



Recognizing the Need for Pervious Concrete Maintenance and Cleaning Training

In the past nearly 10 years in NOVA we have had a large number of pervious concrete projects varying from 2,000 sf. to 209,000 sf. As I have revisited most of these pervious sites after a few years of their placement, I have noticed that they share one common factor: most of them have not been maintained nor vacuumed regularly. Please see the sample pictures of some of the pervious concrete projects. It certainly looks like they can use some cleaning. Because of this, recently after the completion of the 26,000 sf. pervious concrete parking lot at the P-290 Cruiser Destroyer Training Facility at the Dahlgren Navy Base, project superintendent, Robert Minx of John C. Grimberg and I agreed on the need for a training on proper maintenance, operation and winter care of pervious concrete pavement for the Public Works Department. I invited NRMCA Senior Director, Local Paving, Phil Kresge to join me for this training. The training highlighted the proper implementation of ASTM C1701 Standard Test Method for Infiltration Rate of In-Place Pervious Concrete and NRMCA's Pervious Concrete Pavement Maintenance and Operations Guide. The training was followed by a short visit of the recently placed pervious concrete.



in the mix ...

Recognizing the Need for Pervious Concrete Maintenance and Cleaning Training <i>(Continued)</i>	3
The Pete Store Selects Concrete Paving for New Facility in Richmond	4
On the Horizon-Upcoming Events	5
VRMCA Welcomes Jason	6
VRMCA 2016 Spring Convention	7
Fourth Circuit Backs NLRB on Supervisor Status	8
2016 Mixer Truck Rodeo	10
2016 Meeting & Convention Sponsors	11

Since then I have had additional communications with various counties regarding a very specific training and demonstration on the maintenance and cleaning of pervious concrete. Sandra Hunter, AIA, LEED AP with

Continued on page 3



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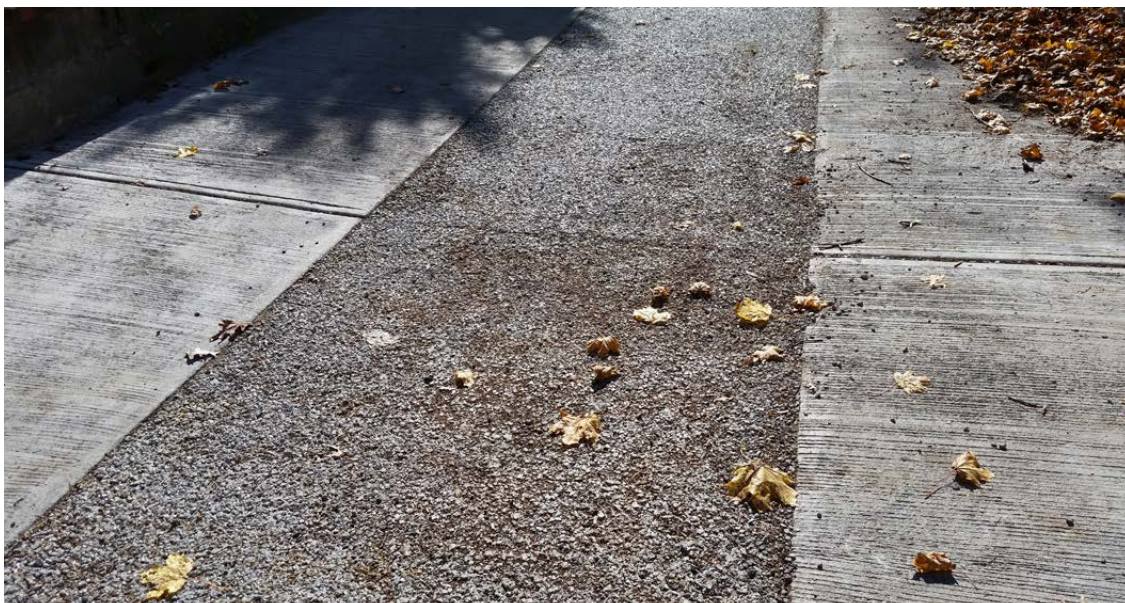
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Loudoun County Department of Transportation and Capital Infrastructure has partnered with VRMCA/NVCAC to promote this training. The goal is to encourage the owners to take ownership of their pervious concrete pavement. Our audience consists of county engineers, inspectors, public works personnel, engineers and contractors. We are also teaming up with Alan Sparkman, Executive Director Tennessee Concrete Association, Charlie Mitchell, P.E. with Specialized Engineering, Pervious Concrete Craftsman, Matt Cockerham with North Star Foundations, Pervious Concrete Craftsman, Thomas “Zeke” Zinchiak, President

