



# THE READY-MIXER



**NRMCA  
VISION**

Enriching • Inspiring • Empowering

Virginia Ready-Mixed Concrete Association Newsletter

January 2010

## Eight Boxley Materials Concrete Plants Receive Green-Star Certification

Boxley Materials Co., based in Bedford County, recently announced that its eight concrete plants all received Green-Star Certification in 2009 from the National Ready Mixed Concrete Association.

"We are citizens of each of the communities we serve," said Ab Boxley, President and CEO. "Our employees take pride in enhancing quality of life through community service and environmental stewardship as well as providing the region with quality aggregate, block and concrete. Environmental stewardship is about recognizing nature is the infrastructure of our communities. We accept our civic obligation to conduct our business in a manner that will sustain the environment for generations to come."

Boxley's Roanoke concrete plant was the company's first to receive the association's certification as a facility adopting environmentally friendly practices.

Boxley's "Green Team" examines various strategies to help them become a greener company and a leader in resource conservation, including:

- Comprehensive Recycling Program
- Timber Management Reclamation Practices - Typically require establishment of stable, functional ecosystems.
- "Carbon Footprint" Monitoring - Develop data and metrics to measure GHG. The mitigation of carbon emissions through the development of alternative projects such as solar or wind energy or reforestation.
- Grounds/Habitats - Examine more ways for natural assets to be tended in a more sustainable manner.
- Transportation - Study feasibility of increasing fuel efficiency in company cars and equipment.

The NRMCA created the Green-Star program in collaboration with the Envi-



(from left) Ab Boxley, President and CEO of Boxley Corp., Doug Easter, Executive Director of VRMCA, Darlene Burcham - Roanoke City Manager, and Larry Bullock, Boxley VP and VRMCA Advisory Council Chairman at Green Star flag-raising.

ronmental Protection Agency's Green Highways Partnership. The program supports the efforts of the ready mixed concrete industry towards environmental excellence, through the recognition of the use of Environmental Management

Systems as a tool for environmental benchmarking and continual improvement, and as a means to recognize those who adhere to essential principals of the environmental and sustainability movement of our industry. ❖

Virginia Ready-Mixed Concrete Association  
600 Peter Jefferson Parkway, Suite 300  
Charlottesville, VA 22911

Phone: 434-977-3716 Fax: 434-979-2439  
E-mail: [easter@easterassociates.com](mailto:easter@easterassociates.com)  
Website: [www.vrmca.com](http://www.vrmca.com)

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**2010 VRMCA ADVISORY COUNCIL REGIONALS**

**Larry Bullock**  
VRMCA Advisory Council Chairman  
Boxley  
Roanoke, VA  
Phone: 540-777-7600  
lbullock@boxley.com

**BLUE RIDGE**

**Buddy Murtaugh Jr.**  
Chairman  
Rockingham Redi-Mix  
Harrisonburg, VA  
Phone: 540-433-9128  
buddy.murtaugh@conmatgroup.com

**Allison Carrigan**  
Secretary/Treasurer  
Lafarge North America  
Baltimore, MD  
Phone: 804-201-1015  
allison.carrigan@lafarge-na.com

**HAMPTON ROADS**

**Bill Denison**  
Chairman  
Titan Virginia Ready-Mix  
Norfolk, VA  
Phone: 757-533-7164  
wdenison@titanamerica.com

**Lee Flemming**  
Secretary/Treasurer  
Lafarge North America  
Chesapeake, VA  
Phone: 757-647-9409  
lee.flemming@lafarge-na.com

**NORTHERN VIRGINIA**

**Joel Woerl**  
Chairman  
Titan Virginia Ready-Mix LLC  
Sterling, VA  
Phone: 703-234-1324  
jwoerl@titanamerica.com

**Sean Murnane**  
Secretary/Treasurer  
Grace  
Spotsylvania, VA  
Phone: 540-273-7607  
sean.murnane@grace.com

**RICHMOND/CENTRAL VIRGINIA**

**Wayne Bracey**  
Chairman  
Ready Mixed Concrete Co.  
Richmond, VA  
Phone: 804-355-7851  
Wayne.Bracey@rmcc.com

**Allison Carrigan**  
Secretary/Treasurer  
Lafarge North America  
Baltimore, MD  
Phone: 804-201-1015  
allison.carrigan@lafarge-na.com

**SOUTHWEST**

**Frank Caldwell**  
Chair  
Chandler Concrete of Virginia, Inc.  
Roanoke, VA  
Phone: 540-345-3846  
frank.caldwell@chandlerconcrete.com

**George Kuhn**  
Secretary/Treasurer  
Marshall Concrete Products  
Christiansburg, VA  
Phone: 540-382-1734  
gkuhn@marshallconcrete.com

The screenshot shows the website for the Virginia Ready-Mixed Concrete Association. At the top, it says "The leading Virginia resource for concrete-related information." Below that is a navigation menu with links for home, about vrmca, 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 and American Concrete Institute.



Visit the Virginia Ready-Mixed Concrete Association Website at [www.vrmca.com](http://www.vrmca.com)

## Central Virginia Council Develops Compact Pervious Marketing Kits

By J. Keith Beazley,  
Director Of Industry Services

The Central Virginia Concrete Advisory Council's Paving Committee has developed Pervious Concrete marketing kits to be distributed to architects, engineers, developers, and municipalities in the Greater Richmond area. The kits will be a major tool for education and understanding of Pervious Concrete.

The Marketing Toolbox is a 6" X 6" box with a sample of Pervious Concrete, a bottle of water, information on the function and properties of Pervious Concrete, and instructions for conducting a demonstration. The Toolbox is labeled, "The Solution to Your Storm Water Runoff Problems is in This Box." Inside the box is information labeled, "Finally! Storm Water Runoff Control is in Your Hands."

The Paving Committee developed the Pervious Concrete samples for the toolbox in January at the Ready Mix Concrete Laboratory. Steve Kerr, of Solite, and Wayne Bracey, of Ready Mix Concrete, engineered and developed a mix design for the samples and batched the concrete. Committee members John Lockett, of Roanoke Cement, Scott Mogel, of Ready Mix Concrete, Frederick Helm, of TCS Materials, and I manufactured the 4" samples. The finished product was tested and worked very well.

Providing the means for a simple Pervious Concrete demonstration should have a major impact on the Central Virginia Council marketing activities at a very small cost. ❖



From left to right: Scott Mogel, Wayne Bracey, John Lockett and Frederick Helm prepare Pervious Marketing Toolboxes.

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



VRMCA Newsletter  
600 Peter Jefferson Parkway, Suite 300  
Charlottesville, VA 22911

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

## Fort Lee Inaugurates New Society Of Amercian Military Engineers Chapter

By J. Keith Beazley,  
Director Of Industry Services

The first meeting of the Society of Military Engineers was held at Fort Lee, Thursday, January 21st. This luncheon meeting of the newly-established chapter entertained a crowd of 125 and included a waiting list of prospective members. Phil Kresge, NRMCA, and Keith Beazley, VRMCA, were part of the newly formed organization and membership.

