

CORNERSTONE

THE OFFICIAL PUBLICATION OF THE AGC OF NEW YORK STATE



Spring 2010



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Breslin, AGC NYS
LLC Chairman

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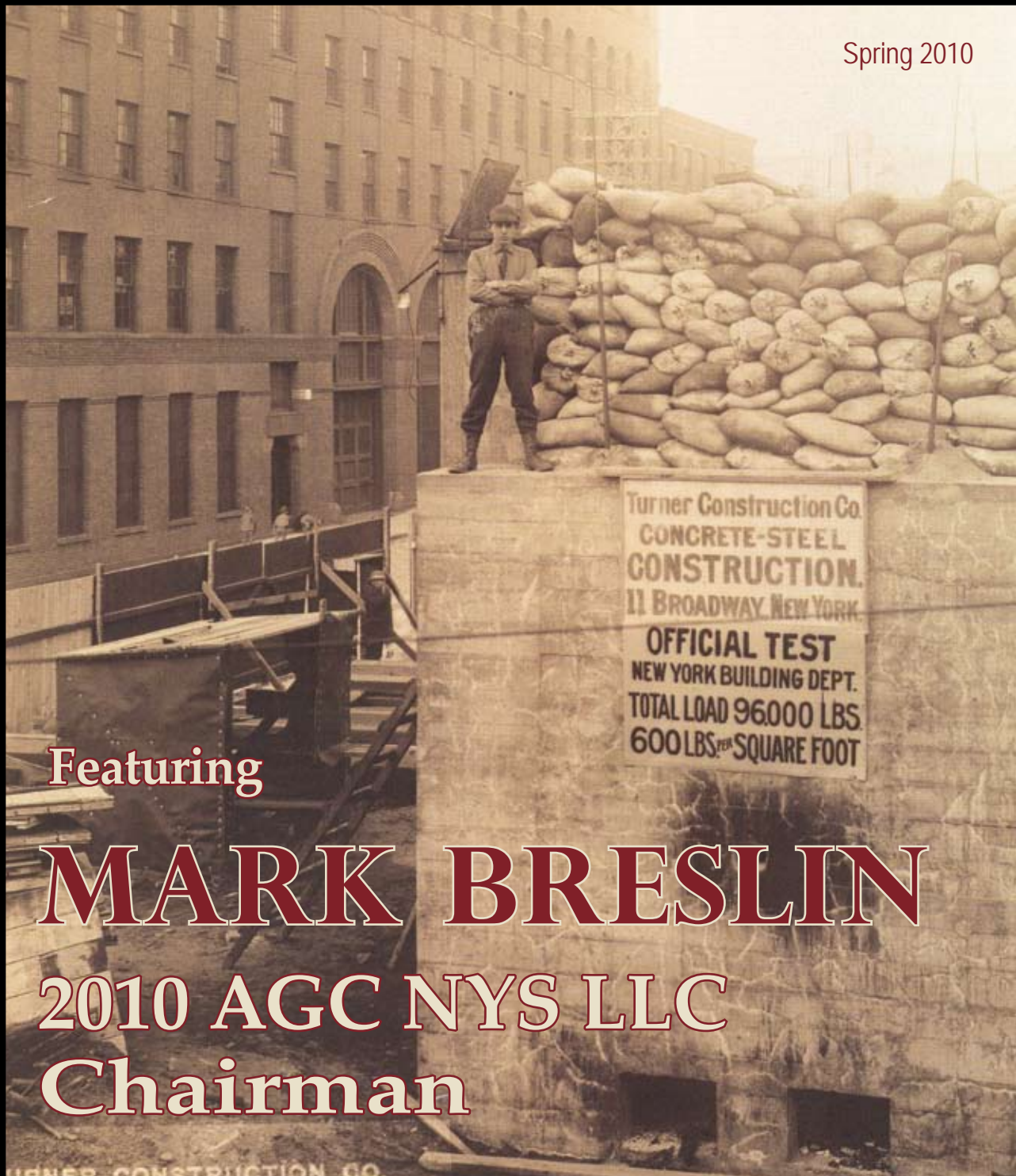
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Featuring

MARK BRESLIN

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Save the date!

2010 AGC NYS Summer Meeting

Join your fellow AGC NYS members as we bring together the Building and Highway sectors of the industry at the beautiful Sagamore Resort! A weekend of information and relaxation is planned for you and your family.

The Sagamore is located in Bolton Landing, on Lake George in the Adirondacks. The resort is a family-oriented facility with something for everyone!

A number of informative programs are being planned, including updates on current association and industry issues. We will all have the opportunity to learn about each other and each other's businesses. Several recreational activities are also being planned for everyone.



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The Sagamore Resort & Conference Center

QUESTIONS? PLEASE CALL CATHY AT 518-456-1134.



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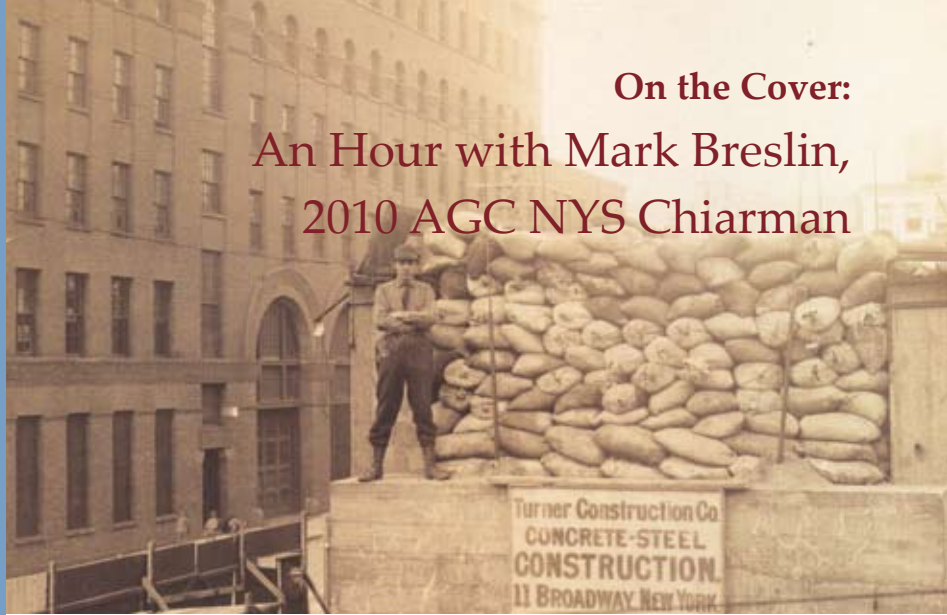
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On the Cover:

**An Hour with Mark Breslin,
2010 AGC NYS Chairman**

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Jeffrey Zogg

Developing Cohesion While Retaining Identity

By Jeffrey Zogg

As we start our second year as the AGC NYS LLC it is time to begin to reflect on our journey since the NYS Chapter, AGC and the GBC of NYS approved this significant step in July, 2008. Putting two highly successful and long-standing groups together with certain traditions and cultures is not easy, but the leaders of this effort felt strongly in the beginning, and I believe still do, that the long term best interests of the members and the construction industry in New York State justify it. This significant step was not only about today, but about preparing for the needs of the membership and the industry tomorrow.


Change can be traumatic to some. It must be done carefully, clearly and incrementally. We tried to do that. It must be monitored. After our first year we recognize this, and the AGC NYS LLC Board of Directors conducted a two-day strategic planning effort in early March. Prior to that, we organized a staff retreat and a membership survey which provided important input. The new strategic plan, which we will provide in more detail in the coming months, will focus on three essentials:

- 1) Focus and Streamline Programs, Services and Events;
- 2 Strengthen Advocacy and Agency/ Industry Relationship;
- 3) Enhance and Exhibit Value of Membership.