of Z Con Inc., Kevin Wright, Battalion Fire Chief, NVCAC Chairman, Duane Laughlin with Essroc Ready Mix, NVCAC Educational Committee Chairman, Dave Snider with Vulcan Materials, Marc Granahan with Lehigh Cement and NVCAC Paving Committee Chairman, Steven Tripp with Chaney Enterprises to ensure the success of this event.

Please stay tuned for the detailed announcement.

Hessam Nabavi, Director of Industry Services



The Pete Store Selects Concrete Paving for New Facility in Richmond

In the summer and fall of 2015, The Pete Store, Inc., the Peterbilt truck dealer in Richmond, constructed a new dealership in Richmond. The facility can be seen from Interstate 95 just south of Richmond on Deepwater Terminal Road. The structure is approximately 30,000 s.f. and required 750 cubic yards of concrete for the foundation and concrete slab-on-grade.



Following the completion of the structure, the owner, general contractor, concrete finisher and ready-mix supplier began discussions regarding pavement for the site. The owner of The Pete Store, John Arscott, has facilities in other marketplaces and based on his previous experience with asphalt at his locations, had concerns with asphalt and was interested in looking at concrete pavement instead.

John stated that they have had durability problems with asphalt over the years. According to John: "Due to the loading of the heavy trucks and truck turning wear, our lots are in need of constant repair with asphalt. Concrete can take the heat, so when equipment sits, it does not compromise the surface. Asphalt settles when trucks sit for a while in the warmer months."



After considering the benefits of concrete over asphalt, Arscott selected concrete as the material for paving at the site. The pavement design was 8" thick with 6 gauge 4" x 4" wire reinforcement. The site concrete covered over 100,000 s.f. totaling over 2,700 cubic yards of 4,000 psi concrete.

Superior Contracting was the General Contractor for the project and they partnered with TDU Concrete to place and finish the structure and paving. GreenRock Materials, LLC supplied concrete for the entire project.

Continued on page 5

Continued from page 4

GreenRock was pleased to supply concrete to the project utilizing four new Peterbilt mixers purchased from The Pete Store. When asked about the project, Michael Lamb, President of GreenRock stated, "When Mr. Arscott discussed the project with me, I was already a customer of The Pete Store. Our conversation focused on the difference between the initial price versus long-term cost of different types of pavement. Everything John does is first-class and in the end I think he wanted the best long-term paving solution for his dealership. It's the main reason we have partnered with The Pete Store on several truck purchases and for the majority of our service work. This commitment to quality and value goes beyond the way the Arscott's build their dealerships, it is also evident in the way they have built The Pete Store organization."

When Mr. Arscott was asked if he would consider concrete pavement over asphalt at his other facilities, he responded: "We are doing it now".

Bob Nablo, Director of Industry Services



On the Horizon | Calendar of Upcoming Events

March 8, 2016

**Hampton Roads Council Business Meeting
Crazy Buffet and Grill
Chesapeake, VA**

March 10, 2016

**Northern VA Council Meeting
Wyndham Garden
Manassas, VA**

March 25, 2016

**Southwest Council Meeting (Tentative)
Virginia Tech Building Construction Dept.
Blacksburg, VA**

April 12, 2016

**Safety & HR Committee Meeting
VRMCA Headquarters
Charlottesville, VA**

April 25, 2016

**VRMCA Truck Rodeo
Meadow Event Park
Doswell, VA**

May 1-3, 2016

**VRMCA Spring Convention
The Greenbrier
White Sulphur Springs, WV**

October 2-4, 2016

**VRMCA Fall Convention
Hilton Oceanfront
Virginia Beach, VA**

VRMCA Welcomes Jason!



