



VDOT Utilizing Roller Compacted Concrete (RCC) on Staffordboro Boulevard Park & Ride and Turning Lanes

By Hessam Nabavi,
Director of Industry Services

In a recent conversation with Shawn McCoy of Center Concrete in Pennsylvania, who has many years of experience in placing RCC, he said “the cost of placing a ton of RCC is almost half of the cost of placing a ton of asphalt”.

Here are some of the important attributes of RCC: “RCC is durable like concrete but it is placed like asphalt. It is placed with conventional or high-density paving equipment and then it is finished using double drum rollers. RCC is a mixture of Portland cement and aggregate with a very low water-cement ratio resulting in a zero slump mix. The result is a finished pavement with the strength that surpass conventional concrete. RCC is constructed without the steel reinforcing that is typically needed with conventional concrete, allowing for a faster placement time. Ultimately RCC provides efficient placement, similar to asphalt, and it costs less than conventional concrete since it is less labor intensive. Due to its durability, ease of



application and lower cost, RCC is the preferred solution for industrial and commercial projects. Ports, military facilities, large parking areas, storage

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RCC *continued from page 1*

and staging areas, streets, intersections and low-speed roads are all perfect candidates for this technology".

In the recent months, VDOT has been planning to utilize RCC for the base layer in a pilot project for Route 684 (Staffordboro Boulevard) Commuter Parking Lot and left & right turning lanes. As I reported several months ago, this project should add nearly 1,000 new parking spaces to the Park & Ride on Staffordboro Boulevard.

Since our region has very limited experience with RCC, several test pours were scheduled to work out the potential problems.

The first test pour was conducted on August 3rd at the commuter parking area.

Two 100 ft. lanes were prepared for the test pour. The result of this test pour was less than adequate and overall, the density requirement of 98% was not achieved.

For the second test pour which was scheduled for August 24th at the commuter parking area, VDOT and the general contractor invited Shawn McCoy to supervise the placement process. A 12 ft. wide by 100 ft. long section adjacent to the area for the first test pour was prepared. The moisture content in each load was fairly similar to each other. This indicated the consistency of the loads at the plant and as they arrived to the site. The roller was used in the static mode for the first pass. Then half the second pass was with the vibrating mode and

the other half with the static mode. Since the 12 ton roller was not able to eliminate the paver marks, a 3 ton roller was used to finish the surface. The result of this test pour was close to the required density of 98%.

It appears that with a few small adjustments we can arrive to the desired result for the final placement. This project offers a good learning curve for everyone involved. Dr. Celic believes that after this experience, VDOT will utilize RCC in other future projects.

The first of a series of RCC placements on Staffordboro Boulevard was scheduled for Saturday, September 21st which 240 yards of concrete was placed. 🚧

Blue Ridge Council Learns About Shrinkage Reducing Admixtures

As a last-minute replacement, Will Rafferty graciously stepped in to give a brief presentation to the Blue Ridge Council members on shrinkage reducing admixtures when the scheduled VCTIR speaker could not make the meeting. As always, Will did a fine job with a PowerPoint presentation, talking extensively about chemical drying shrinkage and the influences of aggregates on drying shrinkage. He explained how shrinkage reducing admixtures work, and noted that in laboratory conditions these admixtures can reduce total shrinkage by 35-45%. Will also firmly stated that these admixtures are not a substitute for proper curing techniques, and that maximum shrinkage reduction will only be achieved if the concrete is properly cured.

Rafferty will make the presentation available to Council members, and is always available to meet with designers, contractors and VRMCA members to discuss these admixtures. Thanks to Will for filling in as this emergency speaker, and for putting together a program without much notice! 🚧

Have News for the VRMCA Newsletter?

Email your news and announcements along with photos to Marci Malinowski at marci.malinowski@easterassociates.com.

