



THE READY-MIXER



**NRMCA
VISION**

Enriching • Inspiring • Empowering

Virginia Ready-Mixed Concrete Association Newsletter

February 2010

Harrisonburg Home Submitted For ACI Recognition

by Bob Nablo
Director of Industry Services

Each year the Virginia Chapter of ACI recognizes extraordinary area projects with the Virginia ACI Concrete Excellence Awards. This year Rockingham Redi-Mix and the Blue Ridge Council submitted an unusual residence – the home of Eugene Friesen and his son, Joe.

The Friesens both have backgrounds in concrete construction, and they formerly lived in Nebraska, so they clearly recall cold and windy nights. They decided to build an ICF home using as many concrete products as practical – and to do it themselves. The resulting home is a 4,300 sq. ft., two-story Cape Cod with a full basement. The home has a concrete foundation, ICF exterior walls, concrete slabs – including a suspended garage slab with a “bonus room” under the garage – stamped concrete driveway, porch, patio and decks, and a cementitious stone veneer. Approximately 168 cu. yds. of ready-mixed concrete were used in the construction. The ICF walls extend up to the roofline, including the gables.

The ICF walls are NuDura forms, and a lite deck system was used for the garage floor. The back patio is stamped, colored concrete in a flagstone pattern with the “Rawhide” color by Solomon Colors. The upper deck is wood, but with a cementitious overlayment in a wooden plank design. This material was supplied by Yoder Bros. LLC in a Linen Brown color. The front porch and driveway are again stamped, colored concrete, but in a Belgian Slate pattern. The color is Toffee Brown by Solomon Colors, and includes a grape vine border. Hardiplank siding covers the home, with a Pennsylvania field stone design by Dutch Quality Stone as accents. The home is in the Magnolia Ridge section of Harrisonburg, near the Lakeview



Golf Course, and has an excellent view of Massanutten Peak Mountain.

Thanks to Trevor Whetzel of Rock-

ingham Redi-Mix for supplying the information about this very fine example of concrete construction. ❖

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The screenshot shows the homepage of the Virginia Ready-Mixed Concrete Association website. At the top, there is a navigation bar with links for home, about vmca, membership, regions, producer locator, library, calendar, downloads, news, and aqi. The main content area includes a 'Welcome' message, a 'JOB BANK' section, a 'VRMCA FALL CONVENTION' announcement for September 20-22, 2009 at Hilton Virginia Beach Oceanfront, and a 'VRMCA Spring Convention' announcement for May 17-19, 2009. There are also logos for Vulcan Materials Company, American Concrete Institute, and NRMCA.



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

Post-Snow Storm Pervious Concrete Pavement Surfaces

by Hessam Nabavi
Director of Industry Services

Mike Rolband, president of Wetland Studies and Solutions Inc. (WSSI) emailed me the following after the recent historic snow fall: "Pervious Concrete is covered in snow but what is interesting is when it melts we are not getting any flow so there is no black ice as we have on the asphalt."

Well this says it all.

The photos below were taken a couple of days after the snow fall from two different pervious parking lots in NOVA. This offered us a great opportunity to observe how pervious concrete is performing. Both lots were partially plowed after the snow storm. It appears that pervious concrete works well in cold climates as the rapid drainage of the surface reduces the occurrence of freezing puddles and black ice as the temperature drops. The air circulating beneath the pervious concrete accelerates the melting of remaining snow and ice, and infiltrates directly into the pavement, facilitating faster drainage, resulting in a dryer surface. In addition, cold weather and frost penetration do not negatively impact surface infiltration rates. This provides a safer and dryer surface than the adjacent non-pervious surface (asphalt) with all the runoffs.

The pervious concrete slogan is "When it Rains it Drains." We see here that it is draining as well with snow, and lots of it.

I guess in this instance we can say, "When it Snows it Goes." ❖



Pohanka Honda parking lot: pervious concrete on the left and asphalt on the right (see detail shot below-left).



Asphalt Runoffs & Ice



Pervious Runoffs & Ice

Virginia Beach Green Ribbon Committee to Review Pervious Concrete

By J. Keith Beazley,
Director Of Industry Services

Hampton Roads Paving Committee Co-Chairman George Mayotte, of Lehigh Cement, and Jim Pratt, of TCS Materials, recently held an informative meeting with engineers from the City of Virginia Beach. John Fowler, P.E., City Engineer, said Virginia Beach has two projects which are receiving stimulus funding, at Bird Neck Road and Nemo Parkway. He also mentioned a major bridge replacement planned for Lynnhaven Inlet which is under design by VDOT. Fowler was particularly interested in the successful projects in Newport News utilizing concrete for the intersections. The City has been offered design and engineering assistance from the ACPA and Bob Long, P.E. in Richmond. Virginia Beach Engineering will review and consider concrete for the two federally funded projects.

The City Engineer also requested a special seminar on Sustainability and Pervious Concrete for the Virginia Beach Engineers, Environmental Engineering, and the City Council Green Ribbon Com-

mittee. The seminar is being planned by Keith Beazley, Director of Industry Services, and Phil Kresge, NRMCA, National Resource Director, to be held in March. The usage of Pervious Concrete may be a solution to major development impacted by the more stringent nutrient loading restrictions placed by regulations in Virginia Beach.

The City of Virginia Beach established the Green Ribbon Committee to research, review and provide advice and assistance to the City Council in matters relating to water quality in the City's waterways.

The committee was asked to make recommendations to the city concerning improvement of water quality with a focus that includes:

- Means of developing property.
- Supporting infrastructure that will minimize the use of natural resources, reduce harmful effects on water quality, and create healthier environments.

The committee was directed to advise the City Council on Regulatory and other methods of improving water

quality in the City's waterways by:

- Reducing the impact and extent of site impervious cover that prevent infiltration of rainfall into the soil, thereby disrupting the water cycle and affecting the quality of our water resources.
- Preserving and enhancing existing natural resources.
- Integrating stormwater management to maximize efficiency and effectiveness of the overall system.
- Utilizing other means that are effective and practical.

