



THE READY-MIXER



**NRMCA
VISION**

Enriching • Inspiring • Empowering

Virginia Ready-Mixed Concrete Association Newsletter

December 2008

Mixer Truck Raises Breast Cancer Awareness

Now here's a mixer truck that's bound to catch everybody's eye!

In March 2007, Cheri Strain, Business Center Administrator at Titan Virginia Ready-Mix, was diagnosed with breast cancer. This was a very frightening time for her as she had lost her mother to the same disease after a four-year battle. During her recuperation from surgery, Cheri wanted to somehow figure out how she could help make people aware of this horrible disease.

Then it came to her: what better way to spread the word than on a concrete mixer truck? She approached the General Manager, Dan Osborne, in April and asked if they could get one of their trucks painted pink and have it display "breast cancer awareness." He told her to get all the information needed and get back with him.

Cheri called the company that paints the ready-mix trucks, Van Wynn Coating, and explained to him what she wanted and forwarded him pictures of a pink truck that is being used in Bridgeview, Illinois. She then asked VanWynn Coating if they would do this as a donation, and they agreed.

After months of talking to Dan Osborne and getting all the informa-



Gary Woolard, safety manager for Titan Virginia Ready Mix poses with "Pinky."

tion needed, the pink truck arrived at Campostella, VA on April 10, 2008. The lettering, ribbon and Titan logo for the truck took approximately eight hours to apply. Titan's mechanics worked long hours making sure the truck was in top shape.

In addition to daily use in delivering

concrete in the Hampton Roads area, "Pinky" has made several special appearances, including at Virginia Beach Hospital, the Titan Rodeo, Norfolk Relay for Life, a series of workshops, and even in the funeral procession of one of Titan's drivers who recently passed away. ❖

Pervious Seminars Draw Design and Engineering Professionals



**By J. Keith Beazley,
Director of Industry Services**

The December "Pervious for Professionals" seminars drew strong attendance, interest, and support in both Richmond and Virginia Beach. The Hampton Roads and Central Virginia Concrete Advisory Councils sponsored the programs to provide information on pervious concrete technology, stormwater management, benefits of pervious concrete, general and hydrological

design, specifications and construction. Attendees included architects, professional engineers, municipal engineers and planners, state and local municipal stormwater management specialists.

The seminars aimed to boost the confidence of professionals so they can specify and oversee the construction of pervious products and ensure proper procedures are followed on their individual jobs and applications. The course also provided basic information on the

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Pervious Seminars

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costs associated with the placement of pervious concrete. The basics of pervious maintenance and troubleshooting were addressed; these factors are always a concern, as many misconceptions appear on the performance and strength.

The VRMCA gave attendees the option to receive a National Ready Concrete Association Contractor Certification. The certification is usually in the job specifications as a requirement for contractors and can be helpful for engineers in inspections and supervision to have the same knowledge as the contractor. This option was well received and many architects and engineers are now certified in the Central Virginia area as a result.

Instructor Phil Kresge, Senior National Resource Director for the NRMCA, was impressed by the enthusiasm of participants. Because of the success of Virginia in their marketing areas other



similar seminars.

The Hampton Roads and Central Virginia Advisory Councils will follow up with more information and contact with attendees, as well as more seminars in 2009. The commercial concrete market is only successful if the design and engineering communities have trust and confidence in our products and the specification that is written. Future seminars for this segment will not only educate but also form a stronger relationship and ensure greater usage of our product. ❖



Visit the Virginia Ready-Mixed Concrete Association Website at www.vrmca.com

The Perfect Storm, Part 2 (continued from September 08)

by: **Hessam Nabavi**
Director of Industry Services

As the price of a barrel of oil has been dropping sharply, a question that we have been asked more frequently is "Have we lost that window of opportunity to convert more parking lots to concrete?" The answer is "NO, absolutely NOT!"

The U.S. is currently undersupplied by about 24,000 barrels of asphalt a day, 5 percent of daily demand. San Antonio-based asphalt producer NuStar Energy L.O. expects the number to jump to 257,000 barrels a day by 2012. On Average, 5,500 barrels of liquid asphalt are needed per mile of paving.