New Center for the Arts at VA Tech Completed



By Bob Nablo,
Director of Industry Services

Standing on the site of the old Shultz Hall cafeteria, and after almost three years of construction, the \$94 million Center for the Arts at Virginia Tech will open this November with a performance by renowned composer Philip Glass and the Philip Glass Ensemble. This state-of-the-art facility is expected to be the cornerstone of the burgeoning arts district in downtown Blacksburg, and features a 1,260 seat performance hall, visual arts galleries, and the Institute for Creativity, Arts and Technology. By July the Center had pre-sold about 30 percent of available season ticket seating, causing Executive Director Ruth Waalkes to comment "I honestly did not anticipate advance season sales at this level. It's terrific!". The Center also includes a television studio, which will be used by the University's Department of Communication.

The Center was originally proposed in 2006 and was designed as a 67,000 square foot performance hall, but by the time construction began on the new research institute – one of seven research facilities at the school – had been added and the project had grown to the present size. The annual operating budget of \$5 million will be the largest for an art institute in the region. Popular shows already scheduled include bluegrass concert Crooked Road Festival in March 2014, magician Tomas Kubinek's performance in April 2014, and "Reinventing Radio", a performance by Ira Glass, host of NPR's "This American Life".

This 140,000 square foot facility, built by Holder Construction of Atlanta and several sub-contractors, features 30 different concrete mix designs, including lightweight, SCC, Flowable Fill, masonry grout and early strength mixes, all supplied by Chandler Concrete of Virginia. Admixtures included air entraining agents, water reducers, accelerators,



retarders, midrange, superplasticizers, shrinkage reducing, air detaining and slump retention products, as well as micro and macro fibers. BASF supplied the admixtures and Propex supplied the fibers for this important job. More than 19,000 cubic yards of concrete were placed in the project. Chandler General Manager Bret Queen says "This was a challenging project in relation to the various mixes used and jobsite location. It took a great partnership, not only with the General Contractor, but with sub-contractors and Virginia Tech to create a facility that everyone can be proud of. All parties involved truly worked as a team and it was a pleasure working with each of them."

Offering year-round performances, six to eight annual exhibitions, and a variety of learning opportunities, it is anticipated that Center for the Arts will create world class experiences for audiences of all ages. 🚚



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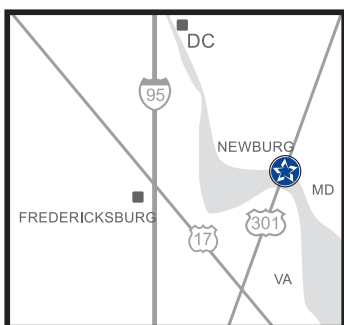
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More Events Planned to Benefit VRMCA PAC



Grand Champion of the September 9 shoot was Lowell Nesselrodt (left) of the Superior team, and the Reserve Champion was Mike Berger (right) of the Vulcan team.

The VRMCA Board of Directors and Legislative Committee encourages all members to support the association's Political Action Committee and have developed three Fall events to make it fun and easy to participate.

The first PAC event, the sporting clays shoot at the Shady Grove Hunting Preserve was a success—with \$4,950 gross revenue raised by sponsors and shooters. Vulcan was the event sponsor, R.R. Beasley and Chandler Concrete sponsored the lunch and Charles W. Barger & Son sponsored the awards ceremony. Station sign sponsors included Superior Concrete, VA Sand & Stone, Swope & Associates, Boxley and Lafarge. Shooters included teams from Superior Concrete, Vulcan and Essroc.

The next is a golf tournament to be held Wednesday, October 9 at the Spring Creek Golf Club—one of the top 100 courses in the United States (at Zion Crossroads). The cost for the event is \$125 for an indi-

vidual golfer or \$400 for a foursome and will include golf, a luncheon and prizes. **We are currently seeking Golf Hole Sponsors in the amount of \$150 each.**

The last is a sporting clays event to be held Tuesday, October 22 at Old Forge Sporting Clays in Providence (between Richmond and Williamsburg). The cost for the event is \$125 for an individual shooter or \$400 for a foursome and will include 100 targets, a luncheon and prizes. **We are currently seeking Shooting Station Sponsors in the amount of \$150 each.**

We encourage companies to send their employees to participate and hope they will consider sponsorship. We especially



Event Proceeds to Benefit the VRMCA PAC

We Would Like to Thank Our PAC Event Sponsors

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hope that companies that have restrictions on direct political contributions will give serious consideration to purchase event and/or luncheon sponsorships. Your support is greatly appreciated!