The Paving Committee is excited about the opportunity to further educate the regulatory bodies of the City of Virginia Beach on the properties of Pervious Concrete, particularly as a solution to stormwater runoff. Cost savings of concrete for intersections will surely be welcomed by City officials and also the citizens. This and other efforts by the Hampton Roads Council will benefit industry members in the Tidewater area via more efficient use of tax revenue for paving roads and intersections. ❖

"Concrete: Leading the Way" Theme of Virginia Concrete Conference

By J. Keith Beazley,
Director Of Industry Services

The theme of the 2010 Virginia Concrete Conference is "Concrete: Leading the Way," and will be held March 4-5 at the Sheraton Park South Hotel in Richmond. The Conference provides an annual forum for the exchange of information and technology transfer with focus on concrete pavements and structures, as well as concrete materials. Emphasis will be placed on technical advancements and improvements with the viability of concrete for transportation applications. Industry and government experts will join us to share their knowledge and experience in their field of expertise.

The Conference will also feature vendor exhibit tables displaying products and services from the cement and concrete industry. A special reception on opening day will be held in the exhibit area, where attendees can view a variety

of displays.

The conference is being hosted by the American Pavement Association, ACPA Mid-Atlantic Chapter, Virginia Chapter of ACI, Virginia Ready Mixed Concrete Association, Precast Concrete Association of Virginia, Virginia Department of Transportation, and the Federal

Highway Administration. Representatives from each of the organizations serve of the steering committee to plan and develop the conference each year.

Registration forms can be obtained online at <http://www.fhwa.dot.gov/vadiv/>, or call Rodolfo Maruri at 804-775-3361. ❖



SW VA Council Attends Virginia Tech Career Fair

by **Bob Nablo**
 Director of Industry Services

Robert Marek of Roanoke Cement Co. and Bob Nablo attended the Va. Tech Building Construction Career Fair in February, using the opportunity to meet with students and faculty members and remind them of the interest VRMCA and the Southwest Virginia Council have in the program.

Students attending are a mix of majors, some of whom will graduate in May and others who are looking for summer internships. Marek and Nablo had time to talk extensively with Dr. Yvan Beliveau, Director of the Myers-Lawson School of Construction, Kathleen Short, a Teaching Assistant in the BC Dept., and Vera Novak, former Director of Promotion for the ICF Association, who is currently a PhD candidate at Va. Tech. Short was the instructor during a recent classroom visit by SW VA Council members and she is consistently complimentary about the support VRMCA has

given the program.

VRMCA members are always welcome to attend these events, either as a

member of the VRMCA booth or by having their own company display. Contact Bob Nablo for more information. ❖



Build it with Concrete



**VIRGINIA READY-MIXED CONCRETE ASSOCIATION
 SOUTHWEST VIRGINIA
 ADVISORY COUNCIL**

Contributing Members:



Vulcan Materials Company Quarry Receives National Excellence Award

Vulcan Materials Company (NYSE: VMC) has announced their Dolcito Quarry in Tarrant, Alabama, is the only facility nationwide to receive a Three-Star Award, the highest possible recognition in the National Stone, Sand and Gravel Association's (NSSGA) Stars of Excellence Awards program.

The Stars of Excellence program began in 2001 as a way to recognize facilities that received multiple, highest-level safety, community relations and environmental awards from NSSGA over a five year period. Dolcito's three stars acknowledge receipt of two community relations excellence awards and an environmental excellence award.

The Dolcito Quarry is part of Vulcan's Southern & Gulf Coast Division, which has its headquarters in Birmingham.

Southern and Gulf Coast Division President, Mike Clarke, said, "The employees of the Dolcito Quarry exemplify the commitment we have to being a valued part of our neighboring communities. I'm very proud of these employees and the national recognition they received for their efforts."

Vulcan Materials Company is one of the nation's foremost producer of construction aggregates and a major producer of other construction materials.

NSSGA is an international trade association with more than 850 member companies that produce aggregates, primarily crushed stone, sand and gravel. Large quantities of aggregates are used in virtually all types of construction projects including highways and highway maintenance, water and sewer systems, industrial manufacturing facilities and non-residential buildings. Asphalt mix is 94 percent aggregates and concrete is 80 percent aggregates. Aggregates are also widely used as railroad track ballast. ❖

Lafarge Improves Online LEED Project Certification Guide

To help design professionals save time on their next sustainable project, Lafarge has introduced a newly improved version of its interactive online product guide for LEED® project certification. The enhanced, easy-to-use product evaluation web tool features more comprehensive information on Lafarge construction materials that can be specified to help meet green building requirements under the LEED rating system.

In addition to searching information on a broad array of Lafarge cement and gypsum products, users can now research which lightweight aggregates, concrete and asphalt materials best meet the environmental and performance needs of their project. The online Guide can be searched by product or LEED credit category. Each search result will display the product name, image and description, list the LEED credit categories it applies to, and provide an explanation of how the product satisfies credit requirements. Credit categories include

Sustainable Site Selection, Energy and Atmosphere, Materials and Resources, Indoor Environmental Quality and Innovation in Design. The search result will also display contact information for a Lafarge representative to assist with product or project questions.

"As the leading supplier of construction materials in the U.S. and Canada, we are continually striving to improve our top quality technical support with outstanding service capabilities and innovations," said Andrew Pinneke, LEED AP and technical marketing coordinator for Lafarge. "This next-generation of our online Guide is a great way for architects, engineers and other specifiers to access Lafarge products and LEED credit information quickly and efficiently, wherever and whenever they need it."

