T-WALL® value engineering solves foundation problems on I-95 Girard Avenue Interchange

Part of the massive 350 million dollar I-95 PennDOT improvement project, the I-95 Girard Ave. interchange reconstruction was initially engineered using T-WALL® for the as-designed system. Original plans called for costly jet-grouted foundation improvements to mitigate settlement. As the project developed, contaminated soils of an undefined extent were discovered. Hazardous material removal of the soils would add additional cost and risk.

To solve the issue, T-WALL engineers worked directly with James J. Anderson Construction, Inc. to value engineer an innovative solution. A proprietary combination of lightweight foamed concrete and granular backfill (including crushed concrete) reduced the bearing pressure and eliminated the need for ground improvement – removing the added cost of dealing with the contaminated soils. The stand-alone T-WALL units were easy to install and backfill with foamed concrete, thereby creating further cost savings through rapid installation.

T-WALL® is a gravity retaining wall system, consisting of modular precast concrete units and select backfill. The system is a simple proven solution for grade separation on highway, bridge, railroad, water, commercial applications, and more. Stand-alone T-WALL units require no bracing, battering, or clamping – making them an optimal choice for foamed concrete.

Contact us to discuss how T-WALL can save you time and money on your next project.
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Pennsylvania may be a large state, but technology can shorten the distance between us and allow us to share information that will help grow our industry.

Phone2Action Generates 500 Contacts in Two Weeks
This spring you saw the significant media coverage surrounding Auditor General Eugene DePasquale’s recent audit finding that $4.2 billion has been diverted from the Motor License Fund to support State Police operations since the 2012-13 fiscal year. In his report, he drew attention to the fact that the amount of funds diverted could have helped eliminate the list of 2,829 structurally deficient bridges in Pennsylvania. As many of you know, this diversion issue has been something our industry has been discussing since before the passage of Act 89.

Additionally, our industry faces a number of other challenges: Lettings are projected to be down by $250 million; we’re seeing a growing amount of electric vehicles not paying their fair share but causing just as much wear and tear on our roads; and we’ll soon see the impact of more Motor License Fund money diverted to yet another unrelated matter: REAL ID.

APC launched an industry “Call to Action” urging our elected officials to stop diverting highway funds as they approach the final negotiations of the 2019-20 state budget. To date, nearly 300 members of the highway construction industry have taken action and sent more than 500 emails and social media posts calling on their senators and representatives to stop diverting highway funds for state police operations and to pay for the implementation costs of Real ID out of the general fund budget and not the Motor License Fund.

Innovation Driving APC Services
By upgrading our APC Boardroom to incorporate video conferencing technology, the association now has the capability to produce videos, conduct webinars and hold interactive meetings that you can access from your office or home without having to travel to Harrisburg.

With APC’s video “Membership Minute,” we recently gave you a quick tour of APC’s newly renovated conference room and talked about some of the things we’re doing with new technology.

Some of you have already seen our “Coffee with Counsel” feature, with APC outside counsel Jim Kutz. It’s a live webinar that provides an opportunity to learn about and discuss some of the legal issues unique to our industry.

And by now, maybe you’ve caught up with the first segment of our speaker series, which was a discussion with Mark Compton, CEQ of the Pennsylvania Turnpike Commission.

These virtual conversations are available exclusively to the APC membership.

Other webinars will cover a variety of topics. Things like updates on PennDOT policy changes, interactive meetings with district executives, specification updates, member services, and – one we’ve already done and will periodically do again – advocacy updates.

If you have thoughts about video content you’d like to see or perhaps provide, please drop me a note at rlatham@paconstructors.org.
Messaging Part 1: Motor License Fund Diversions

As it stands, the current gradual rollback of 4% per year diverted from the Motor License Fund to support State Police operations still leaves nearly $740 million diverted.

If the rollback is accelerated to 10% per year, an additional $65 million would be made available for fixing our highways every year. In about 12 years, PA would no longer be diverting any highway money at all.

Accelerating the rollback of diverted money would mean that money could be more quickly used as it was intended, and Pennsylvania could begin meeting its infrastructure needs without increasing gasoline taxes.

It’s important to recognize that State Police operations are not the only beneficiaries of Motor License Fund diversions.

Starting on Oct. 1, 2020, Pennsylvanians will be required to obtain a Real ID driver’s license, photo ID card or another form of federally-accepted identification such as a passport to board a domestic flight or enter a federal building or military installation. The cost of implementing the Real ID program – a total of $150 million over a 6-year span – will also be diverted from the Motor License Fund.

Yet another item unrelated to the maintenance or safety of highways and bridges, the Real ID Act was passed in response to 9/11 attacks and is a Homeland Security matter, therefore should instead be paid for through the General Fund.
MESSAGING PART 2 HIGHWAY USERS SHOULD PAY THEIR FAIR SHARE

The aforementioned second prong of the campaign’s messaging focuses on highway users paying their fair share. PA House Bill 1392 was recently introduced by Rep. Mike Carroll and would place a registration fee of $150 on all-electric non-commercial vehicles and $250 on all-electric commercial vehicles.