In January, VRMCA welcomed a new Director of Industry Services, to cover the Hampton Roads and Central Virginia market. I am lucky enough to be that person and I wanted to introduce myself and let everyone know a little bit about me.

Personally, I am a husband and father before all else. I have 4 amazing children; 3 boys and one princess. My oldest, Ayden, is 12 years old and a big basketball fan. Sterling is 8 and he is a Minecraft superstar. Ari is 4 and she is the princess of the house. Finally, there is Emerson. He is an 18-month old bruiser. Keeping everyone in check is my amazing wife Marie. She not only keeps our home going but homeschools all of our children as well.

Professionally, I have been in sales and marketing for over 15 years. I started my career in e-commerce; building my business from scratch and seeing through to profitable fruition. From there I moved on to the Director of Marketing and Sales for a local restaurant group. There I managed all the marketing efforts for three fine dining restaurants. Utilizing Twitter, Facebook, email blasts, LinkedIn and of course traditional advertising to reach customers and increase customer flow. I was then recruited by a flooring company where I had the opportunity to work with architects, interior designers, builders and flooring contractors to help them choose the right flooring products for their project. Finally, my last stop before here was with a company that provided accessories to concrete contractors. So for the last several years I have had boots on the ground at concrete pours with some of the area's most prominent concrete contractors. I was recently invited to take

over a position on the board of directors, for the Central Virginia post of the Society of American Military Engineers.

Over the course of the past month I have made it my number one priority to reach out to the producers and of course trying to meet as many people as possible! I look forward to meeting everyone at advisory council meetings and individually as well. Please feel free to reach out to me at Jason@vrmca.com. I am excited for the future of VRMCA!

VRMCA is excited to announce that several of our members will be on panels and moderating at the upcoming Virginia Concrete Conference. Among our members on panels are Dan Reed, Sales with Powhatan Ready Mix and Chair of the Paving Committee for Central Virginia. He will be speaking on the Roller Compacted Concrete panel. George Kuhn, Technical Services Manager for Chandler Concrete and Bob Neal of Lehigh Cement, will be speaking on the Concrete Mix Components panel. In the area of moderating, we have our very own Bob Nablo; moderating Friday mornings discussions of Hydraulic Cement Concrete Operations, Pervious Concrete, and more. Marie Derby, Territory Manager with Essroc Cement and Central Virginia Advisory Council member, will moderate the Friday afternoon discussions on Accelerated Construction Techniques and Concrete Mix Components. We hope everyone will get a chance to stop by the convention, see our booth, and maybe hear one of our members speak.

Jason Connor, Director of Industry Services



SAVE THE DATE

2016

Virginia Ready-Mixed Concrete Association

**SPRING
CONVENTION**

May 1-3, 2016

**The Greenbrier
White Sulphur Springs, West Virginia**



www.vrmca.com

VRMCA 2016 Spring Convention - Registration Now Open!

The VRMCA 2016 Spring Convention will be held May 1-3, 2016 at The Greenbrier Hotel in White Sulphur Springs, West Virginia. Guest speakers include Pierre Villere of Allen-Villere Partners, Aaron Long, President of Procon, Inc., Emily Jones with Summit HR & Payroll and Joel Erb of INM United.

A block of rooms has been reserved for the nights of Sunday, May 1st and Monday, May 2nd. Single rooms are \$385 and double rooms are \$530. These rates include room accommodations, breakfast and dinner at designated restaurants. The VRMCA Room Block will be available until Monday, March 14, 2016 or until the group block is sold-out, whichever comes first. Call The Greenbrier directly at (877) 261-7616 to book your rooms.

The full Convention agenda is available at www.vrmca.com where you can now register online as well.

