

The

# READY-MIXER



## Virginia Ready-Mixed Concrete Association

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## NEWSLETTER

January 2007

# Myers-Lawson School of Construction Update

by Dr. Yvan J. Beliveau, Director of the Myers-Lawson School of Construction

The Myers-Lawson School of Construction was officially started in August of 2006. We are forever indebted to A. Ross Myers '72 of American Infrastructure and John R. Lawson II '75 of W.M. Jordan Company, Inc. for their vision and generosity.

The start of the school in the Fall was after two years of work and commitment from many people representing Virginia Tech including the Provost Office, the College of Engineering (COE), the College of Architecture and Urban Studies (CAUS), the Department of Civil and Environmental Engineering (CEE), the Department of Building Construction (BC) and the Vecillio Construction Engineering and Management Program (VCEMP).

The School builds on Virginia Tech's long standing Department of Building Construction (established in 1947) and the Vecillio Construction Engineering and Management Program (established in 1986). The school will administer two undergraduate degrees, Building Construction and Construction Engineering and Management, two master degrees, MSBC and MSCEE with a Construction Engineering Management (CEM) focus, and a joint Ph.D. program. The School, as of Fall 2007, enrolled about 410 students in these degrees. We are looking to have close to 500 students this coming Fall with the growth and the inclusion of the Class of 2009 and the Class of 2010 of CEM.

The Schools' overarching hope is to create a construction academic program that provides for unique opportunities to enhance an identity for itself and its students. During the formation of the School, Ross Myers and John Lawson expressed their belief that the Building Construction curriculum and the VCEMP

will do more than simply provide technical instruction to students. They aspire to do more. These discussions along with faculty involvement evolved to include three areas of fundamental understand-

ing and branding for our students. These areas are: 1.) values based leadership, 2.) excellence in creative learning and research environment, and 3.) integrating and sustaining the built environment. In short, the overriding hope is to breed "leadership in construction" within our graduates so that they recognize the importance of, and commitment to people, society, and our environment through a creative learning and research environment. We want our graduates to stand out in these areas and have these overarching beliefs at the core of their being.

In order to accomplish this leadership in construction, the faculty has made an equally important commitment. This commitment requires a rethinking of how we teach, what we teach, and where we want to go.

The home for the Myers-Lawson School of Construction will be Bishop-Favaro Hall. Bishop-Favaro Hall is the result of the vision put forth by the Building Construction Industry Board in 1998. The building is named after Richard Bishop (a 1968 Graduate of BC), and William Favaro, the department head of Building Construction, who lead the department from its inception in 1947 until 1977. The Building Construction Department and the contributions to this building have made it possible to house the Myers-Lawson School of Construction. Bishop-Favaro Hall is currently under construction and is expected to be completed

in November of 2007. Fundraising for this building and future expansion continues with naming opportunities and other involvement.

It is appropriate to close by stating the vision and mission of the Myers-Lawson School of Construction:

*The vision is to be a constant beacon of innovation and excellence in construction education, research, and outreach.*

*The mission is that we provide a unified identity for excellence in construction education, research and outreach within Virginia Tech, to the academic community, and to the construction industry.*

We have several initiatives started to help us along our path. These include a center for construction safety, a center for leadership, and an across immersion into the world of sustainability and integrated facility.

I want to recognize the contribution made to Bishop-Favaro Hall by the Virginia Ready-Mixed Concrete Association (VRMCA). VRMCA is the first association to get involved by naming a laboratory in new building. This experimental laboratory will ensure that practice will always be a part of construction education at Virginia Tech.

This naming should be the beginning of a long-term relationship. I hope this relationship allows us to work together to solve real problems and to best educate our graduates. I personally look forward to the journey ahead. ♦

## Virginia Beach Will Host Mid-Atlantic NRMCA Storm Resistant Building Workshop in February

by J. Keith Beazley, Director of Industry Services, Central Virginia and Hampton Roads

The NRMCA in partnership with the VRMCA will present a seminar on storm resistant building systems in Virginia Beach on February 28. The seminars are a continuation of a popular workshop delivered earlier this year in 12 cities throughout the United States including those in the Gulf Coast, Atlantic Coast and Tornado Alley regions. The title of the seminar is *Storm Resistant Concrete Homes and Buildings*.

The topics covered include wind resistant construction methods, building code requirements for high winds, safe rooms and storm shelters, concrete masonry, tilt-up concrete, removable forms and insulating concrete forms. Members of the American Institute of Architects will receive seven (7) Health, Safety, and Welfare Learning Units. Attendees will receive seven (7) Professional Development hours. Each topic area will be presented by a national expert in the subject area.

