yesterday.

Pat Fitzsimons  
*Teri's Excavating, Inc.*

I fully support the construction of the NITC. The project will bring a substantial boost to the construction industry in Eastern Michigan. We on the west side are most excited about the federal matching funds that will have a positive affect on our businesses. This project seems to be win win for all of Michigan

Roger Jourden  
*Accurate Excavators, LLC*

If you have private firms willing to build a new bridge without cost to the taxpayers, this should be explored leaving more funding for construction projects.

Allen R. Linson  
*Cadillac Asphalt LLC*

I believe with a new public crossing that numerous needed jobs will be created and it will help trade commerce with Canada. If the governor is correct we will also receive additional federal funds for other state projects.

Robert Bills  
*TUV Rheinland Industrial Solutions, Inc.*

Limited special interest have negatively impacted the state of Michigan for way too long. The NITC is a crucial infrastructure component and can have significant long-term impact on Michigan's economy. Let's get the special interest money behind us and move ahead! Build the bridge!

Eric Cross  
*F&M Construction Company*

I believe that trading goods and services makes my world a better place, raises my standard of living, promotes liberty, freedom and the pursuit of happiness. Work out the details and watch our world become a better place, or isolate ourselves and complain about how well the other guy is doing. Our world, our choice. Build more bridges.

Gary Merkey  
*Jackson-Merkey Contractors, Inc.*



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

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

  
**Jay Dee**

# Member News

## Concrete Cutting & Breaking Co.

[www.concut.com](http://www.concut.com)

The contact information for a new office of Concrete Cutting & Breaking Co. is:

1401 Rosa Parks Blvd  
Detroit, Michigan 48216  
313.285.5025 Office  
313.285.5026 Fax

## Oakland Companies

[www.oaklandcompanies.net](http://www.oaklandcompanies.net)

Oakland Companies, a locally based insurance agency in Troy, recently launched its new website and interactive digital marketing campaign, focused on improving the way the agency connects with, markets to and serves its neighboring communities.

The agency's restructured website was created to make the online insurance shopping experience much more educational and personalized. The site is divided into distinct categories, making it as easy as possible for Michigan insurance shoppers to find

exactly the type of insurance products they are looking for – and better yet, allows the visitor to take a much more proactive approach to understanding his or her policy options.

Whether individuals are searching for an affordable Michigan auto insurance policy, custom Michigan home insurance or simple insurance advice, Oakland Companies has them covered. Regardless of the customers' needs, Oakland Companies provides current and prospective customers with multiple ways to contact the agency. Fill out a free quote form, get social with the expert agents on various social media sites, or just give them a call at 248-647-2500. Oakland Companies wants to make the insurance shopping process as straightforward as possible and enjoyable, too.

Oakland Companies has recently partnered with a digital marketing and insurance sales training company that specializes in modernizing the way by which the independent insurance industry does business – to create an innovative new online marketing strategy. The agency's new marketing approach features a unique "Virtual Insurance Office" and interactive "Virtual Insurance Agent," which are meant to increase customer engagement in addition to providing the visitor with a more personalized overall experience. The campaign is also intended to help Oakland Companies both find and keep new, prospective clients while continuing to broaden the agency's reach across the Great Lakes region.

For more than 30 years, the owners of Oakland Companies have had a history with Michigan insurance. As an independent insurance agency, Oakland Companies has the ability to customize insurance policies to their customers' unique needs. The company has a firm belief to treat each and every client with the respect they deserve and strive to secure the most comprehensive and effective insurance solutions possible.



**Ebony  
Construction  
Company, Inc.**

**Asphalt Paving**

**Milling**

**Material Supply**

**Certified in Indiana, Michigan & Ohio**

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

**419-841-3455** [phone]

**419-841-7845** [fax]

**ebonyco.com** [website]

3510 Centennial Road, Sylvania, Ohio 43560

An equal opportunity employer

## Spalding DeDecker Associates

[www.sda-eng.com](http://www.sda-eng.com)

Spalding DeDecker Associates, Inc., a regional civil engineering, landscape architectural, and surveying firm, recently hired Jason Matteo, P.E., CFM, and hydrology/hydraulic model expert.

Matteo will serve as project manager in the Municipal Engineering Department. His responsibilities will include



Jason Matteo, P.E., CFM

project management of a variety of studies and modeling projects. He earned a bachelor's of science degree in biosystems engineering from Michigan State University and a master's of science in civil/environmental engineering from Wayne State University.