Please also consider becoming a Spring Convention Sponsor for just \$500. The benefits of sponsorship include signage at the meeting, recognition in the newsletter, recognition on the VRMCA website and on all emails sent out pertaining to the event.

Please contact me at (434) 326-9815 or christina.sandridge@easterassociates.com with questions!

We look forward to seeing you there!

LEGAL REVIEW

Fourth Circuit Backs NLRB on Supervisor Status

By John G. Kruchko and Jacquelyn L. Thompson*

This legal review should in no way be construed as legal advice or a legal opinion on any specific set of facts or circumstances. Therefore, you should consult with legal counsel concerning any specific set of facts or circumstances.

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Executive Summary:

The Fourth Circuit, which controls labor law in Virginia, recently upheld a finding

off, recall, promote, discharge, assign, reward, or discipline any other employees, . . . if in connection with the foregoing, the exercise of such authority is not merely routine or clerical in nature, but requires the use of independent judgment.

of the National Labor Relations Board (NLRB) that four employees were not supervisors, even though each employee oversaw the daily work of between 22 and 40 workers. The Fourth Circuit acknowledged that there was some evidence of supervisory authority but deferred to the NLRB's conclusions that the employees at issue were not supervisors. See *Pac Tell Grp., Inc. v. NLRB*, No. 15-1111, unpublished (Dec. 23, 2015).

Background

U.S. Fibers, a polyester recycling plant in Trenton, South Carolina, utilizes a tiered management structure that includes several senior managers, four "supervisors," and team leads. The team leads report to the supervisors. The four putative supervisors each oversee the daily work performed by workers during a 12-hour shift. The union filed an election petition to cover certain workers at the plant. The Board directed an election over U.S. Fibers' objections that the putative supervisors should not be included in the bargaining unit because of their alleged supervisory status. The employer then filed objections to the results of the election, arguing that the putative supervisors had engaged in objectionable conduct, and the results should be set aside. The Regional Director concluded that U.S. Fibers failed to establish that the putative supervisors were supervisors as defined by the National Labor Relations Act (NLRA), and the Board adopted those findings and affirmed his decision.

Analysis

According to U.S. Fibers, the individuals in question engaged in the following supervisory functions: (1) assignment of work; (2) rewarding employees; (3) disciplining employees; and (4) responsibly directing employees. Based on those activities, the employer contended that the employees were supervisors and that the election should be set aside because of pro-union activity by the putative supervisors. The NLRB disagreed, finding that none of the putative supervisors exercised the necessary "independent judgment" to qualify as a true supervisor. The NLRA defines a "supervisor" as:

[A]ny individual having authority, in the interest of the employer, to hire, transfer, suspend, lay

29 U.S.C. § 152(11). The Board and the Fourth Circuit heavily relied on the last part of the definition – the use of independent judgment – in denying the supervisory status of the employees at issue.

The Court began by reviewing the putative supervisors' authority to assign work. The Court pointed out that the authority to assign work does not include assignments made solely on the basis of equalizing workloads. The Board and the Court both focused on the fact that the putative supervisors made the assignments within the structure set by upper management, and accordingly, as the assignment function did not require the use of independent judgment, the employees were not supervisors based on that function.

The Court also looked to whether the putative supervisors had the authority to reward by evaluating employee performance for the purpose of recommending raises. The Board found that the evidence was inconclusive as to the extent to which the putative supervisors' recommendations influenced the employer's ultimate decisions. The putative supervisors evaluated employees on a biannual basis to determine which employees should receive a raise. However, the Board concluded that because the Vice President of Operations made the final determination – even though he agreed with the recommendations 90 percent of the time – the evidence was ambiguous with respect to the weight given to the recommendations. Although the Court acknowledged that the Board could have concluded that the putative supervisors had the authority to recommend raises, it again deferred to the Board's conclusions.

