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www.acec.org

ACEC

THE AWARD-WINNING

2010 EEA Call for Entries

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Risks & Rewards For Engineers As Expert Witnesses

Tough Economy Means Higher PLI Claims, but Lower Rates

2009 Palm Springs Fall Conference Preview

We insure professional liability and property casualty, and we keep you safe from big bad wolves.

No matter what your materials are, your building has to stand. And sometimes it has to withstand the unexpected. Travelers understands, and has both professional liability and property casualty lines of insurance tailored specifically for engineers. And because our underwriters specialize in underwriting engineering risks, your coverage will evolve alongside your most complex projects. For more information on Travelers insurance for engineers, contact your independent agent or call 443-353-2253. Suddenly, those big bad wolves aren't so big, or so bad, after all.



CALL FOR ENTRIES

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CALL FOR ENTRIES

ENGINEERING EXCELLENCE AWARDS

The American Council of Engineering Companies' (ACEC) annual Engineering Excellence Awards (EEA) competition recognizes engineering firms for projects that demonstrate a high degree of innovation, achievement and value.

For more than 42 years, engineering firms have entered their most innovative projects and studies in state and regional competitions conducted by state member organizations (MOs). Qualifying projects at the MO level are then eligible to participate in the ACEC national competition.

EEA entries are accepted into one of 11 project categories: studies, research, and consulting engineering services; building/technology systems; structural systems; surveying and mapping technology; environmental; water and wastewater; water resources; transportation; special projects; small projects and energy.

A distinguished panel of 25-30 judges is convened to critique and rank the projects. These professionals have expertise in a wide variety of areas within the industry. The judging panel spends three days evaluating projects for engineering excellence, and then selects 24 top winners to receive 16 Honor Awards and eight Grand Awards. One Grand Conceptor Award will be selected from the eight Grand Award winners for the overall best engineering achievement.

Projects from all over the world are rated on the basis of: uniqueness and originality; future value to the engineering profession and perception by the public; social, economic, and sustainable development considerations; complexity; and successful fulfillment of client/owner's needs, including schedule and budget.

ACEC's 2010 Engineering Excellence Awards Gala provides firms with national recognition and a platform to showcase their talent and expertise in a dramatic setting.

The annual EEA gala celebrates, with pride and elegance, the outstanding achievements of the engineering profession.



ACHIEVING NATIONAL RECOGNITION

ACEC's 2010 Engineering Excellence Awards competition showcases the year's best engineering achievements to a national audience of clients, industry leaders and decision-makers.

All National Finalists are recognized, and the top 24 winning projects are highlighted at the annual EEA Gala, the blacktie event known as the "Academy Awards" of the engineering industry. This event will be held on Tuesday, April 27, 2010, at the Grand Hyatt Hotel in Washington, D.C.

More than 500 members and guests attended the 2009 EEA Gala, which was held during ACEC's Annual Convention and included members of Congress along with international, federal, state and regional officials.

ELIGIBILITY

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Any engineering or surveying firm is eligible to enter the awards program, whether or not the firm is a member of ACEC.

GENERAL CRITERIA

1 Both member and non-member firm entries must be submitted to the ACEC national competition through an ACEC state Member Organization (MO).

Each entry should be submitted to the MO in accordance with local rules for the entry. Contact the nearest ACEC MO office for details. Entries submitted to the ACEC national competition must be submitted in accordance with the rules and requirements in this brochure.

3 An MO may submit five entries from its own membership, plus one member entry for every five, above 10 entered on the MO level. A MO may submit any non-member entries judged by the MO to be legitimate candidates for entry in the national competition. Such non-member submittals will not be counted against the member submittal limitations outlined above.

4 Engineering or surveying projects that have won awards in state or national organizations' programs are encouraged to be entered.

5Projects entered in the competition may have been executed anywhere in the world. Research and Studies (Category A) or Surveying and Mapping projects (Category D) must have been publicly disclosed by the client between Nov. 1, 2007 and Oct. 31, 2009. Construction of projects (Categories B through K – with the exception of D) must have been substantially completed and ready for use between Nov. 1, 2007 and Oct. 31, 2009.

See "categories" section for full listing of all eligible categories.

6 Entries in the national competition may be placed in any one of the 11 categories. The entering firm must select the one category that is most appropriate. A project may be entered only once in any category. However, after a project entered in Category A has been constructed, it may be entered in a different category – B through K – in the year when eligible.

Zeach entry must consist of three components:

- I. Official entry notebook
- II. Envelope containing submission materials
- III. Photographic display panel (see "Preparing Your Entry for the 2010 Engineering Excellence Awards").

Non-compliance with the rules may disqualify an entry. Please read the requirements thoroughly.

ACEC will not be responsible for any damages to or loss of an entrant's official entry notebook, envelope, electronic media, supplementary report or photographic display panel.

9 The ACEC Engineering Excellence Awards committee reserves the right to determine the eligibility and category classification for all entries.



UDGING

Entries will be judged on the basis of overall engineering excellence in each of the 11 categories; on the basis of the work performed by the entering firm only; and according to the rating guidelines listed. Winners and affiliated MOs will be notified.

AWARDS

The panel of judges will select 24 awards at their discretion – 8 Grand and 16 Honor Awards. A Grand Conceptor Award will be selected from the 8 Grand Award winners. The Grand Conceptor will be announced at the Gala as the top national winner selected by the judges, whose decisions on all awards are final. Awards will be presented to the clients/owners and entering firms submitting the winning entries. All National Finalists will be recognized along with the top 24 winning projects and the Grand Conceptor winner during the EEA Gala evening.

PUBLICITY

The public relations and marketing value of participation in the national EEA program is substantial. All national winners will be highlighted in ACEC's public relations program, which benefits all U.S. engineering firms. Working with participating firms and MOs, ACEC staff will contact local media to announce winners and their awards. Through national and MO efforts, display panels can be exhibited in city administrative buildings, universities, shopping centers and office buildings. These activities enhance direct business development benefits for both local and national award winners. Further benefits are gained through feature stories presented in firm brochures, newsletters and other publications.

RATING GUIDELINES FOR JUDGING

- 6. Total......100%

RATING GUIDELINE DEFINITIONS

- 1. Original or Innovative Application of New or Existing Techniques:
- Does the entry demonstrate the use of a new science or a breakthrough in the general knowledge of engineering?
- Does the entry represent a unique application of technology, techniques, materials or equipment?
- 2. Future Value to the Engineering Profession and Perception by the Public:
- Will the entry redefine current engineering thinking?
- Does the entry advance a positive public image of engineering excellence?
- 3. Social, Economic and Sustainable Design Considerations:
- Do the solutions identified produce secondary benefits of value to the community environment?
- Does the entrant's approach provide society with social, economic, or sustainable development benefits?
- Does the entrant's contribution to the project improve the health, safety or welfare of the public or affected environment?

CALL FOR ENTRIES – CATEGORIES

CATEGORY A:

Studies, Research and Consulting

Non-design services including, but not limited to:

- New products, materials and technologies
- Expert testimony
 Basic research and studies
- Computer/software
- technology Technical papers
- Public outreach/ involvement

CATEGORY B: Building/Technology Systems

- Mechanical/electrical/ plumbing
- Computer/technology Communications
- Acoustics Software systems
- Software systemsSustainability or
- carbon neutrality Efficiency certification
- standards, e.g. LEED

CATEGORY C:

Structural Systems

- FoundationsTunnels
- BuildingsSeismic design
- Towers
- Bridges
 Sports fail
 - Sports facilities

Category D:

Surveying and Mapping Technology

- Geometrics, ALTA, land title and rights surveys
 Control, GPS,
- monitoring or construction surveying
- Survey mapping, GIS/ LIS, photogrammetry

CATEGORY E:

Environmental

- Hazardous wasteSolid waste
 - Restoration/

12.03

- reclamation Air quality
- Noise
- Recycling
- Waste pond
- management Carbon sequestration and trading

CATEGORY F: Water and

Wastewater

- Water supply/ distribution/treatment
 Westswater
- Wastewater collection/treatment and disposal
 Industrial waste
- Residuals
 - management Reuse

None of the projects entered in Category A can include the preparation of construction documents.



4. Complexity:

- Did the entry successfully address very complex criteria or unique problems?
- Were extraordinary problems of site, location, hazardous conditions, project requirements or similar elements present?
- Did the entry require the use of out-of-the-ordinary technology or ingenuity for achievement of the project's goals?
- 5. Exceeding Client/Owner Needs:
- Did the engineer or entrant successfully engage the client/ owner in the overall project development process?
- Is it an economical and cost-effective solution?
- How did the final cost relate to the original budget estimate?
- How closely does the entrant's solution meet the total goals of the client/owner?
- Did the entrant meet the client's time schedule?

PREPARING YOUR ENTRY

This section describes all required submission materials for entering the 2010 ACEC EEA competition. All materials must be submitted exactly as designated below. Digital files must be PC compatible and appropriate to the information being submitted (i.e., Microsoft Word for text, JPEGs for photos or other images, Adobe PDFs, etc.).

If the submission does not meet the requirements listed, it may be disqualified.

If any part of an entry does not meet requirements listed, that portion of the entry may not be presented for judging.

Extraneous material will be discarded.

No reference to other awards should be included in submitted materials.

In any given year, an entry may be submitted through only one MO. If a project was entered in more than one MO competition, *it is the responsibility of the affected MO* to decide which one will enter the project in the national competition.

DATES TO REMEMBER

Submitted materials **MUST BE RECEIVED** at ACEC by January 8, 2010. Materials received after that date will NOT be accepted. All materials submitted for judging in the national competition become the property of ACEC and may be used in ACEC publications. Panels may be used for displays or other promotional or educational purposes. **Submitted materials will NOT be returned.**

Company representative must be available by phone on January 20, 2010.

Judging: February 19-21, 2010 in Washington, D.C.

EEA Presentations and Gala Evening: Tuesday, April 27, 2010, in Washington, D.C.

SUBMISSION REQUIREMENTS

The following **three main components must be submitted** with the national EEA competition entry:

- I. Official entry notebook
- II. Envelope containing submission materials
- III. Photographic display panel

CATEGORY G:

- Water ResourcesHydraulics, hydrology
- Hydraulics, hydrology
 Irrigation
- Storm water management
- Erosion control
- Recreational facilities
 - Flood control, dams
- CATEGORY H:
- Transportation

- Highways
- Railroads Airports
- AirportsMarine/ports
- Public transit
- Intermodal facilities
- Inland water navigation

CATEGORY I: Special Projects

- Safety and security
 Industrial processes/
- Industrial processes materials handling
- Mining, metallurgy, mineralogy
- Corrosion protectionProgram and construction
- managementLand development

CATEGORY J:

Small Projects

 Total project construction budget does not exceed \$1 million
 Projects under \$1 million are not limited to small projects category, excluding Category A. However, project category selection is at the entrant's discretion.