This provides a simple solution to the fact that electric vehicle users that charge up at home do not pay taxes used to maintain roads and bridges like gas-powered vehicle users do at the pump. When considering that the average gas-powered vehicle user in PA pays about $276 per year in state fuel taxes, this is a reasonable fee that will ensure all users are paying their fair share to maintain Pennsylvania’s highway system.

THE CAMPAIGN

The campaign kicked off in early May with a “Call-to-Action” webinar to explain the issues and messaging strategy, and to introduce APC’s new advocacy tools.

Through a program called Phone2Action, APC has made it easier than ever for members to advocate for policies that will help grow the highway program. By simply entering a name and home address in the campaign page, a pre-written, customizable email can be sent to your state senate and house members urging them for action on these issues.

In APC’s newest video series, “The Membership Minute,” Executive Vice President Bob Latham urged members to join the advocacy team and explained how easy it is to reach out to elected officials and make a real impact. Less than a month into the campaign more than 500 emails and social media posts were sent to PA legislators and the number continues to grow.

The campaign page provides many other resources such as talking points for telephone calls to legislators, letters to the editor, social media posts, and an advocacy handout explaining the issues.

APC has met with key leadership to discuss the issues and meetings with local chambers and business organizations are occurring to spread the message to a broader audience.

Click on the “Advocacy” tab at paconstructors.org to learn more about these issues and make your voice heard.
A little more than five years ago, American Road & Transportation Builders Association (ARTBA) leaders announced the start-up of the Transportation Investment Advocacy Center™ (TIAC), a first-of-its-kind dynamic education program and internet-based information resource.

Launched with the belief that shared knowledge and networking are powerful keys to success, TIAC aimed to provide private citizens, legislators, organizations, and businesses with a toolbox of original research and resources to successfully grow transportation investment through the legislative and ballot process.

Anchored by a comprehensive website (www.transportationinvestment.org), the Center has established itself as a “go-to” information clearinghouse for transportation investment advocates to share strategies, sample political and communications tools, legislative and ballot initiative language, and information on where to obtain professional campaign advice and other help.

To date, TIAC has tracked 1,700 ballot initiatives; monitored more than 800 investment bills introduced at the state and local levels; hosted five “National Workshops for State & Local Transportation Advocates” – which have been attended by nearly 600 industry professionals from 36 states; and compiled 70 case studies on what makes a transportation investment campaign victorious and what hinders progress.

The Associated Pennsylvania Constructors (APC) has helped drive the success with its consistent financial support for ARTBA’s

"West Virginia was one of eight states in 2017 to approve new fees on electric and hybrid vehicles. TIAC provides a road map as to what can be done. It helped us glean the ‘best-of-the-best’ from around the county. We used the TIAC information quite effectively to show what other states were doing to improve their highways systems, especially states around West Virginia, such as Pennsylvania, and nationwide. We tried to show West Virginia legislators that they are not alone, and how transportation investment helps the economy and creates jobs.”

Mike Clowser, Executive Director Contractors Association of West Virginia
“Transportation Makes America Work” (TMAW) advocacy program, which manages the Center's activities.

Along the way, an 80-member Advocates Council has helped guide the Center's work. It includes staff-initiated original research resulting in publication of comprehensive reports exploring different types of funding methods, including variable-rate state gas taxes, state electric vehicle fees, and alternative fuel taxes. The outcome of such exercises led to the creation of legislative “model language,” which has been used by industry allies to advance laws that raised transportation repair and construction revenue.

Following the premise that “data doesn’t lie, facts are key,” TIAC also strives to provide quality, reputable research to help advocates demonstrate the need to increase transportation funding and debunk myths surrounding transportation investment. Analysis of the impact a state gas tax increase has on the price of gasoline at the pump, and a report tracking the effect a gas tax vote has on state lawmaker reelection rates, are among two additional tools the Center produces to refute anti-tax pushback about increasing investment.

The Center's 6th annual national workshop – which is scheduled for July 17 in the Nation's Capital – regularly features multiple states sharing their keys to success and lessons learned. This included a popular session in 2016 about how APC built positive momentum after the 2013 transportation investment legislation. Among the hot topics for this year's event: EVs and an Evolving World, Expert Roundtable: Pros & Cons of Tolling, and Battleground States: How National Politics Can Impact the Local Vote.

If you are interested in learning more about the Center, attending the workshop or joining the Center’s Advocates Council, contact Carolyn Kramer, ARTBA TIAC director, at ckramer@artba.org.

Carolyn Kramer is the director of the ARTBA Transportation Investment Advocacy Center. She can be contacted at ckramer@artba.org.
Pennsylvania’s Rural Roads and Bridges Ranked Among Poorest in the Country

According to a report released by national transportation research nonprofit The Road Information Program (TRIP), America’s rural transportation system is in need of repairs and modernization to support economic growth in the nation’s heartland, which is a primary source of the energy, food and fiber that supports America’s economy and way of life. With increases in population and growing employment, rural America is heavily reliant on the quality of its transportation system to sustain further growth.