Builders, developers, architects, engineers, contractors, municipal engineers, building officials, concrete management and salespersons, and product suppliers are invited to attend the workshops. The registration fee is \$95.00 and includes a continental breakfast and lunch.

The NRMCA, based in Silver Spring, MD, represents the producers of ready mixed concrete and the companies that provide materials, equipment and support to the industry. It conducts education, training, promotion, research, engineering, safety, environmental, technological, lobbying and regulatory programs.

More information for registration visit [www.nrmca.org/seminars](http://www.nrmca.org/seminars) or contact Shawnita Dickens 240-485-1154. Keith Beazley, VRMCA, can also provide information of the program. Contact information; [keith@vrmca.com](mailto:keith@vrmca.com) or call 804-347-7003. ♦



Doug Easter, VRMCA Executive Director and Yvan J. Beliveau.



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# Supervisory Status Under the National Labor Relations Act

by Paul M. Lusky\*

In September, 2006, the National Labor Relations Board (the "Board") attempted to clarify its test for determining whether an individual is a supervisor under the National Labor Relations Act. In *Oakwood Healthcare, Inc.*, 348 NLRB No. 37 (Sept. 29, 2006), the Board held that certain "permanent" charge nurses employed by an acute care hospital exercised supervisory authority in assigning employees within the meaning of Section 2(11) of the National Labor Relations Act (the "Act").

Section 2(11) of the Act specifically excludes supervisors from the definition of "employee" under the Act. As a result, supervisors cannot be included in bargaining units with employees protected by the Act. A statutory "supervisor" is: any individual having the authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

The Board in *Oakwood Healthcare* examined whether the hospital's charge nurses were statutory supervisors based on the charge nurses' role in assigning nursing personnel to patients and directing the nursing staff in the performance of their duties. The Board majority found that *Oakwood's* permanent charge nurses were Section 2(11) supervisors because they had the authority to "assign" and exercised independent judgment in making these assignments in the interest of their employer. In making this finding, the Board majority adopted the following definitions for the terms "assign," "responsibly to direct," and "independent judgment" as used in Section 2(11) of the Act:

The authority to "assign" refers to "the act of designating an employee to a place (such as a location, department, or wing), appointing an employee to a time (such as a shift or overtime period), or giving significant overall duties, i.e., tasks, to an employee."

The authority to "responsibly direct" arises "[i]f a person . . . decides 'what job shall be undertaken next or who shall do it,' . . . provided that the direction is both 'responsible' . . . and carried out with independent judgment. [F]or direction to be responsible, the person performing the oversight must be accountable for the performance of the task by the other."

To exercise "independent judgment," an individual must "act, or effectively recommend action, free of the control of others and form an opinion or evaluation by discerning and comparing data. [A] judgment is not independent if it is dictated or controlled by detailed instructions . . . the verbal instructions of a higher authority, or in the provisions of a collective bargaining agreement."

## Implications of *Oakwood Healthcare* Decision Outside Healthcare Industry

Although the *Oakwood Healthcare* decision does stand for the proposition that charge nurses working in healthcare facilities (and, by analogy, lead persons in other industries) can be excluded from bargaining units as supervisors under the proper set of circumstances, the case draws no bright lines for determining when such persons will meet the test for supervisory status under the Act. In fact, the Board's analysis of the facts in the *Oakwood* decision itself clearly shows that the determination will continue to be made on an ad hoc, case by case, basis. This is especially true in industries outside healthcare where lead persons may not exercise the kind of independent judgment necessary to meet the Section 2(11) test for supervisory status.

For example, on the same day that the *Oakwood Healthcare* decision was released, the Board issued another decision applying the definitions for "assign" and "responsibly direct" as set forth in *Oakwood Healthcare* to lead persons working

in a manufacturing plant. In *Croft Metals, Inc.*, 348 NLRB No. 38 (Sept. 29, 2006), the Board rejected the employer's claim that certain lead persons were supervisors because they did not exercise sufficient independent judgment in either assigning work to, or directing the work of, other employees.

In *Croft*, the Board first found that the lead persons did not possess the authority to "assign" other employees as that term is defined under the Act because the lead persons did not prepare the posted work schedules of the employees; did not appoint employees to production lines, departments, shifts or overtime periods; and did not give significant overall duties to other employees.