To learn more about the online Lafarge Product Guide for LEED Project Certification, visit <http://certguide.lafarge-na.com>. The Guide can also be easily accessed on the home page of the Lafarge North America website. ❖



Commonwealth of Virginia Commends Titan America

A Virginia Commonwealth resolution commending Titan America LLC has been approved by the Virginia House of Delegates and the Senate of Virginia. Joint House Resolution No. 186 (2010 Session) recognizes Titan America for a number of outstanding qualities, including exemplary leadership in clean manufacturing processes, energy efficiencies and safety; winning several 2009 environmental awards; fulfilling responsibilities as a designated Energy-Star Partner®; and excellent corporate citizenship.

"We're very proud of this. Safety, environmental excellence, conservation, energy efficiencies – they are top considerations in everything we do," said Robert Sells, Titan America's Mid-Atlantic Business Unit President. Sells continued,

"The legislature of Virginia's Commonwealth has shown much support for our industry and they've worked hard on our behalf – we appreciate that."

The Resolution was presented to Titan America as "an expression of the General Assembly's gratitude for the company's many contributions to the economic growth and prosperity of the Commonwealth, leadership in environmental excellence, and best wishes for continued success in the future."

Roanoke Cement, an EPA Energy Star® Partner, was the 2009 recipient of numerous environmental awards for energy efficiency and environmental stewardship, including the Governor's Award for Environmental Excellence, the PCA's Award for Overall Environmental Excellent Award, the Roanoke Valley

Cool Citizens Award and multiple safety awards. Additionally, Titan America's parent company, Titan Cement Company, was recently voted one of Fortune Magazine's Best Companies for Leaders and was recognized as a leader in corporate social responsibility.

Titan America LLC, headquartered in Norfolk, Va., is one of the premier heavy building materials producer in the eastern United States. Titan America's products include cement, aggregates, ready-mixed concrete and fly ash beneficiation. Its parent company, Titan Cement Company, S.A., headquartered in Athens, Greece, is a signatory to the UN Global Compact, a group of companies committed to sustainable and socially responsible business practices. ❖

NRMCA Expands Popular Flip Book Marketing Tools Series

The National Ready Mixed Concrete Association has added another title to its popular pitch book marketing tools series. The latest title, Concrete Overlays of Asphalt Parking Lots, provides a primer to an industry promoter, concrete sales person and concrete contractor on the proven technology of using concrete to overlay and renew existing asphalt

parking lots.

Based heavily on information taken from the National Concrete Pavement Technology Center Guide to Concrete Overlays and submissions from designers and contractors that have successfully done concrete overlays on asphalt parking lots, this book touches on: "How and Why" concrete overlays work, "Rules of Thumb" for evaluating and exiting

parking lot and determining concrete thickness, "Best Practices" for placing concrete overlays, and "Quick Case Studies" of successful projects.

Packaged in 20 pages in popular flip book format including presenter notes, this newest offering to the NRMCA flip book series will help even the most seasoned person in the concrete industry present the benefits of concrete overlays as a proven rehabilitation method for asphalt parking lots along with addressing the most common questions.

This Concrete Overlays flip book is the latest in what has become one of NRMCA's most popular marketing tool series. Other titles in the series include Insulating Concrete Construction, Flowable Fill, Pervious Concrete, Parking Lot Promotion and Environmental Benefits of Concrete. [Click here for more information on each title.](#)

"Concrete is gaining ground in parking lot construction and the opportunity for rebuilding existing parking lots is particularly strong," said Glenn Ochsenreiter, NRMCA's senior vice president of marketing. "The deferral of maintenance of asphalt parking lots in combination with the new price competitiveness of concrete makes this a great time to go after this market." ❖



Extreme Makeover: Home Edition Features Concrete Throughout

A recent two-hour episode of the popular ABC show *Extreme Makeover: Home Edition* featured concrete throughout two construction projects. The home for the Tripp family in Hyattsville and The Fishing School community center in the Brentwood neighborhood of Washington, DC, were built concurrently over one week by Burch Builders Group, LLC and G&M Contracting, Inc. Both of Northern Virginia, the two companies led the construction of the projects. Chaney Enterprises and its partnering companies were among several companies in the building industry who volunteered for the week-long demolition and construction.

Pervious concrete, used on the sidewalk of The Fishing School and as a patio for the Tripp home, allows rainwater to percolate through its small openings instead of creating runoff that leads to erosion and storm water ponding. Both structures also used ICFs. These foam-framing forms are hollow, so concrete can be poured into the center. ICF buildings realize major reductions in energy costs. ICF also provides outstanding structural strength and integrity.

Both the Tripp home and The Fishing School featured many green construction elements, including solar panels and various innovations using concrete. Standard concrete, as used in the driveways, is an environmentally friendly material. Not only is concrete is long-lasting and durable, it also reflects light, which reduces lighting needs and heat-island effect.

To keep the projects moving, a special accelerating admix was included in



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the concrete. Under normal construction, concrete takes days to cure, or harden. "Time is even more critical for such a specialized mix and once the truck's mixer drum starts running, the mix must be poured and finished rapidly," said Mike Hockenberry, manager of Technical Services for Chaney Enterprises who, along with Damian Caprinola, a technical services technician, were on site to monitor all the mixer trucks and concrete pours.

"Chaney Enterprises and our partners, working around the clock and dealing with many challenges, gave 150 percent toward the completion of the two

projects," said Jan Holt, chief customer officer for Chaney Enterprises. "Both the home and the community center are fabulous structures, and we are proud of the team effort from everyone."

The cumulative total donated by Chaney Enterprises, Z CON, Eastern Concrete, Independent Concrete, Concrete of Maryland, W.R. Grace, Aaron's Concrete Pumping, Stone Shooters, Leep Green, Miller & Long and LaFarge is estimated at approximately \$100,000. This amount includes concrete, pervious concrete, cement, Insulated Concrete Forms, decorative concrete, building materials and labor. ❖

For coverage in future issues, please send announcements/press releases and accompanying photographs to derek.breen@easterassociates.com or mail to:



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Submissions may be edited for length. Inclusion is not guaranteed and may be excluded due to space.

