



## VRMCA Gives Sustainability Presentation At Fort Lee

By J. Keith Beazley,  
Director Of Industry Services

When the Department of Defense Base Realignment Commission (BRAC) recommended in 2005 to close and realign defense installations across the United States, Fort Lee was designated to be home to the Combined Arms Support Command, Quartermaster Center and School, the US Army Logistics Management College, Transportation Center and School, and the Defense Commissary Agency. Fort Lee is experiencing tremendous growth with the creation of seven million square feet of office space, new barracks and housing for families and the development of the infrastructure for support. Ten projects totaling more than one-half billion dollars have been awarded since mid 2007, and the first building is scheduled to be fully operational by April 2009.

This rapid expansion of the base, as one would expect, has created environmental concerns. Carol Anderson, Chief of Environmental Management for Fort Lee, has the responsibility of managing the impact of building construction along with the protection of the Fort Lee environment. The management of stormwater and the problems dealing with large areas of pavements and impervious surfaces are major concerns. One solution Anderson endorsed was using Pervious Concrete for the management of the stormwater.

Working with the VRMCA and Keith Beazley, NRMCA National Resource Director Phil Kresge designed a special seminar for the Corps of Engineers, Fort Lee Engineers and Architects, and the Environmental Management Office staff. The seminar, titled "Concrete and



Sustainability," presented topics such as Concrete's Role in Sustainability, Green Building with Concrete, Environmental Benefits of Concrete, Pervious Concrete, Concrete and LEED. The seminar was presented in July to an impressive number of decision makers for Fort Lee. The Engineering and Planning group was very interested and excited about the potential usage of concrete and the associated benefits of the varied applications.

Kresge stated, "Sustainable Development has become the standard for design and construction nationwide, but perhaps, nowhere is it more important than in the Mid-Atlantic Region and the Chesapeake Watershed".

"Concrete Pavements, both Conventional and Pervious, can play an important role in Green Building," said Kresge. "Heat Island Reduction, Energy Saving through Illumination/Reflectance, Stormwater Management are all areas where concrete can have a positive

impact of the environment."

Fort Lee is considering paving a large training area with Pervious Concrete to control stormwater runoff. The Engineers are also looking for the usage of Pervious Pavements on other large-scale projects to eliminate the need for detention ponds and other costly management practices. The Garrison Commander is concerned with stormwater management and seeks the more efficient land development for the post.

The Environmental Management Office is very innovative with the balancing of development on the facility and protection of the environment and natural resources. The interest in Pervious Concrete for a Best Management Practice (BMP) for Fort Lee and the associated benefits for the usage of concrete will make the Military Facility an example for others to follow. Fort Lee can be very proud of protecting the environment as well as insuring our nation's defense.

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**2009 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  
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Harrisonburg, VA  
Phone: 540-433-9128  
buddy.murtaugh@conmatgroup.com

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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**

**Kevin Terry**  
Chairman  
Virginia Concrete Company  
Springfield, VA  
Phone: 703-354-7100  
terryk@vmcmail.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 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 aqil. The main content area includes a 'Welcome' message, a 'JOB BANK' section, and a large banner for the 'VRMCA FALL CONVENTION' held at the Hilton Virginia Beach Oceanfront from September 20-22, 2009. Below this, there is a section for 'Upcoming Events' featuring the 'VRMCA Spring Convention' from May 17-19, 2009. The page also includes 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)

## Critics Question Employee Free Choice Act Compromise

The Coalition for a Democratic Workplace reports efforts by unions to trump up a so-called "compromise" on the Employee Free Choice Act (EFCA) will further violate worker rights and place yet another undue burden on small businesses. With growing bipartisan opposition to card check legislation, Big Labor and their allies are scrambling to cut a deal that keeps EFCA alive.

The New York Times reported on July 17 that a small group of Democratic Senators is working on an alternative version of EFCA that would not include the "toxic" card check provision. As reported, this new EFCA would swap out card-check for "quickie" or ambush elections and allow union access to employees during the workday, while restricting employer free speech during an organizing campaign.