The President, Colonel Edward Gulley, P.E., presented the program titled, "Fort Lee: Past, Present, and Future." Col. Gulley spoke on the growth of the training and educational facilities with BRAC and the establishment of the Army Logistics University. By September of 2011, more than 7 million square feet of buildings will have been constructed on Fort Lee. The resulting facilities will house and train the "Log Warriors" of the future and serve as Headquarters for the Army's Combined Arms Support Com-

mand and the Ordnance, Quartermaster and Transportation Centers and Schools. The completed facility will train and educate one-third of the men and women serving in the Army worldwide.

The chapter offered a bus tour of the Fort Lee facilities and an overview of the new construction.

The Central Virginia Post established a number of goals for 2010:

- Build a diverse and balanced membership base of engineering and other professionals within construction, environmental, and logistics industries.
- Plan and execute a highly successful Small Business Conference.
- Provide educational presentations on new engineering, environmental, and logistics developments; federal business opportunities; local engineering college programs; future state and local development plans and opportunities.

- Support local veteran and soldier programs.
- Build a strong post that is sustainable through diverse membership, strategic planning, and Base Realignment and Closure (BRAC).
- Become the fastest growing Society of American Military Engineers (SAME) Post in Virginia within two years.
- Provide a conduit for professionals to exchange information on regional design, development, and construction happenings.

Special presentations on concrete topics are being planned by the VRMCA for future meetings. The opportunity to network with the Army Corps of Engineers to discuss plans and goals for the Fort Lee Post will be very beneficial for future marketing of concrete and the marketing of special concrete products. ❖

## STUDY: Concrete Solutions Abound for Green Home Building

Recent research by McGraw-Hill indicates that 70 percent of buyers would be inclined to purchase a green home versus a conventional home in a down market. With new techniques and products introduced at what seems like a daily basis, builders can rely on concrete for straightforward solutions for today's green building demands.

Concrete and other cement-based products can contribute to more than 40 green building practices covered by the NAHB National Green Building Standard. While most homes will not include all 40, the variety of applications makes concrete the right choice for sustainable design.

"Concrete products like wall systems and permeable pavements provide high-performance results without a large learning curve for the builder," Donn Thompson, PCA director of low-rise buildings said. "Concrete applications are simple, available and understood by everyone on the job site."

In addition to the energy efficiency of

concrete wall systems and the stormwater management advantages of permeable pavements, concrete can offer many other sustainable construction benefits. Indoor air quality, urban heat island effect and safety are all advantages found in concrete.

For example, light-colored concrete roof tiles and pavements mitigate urban heat island effect by keeping surrounding air temperatures cooler and lowering home cooling loads. Use of prefinished concrete systems reduces the amount of paints and stains consumed on site, which can compromise indoor air. Solid, continuous concrete walls offer a simpler, tighter, fire resistant barrier between living spaces and garages. Inert concrete countertops are an attractive alternative to conventional tops built with formaldehyde based wood cores.

Interactive displays of sustainable concrete solutions can be found at Booth #N2431 on January 19-22, 2010, at the International Builders' Show in the Las Vegas Convention Center. ❖

## Upcoming Webinars

The NRMCA will launch the online version of three of its most popular courses for architects and engineers beginning in March.

Pervious Concrete – A Stormwater Solution – Four live Webinars on March 10, 17, 24 and 31 from 3-4:30 p.m. Eastern time, plus online exercises and quizzes. Offers 6 Professional Development Hours, 6 AIA-CES HSW Learning Units and 6 Green Building Certification Institute Continuing Education hours.

Design of Concrete Pavements – Four live Webinars on April 7, 14, 21 and 28 from 3-4:30 p.m. Eastern time, plus online exercises and quizzes. Offers 6 Professional Development Hours and 6 AIA-CES HSW Learning Units.

Building Green with Concrete – Four live Webinars on May 5, 12, 19 and 26 from 3-5 p.m. Eastern time, plus online exercises and quizzes. Offers 8 Professional Development Hours, 8 AIA-CES HSW Learning Units and 8 Green Building Certification Institute Continuing Education hours. ❖

## Prillaman Retires After 30 Years of Distinguished Service

by Bob Nablo  
Director of Industry Services

After a long and distinguished career in the Ready-Mixed industry, Marilyn Prillaman, Boxley Corp.'s Administrative Manager for Concrete, officially retired at the end of 2009. A former Chair of the Southwest Virginia Concrete Advisory Council, Marilyn began her career in 1979 with Doyle Ready Mix in Martinsville. That company was purchased by Ted Eanes and J.B. Sapp and renamed Martinsville Ready Mix, operating until it was bought by Boxley in 1994. During those years she trained and tutored many of the current Boxley employees, including Larry Bullock – the VRMCA Advisory Council Chairman – and K.D. Ramsey, Boxley's Virginia Operations Manager. As Boxley Corp. grew in size and scope, Marilyn was often in the middle of the transition.

At her retirement luncheon, Prillaman was honored by Ab Boxley, President and CEO of Boxley Corp., and many of her co-workers and associates. She will actually continue working for a short period while tracking costs for one final important job as a fitting end to an illustrious career...and then settle



into a well-deserved retirement with husband Bill and sons Scott and Alan and their families.

Marilyn has long been an important member of the Southwest Council and has earned the respect and friendship of all her competitors. As Bullock men-

tioned several times in his remarks at the luncheon, anyone unsure of what to do about a situation or project was frequently told "Call Marilyn about that – she'll take care of it." Thanks, Marilyn! It's been a privilege to work with you. ❖

## JFK Airport Prepares to Convert Massive Runway to Concrete



The second-longest commercial landing strip in the country is going concrete.

According to the New York Times, John F. Kennedy International Airport's Runway 13R-31L's asphalt surface will be replaced by more durable concrete, which is expected to extend its life span by 40 years. The project slated to begin in March, will also involve widening the runway by 50 feet to accommodate

larger, more advanced aircraft, as well as updating lighting and electrical systems.

At 14,572 feet, the runway, one of the airport's originals in 1948, is the second-longest commercial landing strip in the country. It handles a third of the airport's total air traffic, including more than half of its departures, and can even accommodate the space shuttle.

All the major carriers at Kennedy

agreed to delay the start of their heavier summer schedules until July 1, a month later than usual, to accommodate for the loss of the runway. A handful of flights will be rerouted. And the timing was deliberate: The period from March to June is traditionally the lightest of the year at Kennedy, and the drier weather conditions are more favorable for air travel.

Airport officials say that the renovations will eventually help prevent more than 10,000 hours of delays a year.