ACPA Publication Provides Comprehensive Details about Concrete Pavement Recycling

The American Concrete Pavement Association (ACPA) has published "Recycling Concrete Pavements" (EB043P), a 102-page technical resource that describes concrete pavement recycling as a proven technology and one that offers an alternative source of aggregates.

Given the growing interest and demand for sustainable construction practices and products, this publication is a "must have" resource for contractors, agencies, owners, and others following or considering sustainability policies and practices.

Concrete recycling is a relatively simple process that involves crushing and sorting hardened concrete from an acceptable source to produce recycled concrete aggregate (RCA), a granular material that can be produced for any application for which virgin aggregate might be used.

About the Publication

The publication begins with an executive summary and executive overview to provide a capstone view of the complete guide. Successive chapters include a wealth of descriptive information, high-quality color photos, technical illustrations, and tables to provide a clear guide to virtually every aspect of recycling concrete pavement.

The engineering bulletin includes a state-of-the-practice discussion about concrete pavement recycling and current sustainability issues, as well as pavement performance improvements made possible with RCA.

The publication then covers virtually every aspect of RCA, from production to potential applications, as well as properties and characteristics of RCA and properties of concrete containing RCA. The publication also features a number of case histories that detail specific projects that have employed RCA in the concrete paving mixtures, as well as in the subbase layer(s) and fill sections.

The engineering bulletin includes recommendations for using RCA in new concrete pavement structures, including details about source materials, produc-

tion processes, and stockpiling practices, to name a few.

A number of very helpful appendices follow, including guidelines for removing and crushing existing concrete; using RCA in unstabilized (granular) subbases; and using RCA in concrete pavement mixtures. Additional appendices include relevant AASHTO and ASTM standards, as well as a glossary of terms.

The publication is available for \$15 (members) or \$60 (non-members), in electronic format (a PDF) or as a commercially printed book through ACPA's bookstore, located at www.acpa.org.

Commercially-printed copies also can be obtained by contacting ACPA's Customer Service, 5420 Old Orchard Road, Skokie, IL 60077. Phone: 847.966.2272 or Fax: 847.966.9970. Be sure to request EB043P.

The ACPA is the national trade association for the concrete pavement industry. The primary mission of the ACPA is to create and maintain a strong national presence through dynamic, strategic leadership; effective technical expertise and resources; and persuasive advocacy on behalf of the concrete pavement industry. ❖

Sustainable Leadership Awards Call for Entries

The Portland Cement Association (PCA) announces a call for entries for the 2010 Sustainable Leadership Awards. Now in its third year, the Sustainable Leadership Awards program recognizes public officials that employ the use of concrete and cement-based products for sustainable, long-lasting benefits. In administering these awards, PCA helps to educate and inform decision makers and those in the construction industry on how concrete is a vital and versatile part of the greening of America's infrastructure.

The Awards recognize projects in four categories. The Leadership in Sustainability Policy Award honors public officials who enact policies that promote the concept of sustainable development by advocating for and promoting the use of concrete and cement-based products in their communities. The Homes and Residential Building, Non-Residential Building and Infrastructure awards honor public officials who utilize concrete or cement-based products to achieve sustainable benefits for projects in each of these categories.

PCA began the Sustainable Leadership Awards in 2008 to create awareness around the importance of concrete to our infrastructure and communities. By recognizing public officials across the nation, the Awards serve to heighten state and local decision makers' understand-

ing of the many ways in which building with concrete creates a long-lasting and positive impact on the community and the surrounding environment.

"As the voice of America's cement and concrete industry, PCA created the Sustainable Leadership Awards to inform decision makers and their communities about the many benefits of using these products," said Brian McCarthy, president and CEO of the Portland Cement Association. "The awards honor those who employ the use of concrete and cement-based products for sustainable and long-lasting results."

Recipients of the Sustainable Leadership Award can be found in communities, big and small, across the nation. Nominations go through rigorous screenings by a team of industry professionals to identify the most appropriate and innovative projects as recipients of the Award. Past winners have employed sustainable technologies such as; full-depth reclamation with cement; insulated concrete forms wall systems; and pervious concrete among others.

To be eligible for consideration, construction and planning activities must have occurred between January 1, 2008, and December 31, 2009. The deadline to submit final entries is May 3, 2010. For more information and to access the nomination form, visit www.cement.org/SustainableLeadership. ❖

Portland Cement Association Applauds SMU Study for Highlighting Economic Effects of Proposed EPA Rules

The Portland Cement Association (PCA) has announced its support for a study conducted by Southern Methodist University's (SMU) Maguire Energy Institute which examines the contributions of the cement industry to U.S. economic health and the harmful effects of proposed U.S. Environmental Protection Agency (EPA) National Emissions Standards for Hazardous Air Pollutants (NESHAP) regulations.

The study was the focus of a panel discussion held at the National Press Club in Washington, DC. Participants in the panel discussion included the study's author, Dr. Bernard Weinstein, associate director, SMU Maguire Energy Institute and Michael Joyce, director of legislative affairs for the Owner-Operator Independent Drivers Association. Panelists, along with other industry members examined the study's research that reports data about the cement manufacturing industry and forecasts the economic ramifications of harsh government regulations on the industry

on a national level.

"Domestic cement production is responsible for keeping America's construction industry afloat, even as the nation struggles to regain its economic footing," said Brian McCarthy, president and CEO, PCA. "By producing cement within our borders, we keep Americans employed and reduce our reliance on foreign sources contributing to the health of our economy and a reduction in greenhouse gases due to less importation and transport of supplies."

According to the study, in 2008 the industry employed more than 17,000 Americans and nearly \$27.5 billion of the nation's economic activity, or gross output, occurred in the cement manufacturing industry. Indirectly, the industry supported almost 153,000 jobs and \$7.5 billion in wages and benefits.

"The EPA's proposed NESHAP rules are meant to reduce emissions in an effort to contribute to the health of the environment and safety of Americans," said Dr. Weinstein. "However the rules set a

standard for emissions reduction in a pollutant-by-pollutant manner—standards that are unachievable for many plants and will force others to operate at an exponentially lower capacity, meaning supplies will have to come from off shore and American jobs will be lost."