The report, “Rural Connections: Challenges and Opportunities in America’s Heartland,” evaluates the safety and condition of the nation’s rural roads and bridges and finds that the nation’s rural transportation system is in need of immediate improvements to address deficient roads and bridges, high-crash rates, and inadequate connectivity and capacity. The chart (page 11) shows the states with the highest rate of rural pavements in poor condition; states with the highest share of rural bridges that are rated poor/structurally deficient; and states with the highest fatality rates on non-Interstate, rural roads.

The report finds that 21% of Pennsylvania’s rural roads are rated in poor condition – the 12th-highest rate in the nation – and 20% are rated in mediocre condition. When it comes to Pennsylvania’s rural bridges, 18% are rated as poor/structurally deficient – which is the fourth-highest share in the U.S.

Bridges that are poor/structurally deficient have significant deterioration to the major components and are often posted for lower weight or closed to traffic, which results in restricting or redirecting large vehicles – including agricultural equipment, commercial trucks, school buses, and emergency services vehicles. The rate of traffic fatalities on Pennsylvania’s non-Interstate, rural roads is the 20th highest in the nation and is nearly three times higher than the fatality rate on all other roads in the state – 2.18 fatalities per-100 million vehicle miles of travel vs. 0.79.

APC worked with local leaders to obtain insight on the importance of a sound transportation system to families and workers in rural Pennsylvania.

Doug Hill, executive director of the County Commissioners Association of Pennsylvania, noted, “A sound transportation system is critical to the continued economic viability and quality of life in the commonwealth, without which we cannot get children to school, citizens to work, or goods to market. Counties continue to stress the interrelatedness and interdependence of state, county, and municipal infrastructure and transit systems.”

“Rural roads play a critical role in supporting the transportation needs of millions of Americans every day,” said Doni Lee Spiegel, PA AAA Federation public relations manager. “Damaged and deteriorating roadways too often result in deadly crashes, and it is time to act. Making critical safety improvements to rural roads will save thousands of lives each year and help move our economy forward.”

America’s rural transportation system provides the first and last link in the supply chain from farm to market, connects manufacturers to their customers, supports the tourism industry, and enables the production of energy, food, and fiber. Rural Americans are more reliant on the quality of their transportation system than their urban counterparts.

“Lancaster County’s roadways and transportation network are vital to our businesses that depend on them to safely and efficiently move goods to market,” said Tom Baldrige, president & CEO, Lancaster Chamber. “Finding a long-term and sustainable solution for federal transportation funding is a critical piece in providing much-needed investment in our rural networks and addressing the transportation infrastructure needs of communities across the country.”

The TRIP report finds that the U.S. needs to implement transportation improvements that will improve rural transportation connectivity, safety and conditions to provide the nation’s small communities and rural areas
with safe and efficient access to support quality of life and enhance economic productivity.

“The health of the nation’s economy and the safety and quality of life in America’s small communities and rural areas ride on our rural transportation system,” said Will Wilkins, executive director of TRIP.

“Our rural roads and bridges provide crucial links from farm to market, move manufactured and energy products, and provide access to countless tourism, social, and recreational destinations. Fixing the federal Highway Trust Fund with a long-term, sustainable source of revenue that supports the transportation investment needed will be crucial to the modernization of our rural transportation system.”

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<tr>
<th>RANK</th>
<th>STATE</th>
<th>Rural Pavements in Poor Condition</th>
<th>STATE</th>
<th>Rural Bridges Poor/Structurally Deficient</th>
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<th>Fatality Rate per 100M VMT on Rural Non-Interstate Roads</th>
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ENHANCED TECHNOLOGY INCREASES ACCESSIBILITY, ENGAGEMENT OPPORTUNITIES

An ever-present challenge facing any association in a state with expansive geography such as Pennsylvania is engaging members regardless of their location.

Because time travel unfortunately does not yet exist, Associated Pennsylvania Constructors (APC) has invested in bringing together members from all corners of the state virtually. APC’s new boardroom has been upgraded with state-of-the-art video conferencing and webcasting capabilities, providing new ways for more members to join the conversation and stay informed.

In addition to various committee meetings, educational webinars, and important timely updates impacting the highway industry, members can expect to be offered the following monthly virtual updates and video conference opportunities:

**MEMBERSHIP MINUTE**

*The Membership Minute* is two-minute-or-less video message of important information that members should be aware of each month.

**SPEAKER SERIES**

APC’s Speaker Series provides a members-only opportunity for participants to interact and ask questions with a subject matter expert or industry leader.

**COFFEE WITH COUNSEL**

Coffee with Counsel is a members-only legal briefing and discussion with APC’s counsel Jim Kutz regarding various topics affecting the industry and membership.