CATEGORY K:

Energy

- Transmission and distribution
- Power generationRenewable energy
- Cogeneration
- Energy storage technologies
 Energy efficiency –
- new and retrofit Energy usage reduction programs
- Demand side management



IV. I. OFFICIAL ENTRY NOTEBOOK

(black, 3-ring, 1/2" binder)

Notebook must include ONE COPY of the following:

(These copies are in addition to those that must be included in the envelope):

- Official entry form (with entry fee attached)
- Signed letter from the client/owner
- Executive summary
- Project description
- Six different photos or graphics (*w*/ captions and labeled: Photo 1, Photo 2, etc.)
- Photographic display panel (small version)
- CD-ROM
- Supplemental report mandatory for Category A only (insert inside back cover or separately if too large)
- Entry fee: A check for \$975 for ACEC members and \$3,000 for non-ACEC members must be attached to the official entry form in notebook submitted to the ACEC competition. Refer to your MO for local competition fees.

II. ENVELOPE

CONTAINING SUBMISSION MATERIALS

The envelope must have a label affixed to the outside, which indicates the firm name, the project name, and the category in which it shall be judged. The envelope must be large enough to contain originals and copies as indicated below:

1 Original and 10 copies of a completed official entry form. The engineer or surveyor and client/owner all must sign the original official entry form stating that the submitted project was substantially completed and ready for use between Nov. 1, 2007 and Oct. 31, 2009.

2 Original and 10 copies of a one-page signed client/owner letter, addressed to ACEC, describing the relationship the client/owner had with the entrant in the development of the project and how it exceeded the client/owner needs.

Original and 10 copies of an executive summary – one page; 8.5" x 11" with 1" side margins; double-spaced (minimum 12 pt. type) – describing the problem and solution. Project title and entry category must appear at the top of the page.

Original and 10 compiled copies of a project description, not to exceed five pages – 8.5" x 11", 1" side margins – addressing items a, b, c, and d as listed below. Project title, category and page number must appear at the top of each page. Entrants may use text (minimum 12 pt.), photos, graphs, etc.

- a) Role of entrant's firm in the project,
- b) Role of other consultants participating in project,
- c) Brief description of the entrant's contribution to the project addressing each of the following rating guidelines:
 - Original or innovative application of new or existing techniques
 - Future value to the engineering profession
 - Social, economic and sustainable design considerations
 - Complexity
 - Exceeding client/owner needs. Include total project budgeted cost, total project actual cost, entrant's portion of the budgeted cost, entrant's portion of the actual cost, scheduled and actual date of completion information from the official entry form.
- d) Describe in at least 100 words, and in layman's terms, why this project is worthy of special recognition. Explain all factors that comprise the project's uniqueness such as innovative engineering, challenges faced, and overall social impact. Note: This description will provide the basis for all ACEC publicity on the project.

5 Original and 10 compiled copies of the key participants on the project. Provide firm name, address, phone number, website and email address of each participant. Key participants should include contractors, subcontractors, other engineers, architects and other designers involved in the project.

6 Three copies each of six different photos or graphics (18 total) of high quality 8" x 10" printed from digital files. All photographs or graphics must have captions (describe what the photo or graph illustrates) on the back and labeled: Photo 1, Photo 2, etc. (include on CD-ROM: the required photos or graphics must be prepared as JPEGs, RGB, 300 dpi, sized to 7.5" x 10"; captions do not need to be included on the CD-ROM).

PHOTOGRAPHIC GUIDELINES:

- a) Photographs will be projected on a large screen during the EEA gala. Therefore, it is extremely important to submit high-quality, high-resolution images.
- b) Three of the photographs must be of the completed project and provide the highest level of visual impact for publicity.
- c) Three of the photographs should display the planning, startup, and/or construction phases of the project.
- d) One enlarged, unmounted glossy photograph will be requested from each of the 24 national winners at a later time for ACEC's Engineering Excellence Awards display wall in Washington, D.C. The photograph will be selected from those submitted with the entry.



7 Forty-five copies of the photographic display panel (guidelines below) – sized to $8" \ge 8"$ color photographs or to 8.5 $\ge 11"$ high-quality color laser prints (include on CD-ROM as Adobe PDF, 600 dpi, sized to $8" \ge 8"$).

Be-mail addresses of local newspapers, TV stations and radio stations in Excel format. If the MO or the entrant intends to handle all local and national publicity for the project, include a statement to this effect.

Beleven compiled copies of a press release (up to two pages, double-spaced) clearly and concisely describing the project and the entrant's participation, reflecting on factors listed in point # 4. In addition, indicate the value of the project to the community, identify the number of people served, cost savings, etc. No reference to other awards should be included in the submitted materials.

1 One copy of the CD-ROM must also be included in the envelope. CD-ROMs must be properly labeled to indicate the firm name, the project name, and the category. Be sure to test your CDs on different computers to ensure they are not machine dependent. The CD-ROMs must be read-only (CD-R) and should include the following items in order and titled as shown:

01 Six photos or graphics

02 Photographic display panel (small version)

03 Media List in Excel format

04 PowerPoint file with a total of eight slides including a title slide with the name of the project followed by Photos 1 - 6 and the small version of the photographic display panel. This PowerPoint file will support the presentation of your project to the judges. No sound or animation is permitted. No preset timing or slide show sequencing should be embedded. A sample PowerPoint presentation is downloadable from the EEA website.

1 One copy of the **supplementary report** containing the findings portrayed with graphs, drawings, etc. (*mandatory for Category A Entries only*)

III. PHOTOGRAPHIC DISPLAY PANEL

Panel text and photos should demonstrate the challenges, solutions and innovative uniqueness of key project elements. The panel should be prepared with **high-quality photos and graphics with minimal text** (250 words maximum).

The photographic panel should meet the following requirements:

1 Panel shall be 30" x 30" square display material, which has a matte finish and laminated over the front and back as follows:

- a) front lamination is 5 mil;
- b) back lamination is 5 mil; and

c) panel is no more than 5-6 mil for a total of 15-16 mil in thickness.

Framed or mounted panels will NOT be accepted.

2 Four, 9-inch long strips of Velcro (the hook side only) must be placed on the back of panel, at the top and bottom near each corner of the panel.

3 Maximum of six photos and/or graphics shall be used on the panel. Each image shall be a minimum of 7" x 5" or 35 sq. in. A background photo is not considered a photograph.

4 Minimum 32 pt. type for text or descriptions and minimum 28 pt. type for captions and graphics.

5 ACEC logo (download from the ACEC website), title and location of the study or project, client/owner's name and location, and entering firm's name and location (*minimum 32 pt. type*) shall be indicated on the front of the panel.

6 Leave a 2"x 2" space in the upper right-hand corner of the panel that is free of text or images but carries the panel's background scheme through this space. This blank space should not be left as a white square. This space will be used by the ACEC EEA Committee to code the entry so any words or graphics in this area will be hidden once the panel is coded.

7 The firm name, the firm address, the project name, and the category shall be indicated on the back of the panel.

Note: If facilities for production of the photographic display panel are not available in your area, contact Daisy Nappier at ACEC for sources.

Official Entry Form Comments: If your firm was responsible for the entire project, then the Entrant's portion of the Total Project Construction Budget should equal the Total Project Construction Budget. If your firm was not responsible for the entire project, then the Entrant's Portion of the Total Project Construction Budget should be the amount of the project construction budget your firm was responsible for. This information is about project costs, not firm fees.

SHIP<u>PING</u>

Panels must be shipped in mailing tubes.

Ship all materials to:

American Council of Engineering Companies *Attn:* Daisy Nappier 1015 15th Street, N.W., 8th Floor Washington, D.C., 20005-2605

All materials must be received no later than January 8, 2010.

CHECKLIST: Please review the checklist on the ACEC website to ensure you have included all of your materials before submitting your entry to ACEC.



OFFICIAL ENTRY FORM

Furnish all information requested below for each entry (both signatures are required). Firm, project, and client/owner's name should be typed or printed as they are to appear on the award. Please limit the project name to 45 characters. A fee of \$975 per entry for ACEC members (\$3,000 for non-ACEC members) must be attached to the copy of this form included in the Official Entry Notebook. An electronic version of this form can be found at: **www.acec.org.**

Make checks payable to: American Council of Engineering Companies.

ABOUT THE PROJECT

Project Name							(limit to	45 characters)
Judge this entry in the fe	ollowing category (che	ck one):						
 A. Studies, Research Consulting Engin B. Building/Technol C. Structural System 	, and eering Services ogy Systems s	□ D. S □ E. E □ F. V □ G. V	Surveying/Mappin Environmental Water and Waste Water Resources	ng Techn water	ology	□ H.T □ I. S □ J. S □ K.E	ransportation pecial Projects mall Projects nergy	
Project Location: City					State			
U.S. Congressional Rep	resentative's name in	district wh	ere entering firm	ı is locate	ed			
U.S. Congressional Rep	resentative's name in	district wh	ere project is loc	ated				
What state is sponsoring	g this submission?							
(Budgeted and/or actual	costs may not apply t	o some stu	dies in Category	A)				
Completion/Use Dates:	Scheduled				Actual _			
Category A Costs:	Budgeted \$				Actual S	\$		
Construction Costs:	Total Project Budget \$			Total Project Actual \$				
	Entrant's portion of 7	Fotal Proje	ct Budget \$		Entrant	's portion of To	tal Project Act	ual \$
□ Check box if project	was awarded through	QBS proc	cess.					
ABOUT THE FIR	M(S) SUBMITT	ING TH	IE PROJEC	Т				
Entering Firm(s)								
Firm CEO								
Firm Representative								
Must be available by pl	one on Wednesday,]	anuary 20	0, 2010					
Address (no P.O. Box) _				City _			State	Zip
Phone ()		Cell ()			Fax ()	
E-mail								
I hereby authorize subm Awards competition.	ission of this project is	nto the Ar	nerican Council	of Engin	eering Co	ompanies' 2010	Engineering E	xcellence
Senior Executive/Princip	pal			_ Title				
Signature						Date		
Address (no P.O. Box) _				City _			State	Zip
Phone ()				_ Fax ()			
E-mail								

ABOUT THE CLIENT/OWNER(S) OF THE PROJECT

Client/Owner(s)

I currently believe the work of the engineer meets the intended uses and expectations for the project and hereby grant permission to enter this project in the ACEC 2010 Engineering Excellence Awards competition, and authorize publication of its outstanding features, unique aspects, or innovations. I confirm that the project was substantially completed and ready for use between November 1, 2007 and October 31, 2009.

Client/Owner Representative				
Title	Signature		Date	
Address (no P.O. Box)	C	City	State	Zip
Phone ()	Fa:	x ()		
E-mail				

SEND THIS FORM ALONG WITH ALL OTHER MATERIALS TO:

AMERICAN COUNCIL OF ENGINEERING COMPANIES Attn: Daisy Nappier = 1015 15th Street, N.W. = 8th Floor = Washington, D.C. 20005-2605 202-347-7474 dnappier@acec.org

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Engineering Inc. promotes the advocacy and business interests of ACEC by offering news, legislative analysis and business practice information to member firms, clients, opinion leaders and policy makers.

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FROM ACEC TO YOU

ENGINEERINGINC.

THE OFFICIAL PUBLICATION OF THE AMERICAN COUNCIL OF ENGINEERING COMPANIES

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WWW.ACEC.ORG

Infrastructure at Forefront Of Capitol Hill Debate

Transportation infrastructure funding has moved to center stage on Capitol Hill with U.S. House Transportation and Infrastructure Committee Chairman James Oberstar's (D-Minn.) plan to pass a six-year, \$500 billion Surface Transportation Authorization Act in this Congress.