He is a certified floodplain manager through the Association of State Floodplain Managers, a Certified

Storm Water Management Operator through the Michigan Department of Environmental Quality, and is Confined Space Entry trained. With more than 11 years experience developing complex hydrologic/hydraulic computer models for the design of water distribution networks and sewer/drainage systems, Matteo is an active member of the American Society of Civil Engineers and the Association of State Floodplain Managers.

Established in 1954, Spalding DeDecker Associates, Inc., is an employee-owned and ISO certified consulting engineering and surveying firm specializing in infrastructure, land development and surveying. With regional offices in Detroit and Rochester Hills, and field offices in Cleveland, Livonia, Monroe, and Trenton, SDA offers a diverse set of skills to clients who seek solutions to construct and maintain their infrastructure. The firm also offers municipal engineering, construction engineering, forensic engineering, transportation engineering, land development, landscape architectural, pavement management and land surveying services.

## MITA Members Win National Partnership for Highway Quality Awards

Projects handled by MITA members were recently recognized with two national awards for highway quality by the National Partnership for Highway Quality (NPHQ).

The platinum level award went to MDOT's Fix on I-196 project in Grand Rapids. The contractor on the project was Walter Toebe. The reconstruction of I-196 in downtown Grand Rapids was one of the country's most outstanding transportation projects.

"This new gateway to Grand Rapids and west Michigan has improved safety and mobility for motorists and pedestrians," said State Transportation Director Kirk T. Steudle.

The reconstructed freeway features an additional through-lane in each direction; a new weave/merge lane in each direction connecting the interchanges of Fuller, College, and Ottawa Avenues; a wider roadway; and five new bridges between the Grand River and Fuller Avenue.

The I-94 business loop reconstruction project in Benton Harbor, which was handled by Hoffman Bros. Inc., received special recognition for a small project. Nearly two miles of the I-94 Business Loop/Main Street through Benton Harbor was rebuilt, which improved safety and traffic flow, as well as giving the city a vital economic boost. It featured the addition of bicycle lanes and dedicated on-street parking; construction of two roundabouts; complete replacement of curb and gutter, municipal water main, and sidewalks; construction of ADA compliant sidewalk ramps; and several other upgrades to the corridor and Benton Harbor's downtown.

NPHQ's award program has consistently drawn out the elite highway and bridge projects that have launched innovations which deliver better performing projects faster and which yield better service to highway users.



# Where Has Your MITA Hat Been Lately?



*Dave Pytlowany of AIS.*

## SPARTAN SPECIALTIES LTD

SOIL STABILIZATION SOLUTIONS

### — GROUTING TECHNOLOGIES —

FOUNDATION GROUTING  
COMPACTION GROUTING  
CHEMICAL GROUTING  
MICRO FINE CEMENT

### — CONCRETE REPAIR —

PREPLACED AGGREGATE  
EPOXY INJECTION  
FABRIC FORM GROUT BAGS  
GUNITÉ

### — PILES —

MINI PILES  
SOIL NAILING  
EARTH & ROCK ANCHORS

**586-826-8811**

6250 SIMS STERLING HEIGHTS MI 48313



*Jim Urban, of Butzel Long, bagged this buck in South Dakota.*

Send your photos to [nancybrown@mi-ita.com](mailto:nancybrown@mi-ita.com)





*Jay Picklo and Dave Fischer of HRHC  
Brent Sandborn of Sandborn Construction  
Frank and Dave Pytlowany of AIS.*



*Rachel Snyder of BCT Benefits and her  
sister warm-up after working hard during  
“fall harvest” at the Ferris Farm.*

*From left to right: Mike Peake, Action Traffic;  
Doug Kaltz, Kaltz Excavating; Dave  
Pytlowany, AIS; and Darrell Kaltz, Kaltz  
Excavating. This group bagged four nice bucks  
out west while wearing their MITA hats.*



GEOTECHNICAL ENGINEERING	ENVIRONMENTAL CONSULTING	CONSTRUCTION ENGINEERING SERVICES
		
<p>I-696 RETAINING WALL RECONSTRUCTION</p>		
<p><b>“G2 gets our <b>highest recommendation</b> for geotechnical and <b>construction quality</b> services on projects of any size”</b></p>		
<p>— BEN PENHALE, P.E., PRINCIPAL, PENHALE &amp; YATES</p>		
		
<p><b>G2 CONSULTING GROUP, LLC</b></p>		
<p>Troy, MI: 248.680.0400   Brighton, MI: 810.224.4330   Chicago, IL: 847.353.8740 <a href="http://g2consultinggroup.com">g2consultinggroup.com</a>   <a href="https://twitter.com/g2_consulting">twitter.com/g2_consulting</a></p>		



## ASCE Michigan Section Elects New President and Officers



Mike Guter, P.E.