Go to www.paconstructors.org to learn more about these exciting, new opportunities.
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Electric vehicle usage is forecast to grow in the coming decades, and across the country lawmakers are proposing solutions to address the inevitable impact to motor-fuel taxes—a crucial element in maintaining our highways and bridges. In Pennsylvania, one of those proposed solutions is HB 1392. We sat down with Rep. Mike Carroll to get the details on HB 1392 and how it could address this growing issue.

HB: What does this measure (HB 1392) do, and why is it needed?

Rep. Carroll: “HB 1392 replaces the alternative fuel tax on electricity with an annual electric vehicle road fee of $50 for motorcycles and Neighborhood Electric Vehicles, $150 for electric passenger vehicles, and $250 for electric motorhomes and recreational vehicles.

“Currently, owners of electric plug-in vehicles should be filing monthly statements with the PA Department of Revenue and remitting the alternative fuel tax on how much electricity their vehicle uses. However, most electric vehicle owners don’t do this because the process for remitting the alternative fuel tax is cumbersome, or they are unaware that they have to. Pennsylvania only collects a tiny fraction of the alternative fuel tax on electricity.”

HB: Which alternative-fuel vehicles would be subject to this higher fee, and which would not?

Rep. Carroll: “All plug-in electric vehicles that use electricity as the primary source of power would be subject to the annual electric vehicle road fee. However, this does not include commercial vehicles over 26,000 pounds, which would still be subject to the alternative fuel tax on electricity, or conventional hybrids that use gas as a primary source of power, which are subject to the gas tax.”

HB: Do you think the alternative-fuel vehicles that aren’t included will eventually face some level of surcharges as well?

Rep. Carroll: “The reason for replacing the alternative fuels tax on electricity with an electric vehicle road fee is because the current alternative fuel tax on electricity isn’t being remitted. This does not appear to be an issue with other alternative fuels such as hydrogen or natural gas, where the alternative fuel tax is being remitted as intended.”

HB: How much does an average motorist pay in fuel taxes each year?
Rep. Carroll: “Using data from the U.S. Department of Energy, the average owner of a gas-powered passenger car pays about $276 in state gas taxes each year (assuming the cost is passed along to the consumer).”

HB: How much revenue is this costing the state every year?

Rep. Carroll: “It is unclear exactly how much revenue this is costing the state annually. According to the PA Department of Revenue, there are approximately 9,100 non-commercial plug-in electric vehicles operating in Pennsylvania. If each one paid the proposed $150 annual fee, that would generate approximately $1.37M per year instead of the $53,409 that was collected in 2018 from the alternative fuel tax on electricity. This number would increase as more Pennsylvanians buy plug-in electric vehicles.”

HB: How many co-sponsors does the bill have, and who are they?

Rep. Carroll: “HB 1392 has 11 co-sponsors, including Representatives Neilson, Readshaw, Schlossberg, Irvin, Mullins, Millard, Hill-Evans, Donatucci, Kortz, Markosek, and McClinton.”

HB: Do you expect this to go to the Senate before the summer recess?

Rep. Carroll: “HB 1392 was passed out of the House Transportation Committee on June 10. However, I don’t have control over the House Voting Schedule, but my hope is that..."
HB 1392 will proceed to a vote of the full House of Representatives as soon as possible."

**HB: Do you think mileage-based user fees would address this issue?**

**Rep. Carroll:** “I think a mileage-based user fee is one of many possible solutions. The I-95 Corridor Coalition is actively exploring a mileage-based user fee to determine if it is a viable way to support our transportation infrastructure and I look forward to their findings. The states also need congressional action if it is determined that a mileage-based user fee is a viable solution.”

**HB: Do you believe that we will eventually have a mileage-based fee system?**

**Rep. Carroll:** “I think once a larger percentage of vehicles on Pennsylvania’s roadways are powered by something other than liquid fuels, the General Assembly will have to consider replacing the Oil Company Franchise Tax with another funding mechanism, such as a mileage-based fee, in order to support our transportation infrastructure.”

**HB: As one of the House Transportation Committee chairs, what other initiatives do you foresee in this legislative session?**

**Rep. Carroll:** “My hope for this session is that the House Transportation Committee takes a serious look at two important issues:

“One, addressing the Turnpike Commission’s statutorily required $450M annual payments to PennDOT, which supports transit. This causes the Turnpike to take on more debt with annual toll increases, which decreases ridership and puts more truck traffic onto our interstates.

“Two, decoupling State Police funding from the Motor License Fund and using this money to better maintain our highways and bridges.”
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Steel girder erection is underway on the 55C1-1 section of the PA Turnpike Southern Beltway in South Fayette Township, Allegheny County. This section will ultimately help link this portion of the Southern Beltway with its connection to Interstate 79 in Cecil Township.