At the same time, U.S. Transportation Secretary Ray LaHood has urged Congress to delay consideration of the six-year bill and instead pass an 18-month extension to allow Congress "the time it needs to fully deliberate the direction of American transportation policies."

ACEC strongly opposes any delay in the new six-year transportation program and is working with key congressional leaders and industry allies to gain action on



a package this year.

Sen. Barbara Boxer (D-Calif.), chair of the powerful U.S. Senate Committee on Environment and Public Works, offers her views on the nation's transportation outlook, along with critical water/wastewater and climate change legislation, in an exclusive Engineering Inc. interview beginning on page 8.

Results from the 2009 ACEC Professional Liability Insurance (PLI) Survey of Member Firms

show that competition is keeping premiums down, but the number of firms paying "frivolous" claims has increased and the level of firm satisfaction with their respective PLI programs has markedly declined.

This issue of Engineering Inc. also presents ACEC Executive Committee views on megatrends having an impact on engineering markets, in addition to a report on the risks and rewards awaiting engineers who provide expert witness testimony.

Don't forget to register early for the upcoming Fall Conference in Palm Springs, Calif., to be held Oct. 7-10 at the luxurious La Quinta Resort. The Conference features Vicente Fox, the former president of Mexico. Fox is considered one of the world's most important voices on contemporary political and business issues. See page 28.

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Timothy Psomas ACEC Chairman

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David A. Raymond ACEC President & CEO

A Never-ending Commitment to Quality Insurance Coverage.



ACEC Business Insurance Trust adds engineering experience to the insurance expertise of Marsh – creating a continuous stream of value for managing risk, and protecting your professional future.

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Marsh. 701 Market Street, Suite 1100, St. Louis, MO 63101-1830

NEWS & NOTES

Private Financing Challenges Stand to Alter PPPs

he weak economy is forcing a reduction in public-private partnerships (PPPs).

Global financial experts speaking at the Reuters Infrastructure Summit in May said the failures of recent high-profile PPP efforts have fueled concerns about the future viability of PPP financing.

Chicago's \$2.52 billion Midway Airport lease, once seen as a model for privatization, has been scuttled by the credit crunch, and political opposition has defeated a \$12.8 billion turnpike deal in Pennsylvania.

Tom Osborne, of the international finance management firm UBS, said future PPPs will need to be considerably lower in value to be successful.

"You're going to see a more incremental approach, both in the private and public sectors, in order to prove out the concept that privatizations can be an essential tool," he said.

Analysts also noted that downsized PPPs will reduce the amount of money private operators must raise for an upfront government payment.

With state and local governments still facing huge budget deficits and crumbling infrastructure, experts contend the need for cash will keep PPPs percolating, albeit on a smaller scale.



"Governments look at the experiences of Pennsylvania and some of the other areas where a lot of attention was attracted and say, 'I don't need to sell the most important asset in the state,'" said George Bilicic, chairman of the power, utilities and infrastructure division for Lazard, an international financial advisory firm. "Instead, governments should be looking at more modest assets, such as a lone toll bridge or parking garages."

Bilicic noted that while some past PPP leases cover 99 years, durations going forward could be shorter, such as 30 years with renewal if performance standards are met. That, he said, might also be more palatable from a political standpoint.

Summit speakers also predicted that future privatizations will involve only part of an asset, allowing the government to retain some of the revenue stream. Additionally, deals could be structured to give the government a share of revenue if the value of the asset grows above a certain point. Public pension funds also could be a growing source of financing for PPPs as fund managers look to diversify beyond stocks and bonds.

DOI Touts 'Huge Potential' of U.S. Wind Energy Industry

S. offshore areas near coastal urban centers have huge potential for wind energy development, says U.S. Secretary of the Interior Ken Salazar.

"More than three-fourths of the nation's electricity demand comes from coastal states, and the wind potential off the coasts of the lower 48 states actually exceeds our entire U.S. electricity demand," he says.

Salazar says sustainable sources of energy must be found to meet future



U.S. Secretary of the Interior Ken Salazar

demand and wean the United States off foreign oil and gas. "We sit on 3 percent of the world's oil reserves. We consume 25 percent of its oil. Our dependence on foreign oil is a national security problem, an environmental security problem and an economic security problem."

The Interior Department's Bureau of Land Management has identi-

fied about 20.6 million acres of public land with wind energy potential in the

11 western states and 29.5 million acres with solar energy potential in the six southwestern states.

Furthermore, there are more than 140 million acres of public land in the western states and Alaska with geothermal resource potential. The National Renewable Energy Lab has identified more than 1,000 gigawatts of wind potential off the Atlantic coast and more than 900 gigawatts of wind potential off the Pacific Coast.

"We are opening our doors not just to oil and gas and coal, but also to the wise development of solar, wind and wave, biofuels, geothermal and small hydro on America's lands," says Salazar.

MARKET WATCH

Is Carbon Footprint Calculation the Next Big Market?

industry meeting in San Fran-

cisco. If 525 people fly to the

large amount of gas for travel,

But there are alternatives.

event, as a group they use a

not to mention energy and

other resources for lodging.

Consider an online meet-

ing, where people can get

the costly environmental

impact of travel. Online

together virtually and avoid

meetings might not work for

everyone-such events can

limit perceived benefits and

lead to lower attendance-

but are worth considering.

s human beings, we leave a significant carbon footprint. Our automobiles and factories release carbon dioxide (CO₂) into the atmosphere at an alarming rate. Even our bodies take in oxygen and exhale CO₂. This is the same CO₂ that reportedly causes atmospheric problems, leading-many believe-to melting polar ice caps and elevated ocean levels and, perhaps ultimately, to the sinking of our coastal cities.

But to hear sustainability proponents tell it, all of that can be prevented, or at least slowed, should we reduce our carbon footprint.

Popularized by activists and peppered throughout new corporate sustainability reports, the carbon footprint concept now is working its way into legal discussions at the state and federal level.

The American Clean Energy and Security Act (H.R. 2454), passed by the U.S. House of Representatives, would focus on reducing greenhouse gas emissions through a cap-andtrade program.

Opportunities

Whether carbon footprinting becomes a legal must, or simply lingers on our environmental conscience, the practice presents opportunities for firms with the right expertise.

"Municipalities now want to know what the footprint of a proposed project will be, and engineers need to be able to respond to these new requirements," says Mark van Soestbergen, founder of the International Carbon Bank & Exchange in Gainesville, Fla., who recently led an ACEC-sponsored seminar on carbon footprinting opportunities for engineers.

Definitions and Examples

The U.S. Environmental Protection Agency defines the term "carbon footprint" as "the amount of greenhouse gases that are emitted into the atmosphere each year by an entity such as a person, household, building, organization or company."

Let's say there's a petroleum

Carbon Footprint Sampler

Try these resources for further information about carbon footprinting:

Carbon Disclosure Project-an international nonprofit organization formed in 2000. <u>www.cdproject.net</u>

Carbon Trust-a U.K.-based organization committed to reducing carbon emissions. <u>www.carbontrust.co.uk</u>

Climate Analysis Indicators Tool-from the World Resources Institute. <u>cait.wri.org</u>

Managing Corporate Carbon-an interesting Q&A with an expert, posted to The Carbon Catablog. <u>snipurl.com/j7as2</u>

Many corporations are already taking steps to reduce their carbon footprints. Below are a few examples:

AstraZeneca–the pharmaceutical giant reported a 5 percent decrease in corporate emissions from 2007 to 2008. <u>snipurl.com/j79by</u>______

BASF-it claims to be the "first company in industry" to publish a "carbon balance" (which it did for the first time in 2008). <u>snipurl.com/j7amo</u>

BT Americas—this division of the telecommunications conglomerate claims to have reduced its carbon footprint by 60 percent since 1996. <u>snipurl.com/j7bmy</u>

Cadbury-yes, even chocolate makers have a footprint. <u>snipurl.com/j7au6</u> By Joe Salimando

There also is the concept of "carbon offsets." Say, for example, that a rock concert will lead to an elevated output of carbon within a community. To counter the rise in greenhouse gas emissions, organizers could purchase "offsets" in the form of renewable energy sources for the community—tree planting, for example.

Confusion and Clarity

There are, as yet, no rules that establish exactly how to calculate a carbon footprint. Corporate social responsibility is not new, but the infusion of sustainability into the social lexicon is evolving.

Engineering firms considering entering this arena would be premature to expect an immediate road to riches. There still is much to learn. But there clearly is a need nationally, locally and within virtually every company of any size—for experts who provide unbiased, accurate information on the carbon footprints we leave behind, whether in building infrastructure or in conducting our daily lives.

The construction industry, for example, might eventually decide that carbon footprint calculation is a necessary piece of standard engineering work. If that happens, corporations, institutions and governments likely will require carbon footprint detailing for entire projects and specific options.

Joe Salimando writes frequently on the construction industry at www.eleblog.com. He can be reached at ecdotcom@ gmail.com.



FROM ACEC'S GOVERNMENT AFFAIRS DEPARTMENT

ACEC REJECTS DELAY ON TRANSPORTATION BILL; BIPARTISAN ENERGY BILL CLEARS SENATE; CASH-ACCOUNTING BILL POISED FOR HOUSE INTRODUCTION

Senate Committee Clears Bipartisan Energy Package

The U.S. Senate Energy and Natural Resources Committee has approved a comprehensive energy bill—the American Clean Energy Leadership Act of 2009 (ACELA)—that may serve as the foundation of a larger climate change/energy package the Senate will take up later this summer or in the fall.

ACELA mandates a renewable electricity standard requiring electric utilities to provide 15 percent of their electricity from renewable sources such as wind, solar, biomass, waste-to-energy, certain hydropower projects and geothermal energy by 2021. Just over onefourth of the requirement could be met through energy efficiency measures. Though nuclear energy is not considered "renewable" under the bill, nuclear power generation would be excluded from the baseline of a utility's electricity sales.

The bill also would establish building efficiency requirements, directing the U.S. Department of Energy (DOE) to review and update model commercial and residential building codes at least every three years. The American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) would be given an opportunity to issue new standards for such buildings providing a 30 percent increase in efficiency over the 2006 International Energy Conservation Code (residential) and (commercial) levels by 2013. By 2016, that figure would rise to 50 percent. If ASHRAE is unable to meet the deadlines, DOE would have the authority to issue a mandatory model federal code.

Other provisions provide for an independent federal agency to coordinate financing for clean energy projects, allow the Federal Energy Regulatory Commission more authority to site transmission lines, and expand oil and gas leasing closer to Florida's Gulf Coast.

House Narrowly Clears Climate Change Bill

By a razor-thin 219–212 margin, the U.S. House of Representatives has approved a broad climate change/energy bill. The American Clean Energy and Security Act imposes greenhouse gas (GHG) emission caps on power plants and large industrial facilities.

The bill limits GHG emissions by 17 percent by 2020 from 2005 levels, reaching an 83 percent reduction by 2050. GHG emitters would be required to obtain "allowances" (or credits) equal to their emissions or purchase "offsets" certifying that GHG emissions have been avoided or eliminated.

As a transition measure, the bill gives away for free approximately 85 percent of the allowances, but electricity producers must sell most of their allowances and use the proceeds to ease the burden of increased energy costs on ratepayers. ACEC is seeking improvements to the House bill in the form of "adaption assistance"—resources for state and local governments to adapt their infrastructure to climate changes. The Council also is working with the House and Senate, as well as the Environmental Protection Agency, to require third-party verification of GHG emissions.