The Board understands the need to

respect the needs and identity of both the building and transportation sectors of our membership as we try to build greater cohesion among us. It will take time, but it is worth the effort.

This issue of *Cornerstone* touches on a lot of bases on your markets and your businesses as well as association events and services. We are working hard to ensure that they are meaningful as a contractor while respecting each member's niche. It features our new leader Chair Mark Breslin of the Turner Construction Company and it thanks our first Chair who provided us with great leadership - Mark Galasso of Lancaster Development, Inc. These two leaders, from both building and transportation sides of our business, understood the importance of our merger as a means to efficiently represent the contractor and construction industry interests state-wide. They join all the current leaders of the AGC NYS LLC who felt their investment of time, money and talent will not only benefit their firms, but the industry they make their livelihood in.

As AGC NYS continues in this historic change, we are making progress. There will be glitches, misleading perceptions and bumps in the road, but with the leadership of people like Mark Breslin and Mark Galasso and their fellow directors, and the support and understanding of the membership, even in these challenging times, we can make a difference for the future. 

The Board understands the need to respect the needs and identity of both the building and transportation sectors of our membership as we try to build greater cohesion among us. It will take time, but it is worth the effort.



An Hour With
MARK BRESLIN
2010 AGC NYS LLC
Chairman

By Frances Holzhauser

Flipping through a large, hard-covered picture book that sits in one of the smaller conference rooms in Turner Construction's Albany office, an introduction reads, "Turner Construction Company was founded on the simple belief that success is based upon the application of strong moral values, integrity, and the highest-level professionalism achievable." The book, *A Photographic History of Turner's First Century*, is one that Mark Breslin, Vice President and General Manager of Turner Construction Company's New York North operations, offers that I keep before we sit down to talk about his newly-adopted role as Chairman of AGC NYS LLC. By the end of the interview, it is clear those same words apply to him.

Born in Albany, raised in Schenectady, and now residing in Burnt Hills, Mark is clearly a native of the Capital Region. His father, once a mechanical engineer at Gen-

eral Electric, was what first exposed him to the building business. "My father was a mechanical engineer but his background is taking electric power plants - steam turbines - apart and renovating them, which was how I got interested in civil engineering," recounted Mark.

After graduating Villanova (whose College of Engineering has been ranked as one of the top ten engineering schools in the nation by *U.S. News and World Report*), Mark worked for two years in the city of Schenectady's engineering department and then took a position working for Clifford H. Quay & Sons, a family-owned company also in Schenectady. It was through his work with Clifford H. Quay that introduced him to Turner Construction Company, a very large and well-known corporation that maintains a nationwide network of offices and a staff of more than 5,500 employees, performing work on over 1,600 projects each year. Mark was hired there in 1995.



“Clifford H. Quay did a lot of work with Turner, explained Mark. “We were subcontractor to Turner for Albany Airport, Ellis Hospital, and Albany Med. They had just opened an Albany office in the early ‘90s and they were looking for an operations person, so I took a job as a superintendent first and then worked my way up through various assignments within the company. In 1997 I was appointed the General Manager of upstate NY operations, which is Albany, Syracuse and Buffalo.”

WORKING FOR TURNER

When asked what it was about Turner Construction Company that first attracted him to the organization, Mark gestured towards *A Photographic History of Turner’s First Century* in front of us.

“Just look at the photographic history. It shows you the

great projects Turner has done since 1902. Their values, their integrity ... This is why they are so successful,” he said. “I always felt in my dealings with Turner as a subcontractor (with Clifford H. Quay & Sons) that we were treated fairly. You know if they treat their sub-

“I am always of the opinion that if you listen to advice and criticism, don’t take offense to other people’s point of view, and take the high road then things have a way of working out. The minute that you lose your integrity, lose your temper, and go in the wrong direction, there is almost no way to bring the issue back.”

- Mark Breslin

contractors and employees honestly it’s going a very well-run company.”

As Vice President and General Manager, Mark is responsible for 120 people at Turner offices in Albany, Syracuse and Buffalo. Traveling for work is inevitable; on the other days stationed

in Albany headquarters he spends a typical day at the office by touching base with the two operations officers in Buffalo and Albany, getting up-to-date on New York State news and business development, and interacting with different departments. The rest of his time - about 50 percent - is spent with sales and new opportunities.

Of course these are the little details of Mark’s day that don’t always allow you to see the big picture, like the majestic disposition of one of Mark’s finished products. The EMPAC (Experimental Media and Performing Arts Center) building at Rensselaer Polytechnic Institute is a fine example of this. At 220,000 square-feet and with mesmerizing architecture, EMPAC is a state-of-the-art building that possesses a 1,200 seat concert hall, a 400 seat theatre, two adaptive environment studios, an



Above: A crowd gathers at the EMPAC (Experimental Media Performing Arts Center) for Rensselaer Polytechnic Institute (RPI) to honor Mark Breslin's election as new AGC NYS LLC Chairman.

Left: A studio recording room at EMPAC. EMPAC won both the AIA New York State 2009 Design Award in the Institutional category, as well as AGC NYS's Build New York Award.



AGC NYS CEO Jeffrey Zogg, RPI Vice President for Administration Claude Round, and AGC NYS Chairman Mark Breslin.

audio and video production suite, artists-in-residence studios, a campus radio station and a dance studio. As winner of both the AIA New York State 2009 Design Award in the Institutional category, as well as the AGC NYS Build New York Award, it is most definitely a building to be proud of.

By the end of the day, you would think a night with his feet up is needed, but Mark is also a part of many

community organizations, including the American Heart Association, Albany Institute of History and Art, and the Ellis Hospital Board of Directors. Equally inspiring is his involvement with The Lally School of Management & Technology, the business school of Rensselaer Polytechnic Institute, where he mentors students to help them advance their career.

"If I wasn't in construction I would want to be working in some way with education," Mark divulged. "I'd like a career in teaching, maybe at a university, especially in business. The Lally Business School allows me to help young entrepreneurs develop a business plan and a product that they've thought of and how they can market and implement it. I really enjoy helping people get their businesses off the ground."

A CHANGING INDUSTRY

While EMPAC is certainly a unique structure, it is one in a long list of proj-





“I would like to be recognized as someone who didn’t just say, ‘Hey, we’re AGC and we’re the best. Follow us blindly and we’ll take you to the right place,’ but as a leader who really paid attention to how different members interact and developed a way to make it beneficial to each one of them regardless of what their business is.”

- Mark Breslin

ects that is now requiring advanced technology. Mark notes that the industry as a whole needs to up their reaction time to these changes. Turner is already making the necessary transition.

“The construction industry is slow to evolve. It’s one of the negatives that we want to see things implemented

in other industries or on other projects before we’re willing to take a chance on it. A main transformation in Turner over the last fifteen years is that we are starting to become the leader in change. We react much more quickly to new ideas and try to implement them as quickly as possible. When a new

technology like Building Information Modeling (BIM) comes on to the scene, we’re the first to test it on one of our projects. We’re the leader in BIM and sustainable construction. I think that is a testament to the fact that we’re willing to take a risk and embrace new ideas in order to move forward with our projects.”

Of all the new technologies implemented at Turner, Mark says that BIM, without a doubt, has been the most successful.

“Owners aren’t going to accept jobs being designed in 2D anymore,” Mark stated. “They want 3D, and they want to understand the coordination process and how they can save money and visualize different aspects of the building. I think it’s going to affect everything that we do – scheduling, logistics on-site, the way we procure materials and equipment. I see BIM as touching every aspect of how we put together a building,” explained Mark.

Of course, adopting the new technology of BIM is just another layer of managing an industry that has become more complex. Sustainable building is another significant change. Owners and clients are requiring that their projects be built “green,” which spills over into everything a construction company does. Development has become much more intricate as a result of recycling on the job.

“When you build a green building you’ve got advanced control systems for your heating and ventilating systems, you’ve got new products that are being introduced to the building that may not be as industry-tested as others. So the buildings are becoming more advanced with mechanical systems, and that’s led to us doing more training with our staff.”