The Court next considered whether the putative supervisors had the authority to discipline employees. U.S. Fibers asserted that they disciplined employees by issuing written warnings. The Board focused on the fact that the managers provided blank warning forms to the putative supervisors and instructed them to issue a warning every time a worker disobeyed safety rules. Moreover, all warnings were subject to approval by management. Again, the Court admitted that there was evidence of independent judgement, but not enough to "erode the substantial evidence supporting the

Continued on page 9

LEGAL REVIEW

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*John G. Kruchko

Continued from page 8

Board’s conclusion.” The Court upheld the Board’s conclusion that the putative supervisors did not act or recommend actions “free of the control of others” and did not use independent judgment in exercising this supervisory function.

for the employees’ work. Although one of the putative supervisors testified that he told employees what to do and how to do it, and employees confirmed that they received direction from the putative supervisors, the Board held that the evidence was not dispositive of the responsible direction inquiry even though the putative supervisors were on duty at times when there were no managers. The Fourth Circuit agreed, finding that the work was “sufficiently routine that the employees did not require extensive direction.”

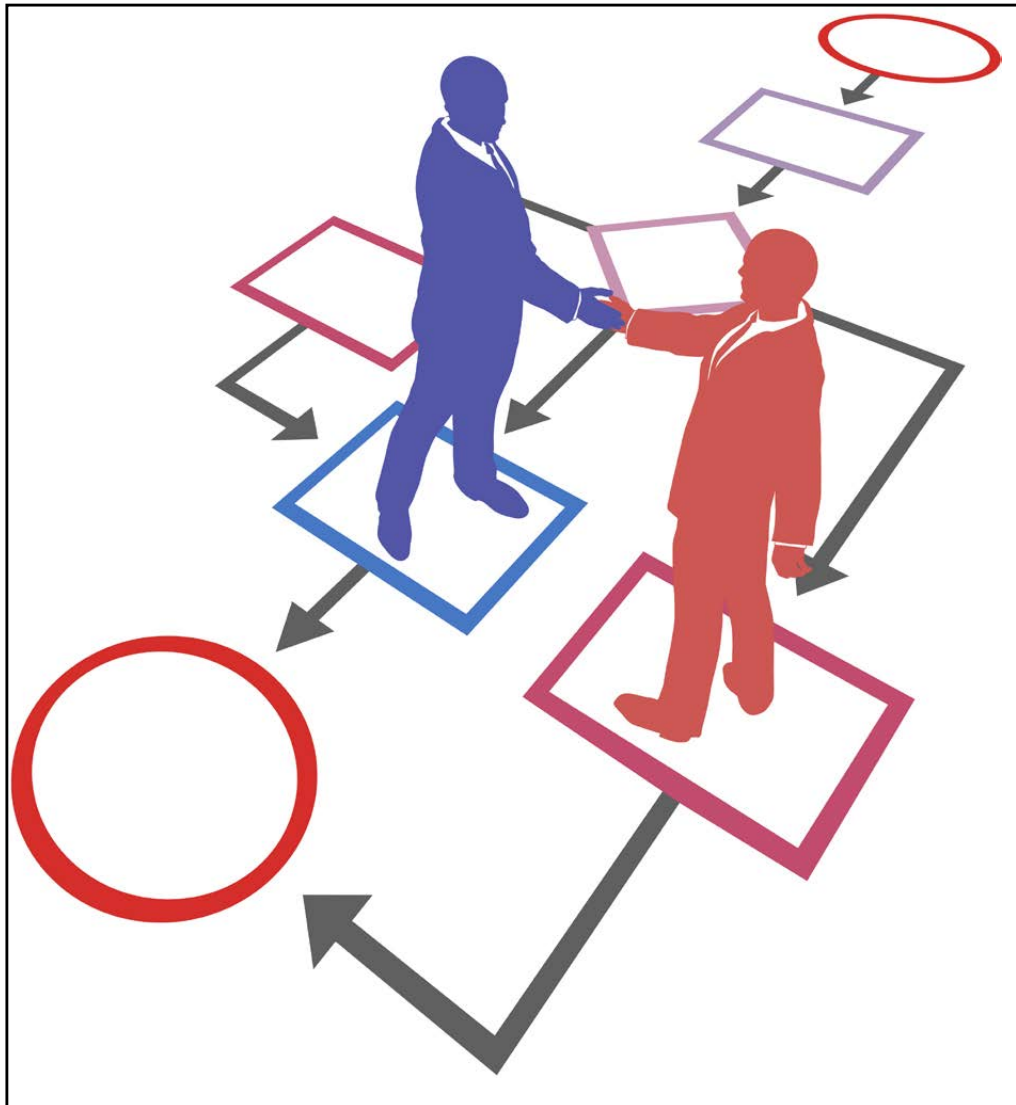
The Court acknowledged once again that there was evidence in the record to support the employer’s view; however, the Court applied the deferential standard of review and concluded that the Board reasonably determined that the employer did not meet its burden of establishing supervisory status. Thus, it declined to set aside the results of the election on the basis of objectionable conduct by statutory supervisors.