The runway repairs will be paired with a renovation of the airfield's taxiways. New paths will be built at angles that will allow planes to taxi more quickly, and so-called holding pads will be added, allowing planes to pass one another while queuing for runways, speeding up departures. ❖

# Innovative Training Facility Aims for LEED Gold Certification

by **Hessam Nabavi**  
 Director of Industry Services

After great anticipation by the construction industry in NOVA, the new Associated Builders and Contractors (ABC) Virginia Headquarters and Training Facility is under construction. This building represents the construction industry's dedication to promote sustainable design.

"The innovative uses of concrete and concrete construction methods in pursuit of LEED Gold certification make the ABC Training Center a noteworthy project in Northern Virginia," said Tony Thompson, Marketing Manager with Virginia Concrete and 2010 NVCAC Commercial Committee Chairman.

The 30,000-square-foot facility, designed by Morgan Gick McBeath & Associates PC utilizes innovative technologies such as tilt-up concrete construction, pervious concrete, polished concrete and stamped concrete.

"A Tilt-up design was chosen to increase the amount of locally produced materials and the ease and speed of construction," said Richard Franey, Vice President of Southland Concrete Corporation, as well as past president of ABC. "To that end all of our materials needed to meet criteria to achieve the maximum number of points. We used FSC plywood, Low VOC curing compound and the maximum amount of recyclables in the mix with the minimum impact on the production schedule. All slab and Tilt-up panel mixes contained 40% GGBFS."

Using 6" of crushed concrete in the sub base and slag cement in concrete will also contribute a tremendous value towards LEED certification.

"The concrete related LEED contributions, improved energy performance and indoor environment, stormwater control and preservation of open space alone make this project remarkable," said Thompson.

Franey said, "Because construction took place in December and January, the slow setting characteristics of the slag in cold weather needed to be offset in order to not impact the schedule. The Ready Mix Producer switched from the



standard type I/II Portland to a type III. The mix was also increased from the specified 4000 psi to a 5000 psi. This enabled panel erection to take place within the required time-frame to meet the schedule. This included the last 6 panels which were erected seven days after pouring."

"I can only imagine what other pioneering green building practices are planned for other portions of the construction," said Thompson.

Founded in 1972, the Virginia Chapter of ABC is the leading provider of networking, education, political advocacy, and service to the commercial construction industry.

For a more detailed picture of the LEED Gold certification requirements, please refer to the Score Card for this project on the following pages.

## ABC Project Quick Facts

- The building will have a water use reduction of about 44% as compared to a similar building.
- The building will have an energy use reduction of about 17% as compared to a typical building of the same size.
- The site lighting is designed to avoid light pollution by having low height fixtures that direct lighting only where it is needed.
- Recycled glass terrazzo flooring.
- Waterless urinals and dual flush water closets.

# LEED Project Checklist for ABC Virginia Training Facility



LEED for New Construction v2.2  
Registered Project Checklist  
Revised 11/29/2009

**Project Name: ABC Virginia Training Facility**

Project Address: 42680 Trade West Drive, Sterling, Va

Yes	?	???	No		
7	0	2	5	<b>Sustainable Sites</b>	<b>14 Points</b>

Y							
				Prereq 1	C	<b>Construction Activity Pollution Prevention</b>	Required Civil, CM
			1	Credit 1	D	<b>Site Selection</b>	1
			1	Credit 2	D	<b>Development Density &amp; Community Connectivity</b>	1
			1	Credit 3	D	<b>Brownfield Redevelopment</b>	1
			1	Credit 4.1	D	<b>Alternative Transportation, Public Transportation Access</b>	1
1				Credit 4.2	D	<b>Alternative Transportation, Bicycle Storage &amp; Changing Rooms</b>	1 Civil, Arch
1				Credit 4.3	D	<b>Alternative Transportation, Low-Emitting &amp; Fuel-Efficient Vehicles</b>	1 Civil
1				Credit 4.4	D	<b>Alternative Transportation, Parking Capacity</b>	1 Civil
		1		Credit 5.1	C	<b>Site Development, Protect or Restore Habitat</b>	1
		1		Credit 5.2	D	<b>Site Development, Maximize Open Space</b>	1
			1	Credit 6.1	D	<b>Stormwater Design, Quantity Control</b>	1
1				Credit 6.2	D	<b>Stormwater Design, Quality Control</b>	1 Civil
1				Credit 7.1	C	<b>Heat Island Effect, Non-Roof</b>	1 Civil
1				Credit 7.2	D	<b>Heat Island Effect, Roof</b>	1 CM
1				Credit 8	D	<b>Light Pollution Reduction</b>	1 MEP

Yes	?	???	No		
4	0	0	1	<b>Water Efficiency</b>	<b>5 Points</b>

1				Credit 1.1	D	<b>Water Efficient Landscaping, Reduce by 50%</b>	1 Civil
1				Credit 1.2	D	<b>Water Efficient Landscaping, No Potable Use or No Irrigation</b>	1 Civil
			1	Credit 2	D	<b>Innovative Wastewater Technologies</b>	1
1				Credit 3.1	D	<b>Water Use Reduction, 20% Reduction</b>	1 MEP
1				Credit 3.2	D	<b>Water Use Reduction, 30% Reduction</b>	1 MEP

Yes	?	???	No		
6	0	0	11	<b>Energy &amp; Atmosphere</b>	<b>17 Points</b>

Y							
				Prereq 1	C	<b>Fundamental Commissioning of the Building Energy Systems</b>	Required CxA
				Prereq 2	D	<b>Minimum Energy Performance</b>	Required MEP
				Prereq 3	D	<b>Fundamental Refrigerant Management</b>	Required MEP

**\*Note for EAc1: All LEED for New Construction projects registered after June 26<sup>th</sup>, 2007 are required to achieve at least two (2) points under EAc1.**

3			7	Credit 1	D	<b>Optimize Energy Performance</b>	1 to 10 MEP
						10.5% New Buildings or 3.5% Existing Building Renovations	1
						14% New Buildings or 7% Existing Building Renovations	2
			3			17.5% New Buildings or 10.5% Existing Building Renovations	3
						21% New Buildings or 14% Existing Building Renovations	4
						24.5% New Buildings or 17.5% Existing Building Renovations	5
						28% New Buildings or 21% Existing Building Renovations	6
						31.5% New Buildings or 24.5% Existing Building Renovations	7
						35% New Buildings or 28% Existing Building Renovations	8
						38.5% New Buildings or 31.5% Existing Building Renovations	9
						42% New Buildings or 35% Existing Building Renovations	10
			3	Credit 2	D	<b>On-Site Renewable Energy</b>	1 to 3
						2.5% Renewable Energy	1
						7.5% Renewable Energy	2
						12.5% Renewable Energy	3
1				Credit 3	C	<b>Enhanced Commissioning</b>	1 CxA
1				Credit 4	D	<b>Enhanced Refrigerant Management</b>	1 MEP
			1	Credit 5	C	<b>Measurement &amp; Verification</b>	1
1				Credit 6	C	<b>Green Power</b>	1 Owner