Vital infrastructure projects will also be affected by the proposed regulations. Legislation like the American Recovery and Reinvestment Act (ARRA) and upcoming highway bills call for an unprecedented amount of taxpayer dollars to be spent on rehabilitating and reinvesting in our nation's infrastructure. However these projects could cost exponentially more due to importation of cement. Some studies have shown that the overall impact of regulations can add as much as 20 to 35% to the price of end-use projects. Perhaps the most telling statistic from the study is that even the EPA estimates the proposed rule will result in \$340 million of new costs to the cement industry and nearly a 10 percent drop in domestic cement production. ❖

VIRGINIA READY-MIXED CONCRETE ASSOCIATION 2010 MIXER TRUCK ROADEO

VIRGINIA TRUCK CENTER, RICHMOND, VA
SATURDAY, APRIL 10, 2010

BRING YOUR KIDS!



Register online at VRMCA.com

SCHEDULE

- 9:30 AM Driver Registration
- 10:00 AM Written Exam
- 10:30 AM Pipsqueak the Clown
- 10:30 AM Course Walk-thru
- 11:00 AM Lunch Buffet
- 11:30 AM Pre-trip Inspection /
Driving Competition begins!
- 11:30 AM Kids Activities Begin
- 3:00 PM Awards Presentation

SPECIAL SECTION: 2010 Industry-Related Legislation

VRMCA lobbyists are monitoring the following legislation currently before the 2010 Virginia General Assembly. Members are encouraged to provide feedback to legislators by calling the General Assembly's toll-free constituent viewpoint hotline at (800) 889-0229.

Remaining VRMCA Legislation As of February 18, 2010

HB 197 Secondary highway system; requirements for taking new streets into system. Provides that the Virginia Department of Transportation will allow the acceptance of any street within a network addition that meets one or more of the public service requirements. Patron: Ware, R.L. 02/10/10 House: VOTE: BLOCK VOTE PASSAGE (98-Y 0-N). 02/11/10 Senate: Referred to Committee on Transportation.

HB 222 Secondary highway system; VDOT & DRPT to review new design standards components therefore. Provides that for urban and urban development areas in jurisdictions using the urban county executive form of government, the Virginia Department of Transportation shall work in conjunction with the jurisdiction and the Department of Rail and Public Transportation to review new design standards for state secondary highway system components that the jurisdiction proposes. Patrons: Watts, Bulova, Herring, Keam, Kory, Plum, Scott, J.M., Sickles and Surovell; Senators: Barker, Howell, Petersen and Ticer. 02/15/10 House: VOTE: --- PASSAGE (81-Y 18-N). 02/16/10 Senate: Referred to Committee on Transportation.

HB 250 Contractors, Board for; raises threshold for Class C contractors license. Raises the threshold for which a person must have a Class C contractors license from less than \$7,500 to less than \$10,000. As a result, the Class B threshold is also raised from \$7,500 or more to \$10,000 or more. Patrons: Merricks and Marshall, D.W. 01/27/10 House: VOTE: BLOCK VOTE PASSAGE (98-Y 0-N). 02/17/10 Senate: Reported from General Laws and Technology (14-Y 0-N).

HB 391 Highways; payments to cities and towns for maintenance of certain. Reduces unrestricted right-of-way widths from 50 to 40 feet and hard-surface widths from 30 to 22 feet before payment can be made by the Commissioner to any city or town for maintenance of certain highways if such highway was constructed on or after January 1, 2011 and is classified as a local street. Patron: Lohr. 02/10/10 House: VOTE: BLOCK VOTE PASSAGE (98-Y 0-N). 02/11/10 Senate: Referred to Committee on Transportation.

HB 402 Hampton Roads Bridge-Tunnel; VDOT to accept for review unsolicited proposals to add capacity. Directs the Virginia Department of Transportation to accept for review unsolicited proposals to add capacity to the Hampton Roads Bridge-Tunnel. Patron: Oder. 02/02/10 House: VOTE: -- PASSAGE (80-Y 16-N 1-A). 02/03/10 Senate: Referred to Committee on Transportation.

HB 426 Public Procurement Act; cooperative procurement.



Prohibits a local public body from using another local public body's contract for construction where the cost of the project is in excess of \$200,000 and the other local public body is more than a straight line distance of 75 miles from the territorial limits of the local public body procuring the construction. The bill provides an exception to the above limitation for contracts for the installation of artificial turf or other artificial surfaces. The bill contains technical amendments. Patrons: Griffith and Ware, O. 02/12/10 House: VOTE: BLOCK VOTE PASSAGE (96-0). 02/15/10 Senate: Referred to Committee on General Laws and Technology.

HB 473 Weight limits; extends sunset provision for trucks hauling gravel, etc., in coal-producing counties. Extends "sunset" on increased weight limits applicable to trucks hauling gravel and certain other cargoes in coal-producing counties to July 1, 2011. Patrons: Carrico and Morefield; Senator: Puckett. 02/09/10 House: VOTE: BLOCK VOTE PASSAGE (99-Y 0-N). 02/10/10 Senate: Referred to Committee on Transportation.

HB 540 Salem Highway Construction District Transportation Revenue Fund; established. Provides funds for transportation in the Salem Highway Construction District by allocating revenue attributable to a portion of economic growth due to or facilitated by the Inland Port in Montgomery County. Patrons: Marshall, D.W. and Merricks. 02/04/10 House: Assigned Appropriations sub: Transportation.

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HB 567 Public Procurement Act; state-aid construction projects. Raises the competitive bidding/competitive negotiation dollar threshold from \$30,000 to \$50,000 for state-aid construction projects. Patron: Iaquinto. 01/29/10 House: VOTE: BLOCK VOTE PASSAGE (96-Y 0-N). 02/01/10 Senate: Referred to Committee on General Laws and Technology.