NEW CHALLENGES

With any evolving industry there are challenges that must be faced in order to move forward. This can be considered two-fold in a less-than-desirable economy. According to Mark, the shortage of workers that began a few years ago is a problem that has been exacerbated simply by being masked by the downturn of our economy. Not only trade workers, but also engineers, are faced with layoffs and downsizing. Both problems exist, but as the economy rebounds and work starts to be released, the shortage of workers may not be solved so steadily.

“Laid-off employees may have gone into other industries and may not readily come back, which results in not only a lack of new workers in the field, but also the people who have been forced out of the industry who do not return,” Mark explained. I think we’re going to have the recruitment problems that we experienced a few years ago. Hopefully the use of these new technologies will help us with training and re-

continued on page 10

An Hour With Mark Breslin (continued from page 9)



Mark Breslin in the BIM (Building Information Modeling) room at Turner Construction Company's Albany Office. Of all the new technologies implemented at Turner, Mark says that BIM, without a doubt, has been the most successful.

cruitment of those individuals as we go forward.”

Communication is a huge component of the “new technologies” that Mark mentioned in helping solve these challenges. The advancement of BIM, social networking and the way information is made available online can be a key factor in recruitment by making careers in construction more appealing to young people.

It can also play a large role in keeping current workers connected, no matter how remote. One of the biggest challenges Mark says he faces on a regular basis is the regional reach of his company. Because upstate New York is so diverse with no real metropolitan area, getting people into the locations where they need to be for work and also home at night is difficult, whereas employees in New York City or Boston have a nucleus of work and clients without venturing very far outside of those areas.

“The geographic reach of up-

state New York has presented its challenges in keeping people in the loop and motivated. I believe AGC NYS can be a huge benefit for this purpose. It can be the thread that links all of our employees at these remote job sites,” Mark said.

BECOMING THE NEW AGC NYS LLC CHAIRMAN

Before becoming AGC NYS Chairman, Mark had sat on the GBC Board, going through the chairs until he became president right before the merger with AGC to become AGC NYS LLC. AGC NYS President AJ Castelbuono and AGC NYS CEO Jeff Zogg, former GBC president and longtime friend, asked Mark if he would be one of the first two chairmen alongside Mark Galasso, of Lancaster Development, Inc.

“I’ve always had a great experience with the GBC and I firmly believe that the more you put into an organization like AGC, the more you get out,” said Mark. “So I com-

mitted myself to make sure that we make a contribution. AGC’s training programs, networking, and the advocacy are all huge components of making this a successful industry.”

Although Turner is a very large firm, Mark feels strongly that the association can benefit small to mid-sized companies and younger professionals greatly.

“Whereas larger companies have a lot of internal training programs, smaller companies don’t have the resources to put these programs in place and can really jumpstart their organization by taking advantage of all AGC offers. From bringing their safety program to the next level, to bettering their employee’s grasp on business management through the Future Constructors Leaders Program, to learning about new technologies like BIM, smaller or newer companies can engage in the organization to get that training.”

AGC networking opportunities are also crucial for professionals to understand how the competitive environment is working. This is especially important for younger staff to see their peers in other companies, whether they are subcontractors or other prime contractors, to learn how they are addressing the challenges of our industry.

Advocacy, on the other hand, is one thing AGC NYS offers that undoubtedly benefits every member, no matter

how large or small, no matter how new or well-established their company is. Rather than one company lobbying alone, AGC NYS members have a lot more clout standing together.

“I was told a long time ago when we would advocate on behalf of Turner to these various State agencies and legislators that we were told that they would not deal with a problem or complaint on a one-company basis,” Mark stated. “But if we came back as a consortium, and did it as an industry request, there was a much higher likelihood for success.”

Of course, AGC NYS is only as good as what its members know about it, and an important game plan in Mark’s new role as Chairman is making our members aware of all the association does. One of Mark’s goals to improve the association and have a significant impact on the industry is to make AGC NYS a leader in communication.

“The more we get our message out the more reinforcement it is. It becomes a constant reminder of what we’re doing. I don’t think we can communicate enough. We have a good message, good programs, good leadership, and good members. I think the core basics of a successful association are there, it’s just how to get this information out to people so they can take the best advantage of it,” Mark explained.



Pictured Above: Turner Construction Company's Northern New York office, headquartered in Albany. Two additional offices are located in Buffalo and Syracuse.

The improvement in communication will have a positive affect on Mark's other short-term goals: facilitating connection between AGC NYS and its members, increasing recruitment of younger members and member organizations, and cultivating relationships with future leaders. In the long run, it will culminate to his personal goal of bringing leadership to the next level, and continue building what Mark Galasso started as the first Chairman of the newly-merged AGC NYS.

"Mark Galasso did a fantastic job of integrating both organizations," Mark said. "He's a no-nonsense person who really has a bottom-line driven approach and he had the perfect personality for the role of bringing the organizations together. I always feel that the leadership of an organization must be moving the ball forward and my goal for this year would be to get AGC NYS to the next level, to implement our strategic plan in communication and re-energize our regional meetings. So that when the

next chairman comes in they can focus on bringing it forward with a new set of goals.

However, Mark realizes taking leadership to the next level isn't as simple as just building upward from the foundation Mark Galasso constructed. He knows that the merger isn't easy on everyone. As a leader he acknowledges that one shoe will not fit all. There are some members who aren't going to readily see the advantages of the new merger but he plans on ensuring that we communicate to them how their specific business plugs into the AGC NYS.


"I would like to be recognized as someone who didn't just say, 'Hey, we're AGC and we're the best. Follow us blindly and we'll take you to the right place,' but as a leader who really paid attention to how different members interact and developed a way to make it beneficial to each one of them regardless of what their business is. I would like to be remembered as someone

who was committed to the membership, as someone who listened to the members and their unique needs."

Mark's position as Chairman is like many of the other roles he takes on in his professional efforts and philanthropic endeavors. A self-proclaimed analytical person, Mark is not one to fly off the handle or make a hasty decision. He prefers to look at each issue, try to understand the positions of the people who are involved and then come up with the best solution.

"Our industry is very diverse; we have many different things that we deal with, but I am always of the opinion that if you listen to advice and criticism, don't take of-

fense to other people's point of view, and take the high road, then things have a way of working out. The minute that you lose your integrity, lose your temper, and go in the wrong direction, there is almost no way to bring the issue back."

One can get a sense that Mark's instincts run close to the, "strong moral values, integrity, and the highest-level professionalism achievable," that are written in the book in his conference room. Clearly, to "take the high road" is Mark Breslin's M.O. And having him as the second chairman to the newly-merged AGC NYS will undoubtedly keep us moving in the right direction. 

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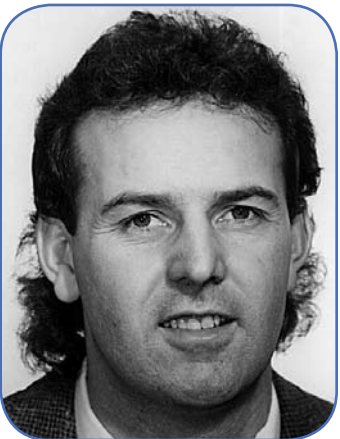
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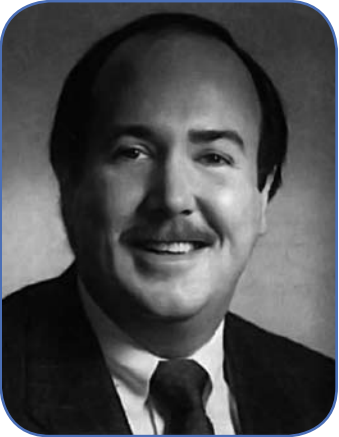
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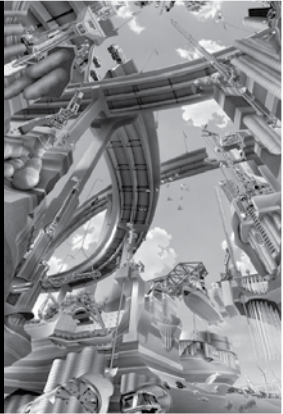
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Joe Hogan

A Treatise on Product Competition in Bidding and Contract Documents Equivalents - Part I

By Joseph P. Hogan, CDT

*“T*he time has come,” the Walrus said,
“To talk of many things:
Of shoes--and ships--and sealing-wax--
Of cabbages--and kings--
And why the sea is boiling hot--
And whether pigs have wings.”