"These variations on card check do considerable harm to small businesses, putting unnecessary government bur-

dens on their ability to create new jobs," said Brian Worth, chairman of the Coalition for a Democratic Workplace.

The Times article also referenced union support for EFCA's controversial mandatory binding interest arbitration provision, which would stifle growth and job creation by forcing small businesses to operate under a contract crafted by government-appointed arbitrators. Under this system, the arbitrator could dictate the terms of a contract, including wages, benefits and work rules. In the likely event that a first contract cannot be reached in 120 days, employees would have no say regarding the terms of their first contract.

"The biggest losers under the binding interest arbitration scheme are small business owners who will be subject to government arbitrators essentially deciding how their businesses will run and workers who would be denied a vote on the contract," said Worth.

While card check's future remains uncertain, there is no questioning the determination of Big Labor to include the anti-worker provision in the final version of EFCA.

"The economy is still reeling, and unemployment continues to soar," said Steven Law, general counsel of the U.S. Chamber of Commerce. "What is Congress' solution? A bill that would give unions and federal bureaucrats expansive powers over Main Street businesses. Americans expect Congress to get the economy back on track - not make things worse through bad legislation."

The VRMCA, along with the NRMCA, has been working diligently with the congressional delegation to try to defeat EFCA. It is important to contact your elected officials now and urge them to oppose legislation like EFCA that strips away the basic democratic rights of employees and employers.

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## Concrete Thinking for a Sustainable World Workshop in NOVA

By Hessam Nabavi, R.A., LEED AP,  
Director Of Industry Services  
& Heather Steffek, LEED AP,  
PCA Northeast

Earlier this year, PCA Northeast Region approached the Northern Virginia Advisory Council of the VRMCA & MRMCA for assistance with an event that was still in the planning stages. The focus of this one-day course was to offer an opportunity to the industry members to become more versed in sustainable development. As we all agree, sustainability requires a new perspective and even a new language for design and construction professionals. Sustainability dictates that the concrete industry also learn this new language. "Concrete Thinking for a Sustainable World" was designed to do just that.

With VRMCA's assistance, Wetland Studies and Solutions Inc. (WSSI) in Gainesville agreed to allow PCA to use their facilities for this workshop on May 12th. This was an excellent place for the event because the WSSI building was the first LEED Gold Certified Building in Virginia. Close to 100 promoters, sales,



marketing and technical service representatives from various Ready-Mixed Concrete, Suppliers, Concrete Masonry and Pre-Cast Concrete Companies attended this event.

The session presentations included an introduction to sustainable development, how concrete products can contribute to LEED points, how to promote and position concrete products in a green building market and a review of available industry resources for doing so.

A highlight of the workshop was a guided tour of the LEED office building which showcased such green building strategies as tilt-up concrete walls, green roofs, permeable pavers, pervious con-

crete, harvesting of rain water and energy and water efficient appliances. Attendees were able to hear firsthand from WSSI staff about the thought process that went into the planning of the building and details of its construction.

Many thanks to Mr. Michael Rolband, president of WSSI and his staff for assisting PCA in this event. We would also like to give special thanks to Don Thompson, Manager, Low-Rise Sustainability and Technology, Rick Bohan, Director, Manufacturing Technology, and Larry Novak, Director, Engineered Buildings, for their informative presentations.

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# Central Virginia Advisory Council Awards Scholarship

By J. Keith Beazley,  
Director Of Industry Services

The Central Virginia Concrete Advisory Council awarded their annual scholarship to Michael Benjamin Ottley, a Civil Engineering student at Virginia Tech. The scholarship is awarded each year to a student demonstrating good citizenship in school and in the community attending a Virginia college or university. The student must stand in the upper 20% of his class and also major in Civil Engineering, Construction Management or Architecture. The Advisory Council is proud to support Michael in his goals and future career.