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Yes	?	???	No			
8	0	2	3	<b>Materials &amp; Resources</b>		13 Points

Y				Prereq 1	D	Storage & Collection of Recyclables	Required Arch
			1	Credit 1.1	C	Building Reuse, Maintain 75% of Existing Walls, Floors & Roof	1
			1	Credit 1.2	C	Building Reuse, Maintain 95% of Existing Walls, Floors & Roof	1
			1	Credit 1.3	C	Building Reuse, Maintain 50% of Interior Non-Structural Elements	1
1				Credit 2.1	C	Construction Waste Management, Divert 50% from Disposal	1 CM
1				Credit 2.2	C	Construction Waste Management, Divert 75% from Disposal	1 CM
		1		Credit 3.1	C	Materials Reuse, 5%	1 Owner
		1		Credit 3.2	C	Materials Reuse, 10%	1 Owner
1				Credit 4.1	C	Recycled Content, 10% (post-consumer + ½ pre-consumer)	1 CM
1				Credit 4.2	C	Recycled Content, 20% (post-consumer + ½ pre-consumer)	1 CM
1				Credit 5.1	C	Regional Materials, 10% Extracted, Processed & Manufactured Regionally	1 CM
1				Credit 5.2	C	Regional Materials, 20% Extracted, Processed & Manufactured Regionally	1 CM
1				Credit 6	C	Rapidly Renewable Materials	1 CM
1				Credit 7	C	Certified Wood	1 CM

Yes	?	???	No			
9	1	4	1	<b>Indoor Environmental Quality</b>		15 Points

Y				Prereq 1	D	Minimum IAQ Performance	Required MEP
Y				Prereq 2 <th>D</th> <th>Environmental Tobacco Smoke (ETS) Control</th> <th>Required MEP</th>	D	Environmental Tobacco Smoke (ETS) Control	Required MEP
		1		Credit 1 <th>D</th> <th>Outdoor Air Delivery Monitoring</th> <td>1</td>	D	Outdoor Air Delivery Monitoring	1
			1	Credit 2 <th>D</th> <th>Increased Ventilation</th> <td>1</td>	D	Increased Ventilation	1
1				Credit 3.1	C	Construction IAQ Management Plan, During Construction	1 CM
1				Credit 3.2	C	Construction IAQ Management Plan, Before Occupancy	1 Owner
1				Credit 4.1	C	Low-Emitting Materials, Adhesives & Sealants	1 CM
1				Credit 4.2	C	Low-Emitting Materials, Paints & Coatings	1 CM
1				Credit 4.3	C	Low-Emitting Materials, Carpet Systems	1 CM
1				Credit 4.4	C	Low-Emitting Materials, Composite Wood & Agrifiber Products	1 CM
1				Credit 5	D	Indoor Chemical & Pollutant Source Control	1 Arch
		1		Credit 6.1	D	Controllability of Systems, Lighting	1
		1		Credit 6.2	D	Controllability of Systems, Thermal Comfort	1
1				Credit 7.1	D	Thermal Comfort, Design	1 MEP
	1			Credit 7.2	D	Thermal Comfort, Verification	1 Owner
1				Credit 8.1	D	Daylight & Views, Daylight 75% of Spaces	1 Arch
		1		Credit 8.2	D	Daylight & Views, Views for 90% of Spaces	1 Arch

Yes	?	???	No			
5	0	0	0	<b>Innovation &amp; Design Process</b>		5 Points

1				Credit 1.1	C	Innovation in Design: Ex Performance	1 CM
1				Credit 1.2	C	Innovation in Design: Ex Performance	1 CM
1				Credit 1.3	C	Innovation in Design: Educational Program	1 Owner
1				Credit 1.4	C	Innovation in Design: Green Housekeeping	1 Owner
1				Credit 2	C	LEED® Accredited Professional	1 Owner

Yes	?	???	No			
39	1	8	21	<b>Project Totals (pre-certification estimates)</b>		69 Points

Certified: 26-32 points, Silver: 33-38 points, Gold: 39-51 points, Platinum: 52-69 points

39 Yes 39 Silver  
1 ? 40 Gold

According to JJ McCarthy, principal of JJMC LLC., the consulting firm involved with the LEED process, the potential concrete contributions to LEED certification are as follows.

**Sustainable Sites**

Credit 6.2 Stormwater Design, Quality Control, (Pervious Concrete)  
Credit 7.1 Heat Island Effect, Non-Roof,

(Pervious Concrete)

**Materials & Resources**

Credit 2.1 Construction Waste Management, Divert 50% from Disposal, (Waste Concrete from the Site)  
Credit 2.2 Construction Waste Management, Divert 75% from Disposal, (Waste Concrete from the Site)  
Credit 4.1 Recycled Content, 10% (post-consumer + ½ pre-consumer), (Concrete &

Slag Cement)

Credit 4.2 Recycled Content, 20% (post-consumer + ½ pre-consumer), (Concrete & Slag Cement)  
Credit 5.1 Regional Materials, 10% Extracted, Processed & Manufactured Regionally, (Concrete & Slag Cement)  
Credit 5.2 Regional Materials, 20% Extracted, Processed & Manufactured Regionally, (Concrete & Slag Cement) ❖



## “Greenie The Builder” Book Designed For Green Building Education

By J. Keith Beazley,  
Director Of Industry Services

“If you are not building ‘Green,’ in ten years you will not be building,” stated Charlie Ruma, National Association of Home Building President in 1999. “We know green is the future of building,” quoted Brain Catalde the 2008 NAHB President. In 2010, few would argue that building green is just a fad. A new storybook, “Greenie The Builder Saves Earth Day,” has been developed in an effort to bring this message to a younger audience.

“Greenie” is the brainchild of Chuck Miller, an award winning / environmentally-friendly custom homebuilder from Virginia Beach and co-writer Robert Friedman. Greenie was conceived to educate children, parents, and others about “living green” and how their homes relate to this principle. The authors teach ways to build, recycle, conserve, create, and save energy in our homes and in our lives. Greenie shows children how to live in a way that saves our planet by reducing waste, reusing, and recycling.

Endorsed by Pella and Earthcraft Virginia, Greenie differs from other storybook characters because he lives his life in a “green” way. He is helping the planet use the latest technology and common sense. Greenie feels confident about the future as he grows and matures.

Several real estate agents from Virginia and Maryland have decided



to distribute the book as models for the “green” builders they represent. “One agent asked for 100 copies,” said Miller. “By handing out the book at the sales center to potential clients, the builders send the message about who they are and what they represent.”

“Teaching ‘green’ is in school curricula across the nation,” said Miller. “We

are raising an entire generation that will be conscious about the things they do and their effect on the planet.”

Miller and Friedman said they have completed four additional Greenie stories and have ideas for several more.