The dual, 4-span structures consist of 72 individual steel sections, which are field spliced to create the 1,015-foot continuous composite bridges over State Route 50 and Millers Run Road. Golden Triangle Construction Co. Inc. is the structures subcontractor for Beaver Excavating Co. on this section.

This structure work is anticipated to be completed by the end of 2019.
CSVT Project Designed to Relieve Local Traffic Congestion

As part of a long-term plan to alleviate traffic congestion in central Pennsylvania, STV recently completed the final design for the fourth and final contract for the northern section of the Central Susquehanna Valley Transportation (CSVT) project. The Pennsylvania Department of Transportation (PennDOT) project will create a new, four-lane limited-access highway to relieve congestion on several existing free-access, signalized highways. State transportation officials predicted in 2003 that traffic volume in the corridor would double by 2020.

The new highway will provide immediate relief to the clogged roadway and help prevent congestion from worsening by directing non-local traffic onto the highway and toward other regional destinations. And, by separating trucks from local vehicular traffic, it is also expected to improve safety.

STV managed a subconsultant’s design of a new, 4,500-foot-long, 15-span bridge over West Branch Susquehanna River, with 60- to 180-foot-high piers and 10-foot-high steel girders. STV’s design included new interchanges with existing US 15 and existing PA 147. Anticipating that acid-bearing rock may be encountered during excavation, the team developed special provisions to address sampling and testing, excavation, onsite treatment and encapsulation, and offsite disposal of the material for both the river bridge and the cut section north of the river. Additionally, PennDOT designed an experimental pavement consisting of concrete pavement with a bituminous overlay (not typically added to concrete pavement), which STV included in the final design.

STV engineers worked with the team to incorporate tree-clearing restrictions into the contract to avoid impact to a northern long-eared bat habitat at the site. Likewise, provision of a protective fence and the relocation of a proposed stormwater management facility will avert project impact on potential habitat of the eastern spade-foot toad.

Construction is anticipated to be completed and the northern section open to traffic in 2022.
Seeking Time & Money for Weather Impacts

by James W. Kutz, Esquire, McNees, Wallace & Nurick LLC

The issue of whether the owner or the contractor should bear the risk of unforeseen weather conditions can be a contentious issue, not just in negotiating construction contracts but in pursuing time extensions and extra costs arising from weather conditions. In the highway industry in Pennsylvania, the record-setting rainfalls experienced during the 2018 construction season presented many challenges to both contractors and public owners as they administered their respective projects. The impact of the weather delays experienced in 2018 has resulted in ongoing discussions between APC and PennDOT with regard to what changes, if any, will be made to the Form 408 Specifications to address weather-related issues. Regardless of what specification changes may ultimately be made, there are a number of issues that highway contractors and their public-sector partners should consider whenever weather adversely impacts construction.

What Does the Contract Provide?
Contract provisions with respect to weather delays vary widely. In some cases, the owner attempts to shift the entire risk of adverse weather conditions to contractors. In other contracts, the parties make an attempt to equitably account for the risk of weather delays. Indeed, it is not uncommon on private-sector projects for the parties to build into a contract a certain number of expected weather delays for which the contractor bears the risk, and after which the owner will be responsible. With respect to highway projects in Pennsylvania, the current version of PennDOT’s Form 408 Specifications purports to shift most of the risk for weather delays to the contractor. Section 108.06(a) sets forth a list of “events or occurrences that do not qualify for an extension of required completion date,” and that itemized list includes weather delays. However, this section also provides that a weather-related event “warranting an emergency declaration” may qualify for an extension of time if the contractor has taken precautions to protect the project from damage and if controlling operations were affected. Notably, the extension of time that is contemplated under Section 108.06(a) for a weather delay due to an “emergency declaration” would likely be non-compensable. The extent of the delay for which PennDOT is responsible once an emergency declaration is issued is not spelled out in Section 108.06.

While PennDOT typically takes the position that Section 108.06(a) of the Form 408 Specifications precludes all weather-related delay claims, there are numerous arguments that can be raised by a contractor to support contract relief when adverse weather is encountered, as more fully set forth below. Additionally, other PennDOT contract provisions arguably help contractors in weather delay situations. For example, Sections 111 and 108 both allow a contractor time and compensation for the “negligent acts and omissions” of the department. While PennDOT would likely argue that weather events could never be considered a “negligent act or omission” to utilize these sections to support a claim for weather-related delays, it would be incumbent on the contractor to prove, for example, that the department was somehow negligent in failing to plan for appropriate weather considerations when developing specifications for a project.

Some surrounding states take a more lenient approach in their specifications regarding weather delays. West Virginia’s Standard Highway Specifications list several grounds for excusable/non-compensable delays, including delays due to adverse weather. Under West Virginia’s Specifications, a contractor is entitled to a non-compensable time extension due to weather delays where inclement weather prevents the involvement of a contractor’s normal working forces in performing critical or controlling items for at least 60% of the total scheduled daily hours and/or if the weather conditions prevent the contractor from beginning at the regular time and the crew is dismissed regardless of whether or not the conditions improve for the rest of the day. Thus, a contractor working for West Virginia Department of Transportation will be much more likely to receive a time extension for weather delays than a contractor on a Pennsylvania highway project.