- Lewis Carroll

Perhaps the most controversial and often misunderstood issue related to bidding and contract documents is that of “equivalents,” or the creation of competition among and between products. While this is often viewed as a public work issue based on the legal issues surrounding the competitive bidding laws, it also has an impact on private work. While there may be good reason to lock up a set of specs, owners need to go into that situation with their eyes wide open and, hopefully, with a plan to minimize the impact of that decision. Below, I will discuss the potential impacts of closed specs and suggest some options. In Part II of this series, I will explore the public work competitive bidding aspects surrounding equivalents.

As a practical matter, owners often do themselves a disservice when, either by overt or subtle specification, competition is limited, particularly if limited to one product or manufacturer. Such issues as bid vs. list price and packaging can have significant impact on price while, amazingly, impacts on project performance might also be felt. On public work, such restrictions are, for the most part, prohibited.

OVERT AND SUBTLE LIMITATIONS ON COMPETITION:

Proprietary specifications come in two forms. The overt form is where one specific product is specified and it is made clear to bidders that no equivalent products will be accepted. The second, and more subtle, approach is to write a performance spec which effectively precludes all but one product. While nei-

continued on page 18

Spec Reviewer (continued from page 17)

ther form is necessarily good, this reviewer prefers the former. The latter is sneaky!! It leads bidders down the primrose path, believing they have a shot with another manufacturer. The supplier of the proprietary specified product knows the fix is in, and his price reflects it. Contractors bid on alternatives looking to be competitive only to have it blow up in their face. The contractor has been damaged and the project has started off on the wrong foot.

BID PRICE VS. LIST PRICE:

It must be recognized that many suppliers have at least two prices in their repertoire, one for competitive situations and one for non-competitive. In a competitive situation, the sharp-penciled “bid price” is the one provided. In a non-competitive situation, the “list price” is used. The list

this reviewer and the contractor fought to break the barriers to competition placed by the designer and won by going to the owner and the owner’s attorney, the price from the supplier suddenly dropped 48 percent. Amazing!!!

PACKAGING:

If a supplier of a number of products has franchise control over a proprietary specified product he may not sell that product except in a package with a variety of other products for which the owner or designer thought they had adequate competition. The not only will the proprietary specified product be at the “list price,” the entire package will be at that inflated cost. Calls to the manufacturer can sometimes break the package but that is by no means a sure thing.

to manage. In such cases, the supplier no longer believes he works for the contractor, in spite of a supply contract. He believes he works directly for the owner or the designer. Often, the supplier believes himself to be working for the users of the facility and not even the construction and engineering side of the owner. This causes numerous performance and responsiveness issues. Only when the owner and designer take an active, hard line, approach to the supplier can that problem be mitigated. Something to the effect of “Listen you #%*&*, if you ever want to work on one of my projects again, you will get the materials supplied when the contractor needs them!!!” might work. Better still, if an owner is intent on proprietary specifying a product, these matters should be discussed up front.

A GOOD RULE OF THUMB:

Specifying a minimum of three products (see public work requirements in Part II) should generate enough competition to alleviate the upward pressure on price. It is important, however, that designers thoroughly research those items listed. Too often, outdated lists are used in which products listed are no longer made or the manufacturer is out of business. We have even seen troubling situations where contractors seek to use listed products only to have them rejected.

In some circumstances, “Buy American” provisions prohibit the use of two out of

As a practical matter, owners often do themselves a disservice when, either by overt or subtle specification, competition is limited, particularly if limited to one product or manufacturer. Such issues as bid vs. list price and packaging can have significant impact on price while, amazingly, impacts on project performance might also be felt.

price can be considerably higher than the bid price and, so long as the non-competitive message is in place, it is unmovable. I have been involved in situations where suppliers, believing they had a performance spec locked up due to long-time relations with the designer, provided a price considerably higher than the competition. When

PERFORMANCE IMPACTS:

A second disadvantage relates to the responsiveness of the supplier during construction. I have found that as long as the supplier believes he has the project sewn up and as long as there appears to be no later repercussions, the proprietary specified product can be difficult for the contractor

the three products listed. The green building certification requirements can often create a situation where three products were specified but, due perhaps to the 500 mile radius requirement, only one really is acceptable. I watched a Canadian manufacturer run a general contractor member through the wringer on this one recently.

**WHAT IF THE OWNER SEES
NO OTHER CHOICE BUT TO
LOCK UP THE SPECS:**

It is understood that there are circumstances where the owner simply must have a product. This could be a standardization situation or one where there is simply no other manufacturer that meets the owners' needs. [Needs here

should be differentiated from wants. Faced with budgetary realities, wants often yield.] In these situations, there are some steps that the owner might take to minimize the negatives inherent in locked-up specs. First and foremost, the impact on the overall bidding process should be avoided as it could skew the process and afford too much power over the contractor by the specified manufacturer/supplier. With a large enough piece of the project, it might even allow that manufacturer/supplier to heavily influence who will get the work – by whatever means.

To avoid these situations, the product could be procured separately by the owner. Direct discussions with the man-

ufacturer might even break through potential negatives caused by franchise situations. In the alternate, allowances might be considered. If all else fails and the owner feels he must simply specify the product in the normal course, the fact that the specs are locked up should be crystal clear. 📄

In Part II of this article, I will focus on the public work related rules and laws surrounding equivalents. It should be noted, however, that some of those issues discussed will be worthy of consideration on private work as well.

Joseph P. Hogan, CDT, is the Vice President – Building Services of the AGC NYS.



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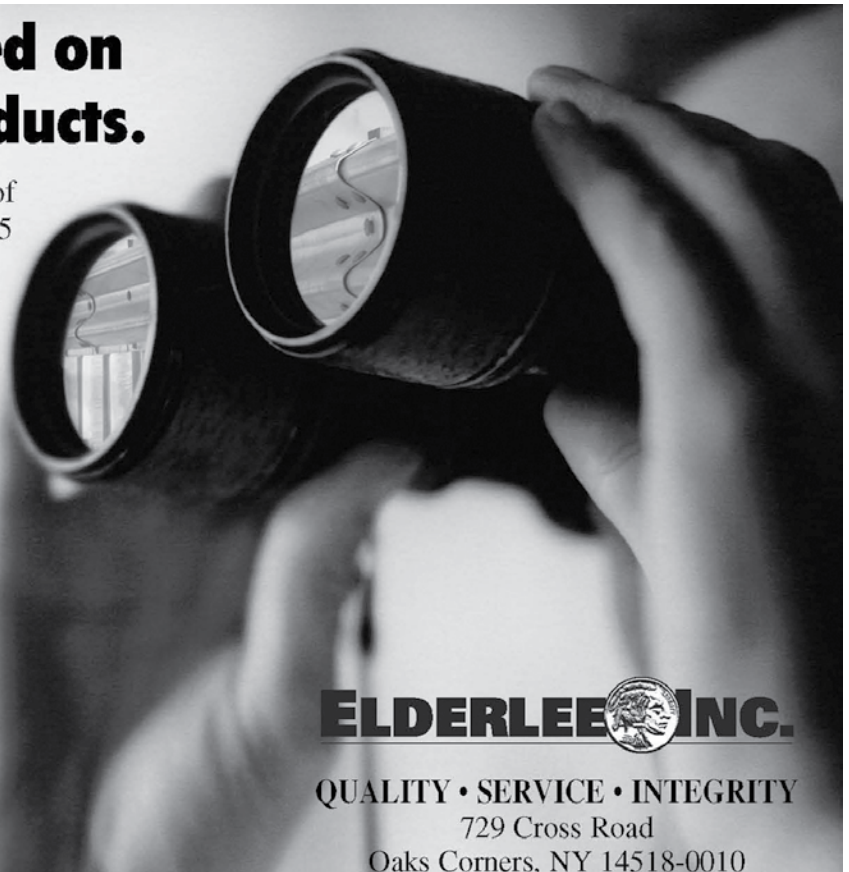
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Karen Morrison, PE

What Can One Person Do?