The Board did determine, however, that the lead persons "responsibly directed" their line or crew members. The Board said that the lead persons were required to manage their assigned teams, to correct improper performance, to shift employees, and to decide the order in which work was to be performed in order to achieve production goals. The Board further found that the lead persons were held accountable for the performance of their crew or line members.

Nevertheless, the Board was still able to reject the employer's claim that the lead persons were supervisors under the Act by using the "independent judgment" definition set forth in *Oakwood Healthcare*.

The Board concluded that the employer failed to meet its burden to establish that the lead persons exercised independent judgment in directing their crew or line members. The Board found that the lead persons' exercise of judgment was either fundamentally controlled by pre-established guidelines, such as delivery schedules, or was simply "routine." Accordingly, the Board determined that the lead persons were not supervisors and were eligible to vote in the representation election.

## Practical Implications of the Board's Revised Test for Section 2(11) Supervisory Status

The Board's revised test for supervisory status continues to be a highly fact-specific inquiry. Despite claims by unions that the *Oakwood Healthcare* decision "threatens the rights of millions of workers to join a union," the decision is likely to have only a minor impact on organizing activity outside the healthcare industry. Historically, lead persons in industries such as retail, manufacturing or construction exercise their supervisory authority only sporadically and then only under strict guidelines established by the employer. These individuals are likely to be ruled eligible to join a union.

In fact, if a union attempts to organize a group of employees at your facility and you face the



## ANNOUNCEMENT

### Upcoming Pervious Event in NOVA

by Hessam Nabavi, R.A., Director of Industry Services, Northern Virginia

NVAC is partnering with Wetland Studies and Solutions, Inc. in a pervious concrete education, demonstration and promotion. Wetland Studies and Solutions is a pro-environment company in Northern Virginia. Since 1991 WSSI has provided superior wetlands science and water resource consulting services for the Northern Virginia region and beyond. Due to their understanding of the basics of Low Impact Development (LID), a product such as pervious concrete which works with the flow of nature will offer a great opportunity for exploration. Please stay tuned for more information about this team effort in future issues of VRMCA newsletters and also on [www.vrmca.com](http://www.vrmca.com). ❖

Continued on page 4

## MARK YOUR CALENDAR!

**2007 Spring Convention**  
**May 20-22, The Homestead**

**2007 Fall Convention**  
**September 9-11, Hilton**  
**Virginia Beach Oceanfront**

## National Labor Relations Act

*Continued from page 3*

prospect of a Board representation election, you may want your lead people to be eligible to vote in the election. This is especially true if you suspect the outcome of the election may be a close one and your charge nurses or your lead people are likely to be loyal to management. On the other hand, you should also remember that, if the union wins the election, whoever is in the voting unit will usually be part of the bargaining unit. Thus, you may want to argue that your lead people are statutory supervisors.

The supervisory status issue can also arise in unfair labor practice proceedings where an employer is accused of wrongfully discharging an employee because of his or her activities on behalf of a union. Even assuming an employer's decision to discharge a lead person was motivated by the employee's interest in a union, the employer will normally escape liability under the Act if it can show that the lead person qualifies as a Section 2(11) supervisor.

The recent decisions by the NLRB on the issue of statutory supervisors make it clear that employers will not be able to convincingly argue that their lead people are supervisors unless the lead people regularly make assignments using independent discretion or responsibly direct other employees with accountability for their performance. Employers can plan for such an argument now by auditing the responsibility and performance of any putative supervisor to ascertain whether such factors match the various criteria used by the Board to find supervisory status under the Act.

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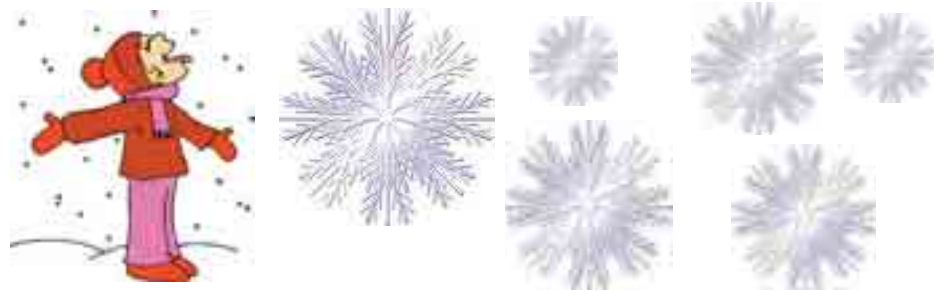
## Blue Ridge Council Plans ACI Dinner/Seminar

by Bob Nablo, Director of Industry Services, Western Region

The next ACI seminar and dinner in the Harrisonburg-Staunton-Waynesboro area is scheduled for Thursday, February 22 and will be held at the Holiday Inn Golf And Conference Center adjacent to I-81 in Staunton. This year's event, hosted by Blue Ridge Council Chair Buddy Murtaugh, will be a presentation entitled "Understanding And Avoiding Concrete Flatwork Problems" featuring Lehigh's Bob Neal as the main speaker. Neal says that he plans for this presentation to appeal primarily to contractors, but it will also have interest to developers, builders and building inspectors.