HB 614 Income tax laws; conformity to Internal Revenue Code. Advances the date as of which Virginia's system of taxation conforms with the Internal Revenue Code (IRC) from December 31, 2008, to December 31, 2009, and adds three new exceptions; the deferral of certain income under § 108 (i) of the IRC, the original issue discount on applicable high yield discount obligations under IRC § 163 (e)(5)(F), and the amount of the deduction allowed for domestic production activities pursuant to § 199 of the IRC. Taxpayers are preparing and filing returns during the Session, therefore, the bill contains an emergency clause. Patron: Purkey. 02/10/10 House: Referred to Committee on Appropriations.

HB 665 Budget bill; Governor to provide for additional appropriations to Transportation Trust Fund. Requires the Governor, in submitting his biennial budget bill, to provide for additional appropriations to the Transportation Trust Fund from general fund revenues in cases in which general fund revenues for a fiscal year are projected to grow by at least three percent. Any such additional appropriation to the Transportation Trust Fund recommended by the Governor would be required to be in an amount not less than one percent of the projected growth in general fund revenues for the fiscal year. Patrons: May, Albo, Cole, Comstock, Cox, J.A., Crockett-Stark, Greason, Iaquinto, LeMunyon, Lingamfelter, Rust and Scott, E.T. 02/16/10 House: VOTE: --- PASSAGE (63-Y 35-N). 02/17/10 Senate: Referred to Committee on Finance.

HB 737 E-Verify Program; requires state agencies and those newly hired to perform work in State. Requires agencies of the Commonwealth and localities to enroll in the E-Verify Program by December 1, 2010, and to use the Program for each newly hired employee who is to perform work within the Commonwealth. Patrons: Albo, Anderson, Athey, Carrico, Cole, Gilbert, Hugo, Lingamfelter, Marshall, R.G., Miller, J.H., Rust and Tata. 02/16/10 House: VOTE: --- PASSAGE (82-Y 13-N). 02/17/10 Senate: Referred to Committee on Commerce and Labor.

HB 756 Offshore drilling; royalties to be deposited in Transportation Trust Fund, etc. Requires that all revenues and royalties paid to the Commonwealth as a result of offshore natural gas and oil drilling shall be distributed as follows: (i) 70 percent to the Transportation Trust Fund, (ii) 20 percent to the Virginia Coastal Energy Research Consortium, and (iii) 10 percent to localities for improvements to infrastructure and transportation. Patrons: Stolle, Albo, Anderson, Bell, Richard P., Byron, Carrico, Cole, Comstock, Cosgrove, Cox, J.A., Crockett-Stark, Gilbert, Greason, Hugo, Iaquinto, Jones, Knight, Landes, LeMunyon, Lingamfelter, Lohr, Miller, J.H., Oder, Pogge, Poindexter, Purkey, Scott, E.T., Tata and Villanueva. 02/08/10 House: VOTE: --- PASSAGE (71-Y 26-N).

02/17/10 Senate: Reported from Finance (8-Y 6-N).

HB 831 Public Procurement Act; qualification of foreign & domestic business to transact business in State. Requires all public bodies to include in every written contract a provision that the contractor must be authorized to transact business in Virginia as a domestic or foreign business entity as required by the State Corporation Commission, if such is required by law. Such status shall be maintained during the term of a contract. A contract entered into by a business in violation of the requirements is voidable at the option of the public body. Patrons: Surovell; Senator: Petersen. 02/16/10 House: VOTE: --- PASSAGE (98-0). 02/17/10 Senate: Referred to Committee on General Laws and Technology.

HB 970 Transportation Trust Fund; increases amount of general fund surplus. Increases from two-thirds to 75 percent the amount of the general fund surplus designated to the Transportation Trust Fund within the Comptroller's annual report following the close of each fiscal year. The governor would include in his budget bill an amount for deposit into the Transportation Trust Fund equivalent to the amount designated by the Comptroller. Patrons: Rust, Albo, Anderson, Bell, Richard P., Bulova, Comstock, Greason, Hugo, Iaquinto, Keam, LeMunyon, Lingamfelter and Sickles. 02/11/10 House: VOTE: --- PASSAGE (81-Y 18-N). 02/12/10 Senate: Referred to Committee on Finance.

HB1137 Ground water withdrawal permit fees. Increases the maximum amount that the State Water Control Board can charge for a permit to withdraw ground water from \$6,000 to \$12,000. The term of a ground water permit is up to 10 years. The State Water Control Board is also authorized to set up a fee schedule to allow permit holders to pay their permit fees on an annual basis over the term of the permit. Patron: Morgan. 02/03/10 House: Referred to Committee on Appropriations.

HB 1220 Stormwater management regulations; changes effective date that establishes local program criteria. Delays the regulation that establishes local program criteria and delegation procedures and the water quality and water quantity criteria. The regulation, however, shall be adopted within 280 days after the establishment of the U.S. Environmental Protection Agency's Chesapeake Bay - wide TMDL, but no later than December 1, 2011. The bill also directs the Virginia Soil and Water Conservation Board to establish an advisory panel to review the regulation and make recommendations on possible revisions to the regulation. This bill incorporates HB 1311 and HB 155. Patrons: Hugo, Dance, Bulova, Gilbert, Scott, E.T. and Villanueva. 02/15/10 House: VOTE: BLOCK VOTE PASSAGE (99-Y 0-N). 02/16/10 Senate: Referred to Committee on Agriculture, Conservation and Natural Resources.

HJ 68 Highway; Joint Commission on Transportation Accountability to develop plan to place toll on certain. Directs the Joint Commission on Transportation Accountability to develop a plan to toll certain highways. Patron: Rust. 02/15/10 House: VOTE: --- ADOPTION (72-Y 26-N). 02/16/10 Senate: Referred to Committee on Rules.