By Karen Morrison, PE

In the past few months we have seen immense destruction in our world – earthquakes, tsunamis, various destructive weather events and armed conflicts. These are things that we are not able to control, no matter how large our equipment yard is. Though we are not able to have power over these events we certainly are able to create improvements one person at a time.


I recently read a book about Greg Mortenson’s nearly single-handed efforts to provide education to people in the most remote regions of the Himalaya. Since 2003 he, and now the foundation that supports him, have provided schools for tens of thousands of students who would

youth in our own neighborhoods and local schools. Our industry offers excellent opportunities for a person to utilize all of their skills – brains and brawn alike. It is imperative that we provide the youth around us with an introduction to our world. Without an infusion of new workers, technicians, engineers and managers, the constructing that maintains our clean water, power grid, transportation infrastructure and protection from the elements will continue to be considered an unnecessary, unattractive career path.

Our industry can take an active role in reaching out to the various places where our children are learning – Boy Scouts, Girl Scouts and 4-H all have programs that provide kids with new experiences.

Boys and Girls Cubs, technical school programs, and BOCES all can use some real-world exposure. Consider encouraging your field workers, crew leaders and project engineers and managers to

take some time to visit these groups and classrooms and invite groups to visit your office or jobsites. Reach out to guidance counselors; provide literature for their career bookshelves. Purchase a BuildUp! Tool kit from AGC of America and help teach the lessons. Be a mentor. Volunteer. Continue to be a visible example in the community.

Our industry is the lifeline to the health of our nation and, yes, even the world, and we can be a part of its success and repair – one person at a time. 

Ms. Morrison is a Professional Engineer and serves as the Vice President, Transportation and Technical Services for the AGC NYS.

Without an infusion of new workers, technicians, engineers and managers, the constructing that maintains our clean water, power grid, transportation infrastructure and protection from the elements will continue to be considered an unnecessary, unattractive career path.

not have ever had the opportunity – all for about \$20,000 per school plus \$1 per day for the teachers. His purpose began as a way to repay the village that saved his life and has turned into an effort to combat terrorism. By educating children, they in turn will be able to support themselves and their families without succumbing to the financial influence flaunted by the radical forces around them. This is an example of one person, doing the right thing for the right reason, with huge results.

Though it would be an amazing thing, I am not suggesting that we all go build schools in foreign countries. What I am suggesting is that we consider the impact we can individually have on the



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Plus, employees of qualifying companies can get 18% off their personal accounts.

The Associated General Contractors of America has not endorsed this contract. In order to participate, companies must meet all eligibility requirements of the National Purchasing Program Member Agreement, and be a Member in good standing with the AGC NYS, LLC.

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MEETING**

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SUCCESS!**

The 2010 Annual Winter Meeting was held recently in Los Croabas, Puerto Rico. Over 200 of our Building and Highway members attended the five-day conference in the 85 degree weather at the magnificent El Conquistador Golf and Casino Resort. In addition to the many committee meetings everyone had a good time participating in the Volley Ball, Bocce Ball and Golf Tournaments; not to mention the Snorkel Sail Tour, which was a big hit.

The major highlight of the event was the election of our new AGC 2010 Chairman, Mr. Mark Breslin of Turner Construction Co. The evening also saw the election of the Highway Division Chairman Jeff Hanlon of Slate Hill Constructors Inc. and Ms. Tina Schneider of Purcell Construction Corp. as the Building Division Chairwoman.

If you missed the opportunity to attend this year, you can attend next year, January 30-February 4, 2011 at the Westin Casuarina in Grand Cayman.

We would also like to thank event sponsors: Fuller O'Brien & Gallagher, the AGC of Puerto Rico, Milton CAT, Barrett Paving Materials, BBL Construction Services and Iannelli Construction Co. 



SAVE THE DATE

The Anthony S. Santaro AGC NYS Scholarship Classic

June 22nd, 2010

Turning Stone Resort and Casino in Verona

A five man scramble and two man best ball competitions will be held on the Shenendoah and Kaluyat courses.



We are accepting items for the player gift pack and the silent and live auctions that are held that evening. If you would like to donate an item for the gift pack (275 pieces or for 70 dozen golf balls) or the auction please contact Cathy Newell at 518-456-1134 or via email at cnewell@agcnys.org

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BOCCE TOURNAMENT

First Place

Robert & Jill Rook

Second Place

John & Brenda Werely

GOLF TOURNAMENT

Longest Drive

Tom Tyrrell

Closest to the Pin

Milt Kotin

Low Net -

Paul McCoy
Milt Kotin
Karen Morrison
John Czebiniak
Steve Bussanmas

Low Gross -

John Gonyea
Joe O'Malley
Tom Traver
Scott Harrigan

VOLLEYBALL TOURNAMENT

Not Albany Volleyball -

Jeff Hanlon
Scot Owens
Scott Collins
Robert Doucet
Dale Carlson
Brian Hanlon
Kelly Hanlon

SANDCASTLE CONTEST:

Five or more people

First Place - Coconut Cove

Mia Galasso
Julia Galasso
Julia Benson
Lauren Benson

Second Place - Old San Juan

Gaia Parish
Josh Osinski
Anderson Osinski
Hayden Hill
Ed Parish
Carley Parish

Third Place - Titanic

Thomas Tyrrell
Emily Tyrrell
Fred Stutzman
Leah Tyrrell
Tom Tyrrell

Fourth Place - Barrett Castle

Samantha Owens
Scott Mundorff
Scot Owens
Melinda Mundorff
Helene Narracci

Less than 5 people

First Place -

Wake of the Titanic

Scott Mundorff

Second Place -

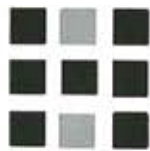
Towers of Imagination

Johanna DiCero
Sophia Compagni

Third Place - Volcano Castle

Cole Compagni
Matthew Galasso





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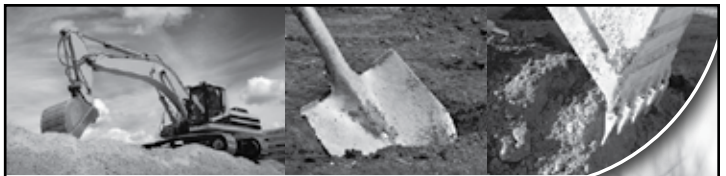
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Brendan Manning

New York's Latest Environmental Regulatory Updates: Part I

By Brendan Manning



Whatever route you chose to handle retrofits, protecting our environment was the overall intent of the law. Whether the industry is successful in changing the regulation or not, it will become a reality sooner than later.

In 2006, New York State passed the Environmental Conservation Law 19-0323 - *Use of Ultra Low Sulfur Diesel Fuel and Best Available Retrofit Technology for Heavy Duty Vehicles*. It wasn't until July 30, 2009 that the Department of Environmental Conservation Issued the Rules and Regulations for the Law – Title 6 NYCRR, Part 248.