Visit Greenie at his website, [www.greeniethebuilder.com](http://www.greeniethebuilder.com). ❖

## NRMCA Announces Concrete Sustainability Conference Speakers

The National Ready Mixed Concrete Association has selected speakers for the 2010 Concrete Sustainability Conference, scheduled for April 13-15 in Tempe, AZ. The conference, sponsored by NRMCA and The School of Sustainable Engineering and The Built Environment at Arizona State University (ASU), will feature more than 50 speakers.

Several prominent keynote speakers will present during the opening and closing general session. Mark Wilhelm, principal of Green Ideas Environmental Building Consultants, will provide an

update on the LEED® Green Building Rating System. Wayne Trusty, president of Athena Institute, will present how life cycle assessment can measure environmental performance. Dr. Franz-Josef Ulm, George Macomber Professor in the Department of Civil and Environmental Engineering at the Massachusetts Institute of Technology (MIT), will present work being done at the MIT Concrete Sustainability Hub to improve the efficiency of cement and concrete through nanotechnology.

This fifth annual conference will

provide learning and networking opportunities on the latest advances, technical knowledge, continuing research, tools and solutions for sustainable concrete manufacturing and construction. Examples of topics include Measuring Stormwater Quality Improvement through Pervious Concrete Paving. Recycling Carbon Dioxide into Concrete and The Influence of City Street Pavement Type on Fuel Consumption and Emissions. For a complete list of topics and presenters visit [www.SustainabilityConf.org](http://www.SustainabilityConf.org). ❖

## 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.

**HB 25** Statewide Transportation Plan. Requires that the Statewide Transportation Plan include quantifiable measures and achievable goals for greenhouse gas emissions. Patron: Herring

**HB 37** Overload and overweight permits; fees. Revises the fees for vehicle overload and overweight permits to conform to recommendations of the Virginia Transportation Research Council. Patron: Marshall, R.G.

**HB 155** Stormwater management regulations. Delays for two years the Department of Conservation and Recreation's regulations governing the stormwater management program that were to be implemented on July 1, 2010. Patrons: Dance and Hugo

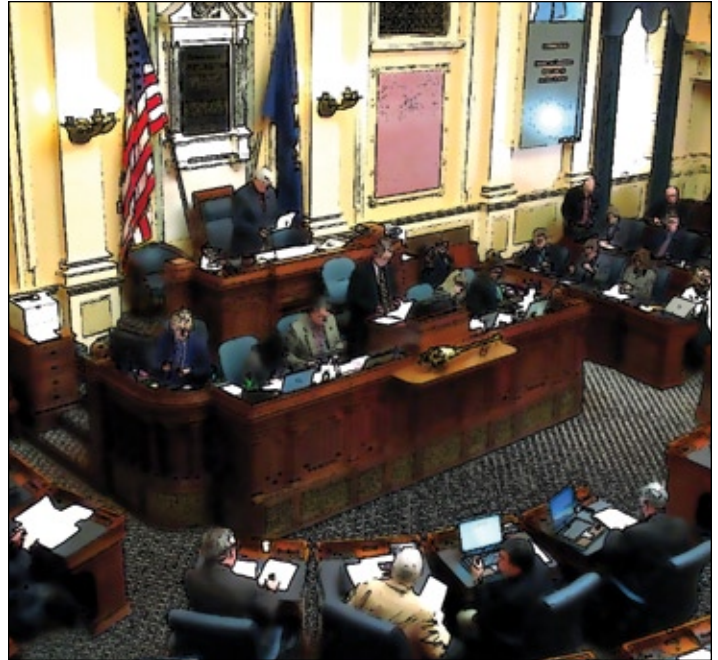
**HB 197** Acceptance of subdivision streets into state secondary highway system. Provides that the Virginia Department of Transportation will allow the acceptance of any street within a network addition that meets the public service requirement of three or more occupied dwelling units. Patron: Ware, R.L.

**HB 222** Secondary highway system design standards. Requires the Secretary of Transportation to develop new secondary system design standards to be used in urban areas. Patrons: Watts, Bulova, Herring, Keam, Kory, Plum, Scott, J.M., Sickles and Surovell; Senators: Barker, Howell, Petersen and Ticer

**HB 224** Payments to cities and towns for maintenance. Equalizes municipal street payments to comparable amounts paid for state maintenance. Patrons: Watts, Herring, Kory, Plum, Sickles and Surovell; Senators: Barker, Howell and Ticer

**HB 230** Motor fuels tax; rate increase; allocation of construction funds for primary highway system. Increases the motor fuels tax by \$0.10 per gallon, minus \$0.01 for each \$0.20 that the average price of gasoline exceeds \$3.00. The tax will be indexed every two years beginning July 1, 2011, by an amount equal to the percentage change in the U.S. Department of Labor's Producer Price Index for Highway and Street Construction. The revenue generated is used for transportation purposes as required by existing law, and allocates primary system highway construction funds among the nine highway construction districts on the basis of the ratio of vehicle miles traveled on primary highways divided by the lane miles of primary highways in each highway construction district, weighted 90 percent, and a need factor, weighted 10 percent. Patron: Watts

**HB 269** Sales tax on motor fuels in Northern Virginia. Increases the rate of the state sales tax on motor fuels in Northern Virginia from 2.1 percent to 4.2 percent. Patron: Englin



**HB 277** Washington Bypass transportation corridor. Requires the Commonwealth Transportation Board to establish a Washington Bypass transportation corridor. Patrons: Albo and Rust

**HB 280** Use of fraud or artifice to accomplish vote on union organization. Any person who (i) knowingly and intentionally fails to provide full and complete information regarding the consequences of a signature or a vote or an affirmation by another, or (ii) by fraud, material artifice, trickery, or deception, causes or assists in causing a vote to be taken by non-union employees on whether to organize a union, is guilty of a Class 1 misdemeanor. Patron: Albo

**HB 299** Uniform Statewide Building Code; penalty for violation. Increases the civil penalty for an initial violation from \$100 to \$200; for each subsequent violation from \$150 to \$500; and the total for violations arising from the same operative set of facts from \$3,000 to \$5,000. This brings the Uniform Statewide Building Code in line with civil penalties for violation of zoning ordinances. Patrons: Torian and Anderson

**HB 391** Payments to cities and towns for maintenance of certain highways. 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. Patron: Lohr

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**HB 402** Hampton Roads Bridge-Tunnel; unsolicited proposals. Directs the Virginia Department of Transportation to accept unsolicited proposals to add capacity to the Hampton Roads Bridge-Tunnel. Patron: Oder

**HB 404** Transportation funding and administration. Provides for transportation funding and administration in Hampton Roads, Northern Virginia, the Richmond Highway Construction District, the Staunton Highway Construction District, and the Salem Highway Construction District. The amount of funding is based on: (i) for Northern Virginia, a portion of the growth in certain state tax revenues in Northern Virginia; (ii) for Hampton Roads, a portion of the growth in certain state tax revenues generated or facilitated by the marine terminals in Hampton Roads; (iii) for the Richmond Highway Construction District, a portion of the growth in certain state tax revenues generated or facilitated by the Port of Richmond; (iv) for the Staunton Highway Construction District, a portion of the growth in certain state tax revenues generated or facilitated by the Inland Port at Front Royal; and (v) for the Salem Highway Construction District, a portion of the growth in certain state tax revenues expected to be generate or facilitated by the El-liston Intermodal Facility. Patrons: Oder and Stolle

**HB 426** Virginia 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 75 miles in distance from the local public body procuring the construction. The bill provides an exception to the above limitation for contracts for the installation of artificial turf. The bill contains technical amendments. Patrons: Griffith and Ware, O.