The reason for asphalt becoming scarce is that U.S. oil refiners around the country are installing billion-dollar machines called "cokers," which refine the chunkiest, low-grade and least expensive crude into highly profitable fuel, such as gasoline and diesel. The installation of cokers is pretty much a permanent change for refiners, according to Ken Simonson, an economist for the Associated General Contractors of America.

Greg Matula, spokesman for NuStar Energy, says, "More cokers are scheduled to come online between 2010 and 2011 (see figure 1), meaning the dearth of as-

phalt is only likely to become magnified." The company estimates that the nation needs about 500,000 barrels of oil daily to keep demand. Consequently, there is less residue at the end of the refining process to make asphalt (see figure 2).

In the past, about 40 percent of an oil barrel would be turned into asphalt products, and now it is around 10 percent. To make things worse, refiners are also cutting back on the production of a petrochemical that many states mix into asphalt to make roads more durable.

Ultimately more refiners are likely to be out of the asphalt business, keeping up the pressure on the asphalt industry for some time. So the skyrocketing price of asphalt will make concrete more and more attractive to municipalities and city engineers, further evidence of Phil Kresge's "Perfect Storm," i.e. a golden opportunity for ready-mixed concrete.

To take advantage of this opportunity, VRMCA / NVCAC invited Kresge back last month to train both concrete and asphalt paving contractors in NRMCA Concrete Paving Analyst Software. The response from contractors was overwhelming. Phil did a great job as always. We are grateful for his on-going support and assistance.

It is time to make HAY, The Sun is Shining! ❖



Fig. 1: U.S. Coker Capacity Increase
 (thousands of barrels per day)

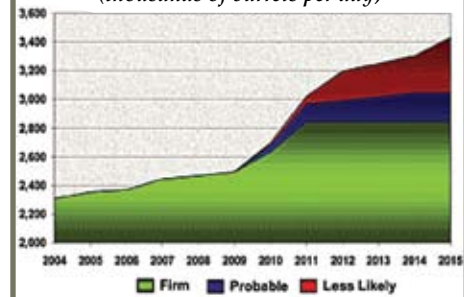
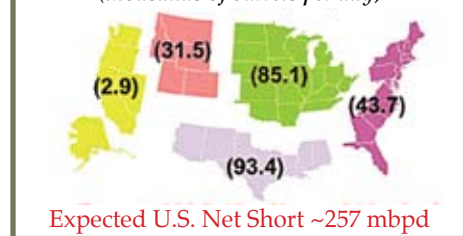


Fig. 2: Asphalt Supply/Demand Balance
 (thousands of barrels per day)



Ron Collins - Business Unit Safety Manager, Dave Kretlinger - Terminal Manager/Castle Hayne, Dave Brinkley - Director of Distribution and Marketing and Junior Speas - Manager of Terminal Operations, pose with the safety award.

Roanoke Terminals Get Safety Award

The Portland Cement Association recently recognized three Roanoke Cement Company sites with a certificate commemorating 11 years without a lost time accident: Castle Hayne, NC, Richmond, VA and Winston-Salem, NC. "This is a special milestone in that for 11 years, no employee of these three terminals was injured or had to miss work," says Ronnie Collins, who has served as Business Unit Safety Manager for the Mid-Atlantic, Essex Cement and Separation Technologies for the past two years. "The milestone solidifies the commitment management and the employees have towards working safely."

Employees and guests from each location celebrated the accomplishment with a dinner party held in their respective regions. Festivities were held at The Oceanic Restaurant in Wrightsville Beach for the Castle Hayne employees; the Richmond terminal enjoyed dinner at the famous Tobacco Company and the Winston-Salem celebration was held at the Village Tavern.