When is a Weather Delay Not a Weather Delay?
Irrespective of any contract preclusion for weather delay claims, there are instances...
when a contractor can justifiably argue for both time and compensation for weather events, even though it appears that weather conditions contributed to the adverse impact to the contractor. The first situation when a contractor can recover for a weather delay is if a prior delay of the owner pushes work into bad weather, thus further exacerbating the impact of the initial delay. On highway projects, this is a fairly common occurrence. If, for example, a three-month utility delay over the summer pushes paving work past the contract paving deadlines, and paving cannot take place until the following spring, the owner should be responsible for the entire delay, not just the three-month utility delay.

Second, an owner can also be deemed to have financial responsibility for extra costs if a time extension for a weather delay should have been granted under the contract provisions but an extension was not timely provided, and thus the contractor accelerated to meet a deadline. One potential scenario when this could occur under PennDOT’s Form 408 Specifications is if the governor had declared a State of Emergency (which would entitle a contractor to a time extension), but the owner fails to timely grant a requested extension and the contractor accelerated as a result. Those actions could turn a non-compensable delay into a compensable acceleration claim.

Third, a contractor can typically recover both time and money when the project’s design does not adequately account for site conditions, which are ultimately impacted by weather. This is particularly prevalent when erosion sediment control measures and/or stream diversion measures are under-designed. If, for example, the contract specifies a certain height cofferdam, and also specifies a certain type of stream diversion device be used, the owner is warranting that if the as-designed devices are installed per plan they will be effective. When they are not, the owner should be held liable. Thus, when storm events cause as-designed cofferdams to overtop, the owner should bear that risk (although it is likely the owner will take a different position).

Fourth, even if weather adversely impacted a project, if there is an overlapping owner delay that is critical, the contractor should be entitled to at least time, and likely compensation, for the overlapping owner-caused delay, irrespective of any concurrent weather delay.
Finally, there may also be situations for which an owner is liable when weather conditions exacerbate existing site conditions. This could occur if material at the site was originally deemed suitable for fill, but adverse weather ultimately made that material unsuitable and/or prevented the contractor from adequately drying the material. Thus, while some events may initially look like “weather caused” impacts, there are several scenarios in which exculpatory language should not bar claims against the owner.

Are There Other Legal Theories that Could Support a Weather Delay Claim?
When weather delays hit, one of the contractor’s primary concerns is the possible imposition of liquidated damages by the owner. Thus, obtaining a time extension is often as valuable, or more valuable, than being compensated for the weather delays. There are two separate but comparable legal doctrines that may work to assist the contractor in arguing for time extensions: (1) impossibility of performance, and (2) commercial impracticability. Essentially, these two legal theories recognize that a party to a contract should not be required to do something that is impossible. In the context of a highway construction project, there are contract deadlines that restrict certain activities, including bituminous paving, the application of certain line striping, etc. If a contractor experiences such a significant amount of adverse weather during a construction season that ultimately makes it impossible for the contractor to meet the required construction deadlines, the contractor would have a good argument that its timely performance was rendered impossible, and thus its timely performance would be “excused.” This would result in a time extension, albeit with no compensation.

A related doctrine is the Doctrine of Commercial Impracticability. This theory relies on the same legal principles as the Doctrine of Impossibility, but applies in very limited circumstances when one can show that attempting to complete the contract by its terms would be “commercially impracticable.” This is a fairly high standard to meet under the law, but it is one more argument a contractor could raise to support a time extension request, as a contractor could argue that it should not be expected to spend extraordinary amounts to meet a certain deadline.

In summary, regardless of the risk-shifting provisions in a contract, when a contractor experiences delays and losses due to weather conditions all is not necessarily lost. In addition to the arguments set forth herein that a contractor could present to the owner, it is also fairly common for an owner to recognize the harshness of holding the contractor responsible for all weather events, and to at least grant time extensions accordingly.

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**Woolpert Receives SAME Award for Leadership, Mentorship**

The Society of American Military Engineers (SAME) presented Woolpert with the 2019 Seymour S. Greenfield Sustaining Member Award at the Society Ball and Awards Gala that concluded the 2019 Joint Engineer Training Conference & Expo in May.

The annual national award, named after former SAME National President Seymour S. Greenfield, was initiated in 2009. It recognizes a mid-size SAME Sustaining Member based on its leadership positions at multiple levels within the society, supporting outreach and mentoring programs, contributing to The Military Engineer magazine and other SAME publications, and participating in national and regional SAME events across the country.

Accepting the award on behalf of Woolpert was Senior Vice President and Military Market Director David Ziegman. “SAME plays a vital role in America’s national security efforts by identifying and resolving infrastructure challenges at U.S. military locations around the world,” Ziegman said. “We are honored to support the great work of the society and today’s military engineers, and to promote and extend vital STEM (science, technology, engineering and math) education efforts across the country in support of future military engineers.”