**HB 540** Transportation funding; the Salem Highway Construction District. 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

**HB 567** Virginia 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

**HB 665** Transportation Trust Fund; additional appropriations in Governor's Budget Bill in cases of general fund revenue growth. 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. Patron: May

**HB 666** Commonwealth of Virginia Transportation Capital Projects Revenue Bonds. Provides that at least 50 percent of the proceeds of Commonwealth of Virginia Transportation Capital Projects Revenue Bonds would be used for new road or highway construction projects. The bill defines a new road or highway construction project as the construction of, enhancement of, or addition to a road or highway (or a portion or segment of a road or highway), which construction, enhancement, or addition did not commence prior to January 1, 2010. Commonwealth of Virginia Transportation Capital Projects Revenue Bonds were authorized for issuance in 2007 pursuant to House Bill No. 3202. Patron: May

**HB 737** E-Verify Program. Requires agencies of the Commonwealth, public contractors, localities, and employers with 15 or more employees within the Commonwealth 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. Employers and contractors that fail to do so are subject to suspension or revocation of certain licenses. Licenses will be reinstated when a business establishment enrolls in the Program or, if already enrolled but not using the Program, prepares and implements a compliance plan. Patron: Albo

**HB 756** Royalties from offshore drilling. Requires that at least 80 percent of any revenues and royalties paid to the Commonwealth as a result of offshore natural gas and oil drilling shall be deposited to the Transportation Trust Fund. Patrons: Stolle and Oder

**HB 805** Royalties from offshore drilling. Requires that 80 percent of any revenues and royalties paid to the Commonwealth as a result of offshore natural gas and oil drilling shall be deposited to the Transportation Trust Fund. The remaining 20 percent shall be used to encourage and incentivize non-petroleum based transportation fuels. Patron: Poindexter

**HB 970** Designation of annual surplus to the Transportation Trust Fund. 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. Patron: Rust

**HB 971** Transportation funding and administration. Provides additional funding for transportation by (i) imposing a transportation infrastructure users fee on motor fuels sold by a distributor to a retail dealer at the rate of one percent, to be used for highway maintenance in the highway construction district in which the fuel is sold; (ii) increasing the state sales and tax in Northern Virginia by 0.5 percent for transportation projects in Northern Virginia; and (iii) imposing a regional congestion relief fee on the recordation of deeds in Northern Virginia at a rate of \$0.40 per \$100. Patrons: Rust, May, Watts and Kory

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**HB 1068** Overweight vehicle penalties. Provides that, in assessing penalties for vehicles whose weight exceeds that authorized in an overweight permit issued for the vehicle, the amount of the penalty is to be based on the amount by which the weight of the vehicle exceeds that authorized by the permit, not the amount by which its weight exceeds the weight limit that would have been applicable had no overweight permit been issued. Patron: Athey

**HB 1153** Motor fuels tax. Converts the rates of taxation on motor fuels from cents per gallon to percentage rates. The percentage rates shall be calculated by the Commissioner of the Department of Motor Vehicles in an amount that will most closely yield the amount of cents per gallon being charged on the applicable motor fuel prior to the effective date of the bill. Thereafter, the percentage rates would not change, but would be applied against the average price per gallon of the fuel, less federal and state taxes, as determined by the Commissioner of the Department of Motor Vehicles over rolling six-month periods, to determine the cents to be charged. Patrons: Scott, J.M. and Kory

**HB 1220** Stormwater management regulations; effective date. 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. Patron: Hugo

**HB 1264** Department of General Services; Green Public Buildings Act. Requires public bodies entering the design phase for construction of a new building greater than 5,000 gross square feet in size, or renovating such a building where the cost of renovation exceeds 50 percent of the value of the building, to build to either the LEED Silver or Green Globes two globe standards. The buildings shall be designed, constructed, verified, and operated to achieve energy savings that exceed the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Standard 90.1-2004 (Energy Standard for Buildings Except Low-Rise Residential Buildings) by at least 15 percent for new construction and 10 percent for major renovation. In addition, water systems designed for such buildings shall be required to provide water use savings of at least 25 percent over the baseline standard established in the federal Energy Policy Act of 1992. Exemptions from the requirement may be granted by the Director of the Department of General Services for state construction projects or by the governing body of a locality or school board for local projects. Patrons: Hope, Brink, Ebbin, Herring, Kory, Scott, J.M., Sickles and Surovell

**HJ 67** Constitutional amendment (first resolution); Transportation Funds. Requires the General Assembly to maintain permanent and separate Transportation Funds to include the Commonwealth Transportation Fund, Transportation Trust

Fund, and Highway Maintenance and Operating Fund. All revenues dedicated to Transportation Funds on January 1, 2009, by general law, other than a general appropriation law, shall be deposited to the Transportation Funds, unless the General Assembly by general law, other than a general appropriation law, alters the revenues dedicated to the Funds. The amendment limits the use of Funds moneys to transportation and related purposes. The General Assembly may borrow from the Funds for other purposes only by a vote of two-thirds plus one of the members voting in each house, and the loan or reduction must be repaid with reasonable interest within four years. Patron: Marshall, R.G.

**HJ 68** Study; tolling of highways; report. Directs the Joint Commission on Transportation Accountability to develop a plan to toll certain highways. Patron: Rust

**HJ 69** Constitutional amendment (first resolution); Transportation Funds. Requires the General Assembly to maintain permanent and separate Transportation Funds to include the Commonwealth Transportation Fund, Transportation Trust Fund, Highway Maintenance and Operating Fund, and other funds established by general law for transportation. All revenues dedicated to Transportation Funds on January 1, 2011, by general law, other than a general appropriation law, shall be deposited to the Transportation Funds. The General Assembly by general law, other than a general appropriation law, may alter the revenues dedicated to the Funds. The amendment limits the use of Fund moneys to transportation and related purposes. The General Assembly may borrow from the Funds for other purposes only by a vote of two-thirds plus one of the members voting in each house, and the loan must be repaid with reasonable interest within four years. Moneys designated for deposit into funds other than Transportation Funds shall not be used for any transportation-related purpose except for making certain debt service payments on transportation-related bonds and notes. Patron: Watts