One of the more controversial provisions in the bill is a renewable electricity standard requiring that 15 percent of electricity be produced from renewable sources and an additional 5 percent be achieved through energy efficiency efforts by 2020. "Renewable sources" include wind, solar, geothermal and other sources, including, to a limited degree, "incremental" hydropower and municipal waste-to-energy.

The bill also creates an autonomous Clean Energy Deployment Administration within the U.S. Department of Energy to finance low-emission projects. Though it does not specify technologies, advanced nuclear, renewable energy projects and carbon capture and sequestration would qualify.

The focus of the debate now moves to the Senate, which is expected to take up a companion bill in the fall.

House Approves FAA Reauthorization Bill to Increase Funding, Expand QBS

The House passed ACEC-backed legislation to reauthorize Federal Aviation Administration (FAA) operations for four years.

The bill substantially increases funding for airport improvements and expands the application of QBS to more airport projects.

The FAA Reauthorization Act (H.R. 915) extends FAA operations and programs through fiscal year 2012 and provides \$16.2 billion for the Airport Improvement Program, an increase of more than \$500 million annually. The bill also raises the allowable cap on passenger ticket fees from \$4.50 to \$7 per flight segment, potentially producing an additional \$1.1 billion annually.

An ACEC-backed provision mandates the use of QBS on local airport projects funded through passenger ticket fees. Current law only requires QBS on federal airport improvement funds.

ISSUES ON THE MOVE	WHAT'S NEXT
Six-Year Transportation Bill	House committee action in July
Energy and Climate Change	Senate floor consideration likely in the fall
Health Care Reform	House, Senate action expected in July

The FAA is operating under a short-term extension that expires at the end of September. Senate action on the bill is expected in the coming months.

House Democrat Poised to Introduce ACEC-Backed Tax Legislation

Rep. Allyson Schwartz (D-Pa.) plans to reintroduce key ACECendorsed tax legislation to preserve engineering firms' use of the cash method of accounting.

The Qualified Personal Service Corporations Clarification Act would update the federal tax code and allow engineering firms to continue using the cash-accounting method—where taxes are paid in the tax year when payment for services is rendered—as opposed to the accrual method, which requires taxes to be paid in the tax year the service is performed.



Congress last addressed this issue in the 1986 tax law recognizing that certain service providers should continue to use cash accounting, since they neither manufacture a product nor carry inventory.

Since 1986, engineering firms have evolved to meet new client demands, but in doing so have changed their internal structure in a way that puts at risk their ability to continue to use cash accounting. The bill will remedy this looming problem by updating the tax

Allyson Schwartz (D-Pa.)

code's ownership and function tests to ensure that A/E firms can continue to use cash accounting.

Congress Working on Health Care Reform

The House and the Senate are moving ahead with different versions of legislation to reform the U.S. health care system and extend insurance coverage to the uninsured.



Max Baucus (D-Mont.)

The House bill and the Senate Health, Education, Labor and Pensions (HELP) Committee bill are expected to include both an individual mandate, requiring most people to purchase health insurance, and an employer mandate, requiring businesses to provide coverage for their employees or pay an excise tax. The House and the Senate HELP Committee proposals also seek to create a government-run insurance plan that would compete with private insurance

companies. The legislation is likely to include some type of health insurance exchange—either national or at the state level—that would facilitate health insurance coverage for individuals and small employers.



ACEC Rejects Administration's Proposed Delay on New Six-Year Transportation Bill

ACEC strongly opposes the Obama administration's proposal to delay consideration of a new six-year transportation program and is working with key congressional leaders to force action on a package this year.

ACEC President Dave Raymond emphasized support for U.S. House Transportation and Infrastructure Committee Chairman James Oberstar's (D-Minn.) plan to pass a six-year, \$500 billion Surface Transportation Authorization Act in this Congress.

ACEC and its industry allies are coordinating with Oberstar on a plan to win approval of the bill by Congress this year.

U.S. Transportation Secretary Ray LaHood has urged Congress to delay consideration of the six-year bill and instead pass an 18-month extension to allow Congress "the time it needs to fully deliberate the direction of American transportation policies."

"Delaying consideration of the six-year bill by 18 months to learn more about the subject is like delaying triage on an accident victim in order to allow researchers more time to study the body's blood system," said ACEC President Dave Raymond. "What will we know 18 months from now that we don't know already?" asked ACEC President Dave Raymond. "Two bipartisan commissions have already conducted exhaustive studies and made very straightforward recommendations. It's time to move forward on legislation."

The full committee is expected to take up the bill in mid-July. Oberstar will push for consideration before the full House before Sept. 30, when the current program expires.

The Senate Finance Committee also has jurisdiction over this issue and is pursuing a more consensus-based approach. Committee Chairman Max Baucus (D-Mont.) may not endorse an employer mandate, and his committee is looking at alternatives to the government-run insurance plan, such as health care cooperatives.

ACEC is working with the U.S. Chamber of Commerce and the Small Business Coalition for Affordable Health Care to influence the debate. In addition, ACEC has created an internal health care working group to assess the priorities of its Member Firms as the legislation moves forward.

FOR MORE NEWS

For weekly legislative news, visit ACEC's *Last Word* online at www.acec.org.



Senator BARBARA BOXER

Working toward a cleaner, faster, more efficient national infrastructure

n an exclusive interview with ACEC, **Sen. Barbara Boxer (D-Calif.)** reflects on several critical industry issues, including transportation reauthorization, the Water Quality Financing Act and progress on a new climate change bill.

First sworn in to the U.S. Senate in January 1993 after more than 10 years in Congress, Boxer is the first woman to chair the powerful Committee on Environment and Public Works—responsible for legislation affecting America's critical transportation systems, drinking water and wastewater systems, flood protection and the other public infrastructure that provides the foundation for the nation's economy and quality of life.

She also is a national leader on environmental protection and advocates forcefully for clean air and water, with a particular focus on the fight against global warming. Elected to a third term in 2004, she received more than 6.9 million votes, the highest total for any Senate candidate in American history.



ACEC: Infrastructure funding received a significant amount of attention and near-unanimous support as a key component of job creation and long-term economic growth during consideration of the American Recovery and Reinvestment Act (ARRA). From your perspective, how effective have these investments been so far in helping to accomplish those goals?

SEN. BOXER: I wrote to President Obama right after the election and urged him to make infrastructure investments a centerpiece of the economic recovery plan. Stimulus dollars are already putting people back to work. These investments have the long-term benefit of moving people and goods more effectively in the future. According to DOT data, by the end of May, state and local transportation agencies had invested more than \$13 billion—almost half of the \$26.8 billion in ARRA funds that have been apportioned or allocated to date and much more than the \$9.3 billion that was required to be obligated within 120 days of apportionment. Transportation investments provided in ARRA are having an impact in communities nationwide.

ACEC: Transportation policy is at a crossroads—current revenue streams into the Highway Trust Fund are insufficient to maintain our existing system, and the public is clamoring for major improvements to our roads, bridges and transit systems to ease congestion and improve safety. What is your vision for the nation's surface transportation program, and what



are your ideas for paying for the identified needs in the near and long term?

SEN. BOXER: The next comprehensive surface transportation bill will be called MAP-21, Moving Ahead for Progress in the 21st Century. It provides the opportunity to address funding challenges and make the transformational changes necessary to ensure our nation's transportation system meets our needs in the coming years. I am particularly interested in addressing traffic congestion, which slows down the movement of people and goods and contributes to poor air quality and global warming pollution, all of which impact the health of our families and children.

In the near term, we need to address the potential insolvency of the Highway Trust Fund. According to DOT, the Highway Trust Fund is estimated to have insufficient cash by August. The need to maintain a sustainable funding source for our critical infrastructure must be a central focus of our efforts. As we work our way out of this recession, the last thing we want to do is drastically cut back on necessary transportation priorities. The White House has proposed an 18-month highway, transit and highway safety reauthorization that would replenish the Highway Trust Fund until 2011. Such a proposal would keep the recovery and job creation moving forward and give us the necessary time to pass a more comprehensive multiyear transportation authorization bill with stable and reliable funding sources.

ACEC: Highway and transit projects take far too long from planning to com-

pletion—for most major construction projects, an average of 13 years—which raises costs and delays critical improvements. How does the Environment and Public Works Committee plan to help facilitate faster and more efficient project delivery while still maintaining important environmental and other public interest protections?

SEN. BOXER: One of my goals for MAP-21 is to consolidate programs substantially to refocus the program. There are many ways to make our transportation programs more efficient, and I am committed to a balanced approach that meets our transportation needs while protecting the environment, public health and our families.

ACEC: The Council applauds your leadership in developing and promoting the Water Infrastructure Financing Act to expand investment in the nation's water infrastructure. What are your predictions for passage in the Senate and, ultimately, enactment by Congress?

SEN. BOXER: It has been over 20 years since we have reauthorized the Clean Water Revolving Fund and more than 12 years since we reauthorized the Drinking Water Revolving Fund. The Water Infrastructure Financing Act was reported out of the Environment and Public Works Committee with strong bipartisan support and was the result of a partnership among the four key leaders from both parties on the committee. I look forward to working with my Democratic and Republican colleagues to move the legislation forward as soon as possible.

ACEC: The Environment and Public Works Committee will play a large role in crafting the Senate version of a climate change bill. What is the timing for this legislation, and what major policies do you want to see in a climate change bill?

SEN. BOXER: I released a set of core principles for global warming legislation earlier this year. The primary goals are to reduce greenhouse gas emissions to avoid dangerous global warming while promoting economic growth and energy independence. I am encouraged by the progress in the U.S. House of Representatives. The House built on the work that the Senate did last year on global warming, and we will use the House legislation as a starting point as we craft a bill in the Senate.

ACEC: As you know, the effects of climate change—such as changes in water supply, rising sea levels, variations in precipitation and extreme weather events—will have significant implications for buildings, transportation systems, water and energy supply, and other forms of infrastructure. Will Congress provide assistance to state and local governments to prepare for climate changes?

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SEN. BOXER: Assisting states, localities and tribes in

addressing and adapting to global warming impacts is one of the principles that I laid out for global warming legislation earlier this year. Using revenues to assist workers, businesses and communities, including manufacturing states, in the transition to a clean energy economy will be a very important component. The Waxman-Markey bill provides support to help communities adapt to the impacts of global warming, and we expect to use the House legislation as a starting point in the Senate. The good news is that when we tackle the challenge of global warming, we will create millions of clean energy jobs in communities across the country, become more energy efficient and reduce our dependence on foreign oil.

ACEC: Engineering firms in California and throughout the country play a critical role in helping federal, state and local agencies deliver needed infrastructure improvements to the public. As you

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work to improve our nation's transportation and water infrastructure, what role do you envision for the nation's engineering industry?

SEN. BOXER: Rebuilding our nation's transportation and water infrastructure will take a serious and sustainable com-

mitment. The innovation and creativity of the engineering workforce will be heavily relied on to help us address the challenges we have in revitalizing our crumbling infrastructure. Highways and bridges built in the 1950s and 1960s are reaching the end of their expected service life and are in need of major repair or replacement. Similarly, transit systems are aging, and many communities are in need of new or expanded service. The engineering industry will play a critical role in helping communities nationwide to make wise decisions about the best ways to build our economy, create jobs and meet our transportation, safety and environmental goals.