This is Woolpert’s second Seymour S. Greenfield Sustaining Member Award. The firm received the organization’s inaugural honor in 2009. Woolpert has 24 active SAME members, and many serve the society in local and national leadership roles across the country.

SAME, founded in 1920, has more than 30,000 members and more than 150 posts and student and field chapters around the world.

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**Wagman Receives Award for Virginia Project**

Wagman Heavy Civil Inc. has received the Excellence in Infrastructure Award for a Project Over $15 million for the Route 7 Widening and Bridge Rehabilitation project. Wagman accepted the award at the 2019 Heavy Construction Contractors Association (HCCA) Safety and Infrastructure Awards Dinner. The event, held April 17 at the Chantilly National Golf & Country Club, recognizes outstanding safety performance and infrastructure engineering.

This $42 million project, located in Tysons Corner, Fairfax County, Va., improved the existing substandard twin bridges carrying Route 7 over the Dulles Toll Road and Dulles International Airport Access Highway. Each bridge carried two lanes of through traffic, one auxiliary lane, and a concrete sidewalk. The bridges were widened, raised, and lengthened to accommodate an additional lane in each direction, auxiliary/turn lanes, a 14-foot shared-use path on each side, and to account for future collector-distributor lanes under the end spans along the DTR.
Cleveland Brothers Opens New One Call Rentals Facility

Cleveland Brothers Equipment Co. Inc., the exclusive Cat® dealer of Pennsylvania, northern West Virginia and western Maryland, has expanded its facility locations to provide quality products and services to the Washington, Pa., area.

The new One Call Rentals Store in Washington offers sales, rental, parts, and service, and features a full line of mid-size and compact Cat® machinery such as mini-hydraulic excavators, skidsteer loaders, telehandlers, smaller dozers, and wheel loaders. In addition, the facility provides a variety of allied equipment rental options including light towers, small dump trucks, aerial lifts, and more.

“We’ve experienced a growing need in Washington and the surrounding area for our equipment, parts and service,” said Darrin Foulk, vice president of Rental/General Construction at Cleveland Brothers. “Now that we’ve opened, we can meet these needs of our customers quickly and efficiently.”

The new facility is located at 35 Brownlee Rd., Eighty Four, Pa. 15330. For more information, call (724) 325-9297 or visit www.ClevelandBrothers.com.

Gannett Fleming Wins National Awards

Gannett Fleming received three National Recognition Awards during the 2019 American Council of Engineering Companies (ACEC) Engineering Excellence Awards Gala, May 7, in Washington, D.C. The honored projects include the Bel Air Impoundment project in Maryland, the New Jersey Turnpike Interchange 14A Improvements project, and the Route 30 Landslide Remediation project in Pennsylvania.

PennDOT enlisted Gannett Fleming to provide final design and construction consultation services for the Route 30 Landslide Remediation project. A team of Gannett Fleming and PennDOT engineers proactively evacuated nearby residents just hours before a landslide crumbled the Route 30 roadway. Gannett Fleming quickly turned around a comprehensive landslide remediation design and bid package in 10 days, and the highway reopened in just 80 days for the route's 30,000 daily motorists. Previous honors include ACEC Pennsylvania’s Diamond Award for Best Panel for the project, the American Society of Civil Engineers Pittsburgh Section’s 2018 Award of Merit, and the Engineer’s Society of Western Pennsylvania’s 2018 Emergency Remediation Project of the Year award.

Wagman Welcomes Hargis as Sr. Construction Manager

Gerry Hargis recently joined Wagman Heavy Civil Inc. as senior construction manager. He joins the company's award-winning team to support the expansion of design-build services performed by its Virginia-based operations.

Hargis brings more than 40 years of experience managing complex heavy civil, bridge, marine, railroad, and industrial projects from proposal through all phases of permitting, design, and construction. As the primary point of contact, he has supervised staffs comprised of estimators, engineers, managers, schedulers, public relations professionals, utility coordinators, CM/CI, and field personnel. This includes design-build and conventional project delivery including turnkey QA/QC programs.

“Wagman’s relationship with Gerry began in the early 2000s during our successful delivery of the Woodrow Wilson Bridge Approach Roadways and Interchanges,” said Greg Andricos, president and COO of Wagman Heavy Civil Inc. “His personal and professional experience aligns with our vision while allowing us to better serve our valued clients.”