**T**he ASCE Michigan Section has selected Mike Guter, P.E., as its 2011-2013 president and has elected new officers for the coming year.

Mike received his bachelor of science degree in civil engineering from Calvin College in 1993. He is a licensed professional engineer in Michigan and has worked in the transportation business since college. He is currently manager for construction services for URS Corporation in Michigan. In this role, he manages transportation projects that

use design-build and other innovative delivery methods, manages construction engineering services for transportation projects, and provides intermittent engineering assistance on larger transportation projects within the midwest.

Guter has served as an officer within the ASCE West Michigan Branch and ASCE Michigan Section for several years, beginning in 2001. He enjoys a family that includes his wife, Carrie; 11-year-old,

Madeline; and 8-year-old, Gabriel.

### 2011-2012 ASCE Michigan Section Officers

President: Mike Guter, P.E., Grand Rapids  
President-Elect: Daniel Lewis, P.E., Kalamazoo  
Vice President: Ronald Goldie, P.E., Detroit  
Treasurer: Carey Suhan, P.E., Troy  
Secretary: Therese Kline, P.E., Lansing  
Past President: Michael Thelen, P.E., Lansing

Founded in 1852, the American Society of Civil Engineers (ASCE) represents more than 144,000 members of the civil engineering professional worldwide and is America's oldest national engineering society. ASCE is the pre-eminent organization representing the civil engineering profession. ASCE facilitates the advancement of technology, provides the tools for lifelong learning, promotes professionalism, and advocates infrastructure and environmental stewardship. For more information about ASCE Michigan Section, contact the ASCE Michigan office at 517-332-2066. To learn more about the condition of Michigan's infrastructure, view the ASCE Michigan Infrastructure Report Card at [www.michiganreportcard.com](http://www.michiganreportcard.com).

## MEETING YOUR NEEDS FOR BONDS AND INSURANCE



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

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

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



**MOURER  
FOSTER**  
Bonds & Insurance

*Service Beyond the  
Contract Nationwide*





THE  
REASONS  
ARE  
OBVIOUS



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

CLEANER AIR

ELIMINATE THE NEED FOR ENFORCEMENT

LOWER CANCER RISK

REDUCE RESPIRATORY-RELATED ILLNESSES

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

# Leading Michigan Excavating Company Helps in the Battle Against Multiple Sclerosis

## *Uses Kenworth T800 with MS Graphics Package to Draw Awareness*

For nearly 40 years, Champagne & Marx Excavating has been carrying the load for its customers in the Saginaw, Mich., area. Its fleet of Kenworth T800s haul Michigan Specials – double-dump trailers capable of transporting 50 tons of payload. Doing the heavy work in road prep, foundation digging, and other commercial and industrial projects is a fleet of excavators and dozers.

But, the company carries another load – raising money and awareness in the fight against MS, Multiple Sclerosis. In 2011, Champagne & Marx Excavating raised enough money to rank it fourth in Michigan in MS fund-raising, according to the company.

MS is a very personal cause for the Marx family, co-founders of the company with Frank Champagne, who helped start the business in 1973. Now a second-generation business, son David Marx serves as president; and daughters Anne Coursey and Christine Davis serve as vice president, and safety and collections manager, respectively. But it's Christine's own fight with MS which has led the company to raise awareness and funds to help battle the disease.

Its rolling champion in calling attention to MS is a Ken-

worth T800 and double trailers with a graphics package that can't be missed. "Join the Movement" is splashed on one trailer, while the MS logo and "OrangeYaCurious.com" on the other.

"MS is a terrible disease and we've been doing our part to help educate and raise funds to help in the battle against it," said Davis. "We came up with the special truck idea, along with our Kenworth dealer (Central Michigan Kenworth of Saginaw). We bought a 2012 T800 with the Extended Day Cab about a year ago and had the graphics package added to promote the cause. We've had nothing but wonderful comments about our MS truck and it has driven awareness and donations."