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By Samuel Greengard

Opportunities abound for engineers who can provide expert witness testimony-but so do risks

n a world where engineering and large-scale construction projects can take months, even years, to complete, it's rare that projects run smoothly from start to finish. Misunderstanding, disagreement and conflict over projects can surface at any time, sometimes years down the road. Often, the courtroom is all that is left to settle differences.

"There are times when equipment malfunctions, someone makes a mistake or construction simply fails," says Edward Parrone, president and CEO of Parrone Engineering in Rochester, N.Y. "Someone ultimately has to sort things out so that everyone can move on."

Sorting out the root cause of a project dispute involves painstaking investigation, long hours of research and enormous technical acumen—all qualities that define the important legal role of expert and fact witnesses.

"There's an ongoing need for engineers and other professionals who provide technical insight and understanding about events and who can serve as expert witnesses because it helps a judge or jury render the best possible verdict," Parrone says.

Over the past 40-plus years, Parrone has worked as an expert witness on dozens of legal cases as varied as water drainage at construction sites to the role of road designs in traffic accidents. "It is extremely interesting work, and it pays well," he explains. "As society has become more litigious, opportunities to provide technical expertise have grown. Today, it's a small but important part of our business. It's something I can foresee doing even in retirement."

Welcome to the increasingly busy intersection of engineering and law. Working as a fact or expert witness can be a vibrant and viable specialty. The former involves reporting on events but not rendering an opinion, while the latter requires analysis in order to provide a professional opinion. Proponents of the practice say it helps firms better serve existing clients, keeps practitioners up to speed on the latest developments and provides yet another stream of revenue in a down economy.

But serving as a consultant or expert witness can also be taxing—and time consuming. "It's not as simple as just showing up," says Guy Vaillancourt, president of Woodard & Curran, a 600-person environmental engineering and consulting firm based in Portland, Maine. "Cases require a great deal of preparation, there are ethical issues that one must adhere to, and not everyone is suited to testifying in a court of law. It's important to know your area of practice or you may find yourself discredited."

Taking the Stand

Television and movies are rife with courtroom drama, but the majority of cases never make it to court. "To a certain extent, you learn as you go," says Gary S. Brierley, president of Brierley Associates, LLC, a 25-person Littleton, Colo.–based firm that specializes in the design, construction and management of tunnels. Brierley estimates he has worked on 250 cases in the past 30 years. He has been deposed 50 times and appeared in court only three times. Most of the work is C ases require a great deal of preparation, there are ethical issues that one must adhere to, and not everyone is suited to testifying in a court of law. It's important to know your area of practice or you may find yourself discredited. GUY VAILLANCOURT WOODARD & CURRAN



done on the back end, researching and writing reports for lawyers.

No matter the extent of his role, Brierley says his job throughout the legal process is to provide honest analysis and render independent opinions. "Attorneys usually value honesty because it helps them understand their case, whether to proceed with it and how to approach it strategically," he says.

That said, it's not unheard of for an engineer to feel pressured into supporting one position over another. Such temptations should be avoided at all costs, adds Parrone. "There are times when you're asked to modify or tweak a report. You have to be very careful about language and words because as an engineer, something might be meant one way, but in law it might be interpreted differently. Attorneys are advocates for their clients, but you have to be careful to stay true to your mission of providing objective information and analysis."

The pressure often can become intense. Even the most basic mistake or contradiction on the part of an "expert" can open the door to questions that might enable opposing attorneys to discredit the information or the witness at a deposition or hearing.

John Sonderman, principal at EDM, Inc., a 40-person design firm in St. Louis, Mo., says it's important to understand up front whether any business or ethical conflicts exist, such as having worked for the opposing side or for a company it has acquired.

Handling a case also requires a commitment to time and resources. In some instances, Sonderman says, no more than a few hours might be involved. However, cases can sometimes stretch into months or years, and a firm must be prepared to provide the expertise and resources required by the contracting law firm. This sometimes means tapping into support staff internally and hiring specialists to conduct forensic research in the field. "If you are going to express an opinion, you have to be able to back it up with facts and evidence," he says.

The pressure increases in depositions or in the courtroom. Spending even a few minutes on the stand as an expert witness often requires hundreds of hours of research, reporting and preparation. It's also, in many respects, a trial by fire, since there's no way to completely prepare for courtroom proceedings, including a crossexamination, the first time.

In most cases, a preparatory session is necessary to memorize key discussion points and prepare for questioning. "Ideally, the legal counsel will prep you on the questions you can expect and what's likely to unfold," Parrone says. Regardless, "it's important to avoid trying the case yourself and to keep in mind that you're there to provide technical expertise that helps a judge or jury make a decision."

Case Studies

Engineering firms that are active in this field must walk a fine line regarding attorney-client privilege. Expert witnesses are not protected by the privilege, which stipulates that any discussion or information that passes between client and attorney is confidential, but the work produced by consulting experts—who typically help lawyers prepare cases by developing the technical framework of the case but do not testify—is protected by the privilege.

In instances where the same firm provides both the expert witness and the consulting experts, Woodard & Curran's Vaillancourt says, "the expert witness must be isolated from the trial preparation and strategy development. Without this, there could be a problem if the opposing side is able to get access to the work that has gone into helping the lawyers develop their case."

Facing this situation, many law firms erect a "Chinese wall." This figurative barrier separates these two aspects of the case. In effect, the same attorneys work with two different and separate groups of people involved with the case—the consultants and the expert witness or witnesses. "An engineering firm that performs work under such an arrangement should set up separate contracts for the separate services," suggests Vaillancourt.

Expert-witness cases touch on a mélange of legal and technical issues—and specific knowledge is vital. EDM's Sonderman said he once testified in a case where a woman stood up on a water slide and fell and injured herself. Her attorney claimed the water level was too low in the pool. Sonderman produced technical evidence showing that the water level wasn't the cause of the injury. The woman ultimately lost the case.

Parrone testified in a case involving a large turf farm in upstate New York. Soil and

A ttorneys usually value honesty because it helps them understand their case, whether to proceed with it and how to approach it strategically. GARY S. BRIERLEY

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The American Council of Engineering Companies (ACEC), the ACEC Life/Health Insurance Trust and United HealthCare Insurance Company are three separate legal operating entities and, as such, the organizations are governed and function independently. UnitedHealthcare's services are provided with the authorization of the ACEC Life/ Health Trust. Questions related to health benefits offered through the Life/Health Trust should be directed to 1-800-573-0415. UHCEW346178-0 s it financially lucrative? Yes. Is it stimulating? Yes. But it requires hard work, intense focus and discipline. In many cases, you wind up doing lots of preparatory work. Then, if you do get to the courtroom, you're in the direct line of fire. EDWARD PARRONE PARRONE ENGINEERING



water levels at the farm were affected by construction at a nearby airport. Parrone collected hydrological samples and geological analysis demonstrating the impact of the ongoing construction project at the farm's drainage site. That led to reports, videos and other forms of evidence. The farm eventually won a judgment, though the jury awarded only \$20,000 in damages, far less than the \$2 million sought by the plaintiff; the company subsequently went bankrupt.

Witnessing Positive Results

When it comes to choosing an expert witness, law firms look for strong credentials and an ability to deliver. Says Duncan G. Cameron, senior partner at Donovan Hatem, LLP, a New York City–based law firm, "It's imperative that an expert deliver objective and credible analysis." However, being an experienced "testifying witness" does not substitute or supersede being a "skilled expert" in a particular engineering field. Ultimately, an expert witness must possess an ability to "refute challenges... while at the same time retaining professionalism and avoiding advocacy."

The Honorable Arthur Bergman, judge for the New Jersey Superior Court, says those who excel as expert witnesses "are professionals who display the highest level of integrity" and have the nerves to deal with tough, on-the-spot questions. On the other hand, he says, "the worst kind of expert witness is someone who is getting paid to say what the client wants them to say." The latter approach "can negatively impact the case and their reputation," says Bergman.

Vaillancourt and others with experience on the stand say it's vital to avoid being a "hired gun." Though fees for legal services are lucrative—typically, engineers who serve as consultants or expert witnesses earn between \$100 and \$500 per hour, and cases often extend into hundreds or thousands of hours—those who market themselves or tout their services too blatantly are likely to be discredited in the courtroom.

Vaillancourt also cautions against working on a lump-sum or contingency-fee basis. "It's essential to be impartial and not have any stake in the outcome," he says. To avoid any impropriety, it's best to simply negotiate terms up front—and to always sign a contract.

Challenges aside, legal consulting and expert-witness work can be an ideal complement to any engineering practice. "Is it financially lucrative? Yes. Is it stimulating? Yes. But it requires hard work, intense focus and discipline," says Parrone. "In many cases, you wind up doing lots of preparatory work. Then, if you do get to the courtroom, you're in the direct line of fire. You have to know your stuff and think clearly and concisely on the fly."

Samuel Greengard is a business writer based in West Linn, Ore.

ACEC presents the "Applying Expertise as an Engineering Expert Witness" course Oct. 29-30 in Dearborn, Mich. The course will provide insights on how to become an effective expert witness, and ways to integrate an expert-witnessing component into your business. Engineers can also obtain an EXW designation to indicate that they are an engineering expert witness as authorized by ACEC. Contact Ed Bajer at (202) 347-7474, or by e-mail at ebajer@acec.org for more information and to register.

Expert Testimony

Do you have what it takes?

Serving as a legal consultant or expert witness isn't for everyone. Here are a few considerations to make prior to signing on:

- Can you remain objective? An expert witness doesn't try the case.
 A witness delivers facts and analysis that allow a judge or jury to render a verdict. It's vital to avoid any emotional entanglement.
- Do you perform well under pressure? More than a few engineers have thrown in the towel after appearing in court for the first time. It's a pressure-packed situation that demands quick thinking and calm nerves.
- Are you able to avoid ethical conflicts? An excellent consultant or expert witness renders opinions and analysis independently and honestly. A witness doesn't misrepresent his or her area of expertise. A witness conducts due diligence in order to ensure that no questionable past relationship exists.
- Do you have enough time and support staff to handle cases? Legal proceedings may demand dozens, if not hundreds, of hours of preparatory work. Writing reports, conducting field studies and handling myriad other tasks might require additional support staff. Firms must have the resources and bandwidth to tackle projects without sacrificing service to other clients.
- Are you willing to put in the necessary effort? Yes, legal consulting pays well. But it's demanding and there are no shortcuts. People's lives and futures rest on the outcomes of these analyses. Witnesses must be committed to performing at the highest possible level.

COLUMN



NOT A JURY OF YOUR PEERS Why contract language is so important when facing a jury

By Al Rabasca

Plaintiffs' attorneys can often seem confused about design professionals' roles and responsibilities on a project. But just wait until you meet the jury.

Though plaintiffs' attorneys may *feign* ignorance in their allegations for strategic purposes, juries, for the most part, *are* ignorant about what design professionals do.

The role of design professionals is not clear to the general public who make up juries. It's not part of their cultural DNA, and subsequently, they are not a jury of your peers!