**HJ 86** Constitutional amendment (first resolution); Transportation Trust Fund. Provides that the Transportation Trust Fund established in 1986 will be a permanent fund and receive all revenues generated by the 1986 package of tax and fee increases and any later enactments dedicating additional revenues to the Fund. The amendment limits the use of Trust Fund moneys to purposes of highway construction, maintenance, and improvements; public transportation; railways; seaports; and airports. The General Assembly may use fund proceeds for other purposes only by a two-thirds vote of the members in each house and, fund proceeds thus approved for other purposes must be repaid to the Fund within three years. Patrons: Marshall, D.W. and Merricks

**SB 10** Wireless telecommunications devices in motor vehicles. Extends prohibition on use of wireless telecommunications devices in motor vehicles to talking on such device, unless the device is configured for hands-free operation and is being used in the hands-free mode. Patron: Blevins

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**SB 34** Worker Misclassification Act; penalties. Prohibits an employer from classifying an individual as an independent contractor if he is an employee. An individual shall be considered an employee of the party which pays that remuneration, for purposes of Titles 40.1 (Labor and Employment), 60.2 (Unemployment Compensation), and 65.2 (Workers' Compensation) unless and until it is shown to the satisfaction of the Department of Labor and Industry that (i) the individual has been and will continue to be free from direction and control of the employer, both under his contract of service and in fact, (ii) the service is outside the usual course of the business of the employer, and (iii) the individual is customarily engaged in an independently established trade, occupation, profession, or business, both under his contract of service and in fact. Discrimination or taking adverse action against any person in retaliation for exercising rights protected under this measure is also prohibited. Violators are subject to criminal penalties, civil penalties, debarment from public contracts, private actions, and stop-work orders. Patron: Lucas

**SB 76** Transportation funding; the Salem Highway Construction District. 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: Reynolds; Delegate: Armstrong

**SB 105** Mechanics' and materialmen's liens. 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

**SB 114** Fuels taxes; indexing of tax rates. Increases or decreases each year the rates of Virginia's fuels taxes using a fuel efficiency index. The bill would define the fuel efficiency index as the quotient that is obtained when using as the numerator the total annual vehicle miles traveled in the Commonwealth for the relevant year and using as the denominator the total gallons of motor fuel consumed for highway use in the Commonwealth for the relevant year. The numerator and denominator would be the corresponding amounts as published by the Federal Highway Administration of the United States Department of Transportation. The bill would establish 2007 as the base year for the fuel efficiency index. Thus, the percentage change in the fuel efficiency index between the current year and 2007, the base year, would determine the annual percentage increase or decrease in the rates of Virginia's fuels taxes. Each December the Commissioner of the Department of Motor Vehicles would compute the adjusted rates of fuels taxes.

Currently, Virginia's fuels taxes are fixed at the rate of \$0.175 per gallon for each gallon of gasoline, gasohol, and diesel fuel. Patron: Petersen

**SB 132** Retail sales and use tax; distribution to Transportation Trust Fund. Increases the distribution to the Transportation Trust Fund from the sales and use tax revenue generated by a one-half percent sales and use tax to the sales and use tax revenue generated by a one percent sales and use tax upon the Comptroller determining in any fiscal year that (i) the growth in general fund revenues for the most recently completed fiscal year was at least three percent, and (ii) the actual dollar increase in general fund revenues for the most recently completed fiscal year was at least equal to the sales and use tax revenue generated by a one-half percent sales and use tax. Patron: Obenshain

**SB 164** Revenues of the Commonwealth; transportation funding. Creates additional sources of revenue for transportation by increasing the motor vehicle sales and use tax by one-half percent and the motor vehicle rental tax by one percent, and by imposing a five percent tax on the wholesale price of gasoline. The new revenue sources will be directed to the Rail Enhancement Fund, the Transportation Trust Fund, the Highway Maintenance and Operating Fund for transportation projects and needs of the Commonwealth, and certain priority transportation projects, as designated by the Commonwealth Transportation Board, in Northern Virginia and Hampton Roads. The bill would also eliminate the one-half percent sales tax on food currently going to the Transportation Trust Fund, and would raise the allowed credit for low-income taxpayers. Patron: Edwards

**SB 181** Agreements under the Public-Private Transportation Act of 1995 and the Public-Private Education Facilities and Infrastructure Act of 2002. Authorizes state agencies and state authorities, upon the approval of the Governor, to enter into agreements with private entities under the Public-Private Transportation Act of 1995 and the Public-Private Education Facilities and Infrastructure Act of 2002 for the development of a project by the private entity, which agreements provide for the private entity to be paid grants from a portion of the growth in state taxes and fees attributable to the development of the project. Patrons: Stosch, Blevins, Hanger, Martin, McDougle, McWaters, Newman, Obenshain, Quayle, Ruff, Stuart, Vogel, Wagner, Wampler and Watkins

**SB 212** Overload and overweight permits; fees. Requires the Commonwealth Transportation Board, in consultation with the Commissioner of the Department of Motor Vehicles, to establish a new schedule of fees for issuance of overweight and overload vehicle permits. Such fees shall not apply to all vehicles hauling cargoes subject to a coal or gas severance tax. Patron: Barker

**SB 223** Fuels taxes; percentage of wholesale cost. Replaces the current fuels tax on gasoline, gasohol, and diesel fuel with a tax that is a percentage of the wholesale price of a gallon of self-serve unleaded regular gasoline. The percentage

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percentage that would most closely yield seventeen and one-half cents per gallon, based on the average wholesale price of a gallon of self-serve unleaded regular gasoline for the period beginning October 1, 2009, and ending March 31, 2010. Patron: Barker

**SB 225** Public Procurement Act; verification of legal presence. Requires all public contractors and their subcontractors to register and participate in a federal Electronic Work Verification Program or similar electronic verification of work authorization program to determine that their employees and individual independent contractors are legally eligible for employment in the United States. Contractors and subcontractors are required to verify the employment status of their employees and independent contractors, and are prohibited from employing or contracting with an individual who is not determined to be legally eligible for employment in the United States as determined through the verification of the individual's status. Contractors who do not register and participate in the registration program are ineligible for prequalification. Patron: Barker

**SB 245** Stormwater management programs. Delays the effective date of regulations that establish local program criteria and delegation procedures and the water quality and water quantity criteria for stormwater management from July 1, 2010, to July 1, 2011. Any regulation adopted prior to this date shall be considered outside the scope of authority granted by the General Assembly. Patron: Watkins

**SB 254** Commonwealth Transportation Commissioner; advertising for bids; construction. Provides that the Commonwealth Transportation Commissioner may let projects costing below \$300,000 to contract. The bill further provides that the Commissioner may, at his discretion, 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.