According to Davis, there was no shortage of volunteers to drive the special T800. "But our choice was easy," she said. "Tom Lavrack, who has been with us since 1986, is the driver of the special MS Kenworth T800. He's always been behind our MS efforts and always seems to be first to donate to the cause. When we told him we'd like him to drive the MS truck, he asked if he could take it home with him. He wanted to get it all polished up. He's as proud of the truck



*The Marx family 2011 Christmas Card features the Kenworth T800 MS truck.*





*Champagne & Marx Excavating benefits from the durability, reliability and driver comfort provided by the company's Kenworth T800s.*



as we are."

The MS truck joins seven other Kenworth T800s in service. Most are equipped with 500-hp engines, driven through 13 or 18-speed transmissions. The Kenworth AG460 suspension is normally spec'd, and 20,000-lb front axles and 46,000-lb rears handle the loads.

"The T800s perform beautifully in our operation," said David Marx. "We initially developed interest in Kenworth when its new dealership in Saginaw moved close by (just three miles away). We wanted to have the advantage of a dealership next door for parts and service support, and our salesman, Rollie Kanine, and his group have been great.

"But, so have the Kenworth trucks. We plan to work them hard for 10 years before we either trade them in or sell them

Continues on pg.56

**Jensen** BRIDGE & SUPPLY CO.

**CORRUGATED STEEL PIPE  
WATERMAN GATES  
GEOTEXTILE FABRICS**

**SANDUSKY**

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

**GRAND RAPIDS**

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



## Leading Michigan Excavating Company Helps in the Battle Against Multiple Sclerosis...

Continued from pg. 55

ourselves," said Marx. "In a typical day, a T800 will take 15 loads, grossing out at 150,000 pounds on each trip. Then they're often off-road in dirt, mud or aggregate, which will put added stress on the truck and driveline. We'll end up at about 385,000 miles when we're done, and those will be about as hard of miles as you can find."

While the durability and reliability of the Kenworth T800s are needed, Marx said comfort is also important. "Our drivers have been quick to point that out to us. In fact, one driver told me he'd rather drive a used Kenworth than a new truck of the brand we were driving before. That really told us something," he said.

When they're not driving trucks or excavating equipment, the 40 employees of Champagne & Marx Excavating, are solidly behind the MS fund-raising efforts. Many participate in the Champagne & Marx MS Walk and MS Bike event to help raise money. Combined, the events raised \$50,000 for the National MS Society Michigan Chapter.

Davis is also very active in MS education – for the past 12 years, co-leading a 6-week Gateway to Wellness program. She's also a volunteer for the MS Society. "One day during a Wellness class, a mom told me that her son had seen an orange dump truck with MS graphics. She said he jumped in the car to chase it down so she could get pictures. A smile came to my face as I told her it was one of our company's trucks," Davis said.

More information on MS may be obtained at the National Multiple Sclerosis Society website ([www.nationalmssociety.org](http://www.nationalmssociety.org)).

### About Champagne and Marx Excavating

Frank Champagne and Tom Marx formed Champagne & Marx Excavating in 1973. Performing high quality work safely, on schedule and competitively priced led to the company's rapid growth. Following Frank Champagne's retirement in 1986, the husband-and-wife team of Tom and Ginger Marx continued to grow the business, and later turned the family business over to their three children: David, Anne and Christine.

Champagne & Marx Excavating is "Pushing for a Cure" to end MS. MS stops people from moving, what better way to remind people to "join the movement" than a 50-ton gravel train rolling down the road. Along with raising awareness, the compa-

## GUY HURLEY BLASER & HEUER LLC

INSURANCE AND SURETY SERVICES

Does  
your  
agent  
read the



We Do.

[www.ghbh.com](http://www.ghbh.com)  
248-519-1400



## VERITAS BENEFITS GROUP LLC

EMPLOYEE BENEFIT SPECIALISTS

ny's hope is to raise funds to help patients who have been diagnosed with the disease. Donations support research and local programs and direct financial assistance for the more than 18,000 people living with MS in Michigan.