When dealing with allegations of professional negligence, the standard of care (SOC) is not the "reasonable and prudent man" test used to determine whether an individual should have foreseen the consequences of an action. Rather, the test is: Did the design professional perform the services consistent with the professional skill and care ordinarily provided by design professionals practicing in the same or similar locality under the same or similar circumstances? Experts can make arguments for both sides.

Understanding the nuances of those arguments regarding the SOC is often beyond a jury's capabilities. Think about it. Most jurors have a fairly good understanding of what certain professionals—say,

doctors, even lawyers—do, because they interact with them during the normal course of their lives. This, however, is not often the case with design professionals.

Other professions are represented quite clearly and often in our popular culture in novels, movies and television shows. They are part of our cultural DNA and, as coined by Carl Jung, our collective unconscious. Many of us know the lore of Marcus Welby, Dr. Kildare, Ben Casey, Perry Mason and even the evolving cast of *Law and Order*. But when was the last time you read a novel or saw a movie or television show about the intrigue and drama of engineering or architecture?

The bottom line is that a jury is much less likely to understand the SOC parameters for the design professional than those for other professionals. Accordingly, there's an excellent chance that your contract will give a jury its first and only impression of what design professionals really do.

Hence the extreme importance of a well-crafted business agreement. Although you can't control what a plaintiff might

Al Rabasca

allege, you *can* have a significant impact on enhancing your defenses and mitigating your exposure with clear and concise contract language.

For the most part, the general public believes, albeit incorrectly, that design professionals are responsible for the majority of what happens on a project, including construction means, methods, safety, ensuring that the contractor follows their plans and generally "doing the right thing." With a contract you are, in essence, educating the judge, your client and the

jury as to what a design professional does and does not do.

Consider this: Would your mother understand your contract and your role as a design professional on a project? (I've spent 30 years in this business, and my mother still has only a vague notion of what I do.) Think in terms of your own family and nonprofessional friends and acquaintances when describing the scope of services in your contracts, because these are the potential jurors. They have a very limited, almost nonexistent common reservoir of experiences with design professionals. *If they don't get it, neither will the jury.*

Consider your contract as a teaching tool, and the next time you consider a scope of services to provide, think of your

mother, and maybe even the guy who sells you your newspaper—and ask yourself: "Would he or she get it?"

This column does not go into detail about specific, appropriate language for contracts, because every contract is different. But knowing the philosophy behind the language may prove as valuable to the contract review as the language itself—and bring clarity to the process the next time you're putting pen to paper.

Al Rabasca is director of industry relations for XL Insurance's Design Professional group.

The information in this article is provided for educational purposes only and is not intended to constitute legal advice. If you require such advice, please consult with your own legal counsel. ACEC is not responsible for, and expressly disclaims, liability for any use of, reference to or reliance on information contained in this article.

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2009 ACEC Professional Liability Insurance Survey Results

The Good, The Bad and The Bad

By Maureen Conley



s the economic downturn continues to jolt engineering firms, the professional liability insurance market is coping with its own brand of turbulence. One particularly disturbing statistic: The number of firms making payments on claims perceived as "frivolous" has more than doubled, from 19 percent in 2007 to 45 percent

this year.

These numbers, from ACEC's 2009 Professional Liability Insurance (PLI) Survey of Member Firms, are just one indication of how a rocky financial landscape has forced many firms to adopt more prudent spending practices.

The survey results, based on several hundred responses from Member Firms, also indicate that firms continue to benefit from increased competition among PLI carriers. Chuck Kopplin, principal at Graef-USA, Inc., and a member of ACEC's Risk Management Committee, who helped oversee the survey, says that despite the tough economy, the market's capacity to serve engineering firms is keeping premiums low across the board—a potential bright spot for companies struggling to weather a tough economic marketplace.

Claims on the Rise?

Kopplin says the uptick in perceived "frivolous" claims is not surprising, given the current state of the economy. Claims often jump in a downturn, if only for the fact that developers have less revenue and more time to litigate.

Al Rabasca, director of industry relations for PLI carrier XL Design Professional, agrees. "As financing is compromised, and clients and owners are more subject to project derailment, they seek other sources of funding, which unfortunately include using insurance as a contingency vehicle," says Rabasca. As the downturn drives claims higher, Rabasca adds that firms should expect a "vicious cycle" of counterclaims to recover fees.

Bob Rogers, assistant vice president for architects and engineers at Boston-based Lexington Insurance, is seeing early signs of an uptick in fee claims—those filed by A/Es against clients who don't pay resulting in counterclaims that allege design negligence. To keep fee disputes from snowballing into PLI claims, Rogers says it's imperative that firms "stay current with billing."

After nearly five years of essentially flat claims (in number and severity), Kevin Collins, senior vice president in the architects and engineers division at Victor O. Schinnerer, points to "several key indicators that suggest claims are on the rise." From an owner's perspective, shrinking budgets mean that "there is not a lot of buffer before they look at the project as a loss, file a claim and start to bring the engineer into the action," Collins says. On the other hand, "people are a little more willing to sit down and talk about how to resolve a claim. They see there is time value to money now," says Dana Hughes, an underwriter at Beazley.

Hughes says she has witnessed an increase in the number of claims filed for technical errors or omissions over the past two years, an observation she attributes to substandard quality assurance.

Rabasca says there is a 12- to 18-month lag between economic changes and their impact on the design market. He notes that economists and industry pundits project no meaningful improvements in the economy until early next year.

Impact of the Economy

Beazley's Hughes says that, by far, the majority of claims stem from residential projects, and there would have been even more if not for the downturn in residential construction. In terms of impact, architects have been the hardest hit, followed closely by surveyors and, more recently, commercial retail projects. As economic pressures continue to shrink There is not a lot of buffer before [owners] look at the project as a loss, file a claim and start to bring the engineer into the action. KEVIN COLLINS VICTOR O. SCHINNERER



firms—many today are one-third their original size—some are struggling to pay this year's premiums, which are based on last year's revenues or a multiple of several prior years, Hughes says. Payment is even tougher for firms that have had claims.

PLI carriers agree that certain states and regions, such as Arizona, Michigan, Southern California, New York, Florida and the southeast corridor, are struggling more than others. Though the market for condos and second homes has fallen off sharply in Florida, Schinnerer's Collins says similar problems have spread to the rest of the country—and to different project types. Infrastructure, health care and education projects have been least affected.

Quality assurance and risk management remain important, especially as firms attempt to gain a foothold in new project arenas or geographies. Fifty-eight percent of respondents to this year's survey said they "rarely" or "never" turn down work, an indication, says Collins, that the industry is headed for a period of "delays and extra claims on steroids."

In Schinnerer's 53 years insuring the industry, Collins says, this is the first recession that has affected every component of the engineering field. It is also driving "the sharpest decrease in that exposure in the history of our program." The company absorbed a 4 percent decrease for the first quarter of 2009, compared with the same period in 2008. Typically, exposures from year to year have remained

Figure 1 Percentage Change in Premiums for Firms Renewing Their Policy This Year



flat or ticked slightly higher.

Federal stimulus money already is helping prop up infrastructure, wastewater and environmental segments. Rogers says larger firms aren't likely to feel the same pinch as smaller firms, because many are "working on multiyear backlogs."

Collins says there are signs that the economy is driving major decisions about project selection and PLI—often the secondlargest item on a firm's expense ledger.

Among the smallest firms (revenues below \$500,000 per year), those without PLI coverage jumped from 4 percent in 2007 to 12 percent this year. Tom Porterfield, principal at Schinnerer, was surprised to discover that 3 percent of firms with \$20 million to \$49.9 million in revenues were operating without PLI protection, noting, "That is something we haven't seen before."

Premiums

A majority of firms saw their insurance premiums decrease (37 percent, down from 43 percent in 2007) or stay the same (33 percent, up from 26 percent in 2007). Among firms with annual revenues between \$500,000 and \$999,999, 50 percent reported increases. To keep premiums low, 12 percent of all firms surveyed took on higher deductibles.

With plenty of capacity in the market,

Graef-USA, Inc.'s Kopplin says premiums "continue to be soft," though not as soft as in previous years. The top six PLI carriers currently underwrite some 74 percent of the market. But with one in five companies switching carriers, competition remains strong among new entrants. (Respondents indicate that one new carrier has entered the market per month during the past year.)

Woody Germany, a member of ACEC's Risk Management Committee and a trustee for ACEC's Business Insurance Trust, which offers PLI to ACEC Member Firms, says the survey mirrors the experience of the Trust's exclusive broker, Marsh.

Though firms often ask Marsh for competitive quotes from multiple carriers and consider such options as higher deductibles to reduce premiums, in most cases firms opt to keep the same carrier and deductible and enjoy premium reductions. Of the policies Marsh has brokered for the Trust, 41 percent of all firms renewing in second quarter 2009 had premium reductions of 6 percent or more, and 29 percent saw reductions greater than 10 percent. Marsh places PLI coverage for 320 ACEC Member Firms through the Council's program.

Germany, who also serves as director of WGM Group in Missoula, Mont.,



ngineering firms need to look at their claims experience, cash on hand and projections before deciding to take on a higher deductible. woody germany

WGM GROUP AND TRUSTEE, ACEC BUSINESS INSURANCE TRUST



says "engineering firms need to look at their claims experience, cash on hand and projections before deciding to take on a higher deductible." In some cases, the carrier may decide. Carriers generally want deductibles equal to 1 percent of billings. But, Porterfield says, "it is not so much the amount of the deductible, but how many times it will come into play." If a firm cannot cover its deductible, the carrier could be on the hook for the entire claim.

Hughes says the entrance of new carriers to the A/E market is "contrary to what we would expect" because design professionals "historically have been a difficult line of coverage to make money on." She says Beazley is "seeing things we're shaking our heads at," including "pricing that is easily sometimes 30 percent lower" than the prevailing price-below the "critical mass" Hughes says carriers must achieve to sustain their business. Premiums must offset expenses-25 percent to 35 percent for A/E firms-and leave enough to cover losses. But the soft market leaves little room for mistakes.

XL's Rabasca recommends employing Qualifications-Based Selection to choose a PLI carrier. The goal should be to identify carriers with long histories in the PLI market that "know how to price more or less responsibly." Carriers without a strong claims history can "price irresponsibly," which can lead to destabilization in the marketplace and could spur a harder market as claims mature and newer carriers look to increase premiums to cover claims. "There are big differences in the services and experience that each carrier brings to the table," advises Lexington's Rogers.

Less Than Satisfied?

Though firms continue to report high levels of satisfaction with insurance brokers, the survey found that they are less satisfied with carriers' risk management programs and pre-claims assistance than in the past. The percentage of firms that are either satisfied or very satisfied with risk management programs plummeted from 92 percent in 2007 to 69 percent this year; those reporting the same levels of satisfaction with pre-claims assistance slipped from 89 percent in 2007 to 73 percent this year, according to the survey.

Hughes calls the declines "very disappointing." She thinks PLI carriers' messages on participation in risk management programs "are not filtering through." Her firm offers a 5 percent to 10 percent premium reduction to firms that participate in a two-hour, in-person risk-management program, also available online at the clients' convenience. "Probably less than half of my firms have taken the class," she says. Collins says the decline in satisfaction rates might be driven largely by changes in how risk management information is delivered. To address the issue, Schinnerer now supplements its traditional regional seminars with webinars and a teleconference series. But some methods are not for everyone, says Collins. As the market continues to change, the truth is that some carriers might "have difficulty identifying the needs of everyone out there."