**SB 261** Weights and measures fee. 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

**SB 290** Board for Housing and Community Development; Green Building Code. Requires the Board for Housing and Community Development to promulgate a Green Building Code as a part of the Uniform Statewide Building Code. Patrons: Deeds and Petersen

**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

**SB 395** Stormwater management regulations; effective date.

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 and McDougle

**SB 562** Unemployment benefits; part-time employment and training programs. Provides that certain individuals who have exhausted eligibility for unemployment benefits and who are enrolled in approved training programs are eligible for up to 26 weeks of additional benefits. The measure also provides that an individual who was employed part time during at least one-half of the weeks of work in the individual's base period is deemed to satisfy the requirement that he be available for work and actively seeking and unable to obtain suitable work if he is available for and actively seeking work that is comparable to his part-time work experience in his base period. Patrons: Puckett, Barker, Herring, Marsden, Petersen, Puller, Reynolds, Saslaw, Ticer and Whipple; Delegates: Bulova, Herring, Kory, Plum, Scott, J.M., Sickles, Surovell and Watts

**SB 600** Designation of annual surplus to the Transportation Trust Fund. 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: Wagner and Martin

**SB 601** Royalties from offshore drilling. Requires that at least 80 percent of any revenues and royalties paid to the Commonwealth as a result of offshore natural gas and oil drilling shall be deposited to the Transportation Trust Fund. Patrons: Wagner and Martin

**SB 650** Regulation of stormwater. Amends current law by removing the requirement that waivers given to federal, state, or local government agencies that develop, redevelop or retrofit outfalls, discharges or property so that there is a permanent reduction in postdevelopment stormwater flow and pollutant loading be full waivers. The amount of the waiver to such agencies shall be equal to the product of the fee that would be charged to the agency multiplied by the percentage of the stormwater runoff captured by the agency's storm drainage or stormwater control facilities. Patron: Quayle

**SJ 100** Constitutional amendment (first resolution); Transportation Funds. Requires the General Assembly to maintain permanent and separate Transportation Funds to include the Commonwealth Transportation Fund, Transportation Trust Fund, Highway Maintenance and Operating Fund, Priority Transportation Fund, and other funds established by general law for transportation. The amendment limits the use of Fund moneys to transportation and related purposes. Patron: Newman ❖



## Office Romances Can Result in Employer Liability

By John G. Kruchko  
and Kathleen A. Talty\*

With Valentine's Day around the corner, the topic of "love contracts" in the workplace may be a timely consideration for human resource professionals.

Office romances are not a new phenomenon. However, the ending of those relationships can have disturbing and monetary consequences on employers. This is particularly so when one party to the relationship is not pleased by the dissolution and alleges sexual harassment by the other party. At that point, what may have been initially viewed as a private matter between two consenting adults becomes a matter that the company must investigate pursuant to its sexual harassment policy and its obligations under the fair employment practice laws. Additionally, romantic liaisons in the workplace can lead to accusations of poor judgment, breaches of ethics, favoritism, lost productivity, poor employee morale and even workplace violence, as well as claims of sexual harassment.

One recent survey of 8,000 employees revealed that forty (40) percent of the employees had dated a co-worker

at some point in their work lives. Of those surveyed in that same study, four in ten indicated that the person whom they dated or were involved with romantically was the employee's immediate supervisor or manager. It is this latter relationship – the one between a supervisor and a subordinate – that can be the source of considerable concern to human resource personnel not only while the relationship is on-going, but also when the relationship ends. If a boss is dating an employee, it becomes necessary to distinguish between sexual harassment and a mutually agreeable relationship.

While employers acknowledge that they are not in the business of "policing" employee relationships and that the adoption of a personnel policy that prohibited or banned workplace dating or romantic relationships would be almost impossible to enforce, there is a growing recognition that measures need to be taken because, if these workplace romances end on a sour note, employers may be found liable for sexual harassment. For this reason, employers are increasingly adopting policies that are colloquially referred to as "love contracts" and requiring the parties who are

involved in the romantic relationship to execute such contracts as a condition of employment.

The increasing popularity of these agreements among employers should not be construed as an automatic "rubber stamp" for their use or applicability in any given situation at your company. For example, some types of discrimination-based claims are not capable of being waived prospectively (i.e., before the alleged discrimination occurs), and some claims are not capable of being waived at all through private contractual agreements. As such, employers should use caution and consult their employment counsel before simply handing out these types of agreements to employees who engage in romantic relationships.

However, assuming their use might, in some situations, be appropriate, employers must keep in mind that love contracts are not intended to replace an employer's sexual harassment policy. Rather, such contracts are designed to supplement a company's strong workplace harassment policy and effective reporting and investigation policy.

There are some provisions in the love contract that would be common in

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John G. Kruchko is a partner with the Management Labor & Employment Law Firm of Kruchko & Fries in McLean, Virginia; Kathleen Talty is a Senior Counsel with the Firm. For more information, please contact Mr. Kruchko at (703) 734-0554 or Ms. Talty at (410) 321-7310 or [jkruchko@kruchkoandfries.com](mailto:jkruchko@kruchkoandfries.com), or [ktalty@kruchkoandfries.com](mailto:ktalty@kruchkoandfries.com). This article is published for general information purposes, and does not constitute legal advice.

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all such agreements without regard to who signs the documents. However, when the employees are on the same reporting level, the contract should contain a statement that the employees will not seek or accept a position where one reports to the other. If one of the employees is already in a supervisory role to the other employee involved in the relationship and it is not possible to transfer the other individual, the contract should contain language that represents the supervisor's acknowledgement that he/she will not be involved in any decision-making authority, e.g., performance evaluations, merit or salary increases, etc., with regard to the other party.

Those elements of the love contract that would be common in all agreements include the following:

1. An acknowledgment that the relationship is voluntary and consensual;
2. An acknowledgment to abide

by the employer's anti-discrimination, anti-harassment, and workplace conduct policies (and copies of those policies are attached to the contract);

3. An acknowledgment that the parties will behave professionally and not allow the relationship to affect their work;

4. An acknowledgement that they will not engage in favoritism;

5. An acknowledgment that either party can end the relationship without fear of work-related retaliation; and

6. An acknowledgment that any perceived harassment by the other party will be immediately reported to management.

The employees who are asked to sign a love contract should be given the opportunity to review the document and to ask questions about its contents. Employees should not be forced to sign a love contract.

The company should also adopt a specific "love contract" or "consensual,

personal relationship" policy which should be set forth in the employee handbook. One aspect of the written policy is the requirement that employees who become involved in romantic workplace relationships must advise Human Resources of the existence of the relationship. Employees should be advised of the contents of the policy through the customary avenues that a company uses to inform employees of revisions to personnel policies or the adoption of new personnel policies. As with all personnel policies, the policy must be consistently and uniformly enforced. Therefore, if management becomes aware of a workplace romance and the parties to the relationship have not volunteered that information, Human Resources should contact the couple and request that they sign the love contract. ❖

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## Save The Date



## VRMCA Spring Convention

May 16-18, 2010

The Homestead Resort, Hot Springs, VA





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