### About Kenworth Truck Company

Kenworth Truck Company is the manufacturer of The World's Best® heavy and medium duty trucks. Kenworth is an industry leader in providing fuel-saving technology solutions that help increase fuel efficiency and reduce emissions. The company's dedication to the green fleet includes aerodynamic trucks, compressed and liquefied natural

gas trucks, and medium duty diesel-electric hybrids. Kenworth is the only truck manufacturer to receive the Environmental Protection Agency's Clean Air Excellence award in recognition of its environmentally friendly products. In addition, the fuel-efficient Kenworth T700 equipped with the low-emission PACCAR MX engine was named the 2011 Heavy Duty Commercial Truck of the Year by the American Truck Dealers. Kenworth is also the recipient of the 2011 J.D. Power and Associates award for Highest in Customer Satisfaction for Heavy Duty Truck Dealer Service. Kenworth's Internet home page is at [www.kenworth.com](http://www.kenworth.com). Kenworth. A PACCAR Company.



*Champagne and Marx Excavating uses this Kenworth T800 with special graphics package to help aid the fight against MS in Michigan.*

## **GBM** RECYCLED CONCRETE, LLC.

- Whitmore Lake Road, Whitmore Lake
- Chilson Road, Howell
- Kensington Road, Brighton
- Hawley Road, Holly

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



## Legal Issues

By Donald H. Scharg  
Bodman PLC

### National Labor Relations Board Control Over The Non-Union Work Place

When a MITA member hears the words “National Labor Relations Act,” “NLRA,” “National Labor Relations Board,” or “NLRB,” the traditional reaction is that the NLRA and NLRB only apply to union situations and have no reference to a contractor’s non-union clerical, office staff, or field employees. The truth is, however, that the NLRA applies to non-union environments, including

office employees, even when no union is on the scene. With the current NLRB taking an activist role in applying federal labor laws to non-union employers, every contractor must be prepared. Because the NLRB rulings are political decisions, intuition will not help. Rightly reasoned answers are not always correct!

The cornerstone of the NLRA’s application to the non-union work-

place is the protection of employees who join together to engage in “concerted activities” for mutual aid and protection. Historically, the NLRB requires two employees engaged in concerted activity. This means that an employee, who, on his/her own, presses a personal complaint, is not engaged in activities protected by the NLRA. To come within the NLRA protection, the employee must act with or on the authority of other employees, and not solely by and on behalf of the employee him/herself. This includes the activities of a single employee in enlisting the support of fellow employees for mutual aid and protection. The employee must not only have discussed his/her concerns with other employees, but also the co-workers must agree and encouraged the employee to pursue the matter in their behalf. Complaints using the words “we” or “us” suggests concerted activity.

Recent decisions by the Obama NLRB have dramatically expanded the “concerted activity” concept, possibly deleting the need for any discussion among employees. In one decision, the NLRB ruled that the termination of an employee in anticipation of concerted activity, but before he/she engages in concerted activity, could be a “preemptive strike” and a violation of the NLRA. Another decision found that an employee’s complaints made in front of other employees was concerted activity, even though he had not discussed complaints with others.

#### NLRB Control Over Social Media

Social media is the new “water cooler.” Communications between employees, even if on Facebook, Twitter, or a similar site, concerning working conditions, job performance, wages, benefits, and supervisors are

**SERVING MICHIGAN'S AGGREGATE INDUSTRY**

*Representing*

TEREX POWERSCREEN TEREX PEGSON TEREX CEDARAPIDS TEREX SIMPLICITY

**SALES RENTALS SERVICE PARTS**

**POWERSCREEN OF MICHIGAN, LLC**

ATEREX COMPANY

*"From the Smallest Contractor to the Largest Aggregate Producers. We Can Meet Your Needs."*

**POWERSCREEN OF MICHIGAN, LLC**  
7819 WEST JEFFERSON  
DETROIT, MI 48209  
(313) 841-8370 • FAX (313) 841-8436  
powerscreenofmi@yahoo.com  
www.powerscreenofmichigan.com



protected activities and the NLRB is vigilantly policing employers who discipline employees for their social media content. Employers are surprised to find many employee comments on Facebook are protected:

- Complaints about the employer's handling of a sales event (including complaints about serving hot dogs at a BMW sales event) which could impact employee earnings.
- A posting that employees did not do enough to help customers generated employee responses criticizing working conditions, resulting in the termination of five employees.
- Calling supervisor a "d\*\*k" and "scumbag" and "Love how the company allows a [psychiatric patient] to be a supervisor."

Disciplining or terminating an employee who engages in protected social media postings can result in unfair labor practice charges, back pay, and reinstatement. One company was recently ordered to reinstate five employees who had been fired 11 months earlier and pay back pay. The bottom line is that employers must exercise care in evaluating and disciplining for social media postings.