Emerging Concerns

Though most PLI carriers still are monitoring such potential trouble spots as green design, Building Information Modeling (BIM) and integrated project delivery, these emerging trends have yet to evolve into major problems for firms or carriers.

Integrated project delivery, for example, "really screams for project-specific policies," explains Rogers. But there are not "too many real-life examples to sink our teeth into." Lexington continues to write project-specific policies, while many carriers exited that market several years ago, he says. The benefits of such policies include a dedicated limit for the life of a project—so there is no need to depend on design team members' practice insurance—and a joint defense provision that aims to get a project "back





on track without finger-pointing among the design professionals," Rogers says. Large firms use standalone project policies more than any other group. Fortyeight percent of survey respondents with revenues of \$100 million or more report one or more project policies.

Beazley has not seen BIM or LEED claims. However, Hughes has seen BIM used effectively in court to defend against claims. She says BIM is a useful tool to provide "a visual model to walk a jury through," show how construction progressed, and help the layman make sense of complex, technical arguments.

Given today's economic pressures, PLI carriers say it is more important than ever to follow best practices when it comes to managing client expectations and risk. "Now is not the time to sign bad contracts or forget about risk management and loss prevention," says XL's Rabasca. "You really have to stay vigilant. If you let it go for what you believe is economic necessity, when things get better again—and they will—you could have really put yourselves in an untenable situation with risks that are way beyond anything you could have received in payments and fees."

The results of the 2009 ACEC Professional Liability Insurance Survey of Member Firms are available through the ACEC Bookstore.

Maureen Conley is a business writer based outside Washington, D.C.



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2009-2010 ACEC Executive Committee

On Hottest Trends Affecting Marketplace for Engineers



Chairman Timothy Psomas

"Sustainability has the potential to put engineers at the front of a fast-moving parade. Achieving a leadership role will require a broad perspective and the courage to challenge the status quo. The competition for engineers to lead will be stiff, but the potential rewards to our firms and the public at large are enormous. Unless our firms rise to the challenge soon, other stakeholders will seize this opportunity."



President & CEO David A. Raymond

"The 'energy revolution' is coming on strong, and a transformation of the built environment is already under way. Whether in emerging energy sources, expanded energy efficiencies, 'the smart grid,' LEED-certified structures or government actions on climate change, every engineering firm in the country has a unique opportunity to help shape the future."



Chairman-Elect Gerald Stump

"Engineering companies must be aware of the constantly changing marketplace and developing new trends. New technologies represent a tremendous developing opportunity in coming years. As technology continues to advance and diversify, engineers are finding new ways to solve complicated problems. No group is better positioned to take advantage of technological advancement than engineers. The education and training of engineers is built on the premise of finding new and better ways to complete engineering analyses and meet our country's needs.'



Treasurer Senior Vice Chairman Terry Neimeyer

"I am most optimistic about the trend in sustainability in our business. Engineers can be the leaders in designing and maintaining sustainable infrastructure, and we can corner the international market as the innovative source of sustainable practices in the built environment. My firm recently built a LEED Silverrated headquarters, and the process was dominated by the engineering. This is not a fad that will fade away in a couple of years. This is here to stay—and who better to lead it than the firms of ACEC?"



Vice Chairman Craig Avery

"I believe that sustainability truly integrated into all elements of engineering offers great opportunity to the creative and resourceful engineer. If you read Hot, Flat and Crowded by Thomas L. Friedman, you got a sense of the tremendous challenge facing mankind globally. Engineers should be at the forefront of developing the integrated solutions required to address global warming, global economic effects and the global overpopulation facing us in the next few years. It will take engineers who understand science and are creative and politically astute."



Vice Chairman Kenneth Wightman

"As we approach the end of the first decade of the 21st century, I am most excited and optimistic about the role I believe engineers can play to reverse global climate change. Sustainability and the use of innovative design techniques are integral to all of this. How we solve these challenges in the future will define us as engineers, Americans and world citizens. We have the tools, the creativity and the innovation to master these issues. Let's get on with it!"



Vice Chairman James R. Duncan

"Sustainable design is the major engineering opportunity and movement of our time. Throughout the world, engineers are creating intelligent, innovative and integrated sustainable solutions to preserve and enhance the environment. As stewards of our globe's natural resources, the efforts of engineers are helping to safeguard and enhance life. By discovering and implementing new technologies, engineers are leading the way to solving the tough challenges of land use, transportation, clean water, renewable energy and energy-efficient buildings."



Vice Chairman Robin Greenleaf

"My firm designs primarily mechanical and electrical systems, and from my perspective, the sky is the limit on opportunities available to future engineers who become involved and proficient with Building Information Modeling, sustainable design and development of alternative technologies. Most of our work has at least one or more of these elements, and we are all on a learning curve as we implement these relatively new technologies. The career potential for a future leader in these areas cannot be underestimated."



Vice Chairman Bartlett Patton

"Sustainability is the overarching trend regarding the future marketplace for engineers. It is the direction of the market, and it represents the smart thing to do as we consider how to preserve and optimize our limited resources. As important, though, is how fully sustainability is embraced by the next generation. As ongoing sustainable businesses, we must attract bright stars to our profession. A commitment to sustainability and other corporate social responsibility pillars is essential to this."



Vice Chairman Ted C. Williams

"I believe that sustainability provides the greatest opportunities for engineers in the near future. As engineers, we are tasked with 'safeguarding life, health and property.' As such, we have the abilities to continue to solve the problems that impact our society by providing designs that not only address owners' needs, but also provide designs that are sustainable with minimal impact on the environment."



NAECE President Scott Heidner

"After many years of scrambling to find enough talented engineers, the downturn in the economy may have finally produced a buyer's market for ACEC Member Firms looking to hire. Between the current economic trends, ACEC's efforts to defeat the Bachelor's Plus 30 initiative and increase the number of visas for professional foreign workers and the increasingly desperate infrastructure needs here in America, our Member Firms may see an unprecedented opportunity come out of the current lean times.'

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Vicente Fox Former President of Mexico Opening General Session

One of the world's most important voices on contemporary politics and global business challenges, President Fox will kick off the conference.

A visionary leader with a deep understanding of economic and social issues, Fox played a vital role in Mexico's democratization and economic revival. He is called upon regularly by leaders throughout the world for advice on complex issues.

David Doody Mission to Saturn

Flight Operations Lead Engineer for the Cassini Mission will take you to Saturn and share some stunning discoveries from that planet and its moons.

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Return to the swanky nightclub scene—circa 1950s—when cool cats Frank Sinatra, Dean Martin and Sammy Davis Jr. would croon away in their Palm Springs desert hideaway. This tribute group recreates the signature songs, complete with the impromptu jokes of the beloved entertainment trio. A buffet dinner is included with your ticket purchase. Cost: \$125 per person (includes dinner and show)

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Check-in time: 4:00 p.m.; check-out time: noon. Cancellations accepted up to 72 hours prior to reservation without penalty.

To Make Hotel Reservations

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When making individual reservations, please reference **"ZACE"** to receive the discounted group rate.



Travel Information

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For more information or to register online, go to www.acec.org.





Governor Arnold Schwarzenegger (invited)

MEMBERS IN THE NEWS

On The Move



Robert B. Higgins Jr.



Robert M. Scaer



George R. Campanella



David A. McAlister

Robert B. Higgins Jr. has been named CEO and president of Barge Waggoner Sumner & Cannon, Inc. He previously served as vice president/water services manager of the Nashville-based firm.

Robert M. Scaer was appointed president of Gannett Fleming. Formerly, he served as president of GeoDecisions, a division of Gannett Fleming specializing in geospatial and information technology solutions, and as CIO of Gannett Fleming. George R. Campanella was appointed vice president in the firm's Mt. Laurel, N.J., office.

David A. McAlister and Paul F. Morris both have rejoined Parsons Brinckerhoff (PB). McAlister has been named executive vice president and global director, strategic planning and development. Morris has been named executive vice president and global director, strategic consulting and sustainability. Kenneth Hopson has been appointed senior vice president-finance and global treasurer, where he will oversee global financial reporting and accounting, as well as treasury and related functions.

Philadelphia-based **Urban Engineers** promoted **Stephen Ehrlich** to vice president. Ehrlich, located in the Philadelphia office, will continue as practice leader for facilities construction management. **Richard C. Simon** has been promoted to vice president



Paul F. Morris



Kenneth Hopson



Stephen Ehrlich



Richard C. Simon



Eric Thorkildsen joined Greenman-Pedersen, Inc. (GPI), as vice president. A specialist in structural inspections and seismic design, Thorkildsen will work with GPI's branch offices throughout the eastern United States to further develop these services.

Meg VanderLaan has joined **MWH** as vice president of corporate communications.

PBS&J named **Kameran L. Onley** associate vice president and principal project director in the firm's federal environmental services division. She formerly served as the acting assistant secretary for water and science at the Department of the Interior, and as associate director of environmental policy for the White House Council on Environmental Quality.



Eric Thorkildsen

INSIGHTS FROM ACEC'S INSTITUTE FOR BUSINESS MANAGEMENT



RCEP.NET EASES BURDEN OF CONTINUING ED; BUSINESS ADVANTAGES OF BIM; PROFITING FROM EVIDENCE-BASED MANAGEMENT

RCEP.net Helps Engineers Fulfill State-Mandated Continuing Education Requirements

The Registered Continuing Educational Program (RCEP. net)—the result of a unique partnership between ACEC and the National Council of Examiners for Engineering and Surveying has been developed to assist engineers in fulfilling important continuing education requirements mandated by states.

Designed to ease the continuing education paperwork burden on engineering employers and to connect engineers and related professionals with quality educational providers, the new automated educational management system records and stores completed educational credits. The credits can then be sent to state licensing boards or used for marketing purposes while being maintained in a virtual, paperless system.

Thirty-one states have "strict" continuing education requirements for professional engineers, while another seven states encourage their licensees to use lifelong learning to keep up with changes in their disciplines, according to the American Concrete Institute. Most states require 15 PDHs per year (a PDH is equal to one professional development hour) to ensure that engineers keep current with changes in the engineering profession.

Engineers and others can find needed educational programs on RCEP.net's Master Calendar, which is searchable by date, geographic location, discipline and other pertinent fields.

"The RCEP.net system is designed to save midsized and larger firms thousands of dollars in admin expenses," says Jeff Beard, ACEC vice president of the Institute for Business Management. To view the expanding list of educational providers and to discover the utilities found in the RCEP.net system, go to www.rcep. net/rcep.

Ask Not for Whom the BIM Tolls

Does implementation of a Building Information Modeling (BIM) process convey a competitive edge? Is BIM increasingly a factor in gaining new business for firms that utilize it?

According to McGraw-Hill Construction's first *SmartMarket Report*, "the benefits are tangible, and the risks of not participating outweigh those of getting engaged."