For more information please contact Sherry Whiting by email at sherry.whiting@easterassociates.com or call (434) 326-9842. 

PCA Says Growth to Continue

An unusually wet spring and early summer dampened cement consumption for the first quarter of 2013, but did not put a wet blanket on the opportunity for strong growth in the construction sector in 2014 and beyond.

According to the latest forecast from the Portland Cement Association (PCA), cement consumption will increase a modest four percent in 2013, but will approach double-digit growth in 2014 and 2015, with 9.7 percent consumption increases in both years.

“Nearly two-thirds of the anticipated growth in 2013 cement consumption will be caused by gains in the residential construction market,” Ed Sullivan, PCA chief economist said. “Home inventories

are declining, signaling that it is time to start building, while the lingering effects of damaged credit due to foreclosure activity have created a robust apartment demand.”

Just as recessions create a pent-up demand for consumer products like cars, it also builds demand for construction. While the economy is positioned for stronger growth, it needs a trigger to unleash this potential. The trigger lies with a willingness to spend and reinvest in capital. According to PCA’s scenario consumer and business attitudes are expected to increasingly focus on the positive economic fundamentals rather than potentially adverse political uncertainty.

“Sentiment and confidence indices are extremely volatile. Business sentiment now stands at pre-recession levels,” Sullivan said. “Assuming Congress has learned its lesson from the fiscal cliff and will take a more rational approach with the upcoming debt limit discussions, political uncertainty and its adverse impact on the economy is expected to dissipate.”

Sullivan predicts an increase in local spending on public construction beginning in fiscal 2016. This is key to cement consumption recovery as road construction accounts for the largest area of public cement consumption. An 11 percent consumption gain is forecasted for 2016. 🚚

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Green Concrete Mixes for California Bay Bridge Help Slash Carbon Footprint

Among the high praise the Bay Bridge's new eastern span has received for engineering and design is another significant achievement: a lower carbon footprint than its predecessor.

Carbon dioxide output was reduced by at least 60 million pounds by using cement containing 25 to 50 percent recycled materials instead of traditional Portland concrete, according to Jeff Davis, vice president and general manager of Central Concrete Supply Co., which engineered more than 40 mixes specifically for the new span.

The environmental impact is 20 to 25 percent lower than that of Caltrans public works projects prior to Assembly Bill 32, California's 2006 Global Warming Solutions Act, which requires the state to reduce greenhouse gas pollution to 1990 levels by 2020. "In the last four, five years, Caltrans was extremely aggressive and proactive," Davis said. "And through that, we were designing concrete for this job that was cutting-edge as far as low [carbon dioxide]."



Central Concrete, the local operation of U.S. Concrete, readily took on the "uncompromising demands" the project presented, according to Greg Allen, manager for MCM Construction Inc., a lead contractor.

Since first becoming involved in the Bay Bridge project in 2001 by supplying equipment and technical expertise, Central Concrete has delivered more than a

quarter-million cubic yards of its product -- equivalent to covering a football field 153 feet deep.

The concrete's green qualities do not compromise its performance, Davis said, which is extremely high and designed to last more than a century. 🚚

Article courtesy of Jessica Kwong from the SF Examiner.



Artist Sees Beauty in a Mixer Truck

Belgian artist Wim Delvoye and his interpretation of the concrete mixer truck. His Gothic take on the truck is another in his series that features construction vehicles, including bulldozers and dump trucks.

TRB Releases Circular on Concrete Durability

TRB Transportation Research Circular E-C171: *Durability of Concrete: Second Edition* provides information on producing durable concrete for transportation structures and pavements. The circular is an update to Transportation Research Circular 494: *Durability of Concrete*, published in 1999. The new update includes information about the benefits of performance related specifications among other things. The full circular can be downloaded at <http://www.trb.org/Main/Blurbs/169467.aspx>. 🚚



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EEOC Continues to Find Fault with “No-Fault” Attendance Policies

By John G. Kruchko and Paul M. Lusky

Many employers use so-called “no-fault” attendance policies to discourage excess absenteeism and tardiness. Under such policies, each absence and/or late arrival at work is treated as an occurrence without any determination as to whether the policy violation is excused or unexcused. Normally, after so many occurrences in a period of time, the employee will begin receiving progressive discipline.