### NLRB Control Over What Employees Wear

Unionized MITA members know that employees have the right to wear "union" insignia at work. This is protected by the NLRA. But, most MITA members are surprised to learn that union and non-union employees can wear clothing complaining about working conditions while at work unless "special circumstances" justify a limitation. In the past, the Board has found special circumstances justifying the prohibition of union insignia where it may jeopardize employee safety, damage machinery or products, exacerbate employee dissension, or unreasonably interfere with a public image which the employer has established, as part of its business plan, through appearance rules for its employees.

The NLRB rules allow much leeway for employees to publicize complaints using clothing and buttons. Employees have been allowed to prisoner shirts to complain about working conditions because customers would not mistakenly believe they were real prisoners. A "Don't cheat the meat" hat was prohibited because customers would readily misunderstand the message as a complaint about the quality of meat as opposed to the protesting off-site packaging. A "Remember Pearl Harbor" message against a Japanese transplant company was prohibited because it exacerbated ethnic prejudice. In 1972, "Ma Bell is a mother" was prohibited because of its obscenity implication. 2012 sensibilities may now allow more.

### The "Limits" Of Concerted Activity

Although the NLRB has set some limits on employee behavior, employers must exercise care. Officially, employees may lose the protection of the NLRA where they engage in vulgar or extreme be-

havior which is evaluated under four factors: 1) the place of the discussion, 2) the subject matter of the discussion, 3) the nature of the employee's outburst, and 4) whether the outburst was, in anyway, provoked by the employer's unfair labor practice.

Under this standard the employee reversed the discharge of an employee who called a supervisor a "F-----mother f-----," a "f-----crook," and an "a--h---," and stating if employee were fired, the supervisor "would be sorry." The employee was ordered reinstated with back pay because the outburst occurred during a private discussion in a closed area and therefore did not undermine the employer's authority; the subject matter of the conversation related to working conditions; no threat of physical harm was made, but threat to report employer's labor violations to state authorities; and the employer committed an unfair labor practice by threatening to fire the employee before the outburst occurred.

The bottom line is more government intrusion into the workplace. Employees are more sophisticated and are aware of these NLRA protections. This information is splattered across the internet. MITA members must exercise care when faced with employee complaints. Be careful and ask for guidance. Even the typical response of, "Leave if you don't like it here" could get an employer in trouble with the NLRB and facing back pay claims and legal costs.

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

**Husqvarna Construction Products**

**Husqvarna**

**Cougar SALES & RENTAL, INC.**  
"CONTRACTORS EQUIPMENT"

\* RENTALS \* SALES \* PARTS \* SERVICE  
46845 12 MILE RD. (at BECK RD. & I-96) NOVI, MI 48377  
(248) 348-8864  
[www.cougarsalesrental.com](http://www.cougarsalesrental.com) "MDOT DBE CERTIFIED"



# THE REASONS ARE OBVIOUS

## THE BENEFITS ARE HUGE

CLEAN AIR

ELIMINATE THE NEED FOR ENFORCEMENT

LOWER CANCER RISK

REDUCE RESPIRATORY-RELATED ILLNESSES

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



This project was developed under Cooperative Agreement No. 00E00349 awarded by the U.S. Environmental Protection Agency. It has not been formally reviewed by EPA. The views expressed in this advertisement are solely those of MITA, and EPA does not endorse any products or commercial services mentioned.



# 2012 CALENDAR OF EVENTS

P | (517) 347-8336 P.O. 1640 OKEMOS, MI 48805-1640 F | (517) 347-8344

## JANUARY

- 5 - 8 MITA SKI WEEKEND  
*Boyne Highlands, Harbor Springs*
- 13 MITA EUROPEAN HUNT  
*Hunter's Ridge, Oxford*  
8:00 a.m.
- 18 - 20 MITA ANNUAL CONFERENCE  
*Soaring Eagle Casino & Resort,  
Mt. Pleasant*

## FEBRUARY

- 10 MITA EUROPEAN HUNT  
*Hunter's Ridge, Oxford*  
8:00 a.m.
- 23 MITA BOARD MEETING  
*MITA Office, Okemos*  
1:00 p.m.