"Michael is interning this summer with the S. B. Cox and is learning all phases of the ready-mix concrete business," said Glenn Webb, Sales Manager for S. B. Cox Ready-Mix. "This experience will be very valuable with the field and management exposure and will offer insight to the classroom learning. Michael is planning to seek employment in Richmond after graduation and obtaining his engineering degree and will be part of our engineering and construction industry."

Michael has been a leader in school, attending Boys State, serving as Football Captain, and president and founder of the Science Club. He has 3.4 grade point



Glenn Webb, Sales Manager for S. B. Cox Ready-Mix, presents award to Virginia Tech student Michael Benjamin Ottley.

average. Michael wrote on his application the scholarship will be a tremendous help to him and his family. Michael also stated that one day he hopes to be able to give back to his community and help others with his gifts.

The Central Virginia Golf Tournament held each year at Hunting Hawk Golf course is the funding source for this scholarship. The date this year is October

8, 2009 and applications are available from Glenn Webb, S. B. Cox, Chairman of the event. This tournament was the first statewide Advisory Council event and continues to be very popular in Richmond. Students each year benefit from members supporting the scholarship and our industry will also benefit with this relationship in the future.

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# Concrete Initial Bid Costs Pull Even with Asphalt

With the U.S. poised to invest heavily in roads and highways and as legislation designed to expand major infrastructure projects looms on the horizon, a report released by the Portland Cement Association (PCA) points to how concrete is fast emerging as not only the more cost-effective long-term solution for road construction, but also a far less-expensive initial investment.

The report, "Update: Paving, The New Realities," written by PCA chief economist Ed Sullivan, compares the cost for one mile of standard two-lane roadway (concrete v. asphalt) calculated with estimating software used by state departments of transportation (DOTs). In the past, initial bid costs have long favored asphalt roads. Six years ago, asphalt held a \$120,000 initial bid cost advantage versus a concrete-paved road. Today that situation has reversed com-

pletely. Concrete now enjoys the initial bid advantage—to the tune of \$82,000 in Fiscal Year 2009. PCA estimates that by 2015 concrete paved roads will enjoy a \$500,000 initial bid cost advantage over asphalt—roughly a 41 percent savings.

"Given the supply challenges facing asphalt and the need to repair and expand the nation's infrastructure, if all roads in 2015 were paved with concrete, state governments would save \$37.5 billion in initial paving costs," remarked Sullivan. "During the road's life cycle, the savings resulting from paving with concrete compared to asphalt would total nearly \$55 billion dollars."

Much of the savings comes from the durability of concrete roads. A recent PCA survey of DOT specifiers concludes that concrete pavement on average lasts 29.3 years before a major rehabilitation is required. This compares to 13.6 years

for asphalt pavement.

According to Sullivan, changes in refining practices and the potential of reduced import supplies occurring at the same time as an increased demand for paving materials may create shortages of asphalt in the future. This will result in the continued price escalation that has marked asphalt for much of the decade.

"The potential savings incurred by choosing concrete versus asphalt for road construction are overwhelmingly compelling, particularly at a time when states are facing tight budgets conditions," Sullivan said. "The new realities in the road construction materials markets will force DOTs to make huge changes to how they evaluate road-paving projects."

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## Boxley Earns Green-Star

The National Ready Mixed Concrete Association has presented Boxley Concrete's Blue Ridge, VA, concrete plant with its Green-Star Certification.

"It is impressive that Boxley installed energy efficient light bulbs and instilled an energy reduction policy along with using 100% recycled washout water for drum rinse and washout," said NRMCA Senior Vice President of Operations and Compliance Gary Mullings.

"Boxley has an integrated EMS (Environmental Management System) that maximizes the achievement of very specific and measureable environmental goals," added Denise Corrales, chairperson of the NRMCA Environmental Task Group from member company CEMEX.

"We are very proud of this achievement," said Boxley Vice President Larry Bullock. "The Green-Star Certification is just one of many environmental initiatives we are implementing throughout the company. It's been a team effort and will benefit the company as well as our community at-large."