Regulations construing the Family and Medical Leave Act (“FMLA”) prohibit employers from charging employees under a no-fault attendance policy where the absence is caused by a serious health condition. Most employers also refrain from charging employees with no-fault absences when they are absent due to a work-related injury. It now appears that exceptions may have to be made for absences caused by disabilities covered under the Americans with Disabilities Act (“ADA” or the “Act”).

For several years now, the Equal Employment Opportunity Commission (“EEOC”) has been targeting no-fault attendance policies for violations of the ADA. In July of this year, the agency announced that it had filed suit against an Ohio medical transportation services company for allegedly violating the ADA by denying a reasonable accommodation to an employee with multiple sclerosis. In its press release, the EEOC said the employee requested, as a reasonable accommodation, additional points under a no-fault attendance policy but the company responded by firing the employee.

In March, 2012, the EEOC sued AT&T for violating the ADA because the company allegedly fired a customer service representative who had requested a leave of absence in order to receive treatment for Hepatitis C. Although AT&T granted the initial leave request, the company subsequently fired the employee when she returned to work from the leave of absence for violating the company’s attendance policy. AT&T allegedly refused



to exempt the employee’s leave of absence from the penalty provisions of its no-fault policy. Labeling the company’s policy as “draconian,” the EEOC said it would seek a court order prohibiting AT&T from counting absences caused by employee disabilities as “chargeable” absences under the policy.

In 2011, the EEOC negotiated a \$20 million settlement with Verizon Communications to resolve a discrimination lawsuit charging the company with violating the ADA by failing to accommodate employees with disabilities under its no-fault attendance plan. In addition to the \$20 million payment, the settlement also included a court-ordered consent decree requiring Verizon to revise its attendance plan to excuse absences caused by disabilities, at least where the absences had not been “unreasonably unpredictable, repeated, frequent or chronic” and “[did] not pose a significant difficulty or expense for Verizon’s business.” (Verizon Consent Decree, ¶ 20.03).

Objections to EEOC’s Approach to No-Fault Attendance Policies

If the EEOC’s consent decree with Verizon is intended to be the “model” for no-fault attendance policies that employers can use to avoid liability under the ADA, employers will soon come to realize

that the EEOC’s approach does not provide them with a workable roadmap for dealing with serious attendance problems. There are inherent flaws in the “model” policy negotiated for use by Verizon in its consent decree with the EEOC.

First, the consent decree allows Verizon to charge absences caused by a disability to employees only when the absences pose a significant difficulty or expense for the company’s business, (Verizon Consent Decree, ¶ 20.03 (g)), or if the company can show that the absences caused by the disability were “unreasonably” unpredictable, frequent or chronic. (Verizon Consent Decree, ¶ 20.03 (d)). These two provisions appear to be merely a restatement of the nebulous “undue hardship” standard for determining whether an accommodation is reasonable under the ADA. Arguably, an employer should be able to discipline employees for absenteeism without a showing of undue hardship because regular attendance is an essential function under the ADA. A disabled employee who cannot perform the essential functions of a job is simply not a qualified disabled individual under the Act.

The argument that regular attendance is, in fact, an essential job function is generally supported by case law. See *Rios-Jimenez v. Principi*, 520 F.3d 31 (1st Cir. 2008) (“At the risk of stating the obvious, attendance is an essential function of any job.”); *Miller v. University of Pittsburgh Medical Center*, 350 Fed. Appx. 727 (3d Cir. 2009) (“Given the nature of [the plaintiff’s] job ... we find it evident that attendance is an essential element of this position.”); *Lamb v. Qualex, Inc.*, 33 Fed. Appx. 49 (4th Cir. 2002) (“[A]n employee who does not come to work cannot perform any of his job functions, essential or otherwise.”). The argument is very basic - - employees cannot perform the essential functions of their job if they are not working.