## MARCH

- 15 MITA MEMBER NIGHT OUT  
*Location TBD, Grand Rapids*  
6:00 p.m.
- 16 MITA EUROPEAN HUNT  
*Hunter's Ridge, Oxford*  
8:00 a.m.
- 22 MITA MEMBER NIGHT OUT  
*Location TBD, Metro*  
6:00 p.m.
- 29 MITA MEMBER NIGHT OUT  
*Location TBD, Lansing*  
6:00 p.m.

## APRIL

- 17 MITA BOARD MEETING  
*MITA Office, Okemos*  
1:00 p.m.

## JUNE

- 7 WESTERN MI GOLF OUTING  
*Boulder Creek, Belmont*  
9:00 a.m.
- 19 MITA BOARD MEETING  
*Country Club of Lansing, Lansing*  
8:30 a.m.

## JULY

- 12 SOUTHEASTERN MI GOLF OUTING  
*Twin Lakes, Oakland*  
9:00 a.m.
- 26 - 29 MITA SUMMER CONFERENCE  
*Crystal Mountain, Thompsonville*

## AUGUST

- 21 MITA BOARD MEETING  
*MITA Office, Okemos*  
1:00 p.m.
- 23 CENTRAL MI GOLF OUTING  
*Eagle Eye, East Lansing*  
9:00 a.m.

## OCTOBER

- 23 MITA BOARD MEETING  
*MITA Office, Okemos*  
1:00 p.m.

## DECEMBER

- 14 MITA BOARD MEETING  
*Country Club of Lansing, Lansing*  
8:30 a.m.
- 14 CENTRAL MI HOLIDAY PARTY  
*Country Club of Lansing, Lansing*  
11:00 a.m.
- 18 WESTERN MI HOLIDAY PARTY  
*McFaddens, Grand Rapids*  
11:00 a.m.
- 19 SOUTHEASTERN MI HOLIDAY PARTY  
*Woody's Diner, Royal Oak*  
11:00 a.m.

## 2011 MDOT BID LETTING

ALL BID LETTINGS ARE DOWNLOADED  
AT THE MDOT BUILDING (VAN  
WAGONER BUILDING ON OTTAWA ST.  
IN LANSING), SECOND FLOOR.

JANUARY 6, 2012  
FEBRUARY 3, 2012  
MARCH 2, 2012  
APRIL 6, 2012  
MAY 4, 2012  
JUNE 1, 2012  
JULY 6, 2012  
AUGUST 3, 2012  
SEPTEMBER 7, 2012  
OCTOBER 5, 2012  
NOVEMBER 2, 2012  
DECEMBER 7, 2012

All dates are subject to change and  
additional events may be added.  
Please check out the electronic  
calendar regularly at [www.mi-ita.com](http://www.mi-ita.com).



# Winter 2012 Cross-Section Ad Index

Ace Cutting Equipment and Supply .....	40	Edw C. Levy Co. ....	9
AIS Construction Equipment .....	64	Lowe Construction Company, Inc. ....	34
ALTA Equipment Company .....	44	Michigan LECET .....	7
Association Benefits .....	2	Michigan Pipe and Valve .....	39
Atsalis Brothers .....	19	Michigan State Conference of Plasters and Cement Masons .....	38
Bacco Construction Company .....	24	Mourer Foster, Inc. ....	52
Bell Equipment Company .....	22	NTH Consultants .....	43
James Burg Trucking Company .....	6	Oakland Companies .....	37
Capitol Barricading, Inc. ....	42	Operating Engineers .....	63
Corrigan Oil Co. ....	20	Orion Industrial .....	3
Cougar Sales & Rental, Inc. ....	59	Pinnacle Insurance .....	31
Ebony Construction, Inc. ....	48	Plante Moran .....	25
Efficiency Production, Inc. ....	8	Powerscreen of Michigan, LLC .....	58
Fast Concepts .....	28	Pro-Tec Equipment .....	10
G2 Consulting Group LLC .....	51	Spartan Specialties LTD .....	49
GBM Recycled Concrete .....	57	Stoneco, Inc. ....	36
Great Lakes Aggregates .....	15	Swad & Company, CPA's .....	35
Griffin, Smalley and Wilkerson, Inc. ....	41	Trench Tech, Inc. ....	27
Guy Hurley Blaser & Heuer LLC .....	56	Valenti Trobec Chandler Inc. ....	41
Info Tech .....	32	Wade Trim .....	18
Inspecsol Engineering, Inc. ....	46	Zervos Group, Inc. ....	26
Jay Dee Contractors, Inc. ....	47		
Jensen Bridge and Supply Company .....	55		
Kotz, Sangster, Wysocki and Berg, P.C. ....	45		
Lawrence Technological University .....	29		