The law states that Heavy Duty Vehicles being used “on behalf” of state agencies and authorities must be:

- Retrofit with a BART “Best Available Retrofit Technology” Device.
- Replaced or repowered with an engine certified to EPA 2007 standard for Particulate Matter or subsequent EPA standard at least as stringent.
- Replaced with an alternative fuel engine or vehicle which does not operate on diesel fuel or
- Retire the vehicle or remove vehicle’s engine.

A Heavy Duty Vehicle by their definition is any on and off-road vehicle powered by diesel fuel and having a gross weight of greater than 8,500 pounds. The key to the NYS Law definition is actually the exempted pieces of equipment.

Equipment exempted includes: self-propelled caterpillar crawler-type equipment, road rollers, tractor cranes, truck cranes, power shovels, road building machines, snow plows, road sweepers, sand spreaders and earth movers. These descriptions leave a lot open for interpretation. Basically this law covers trucks entering and exiting your sites. Some of those included are asphalt and concrete trucks, delivery trucks (sheet rock, steel, lumber) which include semis, box trucks, etc.

The requirement in the law states that not less than 33 percent of the vehicles entering a *public* jobsite (not private) must follow the above mentioned rules by December 31, 2008; 66 percent by the end of 2009 and 100 percent by the end of 2010.

State agency and authority work is classified as DOT, DASNY, OGS, SUCF, MTA, Thruway Authority etc., and not Municipalities or School Districts.

Although the AGC and GBC opposed the legislation in 2006, it passed the Assembly and Senate and was signed by the governor in record time. Once the bill was signed, the AGC also tried to amend the bill with little success. The regulations go on to say that contractors are required to report on

their fleet, and also the fleets of their subcontractors and applicable suppliers. In addition to all subcontractors, they expect reports from concrete, fuel, masonry, and lumber suppliers, and other vendors whose fleets regularly visit the construction site.

After the regulations were issued in July 2009, many NYS Agencies and Authorities began issuing memos informing contractors that they would have to supply fleet information retroactively into 2008 and 2009. With some pushing and prodding from AGC NYS and others, DEC changed their mind and decided to only consider enforcement in 2010 rather than retroactively enforcing the regulations. A DEC letter dated October 27, 2009 stated that, “due to the timing of regulatory effectiveness, it would be a hardship for regulated entities and their contractors to comply with the retrofit requirements of Part 248 for calendar years 2008 and 2009.”

A lawsuit was filed by two AGC NYS members and the NYS Construction Materials Association that is looking for some relief on the matter. If the lawsuit is unsuccessful and no other form of relief is provided, members will be required to comply by the end of the year. However, the physical testing of your vehicles (to determine the best technology), combined with the actual procurement and installation of the devices will take a significant



A lawsuit was filed by two AGC NYS members and the NYS Construction Materials Association that is looking for some relief on the matter. If the lawsuit is unsuccessful and no other form of relief is provided, members will be required to comply by the end of the year.

amount of time. That means you will be at risk until the results of the lawsuit are known, and may have trouble accomplishing the retrofits before the end of the year. While the lawsuit has a strong case to present to the court, each member company will need to decide on the appropriate course of action until the lawsuit is decided.

GETTING STARTED WITH RETROFITS

If you don't have your own fleet manager, you need to contact the firm that you've purchased, leased and/or get your equipment serviced by. If they hesitate and have no idea what the word “diesel

retrofit” means, then you should ask them to contact the manufacturer about retrofitting your particular piece of equipment to meet the state standards. Many times, the manufacturer has already done all of the homework on your model and engine type.

When it comes time to test you vehicles for the proper device you must first start with a level 3 BART device.

BART classification levels:

- Level 3 (highest): > 85% PM reduction
- Level 2: > 50% PM reduction
- Level 1 (lowest): > 25% PM reduction

If a level 3 product is believed to be applicable, examine the EPA/CARB verification paperwork to make certain it will be applied correctly and in accordance with the verification requirements.

Verified retrofit technologies can be found at:

1. EPA: www.epa.gov/otaq/retrofit/verif-list.htm
2. CARB: www.arb.ca.gov/diesel/verdev/vt/cvt.htm

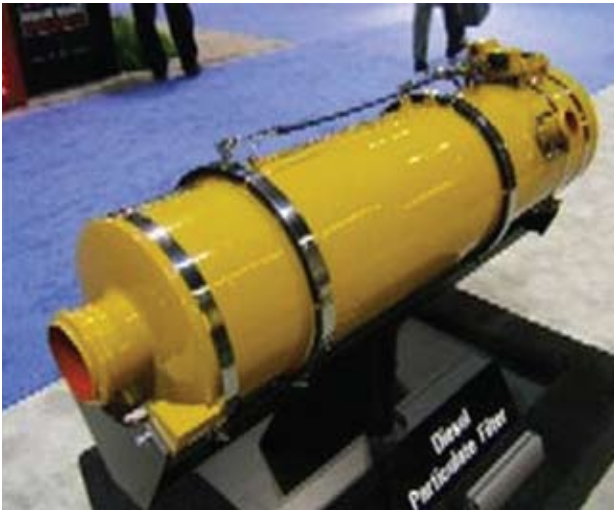
If no classification level 3 product is determined applicable and available for use on a specific HDV engine and application, then the regulated entity or contractor continues the evaluation process for a level 2 device and so on down the line.

Some suggested steps moving forward include:

- Performing an HDV inventory according to the DEC prescribed format.
- View the DEC inventory forms at: <http://www.dec.ny.gov/chemical/4754.html>. Look under Part 248.
- Work with an approved emissions retrofit distributor that represents a manufacturer with verified technologies.
- Determine the technologies that are either EPA or CARB verified for each HDV.


continued on page 32

New York's Latest Environmental Updates (continued from page 31)



If no classification level 3 product is determined applicable and available for use on a specific HDV engine and application, then the regulated entity or contractor continues the evaluation process for a level 2 device and so on down the line.

- Establish an exhaust heat profile. This means installation of a data logger on the HDV for a period of three days that represent normal duty cycle conditions.
- Place temperature probe at the muffler inlet. Have the vendor supply you with the data log results along with their letter that summarizes the results.
- Prepare a timetable - Develop a plan that will bring your fleet into compliance. Most retrofit device manufacturers build as ordered and therefore do not stock items.

Whatever route you chose to handle retrofits, protecting our environment was the overall intent of the law. Whether the industry is successful in changing the regulation or not, it will become a reality sooner than later. 

A special thanks to Wayne Clark of Milton CAT for help with this article. For more information contact AGC NYS Education and Environmental Director Brendan Manning at bmanning@agcnys.org

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Rich Couch



Steve Stallmer

TCP Urges You To

TAKE ACTION

By Steve Stallmer and Rich Couch

Late last year, The Crisis Program (TCP) hired a Washington, D.C.-based public relations firm, Xenophon Strategies, to mount an aggressive campaign to increase state funding for New York State roads and bridges. The multi-media campaign will raise awareness of the growing threat to public safety and call on our state legislators to provide adequate funding. TCP will utilize Xenophon to develop new digital tactics, like Facebook and Twitter, and to create more traditional methods of advertising, such as television commercials and billboards.

The centerpiece of this effort is our new website, www.NYBridgesAreFallingDown.com, which was launched on January 14th. The site will allow visitors to identify the status of every bridge in each county via an interactive county-by-county map, send personalized letters to their legislators, and sign up for updates via text messaging and email. A Facebook group and a Twitter feed, as “Safe NY Bridges,” will allow users to interact with one another and distribute campaign news online. These social mediums allow TCP to contact more people in a more efficient and cost effective way. Plus, growing this network of advocates is an integral part of our TCP long-term, grass-roots efforts.

With just a few simple clicks, citizens can send a form letter to their State Senator and Assemblyman urging the adoption of the NYS Department of Transportation’s \$25.8 billion five-year capital plan. These letters are automatically transmitted to the legislators’ offices in Albany and are critical to a

continued on page 34

With just a few simple clicks, citizens can send a form letter to their State Senator and Assemblyman urging the adoption of the NYS

Department of Transportation’s \$25.8 billion five-year capital plan. These letters are automatically transmitted to the legislators’ offices and are critical to a successful campaign.