2010 Industry-Related Legislation

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HJ 186 Commending Titan America. Patrons: Putney, Albo, Alexander, Athey, Byron, Cleaveland, Comstock, Griffith, Hugo, Miller, J.H., Miller, P.J., Oder, Poindexter, Spruill and Ware, O. 01/29/10 House: Agreed to by House by voice vote. 02/04/10 Senate: Agreed to by Senate by voice vote.

SB 105 Mechanics' and materialmen's liens; removes certain requirements. Removes the definitional requirement that one must give consent in writing in order to be a "mechanics' lien agent." The bill also authorizes any person entitled to claim a lien to notify the mechanics' lien agent that he seeks payment for labor performed or material furnished if the building permit contains the name, mailing address, and telephone number of the mechanics' lien agent. Current law provides that any person entitled to claim a lien may notify the mechanics' lien agent that he seeks payment for labor performed or material furnished only if, at the time of issuance, the building permit contains the name, mailing address, and telephone number of the mechanics' lien agent. Patron: McDougle. 01/21/10 Senate: Read third time and passed Senate (39-Y 0-N). 02/16/10 House: Assigned Courts sub: #2 Civil.

SB 184 MEI Project Approval Commission; expands scope of incentive packages to be reviewed. Expands the scope of incentive packages to be reviewed by the MEI Project Approval Commission by eliminating the limitation that the Commission may only review incentive packages for MEI projects that are proposed to be funded by bonds of the Virginia Public Building Authority and by providing for the Commission to review incentive packages for which (i) one or more of the incentives in the incentive package is not authorized under current law or (ii) an amendment by the General Assembly is being sought to one or more currently existing incentives included as part of the incentive package. A Major Employment and Investment project is defined under current law as a regional economic development project in which a private entity is expected to make a capital investment exceeding \$250 million in the Commonwealth and to create more than 400 new full-time jobs. As part of its review, the Commission may endorse certain incentive packages for MEI projects for approval by the General Assembly. Patron: Colgan. 02/16/10 Senate: Passed Senate (40-Y 0-N). 02/17/10 House: Referred to Committee on Appropriations.

SB 254 Commonwealth Transportation Commissioner; advertising for bids. Provides the Commonwealth Transportation Commissioner may let projects costing below \$300,000 to contract. Further provides the Commissioner may build or maintain any of the roads by state or local employees as he may designate, in cases of emergency or on projects costing not more than \$600,000. Patron: Miller, Y.B. 01/27/10 Senate: Read third time and passed Senate (40-Y 0-N). 02/08/10 House: Referred to Committee on Transportation.

SB 261 Weights and measures; Commissioner of Agriculture & Consumer Services to establish fees. Authorizes the Commissioner of Agriculture and Consumer Services to establish inspection and certification fee of \$17.50 on each weight and measure commercially used in Virginia. Patron: Whipple. 02/16/10 Senate: Passed Senate (40-Y 0-N). 02/17/10 House: Referred to Committee on Agriculture, Chesapeake and Natural Resources.

SB 343 Fuels taxes; annually adjusted. Adjusts fuels taxes each year on April 1 by the percentage increase in the Corporate Average Fuel Economy (sales volume weighted), Total Fleet (the CAFE) for the immediately preceding calendar year over the CAFE for calendar year 2009. The first adjustment would occur on April 1, 2011. Patrons: Hanger and Petersen. 02/17/10 Senate: Constitutional reading dispensed (40-Y 0-N).

SB 395 Stormwater management regulations; changes effective date that establishes local program criteria. Extends the effective date of the regulation that establishes local program criteria and delegation procedures and the water quality and water quantity criteria based on the completion of the Virginia Total Maximum Daily Loads (TMDL) Implementation Plan for the Chesapeake Bay Nutrient and Sediment TMDL approved by the United States Environmental Protection Agency and the regulations thereafter adopted to implement the Plan. Patrons: Wagner, Hanger, McDougle, Watkins and Whipple. 02/04/10 Senate: Read third time and passed Senate (40-Y 0-N). 02/17/10 House: Referred to Committee on Agriculture, Chesapeake and Natural Resources.

SB 545 Income tax laws; conformity to Internal Revenue Code. Advances the date as of which Virginia's system of taxation conforms with the Internal Revenue Code (IRC) from December 31, 2008, to December 31, 2009, and adds three new exceptions; the deferral of certain income under § 108 (i) of the IRC, the original issue discount on applicable high yield discount obligations under IRC § 163 (e)(5)(F), and the amount of the deduction allowed for domestic production activities pursuant to § 199 of the IRC. Taxpayers are preparing and filing returns during the General Assembly Session, therefore, the bill contains an emergency clause. Patron: Colgan. 02/16/10 Senate: Passed Senate (40-Y 0-N). 02/17/10 House: Referred to Committee on Appropriations.

SB 607 Comptroller; changes description in annual report of allocation of surplus general funds. Changes the description in the Comptroller's annual report of the allocation of certain surplus general fund balances for nonrecurring expenditures, and for the Transportation Trust Fund, from "designates" to "assigns." The bill also changes the description of such surplus funds from fund balance not otherwise "reserved or designated," to fund balance not otherwise "restricted, committed, or assigned." Patron: Stosch. 02/02/10 Senate: Read third time and passed Senate (40-Y 0-N). 02/08/10 House: Referred to Committee on Appropriations. ❖

There are a number of online resources available on the official Virginia General Assembly website (<http://legis.state.va.us/>) to assist you in taking an active role in the legislative process. Contact your representative about a particular issue before the Legislature takes action on it. ❖



SEX DISCRIMINATION: New Case Law May Require You to Rethink Your Office Conduct and Employment Decisions

By John G. Kruchko and
Christin L. Eberst*

With the economy still rebuilding, employers need to be cautious in the way they monitor, interact with and/or terminate employees; the last thing an employer needs is a lawsuit to fund. The number of discrimination and harassment suits brought against employers continues to increase. In addition, recent court decisions reveal a trend towards a more protective, pro-employee position when evaluating whether a legitimate claim of discrimination exists. For some employers, this could mean more lawsuits and longer, more expensive battles in court.