## Bulletin Index *Visit [www.mi-ita.com](http://www.mi-ita.com) to view or print these bulletins.*

### LEGISLATIVE

12/22/2011 .....	Road Funding to be Debated at Beginning of New Year	11/21/2011 .....	President Obama Signs Three Precent Withholding Repeal and Job Creation Act	12/02/2011 .....	MITA Success
12/05/2011 .....	Community Advocacy	11/11/2011 .....	Elected Official's Coffee/District Office Hours	12/02/2011 .....	FUSP/BOHIM/CA Update
11/21/2011 .....	Comprehensive Update On The Status Of Transportation Funding	11/11/2011 .....	Senate Approves 3 Percent Withholding Repeal	11/15/2011 .....	MITA Hosts Material Acceptance Process Seminar
11/21/2011 .....	President Obama Signs Three Precent Withholding Repeal and Job Creation Act	10/26/2011 .....	Governor Rick Snyder Delivers Special Message on Infrastructure	11/11/2011 .....	Century Cement Company, Inc. Suspended by FHWA
11/11/2011 .....	Elected Official's Coffee/District Office Hours	10/24/2011 .....	MITA Legislative Update	11/08/2011	MDOT Releases Electronic Design Files
11/11/2011 .....	Senate Approves 3 Percent Withholding Repeal	10/13/2011 .....	Countdown Begins to Snyder Infrastructure Message	11/03/2011	MDOT to host Disadvantaged Business Enterprise Program
10/26/2011	Governor Rick Snyder Delivers Special Message on Infrastructure			11/01/2011	2012 Letting Schedule Announced
10/24/2011	MITA Legislative Update			11/01/2011	Sign Up today for the Utility As-Built Plan Workshop

### ENGINEERING

01/24/2012 .....	Frequently Used Special Provision (FUSP) Update	11/01/2011 .....	Heavy Highway Vehicle Use Tax Extended
01/23/2012	MITA Hosts Title VI Training Session	11/01/2011	Prevailing Wage for Managerial and Professional Salaried Employees
01/05/2012	MITA Announces Staff Changes	10/31/2011	Michigan Wind Farm New Project Update
12/12/2011	MDOT Detroit E. Riverfront Riverwalk Project CM/GC	10/25/2011	"ATTENTION" MDOT Contractors
12/09/2011	Attend the 4th Annual Michigan Utility Coordination Conference	10/20/2011	MDOT Director Kirk Steudle elected 2012 AASHTO president
12/09/2011	State Prevailing Wage Truck Driver Rules Simplified	10/18/2011	Summary of Changes – MDOT 2012 Standard Specifications

### MEMBERSHIP

12/22/2011 .....	Road Funding to be Debated at Beginning of New Year
12/05/2011 .....	Community Advocacy
11/21/2011 .....	Comprehensive Update On The Status Of Transportation Funding



# Expanded Opportunities

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

## WE BUILD, WE OPERATE, WE MAINTAIN

### OPERATING ENGINEER'S VALUE PROPOSITION

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

#### Operating Engineers Local 324

500 Hulet Drive  
Bloomfield Twp., MI 48302  
248.451.0324  
[www.iuoe324.org](http://www.iuoe324.org)

**John M. Hamilton**  
General Vice President  
& Business Manager

#### Journeyman and Apprentice Training Fund, Inc.

275 East Highland Road  
Howell, MI 48843  
517.546.9610  
[www.oe324jatf.org](http://www.oe324jatf.org)

#### Operating Engineers Local 324 Labor-Management Education Committee

500 Hulet Drive  
Bloomfield Twp., MI 48302  
248.836.2731  
[www.324lmec.org](http://www.324lmec.org)



# YOUR ONE STOP SHOP

FOR ALL MAKES, PARTS, SERVICE AND RENTAL



[www.aisequip.com](http://www.aisequip.com)



GRAND RAPIDS  
(616) 538-2400

LANSING  
(517) 321-8000

RICHMOND  
(586) 727-7502

SAGINAW  
(989) 777-0090

TRAVERSE CITY  
(231) 267-5060

WEST DETROIT  
(248) 437-8121