Notes BIM booster Sean B. Smith, division vice president for Nashville-based Gresham, Smith and Partners (GS&P), "As consultants, we have to be good stewards of their budgets, improving design and 3D coordination on the front end and providing more efficient workflows by using data only once and not re-creating it, along with costing, scheduling and removing conflicts virtually. Those are BIM tools, and consultants who do not have them to offer run the increasing chance of missing out on new work." The newest chapter of *Building Information Modeling (BIM): The Promise and the Reality for A/E/C Firms* will be presented Oct. 29–30 in Seattle. The 2009 version will be an up-close look into the realities of BIM from the diverse professional disciplines involved—from project management, IT and fabricators to risk management and legal perspectives.

Course information and registration are available at www.acec.org.

Evidence-Based Management: A Better Approach to Business

In a time of failed banks and bankrupt corporate giants such as GM and Chrysler, where should business leaders look for better ideas to manage their companies?



An approach that has worked in medicine and is being adopted in education and public policy is evidence-based management,

where leaders find and face the actual facts of their businesses and the broader environment, and encourage a culture of truth-telling and openness within their organizations.

Jeffrey Pfeffer, professor of organizational behavior at Stanford's Graduate School of Business, and Robert L. Sutton, professor of management science and engineering, lay out this approach in their book *Hard Facts, Dangerous Half-Truths, and Total Nonsense: Profiting From Evidence-Based Management.*

The authors encourage business leaders to view commonly held beliefs about business with healthy skepticism, dismantling six widely held half-truths in core management areas. The book helps business leaders identify what practices are right for their own companies, not just what "everyone else is doing."

Hard Facts, Dangerous Half-Truths, and Total Nonsense: Profiting From Evidence-Based Management is studied in ACEC's flagship executive leadership development program, the Senior Executives Institute, an intensive two-year program that focuses on developing better leadership, strategy and communication skills. The book also is available through the ACEC Bookstore at www.acec.org.

The ACEC Institute for Business Management provides comprehensive and accessible business management education for engineering company principals and their staffs.

Visit ACEC's online educational events calendar at http://www. acec.org/calendar/index.cfm or bookstore at https://netforum. acec.org/eweb/?site=acec_store, or call 202-347-7474 for further information.

ONE ON ONE



Michael A. Platt is general counsel and executive vice president of CHA in Albany, N.Y., and chairman of ACEC's Legal Counsel Forum.

Q. What issues are Legal Counsel Forum participants grappling with these days?

A. This is a challenging time to provide legal representation to engineering companies. Several issues are keeping Legal Counsel Forum (LCF) participants busy, such as the state of the economy, increasingly complex project delivery

Risks of Emerging Trends, Project Delivery Chief Focus for Legal Counsel Forum

• What are some of the potential liability implications of industry trends in BIM, green building design and other technological advances?

A. Emerging trends such as BIM and green building design hold great promise for the advancement of engineering and construction. However, from a legal perspective, these technologies and innovative methods raise difficult questions as to the engineer's standard of care, the obligations and responsibilities of the various parties involved in the project, the appropriate contractual relationships and ownership of deliverables.

As to green building design, the most notable risks arise

"Emerging trends such as BIM and green building design hold great promise for the advancement of engineering and construction."

methods and rapidly changing technology, including Building Information Modeling (BIM). More specifically, LCF participants are dealing with new legal requirements stemming from the American Recovery and Reinvestment Act, issues arising from the reductions in workforce that many firms unfortunately must undertake and new delivery methods such as public-private partnerships. when an engineering professional represents that a project will obtain a particular LEED standard, or represents that a particular approach will produce a certain level of energy savings. To minimize the risks, engineering professionals should involve their legal counsel when drafting the scope of services for such projects.

Advanced technologies such as BIM and other modeling

software have a tendency to create unrealistic client expectations, such as that projects will have no change orders or delays. Even with advanced technologies, the engineering and construction of a project is a dynamic process with issues that are difficult to foresee.

Q. What specific contract issues pose the most concern for today's design firms?

A. The biggest concern is the shifting of a disproportionate amount of risk from the client to the engineering professional. This issue is central to the negotiation of provisions addressing indemnification, limitation of liability, consequential damages and insurance. LCF participants deal with these issues in a variety of contexts on a daily basis, and they are a constant topic of discussion at Forum meetings and on the listserv.

Q. The LCF today includes professional liability insurance professionals as well as attorneys. How has the interaction of the two groups benefited the Forum?

A. The attorneys and professional liability insurance professionals deal with many of the same issues, and the interaction has been very positive. The LCF provides a means of sharing information and formulating approaches that work for both groups. In the end, the insurance professionals and the attorneys have the same objective of protecting the engineering professionals from unreasonable risks. Of particular interest at our last meeting was the issue of engineering firms providing nontraditional services, and whether such services were covered under professional liability policies. Nontraditional services can include, for example, preparation of emergency management plans, evacuation plans, software design, security design and consulting, and preparation of financial grant applications. Engineering firms need to make their insurance brokers aware of any nontraditional services they provide so the services can be properly endorsed on their professional liability policies.

The Legal Counsel Forum was created in 1987 for ACEC Member Firm counsel to share information about pertinent legal issues facing engineering companies. The Forum comprises approximately 120 legal and risk management professionals and meets for a day and a half in conjunction with both the ACEC Fall Conference and the Annual Convention.

MEMBERS IN THE NEWS

Welcome New Member Firms

ACEC/California

Alan Mok Engineering, Fresno Alatorre & Associates, Inc., San Jacinto AP Consulting Engineers, Inc., Burlingame Heider Engineering Services, Inc., Ontario

Love Engineering, Temecula Michael Mooradian Consulting, **Rolling Hills Estates** MPE Consulting, San Diego S Kwok Engineers, Inc., Alameda

Soils Engineering, Inc., Bakersfield VER Consultants, San Jose

ACEC/Delaware

Meridian Architects & Engineers, LLC, Milton

ACEC/Florida

Creative Engineering Group, Coral Springs **ELEMENT Engineering Group**, LLC, Tampa Peters & Yaffee, Inc., Jacksonville Tierra South Florida, Inc., West Palm Beach

ACEC/Georgia

American Consulting Engineers of Georgia, Dalton Dunn Engineering Services, LLC, Norcross W. Hunter Saussy III, PC, Savannah

ACEC/Hawaii Shaw Environmental &

Infrastructure, Inc., Honolulu ACEC/Kansas

Larson Binkley, Inc., Overland Park

ACEC/Kentucky

Avery Consulting, LLC, Nicholasville Capstone Engineering, LLC, Louisville CWM Engineering, PLLC, Lexington

Evergreen Environmental, Crestwood ACEC/Louisiana

Ampirical Solutions, LLC, Covington

Marrero, Couvillon & Associates, LLC, Baton Rouge

ACEC/Massachusetts BSI Engineering, Inc., Pembroke RWM Engineering, Inc., Boston

ACEC/Michigan Inspec-Sol Engineering, Inc., Plymouth Muxlow Surveying & Engineering, Brown City ACEC/New Hampshire

Quantum Construction

Consultants, LLC, Concord ACEC/New Jersev

YMP Consulting Engineering, LLC, Springfield

ACEC/New York WSP Flack + Kurtz, New York City

ACEC/Oklahoma Apposite Engineering, LLC, Edmond

ACEC/South Carolina DWG, Inc., Consulting Engineers,

Mt. Pleasant Palmetto Engineering and Consulting, LLC, Greenville Windmill Engineering Solutions, Inc., Sullivans Island

ACEC/Tennessee

Lose & Associates, Inc., Nashville

ACEC/Washington DeHaas Engineering, Olympia O'Neill Environmental Services, Issaguah

ACEC/West Virginia

Martin Engineering, Hurricane ACEC/Wisconsin

JT Engineering, Inc., Green Bay **Ourston Roundabout Engineering,**

Inc., Madison ACEC/Wyoming Western Research & Development, Ltd., Cheyenne

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seminar)

OCTOBER

7-10

14-15 Finance Forum, Chicago

Mergers & Acquisitions

older Associates, Inc. (GAI), a geotechnical engineering and environmental services consulting firm, has acquired Engineering and Hydrosystems, Inc. (E&H), a Denver-based consultancy specializing in hydrology and hydraulics, river engineering and design, and water supply management.

The new team of six engineers and scientists augments Golder's core technical capabilities in water infrastructure design, safety assurance, management and maintenance. E&H President and Principal Dr. George W. Annandale joins Golder as a practice/ program leader.

"E&H's focus on developing cost-effective, sustainable solutions to natural-resource management problems is of immediate benefit to our clients," says GAI President Mark Swallow.

ortland, Ore.-based David Evans and Associates, Inc. (DEA), has acquired civil engineering and land surveying firm Lintvedt, McColl & Associates (LMA) of San Diego.

LMA has 18 employees in San Diego and serves publicand private-sector clients in Southern California. The acquisition of LMA complements DEA's survey and transportation engineering services.

"We are very excited to have LMA join DEA," says Bob Dameron, DEA's Southern California regional manager. "LMA has a 60-year history of providing excellent service to clients, which made them an attractive partner for us."

eston & Sampson Engineers, Inc., announced its merger with VanasseDaylor (formerly Vanasse & Daylor, LLP) of Fort Myers, Fla. VanasseDaylor is a full-service land-use consulting firm specializing in urban planning, transportation planning, traffic engineering and civil/site engineering. Weston & Sampson's Sarasota office and VanasseDaylor's Fort Myers office together will enable the firms to better serve public and private clients in Florida.

Calendar of Events

2009

AUGUST

19 **Exploring Stimulus Spending Effects on EISA (Energy** Independence and Security Act) Implementation (online seminar)

SEPTEMBER

Elevating a Project Manager to a **Business Manager for Improved** Efficiency (online seminar)

Making Construction Administration **NOVEMBER** a Risk Management Tool (online

- 10 **Risk Management Report Card:** Would Your Firm Earn an A, F or Incomplete? (online seminar)
- 12 Follow Up! The (Misunderstood) Heart of Business Development and Positioning (online seminar)
- Reality for A/E/C Firms, Seattle

ACEC Fall Conference,

Palm Springs, Calif.

29-30 Building Information Modeling

Additional information on ACEC's events is available at www.acec.org.

(BIM): The Promise and the 2009

Concerned about professional liability and the companies insurance that provide it?

IT'S A FACT: When the economy deteriorates, the frequency and severity of claims swell. That's why you need a professional liability insurer you can count on 24/7/365. Can you count on yours? And what about the companies that own the PL insurers? Have you looked at their stock values lately? In some cases, you have reason to be concerned: Given the economy, some of the companies providing PLI today may not be here tomorrow.

Terra insureds are not concerned; they have no reason to be. Since becoming a risk-retention group in 1988 (after starting as an off-shore captive in 1968), Terra's book value per share has set a new record high for 21 consecutive years. Almost unbelievably, that includes 2008!

Share-value increases make Terra insureds happy, because they own Terra. But as happy as they are about Terra's extraordinary financial performance, they're even more pleased with Terra's insurance services, because Terra treats its insureds as though they own the place, which, of course, they do!

You really owe it to yourself to look into coverage from Terra. We insure firms that provide civil engineering, structural engineering, geotechnical engineering, environmental engineering and science, and construction Corte Madera, CA 94925 materials engineering and testing, in whole or in part, with annual revenues of \$500,000 to \$100 million or more. And with every Terra policy you receive benefits few of our competitors can offer nowadays: Unparalleled performance. Reliability. Superior products and service. Peace of mind.

Terra Insurance Company

A Risk Retention Group

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