This popular event is held on an annual basis, with some exceptions. It usually attracts about 50-75 attendees, and similar numbers are anticipated this year. VRMCA members are welcome to attend. Bob Neal always gives an excellent presentation, and does an outstanding job during the question-and-answer period.

The meal will be buffet-style, and an enjoyable evening is expected. Please call Virginia ACI or VRMCA's Bob Nablo at 434.977.3716 if you would like to attend. ❖



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## Economic Development in Richmond Presented to Central Virginia Council

by J. Keith Beazley, Director of Industry Services, Central Virginia and Hampton Roads

**E**conomic development in the City of Richmond was part of a special program to the Central Virginia Advisory Council in December. Cary Brown, Project Development Manager, City of Richmond, presented the comprehensive program on all areas of the city.

Special projects in the Commercial area include: The Park at Stony Point (the city's premier Class A suburban office park), Interbake Foods, UPS Freight, Central National Bank and Boulevard Square. Retail projects to be developed are Stony Point Fashion Park, Shops at Stratford Hill (\$45 million), Ukrop's Anchor Center, Cary Court Park and Shop (\$6 million) and the Libbie and Grove Starbucks and Escabar.

Residential condominium projects in development are Manchester (\$50 million), Church Hill with American Tobacco and Nolde Bakery (\$35 million), and Church Hill Sterling Row (\$3 million).

Riverfront development projects include: the Village at Rocketts Landing (a mixed use development), Riverside on the James (a \$80 million mixed use project), 122 condominiums (230,000 sq. ft. of office space and 40,000 sq. ft. of retail space), Vistas Condominiums (a \$48 million, 162 unit project) and the Lady Byrd Hat Building condo project at a value of \$12 million. MeadWestvaco is planning a Global Headquarters with a building in excess of 100,000 sq. ft. The Class A office building will be completed by 2009.

The Tobacco Row has three projects: the Edgeworth Building (the \$25 million speculative office building), the Lucky Strike Building (\$23 million), and the Lucky Strike Power Plant project.

The Central Business District has twelve projects. The projects include: Federal Reserve Parking Deck (\$11 million), Phillip Morris Research and Technology Center, James Center, (a \$185 million property transfer), Riverfront Plaza (a record breaking sale of \$247.1 million), Board Street Corridor (a \$120 million mixed use development), the Multi-Family Adaptive Re-Use (includes Broad Street Corridor -- \$150 million), The American Heritage Building (\$12 million), Miller and Rhodes and Hilton Hotel (\$85 million), Shockoe Slip Retail, Federal Courthouse (\$104 million) and Capitol Square (\$148 million). The Richmond International Airport is completing a \$98 million expansion and rehabilitation. The Community Development Authority for the City of Richmond has issued monies for \$180 million in private investment in the downtown area.



From left to right: Cary Brown and Gus Ward.

The growth of condominium projects has also increased a demand for retail establishments and restaurants in the downtown area. The area is seeing a need for more transportation, parks, sidewalks, parking, and places for social gatherings.

The program from the city was the second year the Council has been informed of the growth and building activity in the City of Richmond. The City of Richmond is now ranked one of the "best places to live" and is ranked as one of the "best places for business and careers." Richmond is classed as a "Boomtown, '06 Hottest Large Cities." ❖



From left to right: VMCA Vice President Morgan Nelson, Cary Brown and Gus Ward.

## 2007 VRMCA ADVISORY COUNCIL REGIONALS

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The VRMCA Technical Committee is developing a series of Technical Bulletins in order to address various issues of interest to the ready-mixed concrete industry.

**Technical Bulletins 1-4 are now available and posted on the website.** Please visit the VRMCA website at [www.vrmca.com](http://www.vrmca.com) to download electronic versions. You may also contact the Association Headquarters at 434.977.3716 for printed copies.

Please make every effort to distribute these to contractors, engineers, and testing labs in your area.