Two recent cases illustrating this new trend by the courts are *Lewis v. Heartland Inns of America, L.L.C.* ("Lewis") and *Reeves v. C.H. Robinson Worldwide, Inc.* ("Reeves"). Both federal court cases analyze an employee's discrimination claim for violations of Title VII of the Civil Rights Act of 1964. Among other protections, Title VII prohibits discrimination based upon sex, sexual harassment, and the creation of a hostile work environment due to sexual harassment. Employees who feel they have been harassed or discriminated

against on the basis of sex in the workplace may bring a lawsuit against their employer. Under Title VII, an individual bringing suit must demonstrate that gender is a motivating factor for an adverse employment action. In the first federal case, *Lewis*, the court concluded that an adverse employment action based upon an employee's non-conforming gender-related behavior was sufficient to meet Title VII's standards. In other words, an employer's decision to terminate an employee who failed to fit a particular "look" may qualify as discrimination.

In *Lewis*, Brenna Lewis began working at the front desk as a night auditor for Heartland Inns of America. After a year, Ms. Lewis did well enough to receive two merit-based pay raises and positive customer feedback. Ms. Lewis also worked various part-time front desk shifts at other Heartland Inns, where she received positive reviews from all her direct supervisors. Subsequently, Heartland's Director of Operations, Barbara Cullinan, granted Ms. Lewis's direct supervisor, Lori Stifel, permission via telephone to offer Lewis a day-time position.

Ms. Cullinan's approval of Ms. Lewis drastically changed after seeing her in person. Ms. Cullinan told Ms. Stifel

that she was unsure whether Ms. Lewis was a "good fit" for the front desk and repeatedly questioned Ms. Lewis' more "masculine" appearance. Ms. Lewis admittedly described her appearance as more "masculine" due to her preference to wear loose fitting clothing, limited use of makeup, and short hair style. Ms. Lewis also acknowledged having been mistaken for a male and referred to as "tomboyish." Ms. Cullinan told Ms. Stifel that Ms. Lewis lacked the "Midwestern girl look" that Heartland staff should portray. Subsequently, Ms. Cullinan ordered Ms. Stifel to move Ms. Lewis back to the night shift, which Ms. Stifel refused to do. Ms. Stifel was ultimately asked to resign. Ms. Cullinan then asked Ms. Lewis to re-interview for the position, who complied and was fired three days later.

Ms. Lewis filed a lawsuit against Heartland on the theory that Heartland engaged in sex discrimination by enforcing a de facto requirement that a female employee conform to gender stereotypes even though the company had no written policies. In order to successfully bring a claim under Title VII, Ms. Lewis had to show that there was sufficient evidence

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that a reasonable person could find that she was discriminated against because of her sex. The lower court held that Ms. Lewis failed to meet this standard. However, the Court of Appeals disagreed, reversed the lower court's decision and held that sexual stereotypes can violate Title VII when they influence employment decisions, such as in Ms. Lewis' situation. Thus, an employer must recognize that adverse actions based on an employee's failure to fit within a certain sexual stereotype is engaging in sex discrimination.

In a second case, a federal appellate court's decision reflects a potential shift in the law that may very well be persuasive in local jurisdictions or be upheld by the U.S. Supreme Court. Previously under Title VII, an employee was required to show that (1) he or she was discriminated against or harassed because of their sex; and (2) the harassment was directed specifically at that employee. Now, an employee may have a valid claim of hostile work environment based on sex discrimination even though the alleged harassment was not directed specifically towards that individual employee. Reeves illustrates this shift in the law.

In Reeves, employee Ingrid Reeves began working for C.H. Robinson Worldwide in July 2001 as a transportation sales representative. Ms. Reeves was the only woman working on the sales floor, with six other male co-workers in a cubicle-style office. Ms. Reeves claimed

she was constantly exposed to incessant, vulgar and generally offensive language. Additionally, the other employees would tune the office radio to a crude morning show that featured sexually derogatory conversations about the female anatomy. While Ms. Reeves claimed she was exposed to this generally offensive conduct on a daily basis, she admits that none of the employees directed such comments towards her. Regardless, Ms. Reeves complained to her co-workers, and her branch manager and supervisor about both the non-gender-specific offensive language, and the vulgar, gender-specific language used by her co-workers. Ms. Reeves later resigned from her position and brought suit against her employer after her complaints went unaddressed.

The U.S. Supreme Court has consistently held that Title VII is not a "general civility code" and it does not prohibit profanity in the workplace merely because the words used have sexual content or connotations. Rather, a court is required to consider whether a member of one sex is exposed to disadvantageous terms or conditions of employment to which members of the opposite sex are not exposed. While deferring to the Supreme Court's guidance, the appeals court hearing Ms. Reeves' case emphasized a distinction between general office vulgarity and conduct that a reasonable person in Ms. Reeves' situation would find severely hostile and abusive. Significantly, the court reiterated that a person may have a valid Title VII harassment claim even if the speech is not directed specifically at

an individual if the words and conduct are sufficiently gender-specific and are severe or pervasive.

This case illustrates the need for employers to take every employee's concerns and complaints seriously. While Title VII does not require an employer to oversee its employees' every move, it does require it to take the appropriate action to prevent employees' use of profanity and gender-specific language from creating a hostile and abusive work environment. This is especially true after an employee expresses his or her concern that a work environment is offensive. Following the Reeves decision, employers may now have a heightened duty to closely supervise its employees' conduct to ensure any gender-related language and discussions do not rise to the level of harassment, even if such conduct is not directed towards any specific individual.

Given the courts' increasing sensitivity towards Title VII sex discrimination and harassment, employers need to carefully assess their employment actions and their employee's conduct. Adverse employment actions motivated by gender stereotypes or vulgar language used by employees, even though not directed at a specific individual, may result in an unwanted Title VII discrimination lawsuit. Thus, if management is aware of such conduct, it should take the necessary steps to prevent and eliminate such conduct and protect itself from potential liability. ❖

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