Boxley has the only two NRMCA Green-Star certified concrete facilities in Virginia. Their goal is to certify all its plants by the end of 2009.

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# SAVE THE DATE



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## HILTON VIRGINIA BEACH OCEANFRONT SEPTEMBER 20 - 22, 2009



# The Legal Consequences of Four Letter Words

By: John G. Kruchko  
and Paul M. Lusky\*

A recent survey of small business owners found that three-out-of-four-business owners regard workplace swearing or profanity as offensive and unprofessional. Worse yet, allowing workplace profanity to go unchecked can have legal consequences. But what is the best way to deal with it? Should it be addressed in a workplace conduct policy? Should employees be disciplined or discharged because of repeated violations of such a policy? Or should an employer have a zero tolerance policy for any kind of profanity in the workplace?

Before we address what profanity really is and explore ways to deal with it, let us first clear up a bit of confusion that is often prevalent when dealing with workplace profanity. Swearing is not, in and of itself, insubordination. "Insubordination" is the deliberate refusal by an employee to follow the reasonable directions of a supervisor. Employers must be able to distinguish insubordination from grumbling or griping by employees, even if it is accompanied by swearing or other inappropriate language. That is not to say that an employee cannot be terminated for using inappropriate language – just don't call it insubordination if the employee did what the supervisor asked him to do.

## Identifying Inappropriate Language in the Workplace

If you decide to implement a "language code" for your workplace, it is probably best to define what you mean by "profanity" or "swearing." The dictionary defines profanity as "abusive, vulgar or irreverent language." Swearing is defined as using "profane oaths" or "cursing." A "swearword" is defined as an "obscene or blasphemous word." Somehow, these definitions don't help much. They don't really give employees notice of the specific words that, when used in the workplace, will violate the policy. To paraphrase Supreme Court Justice Stewart's famous "non-definition" of obscenity, it is almost as if you will be forced to admit to your employees, "We can't define profane or obscene language, but we know it when we hear it."

Perhaps the answer is to have a very broad definition of "inappropriate language" and then let the punishment fit the seriousness of the offense. For example, you could have zero tolerance for any kind of crude, vulgar or offensive language in the workplace but let the severity of the punishment depend on whether the words were used deliberately or were intended to abuse, insult or embarrass another employee. Thus, you may want to adopt the following definition of inappropriate workplace language:

*Inappropriate workplace language under this policy includes profanity, swearing, cursing or the use of any other crude, vulgar, obscene, insulting or abusive language regardless of whether the language is used deliberately or inadvertently. All such language may result in discipline under this policy, up to and including termination, depending on the severity of the language and the context in which it is used.*

As will be discussed below, some language deserves a more severe penalty because of its tendency to create a hostile environment for certain categories of employees that are protected by law. For example, if an employee is using racial or sexual epithets, you must apply a punishment that guarantees the offending language will cease. The context qualification for punishment is important because some swearing can be abusive (as when an employee is deliberately trying to offend or insult another employee) as opposed to cathartic swearing (as when something bad happens to an individual; e.g., an employee spills coffee on himself).

In some industries, coarse language may be commonplace and regularly used for emphasis. This may also be a cultural phenomenon. Thus, you may have to use

*(continued on next page)*

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

*(continued from previous page)*

language training and progressive discipline before you impose the most severe penalty for this kind of swearing.

### **Words That Have Legal Consequences**

There is little doubt that the continued use of profanity or swearing by a manager can create a hostile environment for employees under his or her supervision. The significant issue, however, at least for purposes of liability under discrimination law, is whether the profanity has a connection with a category protected by state or federal law. It is possible for a supervisor to be equally disrespectful and hostile toward all employees without regard to their particular protected characteristics. In such a case, although the supervisor's conduct is entirely unprofessional, the employer might still be able to defend against a Title VII hostile environment harassment claim because the supervisor made life equally unpleasant for all employees.