Another problem with the EEOC’s approach to no-fault attendance policies is that it converts an objective standard (a requisite amount of points under the policy allows discipline) to a subjective

standard. Thus, in the consent decree with Verizon, absences caused by a disability are only chargeable against an employee if, under circumstances particular to each individual, the absences were “unreasonably” frequent or “significantly” difficult or expensive. The EEOC’s approach eliminates the no-fault mechanism inherent in the policy; in effect, requiring the employer to find that the disabled employee was at fault before discipline can be administered.

Finally, the EEOC’s enforcement position relative to no-fault attendance policies requires a far greater level of involvement by employers in initiating the reasonable accommodation process than the ADA originally intended. For example, even without a request for accommodation by a disabled employee facing discharge under Verizon’s no-fault attendance plan, EEOC’s consent decree with Verizon requires the company to determine whether the absences caused by a disability should be excused as an accommodation to the disabled employee.

There is absolutely no support in the ADA for the proposition that an employer has to seek out employees and ask them if they would like an accommodation for absences that may or may not have been caused by a disability. The legislative history of the ADA confirms that it is the disabled employee who has the obligation to request an accommodation. The EEOC’s enforcement approach to attendance plans turns this legislative history on its head by placing the burden on employers to solicit requests for accommodation from disabled employees with excessive absenteeism.

Recommendations

(1) Employers should include language in attendance policies stating that

“regular, reliable attendance is an essential function of every employee’s job.”


(2) Employers should include language in attendance policies stating that “unscheduled, intermittent absences create an undue hardship for other employees and the Company.”

(3) Employers should include language in attendance policies stating: “Any employee facing suspension or discharge under this policy may petition for relief from such disciplinary action by submitting a written statement to the attendance program administrator within 72 hours of the absence triggering the suspension or discharge.”

(4) Employers subject to the FMLA should also include language in the attendance policy that states: “All petitions for relief from discipline under this policy relating to absences caused by a serious health condition covered under the Family and Medical Leave Act must be supported by a medical certification from the employee’s health care provider.”

(5) Any employee requesting relief from suspension or discharge on grounds that the absences were caused by a disability covered under the ADA should be asked to present medical documentation from a health care provider relating to the nature of the disability and any evidence verifying that the particular absence in question was caused by the disability.

Conclusion

If employers must now make exceptions to their no-fault attendance policies for absences caused by disabilities, in addition to illnesses and injuries covered under the FMLA and state workers’ compensation statutes, it may be reasonable to ask whether it makes any sense to keep administering such policies at all. 

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John G. Kruchko is a Partner with the Management Labor & Employment Law Firm of Kruchko & Fries in Tysons Corner, Virginia; Paul M. Lusky is a Partner with the Firm. For more information, please contact Mr. Kruchko at (703) 734-0554 or JKruchko@KruchkoandFries.com, or Paul Lusky at (410) 321-7310 or PLusky@KruchkoandFries.com. This article is published for general information purposes, and does not constitute legal advice.

On the Horizon Calendar of Upcoming Events

OCTOBER 2, 2013

Technical Committee Meeting

10:00 AM - 12:00 PM

The Place
Richmond, VA

OCTOBER 8, 2013

HRCAC Business Meeting

11:30 AM - 1:00 PM

Surf Rider Restaurant
Virginia Beach, VA

OCTOBER 10, 2013

NVCAC Business Meeting

11:00 AM - 2:00 PM

Manassas, VA

OCTOBER 15, 2013

CVCAC Business Meeting

11:30 AM - 1:00 PM

Meadowbrook Country Club
Richmond, VA

OCTOBER 16, 2013

SWCAC Business Meeting

8:00 AM - 9:30 AM

The Roanoker Restaurant
Roanoke, VA

OCTOBER 22-24, 2013

ACI Concrete Field Testing Seminar and Examination*

H.L. Pearson National Guard Armory
692 Waterloo Road
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OCTOBER 30, 2013

SWCAC Fibers Seminar

12:00 PM - 1:30 PM

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