"It's a "can-do" attitude and enthusiasm on the job that makes achievements like these possible," says Ronnie. "It makes me proud to be associated with a team like this." ❖



Labor And Employment Stocking Stuffers To Brighten the New Year

By: John G. Kruchko and Kevin B. McCoy

Unlike Christmas, the conglomeration of state and federal Labor & Employment laws is constantly in flux. Statutes, rules, cases, agency decisions, and executive orders from around the country act in concert to make employers' firm grasp of this area of the law tenuous and often short-lived. This past year has seen some significant changes and developments. However, the changes we have seen pale in comparison to the changes that likely lay ahead with a new administration and Congress set to take the helm. Discussing all the changes (both real and potential) would take far more space than we have here. While additional legislative updates will be forthcoming, for now we have decided to answer a few "letters to Santa" from various employers about how best to comply with situations that arise everyday.

A. Dear Santa: When Must Virginia Employers Pay their Employees and when can they Deduct Wages from their Paychecks?

Dear Employer:

All Virginia employers must establish regular paydays and rates of pay for every employee. It is a violation of Virginia law to fail to pay an employee on his or her established payday that you (as the employer) have set for them. Employees earning an hourly wage must be paid at least once every two weeks or twice a month (although more frequent payment is allowed); and employees earning a yearly salary must be paid at least once monthly. However, executives

(i.e., company officers) are exempt from these requirements.

In addition, there is no prohibition against lowering an employee's hourly rate of pay or salary, so long as the reduction does not bring the employee below the hourly minimum wage (currently \$6.55) set by the federal Fair Labor Standards Act ("FLSA"). Note, however, that employers must notify employees of the rate reduction before asking or requiring them to perform work at the new reduced level, because the law affords the employee the opportunity to accept the lower rate or seek employment elsewhere.

When an employee leaves your employee (either through termination or resignation) you must pay him or her all wages they are due on or before the next regularly scheduled pay day on which the employee would have been paid had they remained employed with you. This includes paying the employee all vacation, sick, or other accrued, unused paid time-off to which they are entitled to be paid as of their separation date. While Virginia employers do not have to provide benefits such as vacation, sick pay, retirement, severance, or holiday pay, if you choose to do so you are then obligated to let the employee utilize the benefits provided according to your policy.

In addition, you cannot make deductions from your employees' paychecks for damage to company property or lost revenue. Virginia employers are only allowed to deduct money from an employee's paycheck in two very limited instances: (1) for taxes or other deductions authorized by law (such as a garnishment order from a Court);

and (2) for an amount authorized by the employee, based on a written, signed, and voluntary agreement with the employee. Note, however, this "catch all" provision does not mean you can get the employee to agree to allow you to withhold money for damage to company property. Virginia law specifically forbids an employer from requiring an employee to sign an agreement forfeiting a portion of his wages as a condition of employment.

In short, employers should err on the side of caution and pay their employees at set rates, at set intervals, and without utilizing wages or benefits as a bargaining tool or point of leverage to get the employee to perform better or as a form of discipline. Significant civil penalties can result from an employer's failure to comply with Virginia wage and hour laws.

B. Dear Santa: I Don't Mind Employees Wearing Red Stocking Caps, but the Headscarves and Periodic Praying are a Bit Too Much – What can I Do?

Dear Employer:

Not much, I'm afraid. Religious discrimination has long been the "red-headed stepchild" of the Civil Rights Act of 1964, as amended ("Title VII") – everyone knew it was there, but it drew much less attention than its sex or race discrimination counterparts. As a result, religious discrimination has taken a bit of a backseat in the public relations context. However, that does not diminish its importance as a part of Title VII, nor does it diminish the liability exposure that can result from a violation – after all, a Title VII violation

is the same no matter what the basis of the prohibited conduct.

Based in part on this perceived “underexposure,” the EEOC recently issued new compliance guidance on religious discrimination. Just as background, recall that Title VII prohibits religious discrimination against employees with regards to the terms, conditions, or privileges of their employment. However, with respect to religious discrimination, Title VII also requires employers to reasonably accommodate an employee’s sincerely held religious beliefs, observances, and practices unless doing so would result in an “undue hardship” for the employer.