### **Profanity and Hostile Environment Harassment Liability**

Harassment law protects employees from workplace speech that is offensive to one or more employees based on an individual's race, religion, sex, national origin, age, disability or other protected characteristic. Employment lawyers know that sexual harassment claims are often accompanied by coarse and sexually graphic language. In addition, the offending language need not be directed at a particular employee. A supervisor who makes degrading remarks toward a particular race, religion or national origin is creating a hostile environment that can give rise to discrimination liability for his employer. For example, after the events of September 11, 2001, employment law saw an increase in harassment claims based,

in part, on speech offensive to Muslim employees in general or employees of Middle Eastern descent.

Another key element, however, of a Title VII harassment claim is the requirement that the offensive conduct be "severe or pervasive." Thus, it may seem legitimate to ask whether it is necessary to prohibit every potentially offending comment, even so-called "political" speech. The reason for prohibiting even isolated remarks that might offend a particular sex, race, religion or national origin is that each comment potentially contributes to the hostile environment. You cannot begin to limit the aggregation of offending comments necessary to the creation of a hostile environment without having a zero tolerance for individual insulting remarks. Thus, in order to avoid hostile environment harassment claims, it would seem prudent, if not absolutely essential, to suppress every comment based on, or related to, a protected category in state or federal discrimination statutes.

### **Four Letter Words and Workplace Violence**

Many employers have workplace violence policies that prohibit hostile or abusive speech, so-called "fighting words." Often, the degree of intimidation imposed on one employee through abusive language by another employee is not immediately known. When a fight breaks out in the workplace, an employer's normal response may be to discharge both employees involved in the fight. This can lead to litigation with a discharged employee who claims he or she was provoked by a constant barrage of abusive and insulting remarks from the other employee, all of which may have been out of earshot of supervisors or other employees.

Even assuming the employer can avoid liability in employment-at-will contexts, the litigation will have cost the employer valu-

able time and money. At the very least, the discharged employee claiming provocation from another employee will probably be able to collect unemployment benefits.

Thus, although it is wise for an employer to prohibit "fighting words" in its policy, an employer may be better off suspending employees involved in a fight while it investigates whether one employee was justified in striking out at another employee because of abusive and insulting language.

### **Four Letter Words and Common Law Tort Actions**

The use of profanity and abusive language directed at a particular employee can give rise to common law tort claims, usually a claim for intentional infliction of emotional distress. Although most states require the abusive conduct to be outrageous and offensive to a reasonable person, there are a number of cases that have allowed an emotional distress claim to go to a jury where the offensive speech involved racial epithets. The tort of intentional infliction of emotional distress allows compensatory and punitive damages as remedies so an employer is well-advised to address abusive and insulting language in a policy prohibiting inappropriate workplace language.

### **Conclusion**

There are ample reasons for an employer to consider adopting a workplace language code for eliminating inappropriate language in the workplace. For private employers, language control policies do not implicate the free speech rights in the First Amendment which normally only apply when the government attempts to control expression. Employees have no right to use profanity or other crude and vulgar language in your workplace.

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## **Wise County A/E Firm Hosts Lunchbox Concrete Seminar**

**By Bob Nablo,  
Director Of Industry Services**

At the request of Thompson & Litton Architects and Engineers, VRMCA's Bob Nablo and Justin Walker of Roanoke Cement Co. gave a brief seminar on Concrete Parking Areas to fourteen architects and engineers.

The presentation began with an overview of the benefits of concrete paving,

moving to a comparison of asphalt and concrete paving, and closed with a discussion of the LEED points that concrete can help accrue to a project. The major portion of the presentation concerned life-cycle cost comparisons and used the NRMCA Concrete Paving Analyst software to show how concrete can also now be very competitive in initial cost. Nablo stressed the need to compare "apples to apples" by using structural

numbers and proper paving thickness designs. Lighting requirements, Cool Communities, and the uses of pervious concrete to assist in stormwater management were also discussed.

The firm was left copies of the LEED Reference Guide for concrete, the NRMCA CPA software, and copies of several studies on lighting requirements for concrete parking areas.

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