TCP Urges You to Take Action (continued from page 33)





successful campaign. Please help our efforts by visiting the website and taking action today.

Just follow these easy Action Steps:


1. Log on to www.NYBridgesareFallingDown.com
2. Get informed by reading “The Facts” and checking out the “News Room.”
3. Click on the “Take Action” link to send a letter to each of your elected representatives (State Senate and Assembly) expressing your concerns about the condition of our infrastructure. A form letter is already written, so all you need to do is enter your address.
4. Keep updated on this important issue by visiting the “Get Info” link.
5. Let others know about this effort by using the “Tell Others” link or by inviting your friends and relatives to visit www.NYBridgesareFallingDown.com. We are also on Facebook and Twitter at SafeNY-Briges. Please log on and become a fan.

We need your voice! 

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Traditional Advocacy Efforts Continue

Our more traditional advocacy efforts have not been side lined. TCP staff continues to work with Chamber of Commerce groups in Buffalo, Rochester, Syracuse, and Ticonderoga. We continue to work with the Bridge of Life Committee in Saratoga County and The Lake Champlain Bridge Coalition in Essex County. And we continue to grow our grass-roots action network, which currently has over 250 members.

The TCP Advocate continues to carry out our advocacy message. The February edition was mailed to 1,141 (both construction industry and non industry) households across New York. The February newsletter was designed to give the reader background and data so they could contact their lawmaker in support of roads and bridges. We also sent an Action Alert to our grass-roots advocates which will outline our funding needs and make them aware of our on-line efforts.

We also continue to be involved with media advocacy. We have been working with advocates to place letters to the editor in daily papers statewide. TCP staff drafted an Op-Ed piece for the Buffalo News which connected concrete falling off of the Cleveland Drive Bridge in Cheektowaga with the desperate need to fully fund New York State’s infrastructure needs. 

Steve Stallmer is Vice President of Government and Public Affairs for AGC of NYS.

Rich Couch is the Director of Advocacy for The Crisis Program.



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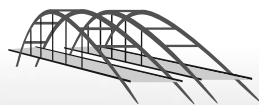
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Jim Redmond

EPA's Lead-Safe Renovation, Repair, and Painting (RRP) Rule: **Are You Ready?**

By Jim Redmond

AGC NYS has been “getting the word out” about the U.S. Environmental Protection Agency’s Lead-Based Paint Renovation, Repair and Painting (RRP) Program slated to take effect in April 2010. By that date, construction firms must apply for and receive EPA certification to disturb paint as part of their work in pre-1978 housing and child-occupied facilities.

AGC NYS has received numerous calls regarding the applicability of the standard. If the specs call for the “abatement” of

such housing for elderly or persons with disabilities) or any 0-bedroom dwelling.

Child-occupied facility means a building, or portion of a building, constructed prior to 1978, visited regularly by the same child, under six years of age, on at least two different days within any week (Sunday through Saturday period), provided that each day’s visit lasts at least three hours, the combined weekly visits last at least six hours, and the combined annual visits last at least 60 hours. Child-occupied facilities may include, but are not limited to, day

AGC NYS has been “getting the word out” about the U.S. Environmental Protection Agency’s Lead-Based Paint Renovation, Repair and Painting (RRP) Program slated to take effect in April 2010. By that date, construction firms must apply for and receive EPA certification to disturb paint as part of their work in pre-1978 housing and child-occupied facilities.

lead, this standard does not apply and the abatement typically would be performed by an environmental contractor following EPA regulations pertaining to “abatement” projects. EPA’s Lead-Safe RRP rule covers “renovation or demolition” of lead containing surfaces in target housing and child-occupied facilities. The standard defines “target housing” and “child-occupied facilities” as follows:

Target housing means any housing constructed prior to 1978, except housing for elderly or persons with disabilities (unless any one or more children age six years or under resides or is expected to reside in


care centers, preschools and kindergarten classrooms. Child-occupied facilities may be located in target housing or in public or commercial buildings. With respect to common areas in public or commercial buildings that contain child-occupied facilities, the child-occupied facility encompasses only those common areas that are routinely used by children under age six, such as restrooms and cafeterias. Common areas that children under age six only pass through; for example hallways, stairways, and garages; are not included. In addition, with respect to exteriors of public or commercial buildings that contain child-

occupied facilities, the child-occupied facility encompasses only the exterior sides of the building that are immediately adjacent to the child-occupied facility or the common areas routinely used by children under age six.

Note: The standard does allow for six square feet of disturbance for interior work and 20 square feet for exterior work to be performed without having to be a certified company or renovator. However, this work can not be performed utilizing a prohibited practice. The standard identifies a prohibited practice to include open flame burning or torching, using a heat gun above 1100 degrees Fahrenheit, and using power tools without a HEPA vacuum attachment.

When bidding on “target housing” or a “child-occupied facility,” make sure lead surveys are provided and completed. Confirm that all components to be disturbed during the renovation process have been tested. As per the standard, lead-based paint is defined as paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter

or more than 0.5 percent by weight.

If lead-based paint is present, contractors performing renovation activities on those surfaces, that exceed the allowable square foot exemptions, must be a certified firm and have employees that are certified renovators. In addition, all of these jobs must be supervised by certified renovators; specifically, individuals who have completed an EPA-accredited, full-day training course. Plus, other craft workers on such jobsites must be properly trained and equipped to follow the RRP Program’s lead-safe work practices when performing their assigned tasks. Failure to comply with EPA’s RRP Program requirements could result in penalties of up to \$37,500 per day per violation. 

For additional information, contact AGC NYS or visit EPA’s web site at <http://epa.gov/lead/pubs/renovation.htm> or call the National Lead Information Center (NLIC) at 1(800) 424-LEAD [5323] to find out more.

Jim Redmond is AGC NYS’s Safety & Health Services Director.

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Industry Conference

Not only did December 8th welcome the first significant snowstorm of the winter, but it also brought nearly 1000 construction industry professionals into Saratoga Springs for the three-day AGC of NYS Construction Industry Conference. This was the 23rd year for the Construction Industry Conference, which continues to provide new training and workshop opportunities for construction staff and managers alike. Be sure to mark your calendars for the 2010 event – December 7th -9th; in Saratoga.

Thomas DiNapoli, the NYS Comptroller, presented the keynote address to the general session. He offered some valuable insight into the operations of New York State and the impact of financial considerations on our industry. In addition to our members, our NYS public agency partners also contributed greatly to the success of the Conference. OGS, DOT, DAS-

NY, SUCF and the NYS Thruway Authority all provided staff as trainers or moderators, speakers and attendees. The occasion continues to be the finest networking opportunity for the New York construction industry.

The conference serves as an occasion to highlight excellence in our industry. Awards were presented for Safety, Environmental and Partnering Excellence. Additionally, student scholars were recognized and presented with their award checks. Nearly 60 vendors also provide displays of the latest innovations in the field.

It is through the participation and support of our members and public agency partners that AGC is able to continue to provide you with this outstanding opportunity for training, education and interaction with your peers. We look forward to seeing you all in Saratoga in December of 2010!



Mark Galasso (at podium); Stan Gee, NYSDOT Commissioner; Jim Davies, NYSOGS Deputy Commissioner, Design and Construction; Chris Marcella, SUCF Director of Design; and Rick Bianche, DASNY Senior Director, Project Management. *Not pictured:* Michael Fleischer, NYSTA Executive Director

Mark Breslin, Mark Galasso, NYS Comptroller Thomas DiNapoli and Butch Marcelle



Joe Hogan, AGC of America Chief economist Ken Simonson, and Steve Stallmer



Butch Marcelle and Dave Glattly of East Jordan Iron Works



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For Your Eyes Only:

The Role of Scheduled Oil Sampling (S.O.S.)