In its new guidelines, the EEOC has offered its interpretations and expectations for employers in managing employees with varying religious views. While the EEOC made no earthshaking pronouncements on the subject, the agency made several noteworthy points:

First and most obvious, religious harassment is just as illegal as sexual harassment, which often receives much of the “buzz” in the press. Next, the definition of religion is very broad and encompasses not only obvious, well-known religions (i.e. – Christianity, Islam, etc.) but most any sincerely-held moral or ethical beliefs as to what is right or wrong, which can include beliefs that are theistic or non-theistic (i.e., without a god). Also, the prohibition against religious discrimination covers all aspects of the work environment – hiring, termination, promotion, recruiting, pay rates, benefits, etc. The good news is that employers’ burden of proving “undue hardship” on accommodation issues is not as onerous as that associated with disability discrimination. In the religious context, an employer must show that the proposed accommodation poses more than a *de minimus* cost or burden to the organization.

To supplement its new guidance, the EEOC also set forth several “best practice” tips for employers confronting religious discrimination issues. These tips include (1) exploring multiple options for accommodating religious beliefs before deciding it is an undue hardship; (2) training managers adequately about the “ins and outs” of religious discrimination and harassment; (3) being flexible in work times or scheduling to avoid work conflicts with religious practices or holidays; and (4) updating

your handbook or policies to include a statement on religious discrimination and harassment.

But just as a note of caution, this is a fairly complex area of the law. Employers are wise to consult with their Labor & Employment counsel about discrimination or accommodation issues surrounding a particular employee.

C. Dear Santa: How can an Employer Tell when an Employee is Disabled and when he is Not?

Dear Employer:

On September 25, 2008, no doubt in direct response to your query, President Bush signed into law the ADA Amendments Act of 2008. The law amends the Americans with Disabilities Act of 1990 (“ADA”) to clarify the definition of “disability” and overturns a few Supreme Court cases and EEOC regulations that had narrowly interpreted the ADA in recent years. The new law goes into effect on January 25, 2008. The most significant change is with regards to the definition of “disability.” Under the ADA a disability is defined as:

(A) a physical or mental impairment that substantially limits one or more of the major life activities of such individual;

(B) a record of such impairment; or

(C) being regarded as having such an impairment.

42 U.S.C. § 12102. While the new law does not alter the basic definition of disability, it provides much needed examples of what constitutes a “major life activity.” Now, activities such as caring for oneself; performing manual tasks; seeing; hearing; eating; sleeping; walking; standing; lifting; bending; speaking; learning; breathing; concentrating; reading; communicating; thinking and working will be considered “major life activities.” The term will also include

the operation of major bodily functions, including the operation of the immune system, and digestive; bowel; neurological; brain; bladder; respiratory; circulatory; reproductive and endocrine system functions. These changes indicate that long-term, progressive illnesses, such as cancer, heart disease, diabetes, epilepsy, etc., will likely be consistently viewed as disabilities under the ADA.

Another significant change will be the elimination of ameliorative effects of treatments in determining whether an employee is disabled. Before, a person’s bi-polar disorder was judged in conjunction with the ability to correct the disease with medication, for example. Under the new law, such aids are not to be considered when deciding whether an employee is disabled. Thus, such common things as prosthetic limbs, hearing aids, and other medical or physical therapy devices cannot likely be considered when evaluating the extent of an employee’s alleged disability.

The new law’s further clarification of the ADA will likely spark significant implementation issues for employers and renewed litigation efforts by employees (which had subsided in recent years). As with any new legislative enactment, employers should use caution and, where necessary, consult their legal counsel about how to proceed so as to ensure compliance. ❖

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John G. Kruchko is a partner with the Management Labor & Employment Law Firm of Kruchko & Fries in McLean, Virginia. Kevin B. McCoy is a Senior Associate with the Firm. For more information, please contact Mr. Kruchko or Mr. McCoy at (703) 734-0554 or jkruhko@kruchkoandfries.com, or kmccoy@kruchkoandfries.com. This article is published for general information purposes, and does not constitute legal advice.