Employers’ Bottom Line

Although the opinion is unpublished, and thus not binding precedent in the Circuit, it still provides insight into how much evidence an employer may have to submit to support a supervisory status claim. The Fourth Circuit is generally considered to be a pro-employer Appellate Court, but here it strongly deferred to the NLRB. In its last year under the Obama Administration, employers can expect the Board to continue to issue pro-union decisions, including efforts to increase the likelihood of joint employer findings and attacks on employer policies it perceives as “chilling” employees’ Section 7 rights. If the Fourth Circuit

continues to give the Board the type of substantial deference it did in this case, more NLRB decisions will likely be affirmed at the appellate level.

Employers can also expect the Board to continue to apply a narrow definition of supervisor to bring more individuals under the auspices of the NLRA. Because the NLRA does not cover supervisors, they are excluded from bargaining units. A finding of fewer supervisors will result in larger



Finally, the Court considered whether the putative supervisors had the authority to responsibly direct employees by instructing them regarding the manner in which they were to perform their duties. According to the Board, a supervisor “responsibly directs” when he or she “directs or performs the oversight of the employee.” The Board concluded that the putative supervisors did not use independent judgment when directing work because the employer failed to show that they were held accountable

Continued on page 10

Continued from page 9

bargaining units and more potential dues-paying members for unions. Additionally, the smaller the number of supervisors, the less opportunity for the employer to deliver its message during union campaigns.

This issue is especially significant in light of April 2015 changes to the Board's election rules, which allow the Board to decline to resolve the supervisory status of an employee prior to a union election. These changes will make it even more difficult for the employer to determine

which of its employees satisfy the Board's demanding interpretation of supervisory functions. Employers seeking to designate an employee as a supervisor should be prepared to put forth tangible evidence of the employee's supervisory function, particularly the use of independent judgment.

© 2015 FordHarrison LLP | *John G. Kruchko is a Partner with the Management Labor and Employment Law Firm of FordHarrison, LLP, in Tysons Corner, Virginia; B. Patrice Clair is a Senior Associate in the firm's Washington, D.C. office. Rachel Ullrich, an attorney in the firm's Dallas office, prepared an original version of this article. For more information please contact Mr. Kruchko at (703) 734-0554 or Ms. Clair at (202) 719-2055 or by e-mail at jkruchko@fordharrison.com or pclair@fordharrison.com. This article is published for general information purposes and does not constitute legal advice.



Virginia Ready-Mixed Concrete Association
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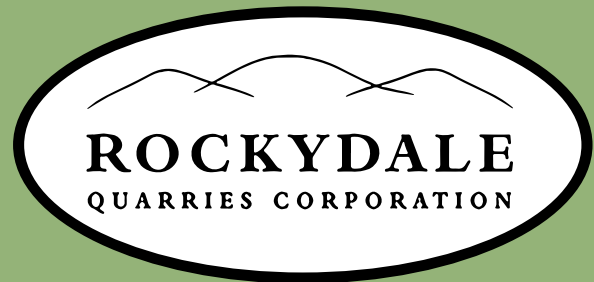
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