By Josh Gaynor
Service Solutions Manager



Have you already experienced the difference that planned equipment maintenance makes on your fleet performance, and are you committed to improving your practices? Then this article is for you. You'll find some updates, important points and useful reminders about the role and the appropriate implementation of scheduled oil sampling, or S.O.S.

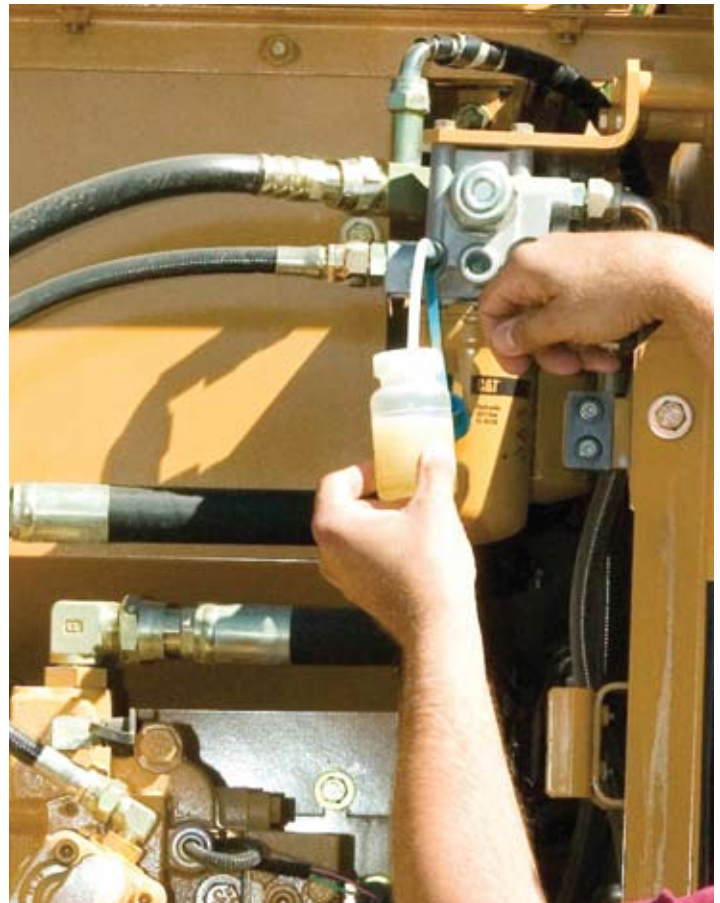
When talking about scheduled oil sampling, or S.O.S., the first question that needs to be addressed is who needs S.O.S.? If you think the answer is obvious – everyone needs S.O.S. – think again. Unless you are committed to a disciplined, consistent regimen, adhering to the

process, regularly following up and taking action on the results, S.O.S. can be a waste of money and time, giving you an illusion of proper maintenance but not providing any real value.

Let's start by defining scheduled oil sampling as a program that allows you to get an insight into the health of your machine by collecting, analyzing and interpreting small amounts of oil and other fluids stored in the cavities of the components in your machine, including the engine, powertrain, hydraulics, braking and coolant system. Scheduled Oil Sampling is one of a number of important tools that can be used to support your decision-making when it comes to maintenance, helping you lower your owning and operating costs, maximizing component life and optimizing your investment.

Others include:

- Cutting and inspecting filters and looking for debris that may not appear in oil sampling.
- Keeping track of hours on components.



Reliable results begin with the proper taking of samples.

- Monitoring performance – paying attention to power, slippage, excessive oil consumption.
- Monitoring tell-tale physical warning signs such as smoke and leaking components.
- A plugged water pump weep hole. This is a problem that can lead to major engine failure, and can be detected early enough with S.O.S. if coolant is found in the oil.

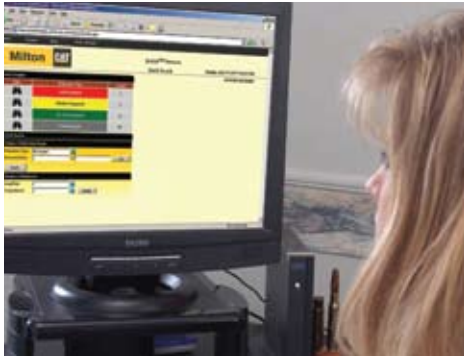
Used together, those activities will help you determine why a machine is functioning the way it is, and can support your follow-up steps to maintain its current performance or to improve it.

What are some examples of problems that S.O.S. can help you catch early enough so you can take care of them before they become much bigger and more costly?

- A bad injector. Another relatively easy-to-fix problem that can lead to major failure and is detected by the appearance of fuel in the oil. If not remedied, the fuel quickly breaks down the viscosity of the oil, which in turn can lead to component breakdown.
- Compromised air intake. If silicon is found in your oil, it is a good

continued on page 48

For Your Eyes Only (continued from page 47)



Online postings of timely results and recommendations, in an easy to understand format, have become a real tool for many customers.

indication that there may be a pin hole in a filter, or a loose or broken filter housing clamp. Any of those can greatly affect the performance of your machine.

In addition, an important benefit of a well-executed and documented S.O.S. program comes at the time of selling the machine. The historical data provided by oil sampling goes a long way to substantiate the claim that the machine was properly maintained.

Eight Mistakes to Avoid:

1. Focusing on the condition of the oil and not on what the oil is telling you about the machine. Whoever is testing and reporting on your oil should know about equipment, not just about oil.
2. Forgetting that to be effective, sampling must be a program. One sample is of no value – the purpose of sampling is to determine baselines, and from there, trends. Trending, when negatively, can tell you when there is a problem, and when positively, can indicate that a problem has been fixed.
3. Sampling from a dirty port. Remember the old computer saying, “Garbage in, garbage out?” If your sample has particles of foreign

substances that come not from the oil itself but from around the port, the data from the sampling will be flawed.

4. Sampling from a cold engine. You need a warm sample from a machine that has been run; a cold sample is not representative and can give you faulty information.
5. Labeling sample containers with incorrect information.
6. Not taking into account other relevant machine information such as operating environment.
7. Neglecting particle counting. A relatively new aspect of oil and fluid

machine’s overall health, but unless you take the time to look at the data and use what you learn to guide your maintenance decision-making, you are just wasting your resources.

In closing, let’s emphasize again that scheduled oil sampling is an important information tool that can support your maintenance decision-making. It is not magic, it doesn’t work when used without the other available tools, and it is not to be seen as a stand-alone operation to be done only once when you have an issue, but as a program.

As important as performing the in-house steps; including committing to

Without an infusion of new workers, technicians, engineers and managers, the constructing that maintains our clean water, power grid, transportation infrastructure and protection from the elements will continue to be considered an unnecessary, unattractive career path.

analysis, it allows for the tracking of larger pieces of foreign material and contaminants that may collect over time in your oil.

8. Not taking action! This is a very common mistake, and carries the worst consequences. S.O.S. provides you with a very useful bank of information regarding your

a program, proper collection, labeling and shipment of samples and following up on results; is having the best resource as a partner for your S.O.S program. Choose a vendor based on their knowledge of both oil and equipment.

Josh Gaynor is the Service Solutions Manager for Milton CAT: Josh_Gaynor@miltoncat.com

What Story Can an Oil Sample Tell You About a Machine?

Recently, we processed an oil sample, the first on this particular wheel loader, that brought back an unusual combination of results for a machine with such relatively low hours:

- The additive package in the oil was breaking down indicating excessive heat.
- Dilution in the oil indicated the machine ran a great deal at low RPMs.
- Silicon and debris in the oil indicated a very dirty, dusty work area.

After speaking with the customer, it became clear why. This sample came from a machine that worked long hours, day after day, in a coal plant. The recommendation to the customer? More frequent fluid changes and strict adherence to preventive maintenance protocol.



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