# A COUNCIL WITH ATTITUDE: Northern Virginia Concrete Advisory Council

by Hessam Nabavi, R.A., Director of Industry Services, Northern Virginia

Northern Virginia Concrete Advisory is a council with the attitude of getting things done, making things happen and raising the bar. As we look back on 2006, a small group of volunteers started the year with fire in their eyes and an attitude of success.

Leadership was instrumental in getting the year started on the right foot. I remember in the latter part of 2005, Duane Laughlin with Crider and Shockey Concrete, also 2006 NVCAC Council Chairman, and I got together and started talking about the goals of the council and planning for 2006.

We also met with Residential Chairman Tom Yendall with Titan Virginia Concrete, Commercial Committee Chairman Art Nettle with Lafarge North America, and Educational Committee Chairman David Barber with Grace to refine those goals for 2006. Great leadership makes a huge difference. The list of NVCAC's accomplishments is long but it is also important to mention. Everything we do in Northern Virginia Council has to produce results and has to be measurable. We do not just do it to have something to talk about and feel good about, we do it for a purpose.

Following are just a few examples of some of the promotional activities of this "council with attitude" in 2006. The **Golf outing** was a great success with over 35 guests consisting of Architects, Engineers, Public School Officials and Builders. The 35 guests were in addition to the members attending. **Design DC** was a

great success. NVCAC decided to move away from shows such as the Home and Garden Show (which has not produced many results in the past) to a more targeted event. Design DC hosts more decision makers such as Architects, Engineers, Officials and Builders. We measured our success by collecting over 50 contact forms filled out by attendees requesting a follow up.



**Art Nettle (2007 Educational Committee Chairman) describes the goals of his committee.**

The **ICF Open House** in Vienna resulted in a steady flow of Architects, Builders and Homeowners. It also gave us an opportunity to have a reporter from the local papers attend this event and write about the benefits of Concrete Homes in the local papers. The **Builders Show in Dulles Expo Center** was

another targeted event which resulted with over two legal size pages filled with contact information of decision makers such as builders and developers. The **Pervious Concrete Seminar and Demonstration** was specifically designed to give



**Duane Laughlin and Hessam Nabavi present the Certificate of Excellence to Art Nettle.**

an overview of this product to Paving Contractors. Close to 30 paving contractors and a few county officials attended this seminar and demo. **ICF Hands-on Training and Seminar** was designed to develop more ICF installers, and it was a big hit. NVCAC hosted

close to 40 students in this session. The students consisted mostly of home builders and a few officials and architects.

The Council also participated in **Ecobuild Federal Tradeshow** in December which offered additional exposures to the decision makers. In addition, we participated with PCA on "**Partnership for Advancing Technology in Housing (PATH)**" and the nationally and internationally recognized "**Green House Exhibition**" at the **National Building Museum**.

NVCAC's attendance has been around 22 people per meeting, which is above average. We certainly appreciate the member companies for encouraging their staff to attend the monthly meet-

ings and their participation with the promotional goals of the council.

NVCAC also took advantage of PCA Residential Co-Operative program, and for this participation has received close to \$1600 in reimbursement from PCA. The above examples are just a few highlights of the work of this council. We appreciate the dedication, work and effort of the membership which has attributed to the success of this council. We also encourage everyone in NVCAC Council to be a participant and assume more responsibilities because, as I mentioned earlier, the leadership makes a difference and we need more leaders.

To acknowledge and appreciate the leaders of this organization for their dedication and the work that they have done in 2006, we decided to dedicate a portion of the January council meeting to recognizing these individuals with a Certificate of Excellence, Plaque and Gift Certificates.

It was also very pleasing to see new leaders emerging and assuming responsibilities for 2007. The committee chairmen came prepared with their written goals, ready to hit the ground running.

We are expecting 2007 to be an even more exciting and productive year with even better attendance and membership participation than in 2006, with the following leaders in place: Don Cooper with Aggregate Industries as Council Chairman, Mustafa Elias with DuBrook Concrete as Council Co-Chairman, Dave Snider with Cardinal Virginia Concrete as the new Residential Committee Chairman, Wes Morrison with BASF as the new Commercial Chairman and Art Nettle with Lafarge North America as the new Educational Committee Chairman. After the recognition, the new committee chairmen briefly talked about their goals and started to work on gathering their players and developing their teams for 2007. ❖



**Wes Morrison (2007 Committee Chairman) describes the goals of his committee.**



**Hessam Nabavi presents plaque to Duane Laughlin.**



**Dave Snider (2007 Residential Committee Chairman) describes the goals of his committee.**



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