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Save the date!



VRMCA Spring
Convention

May 17-19, 2009

The Homestead
Hot Springs, VA



5,000 "Ready-To-Go" Transportation Projects Could Put Millions to Work

"President-elect Barack Obama is pledging to put millions of Americans to work by building and repairing the nation's highways and bridges and a new survey of state "ready-to-go" transportation projects is the road map he needs to make it happen," said John Horsley, Executive Director of the American Association of State Highway and Transportation Officials (AASHTO).

The District of Columbia and all 50 state Departments of Transportation responded to the survey. More than five thousand "ready-to-go" projects worth \$64 billion were identified (forty in Virginia worth \$680.4 million). These transportation infrastructure projects are considered "ready to go" because they could be under contract within 180 days, supporting an estimated 1.8 million American jobs, if the funding were made available.

"Right now, 41 states are facing budget shortfalls and many of our state departments of transportation have had no choice but to delay critical projects that will fill potholes, enhance safety, and extend the lifespan of the nation's aging bridges," Horsley said. "This survey shows that state DOTs are ready to quickly put the economic stimulus dollars and people to work."

In a similar AASHTO survey conducted in January of this year, all 50 states and the District of Columbia responded, identifying approximately 3,000 projects worth \$18 billion that could be under contract within 90 days.

The Federal Highway Administration estimates that approximately 35,000 jobs are supported by every \$1.25 billion invested in transportation projects. ❖

2009 ACI Seminar & Exam Schedule

Warrenton	January 12, 13, 14
Roanoke	January 20, 21, 22
Hampton Roads	February 4, 5, 6
Richmond	March 10, 11, 12
Staunton	March 24, 25, 26
Fredericksburg	March 31, April 1, 2
Roanoke	April 15, 16, 17
Hampton Roads	April 21, 22, 23
Warrenton	April 28, 29, 30
Lynchburg	May 5, 6, 7
Richmond	May 26, 27, 28
Bristol	June 9, 10, 11
Harrisonburg	June 23, 24, 25
Hampton Roads	July 7, 8, 9
Roanoke	July 21, 22, 23
Richmond	August 11, 12, 13
Fredericksburg	August 25, 26, 27
Lynchburg	September 14, 15, 16
Bristol	October 6, 7, 8
Richmond	October 20, 21, 22
Warrenton	November 3, 4, 5
Harrisonburg	November 18, 19, 20
Roanoke	December 8, 9, 10

class availability and registration available
online at <http://www.vrmca.com/aci/>

Student Concrete For A Sustainable World Contest

Registration is now open for the 2009 "Concrete Thinking for A Sustainable World" international student design competition.

Sponsored by the Portland Cement Association (PCA), the National Ready Mixed Concrete Association (NRMCA) and administered by the Association of Collegiate Schools of Architecture (ACSA), the contest challenges students to investigate innovative applications of portland cement-based materials to achieve sustainable design objectives. The competition is open to all ACSA-affiliated schools.

Students are required to use design idea(s) from their studio work to illustrate enhanced building performance resulting from the use of portland cement-based material as a key element. The competition offers two separate entry categories, each without site restrictions, for maximum flexibility:

> Transit Hub: Design an environmentally responsible Public Transpor-

tation Center focusing on architectural innovations to preserve tomorrow's resources.

> Building Element: Design a single element of a building that provides a sustainable solution to real-world environmental challenges.

Winning students, their faculty sponsors, and schools will receive cash prizes and software totaling nearly \$50,000. Each winning school will receive a complete package of StructurePoint software, a retail value of nearly \$10,000. The design jury will convene in June 2009 to select winning projects and honorable mentions.

The deadline to register for the competition is February 9, 2009, and the deadline to submit final entries is June 3.

For a complete competition program guide, please visit <https://www.acsa-arch.org/competitions/09Concrete.aspx>. ❖





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The Smart Road bridge, at 175 feet tall, is Virginia's tallest bridge. Approximately 9,647 cubic yards of high-strength concrete were used to construct the 2,000-foot long bridge.

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