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Michael Baker Intl. Announces New Leaders, Promotions in PA

Lydia C. Grose has joined Michael Baker as vice president and Philadelphia office executive. In this role, Grose will lead growth of the company’s Center City Philadelphia office, which currently serves clients in transportation, planning, construction services, railroad, and transit. Grose joins Michael Baker after a successful career at the Southeastern Pennsylvania Transportation Authority (SEPTA), where she most recently served as director of Engineering and Design. In this role, she was a trusted partner to regional organizations, including PennDOT, Philadelphia Water Department, Philadelphia Department of Streets, and numerous municipalities in the greater Philadelphia area. Grose is also an active member of the industry, serving on the National Transit Board as an advisory board member, the American Public Transportation Association on the Emerging Leaders Committee, and as a member of Conference of Minority Transportation Officials, Society of Women Engineers, National Society of Black Engineers, and Women in Transit. Grose holds a Bachelor of Science degree in civil engineering and construction technology from Temple University.

Leanne M. Doran has joined Michael Baker as director of Public Engagement in the Harrisburg office. Doran brings more than 25 years of experience as a well-respected communications specialist in the transportation industry. She specializes in the development and implementation of engagement and education programs on high-profile transportation, planning, and environmental projects. Doran has worked for clients, such as PennDOT, Pennsylvania Turnpike Commission, Southeastern Pennsylvania Transportation Authority, and the Port Authority of Allegheny County. She is an active member of industry organizations including International Association of Facilitators, International Association for Public Participation, American Planning Association PA Chapter, Pennsylvania Association of Environmental Professionals, and American Society of Highway Engineers. Doran holds a Bachelor of Arts degree in journalism and communications from Point Park University.

Joe Salvadori, P.E., has rejoined Michael Baker to lead the Bridge Practice in the Pittsburgh office. Salvadori brings 20 years of industry experience, including more than nine years previously at Michael Baker. Salvadori recently spent time in the post-tensioning construction industry with Dywidag-System International, where he served as the Eastern USA post-tensioning BU manager focused on providing excellence in engineering support, material supply, and subcontractor installation services to the heavy highway and commercial construction industry. Salvadori adds great depth to the team with his diverse design and construction experience. In his effort to advance the precast and post-tensioned concrete industry, he has served and will continue to participate on several committees of the Post-Tensioning Institute and the Precast Concrete Institute. Salvadori earned his Bachelor of Science degree in civil engineering from Geneva College.

Patrick Leach, P.E., has been promoted to the practice executive of the Pittsburgh Construction Services practice. In this role, Leach will lead the construction services team members and major projects, including the ALCOSAN plant expansion, major bridge reconstructions, and numerous interstate reconstruction projects. Leach most recently served in the interim practice executive role for the Pittsburgh Construction Services practice. He brings 24 years of experience at Michael Baker to this role working on complex construction projects in Pennsylvania and supporting the company on projects throughout the country and internationally. Leach holds a Bachelor of Science degree in civil engineering from Carnegie Mellon University. He also currently serves as an adjunct professor at Carnegie Mellon.

Gary L. Madey, P.E., has been promoted to transportation operations manager for the Pittsburgh Construction Services Practice. Madey most recently led all construction services-related tasks for Michael Baker’s General Consulting Engineer contract with the Pennsylvania Turnpike Commission. Prior to joining Michael Baker in 2012, Madey worked for PennDOT District 10’s Construction Division for 21 years. His experience includes all aspects of construction from inception to completion, program management, constructability, contract administration, claims defense, design error analysis, budgeting, and scheduling. He is a member of ASHE Mid-Allegheny Section and has been elected to serve on the board of directors beginning in May 2019. Madey holds a Bachelor of Science degree in civil engineering from Pennsylvania State University.
Jami L. Milanovich, P.E., has joined Michael Baker to lead the Traffic Department in the Pittsburgh office’s Transportation Practice. Milanovich has more than 23 years of experience in a wide range of traffic engineering and transportation planning projects. Prior to joining Michael Baker, Milanovich worked 16 years in Washington, D.C., on various types of projects, including urban, mixed-use projects, transit-oriented developments, and transportation plans for universities, schools, and hospitals. Her Washington, D.C., experience, coupled with working for several municipal and private-sector clients in Pennsylvania, gives her a diverse base of experience. Milanovich earned her Bachelor of Science degree in civil engineering and Master of Engineering degree in transportation engineering from Penn State University.

Stephen J. Wiedemer, AICP, has joined Michael Baker as the department manager for Environmental Planning in Michael Baker’s Pittsburgh Planning Practice. Wiedemer brings 32 years of industry experience working for government, private, and non-profit entities. He held the role of Environmental Manager for PennDOT Engineering District 12, covering the southwest region of Pennsylvania. He is considered an expert on the implementation of the National Environmental Policy Act (1969) and PA Act 120, as well as Section 4(f) Evaluations. Wiedemer holds a Bachelor of Science in environmental resource management from Penn State University.

Urban Employees Named Top Professionals Under 40

Urban Engineers is pleased to announce that Greater Valley Forge (GVF) has named two of its associates, Andrew Gould, P.E., and Larry Mitros, P.E., as top Transportation Demand Management (TDM) professionals under 40 years old. Both employees serve as highway engineers based in firm’s Philadelphia headquarters. GVF presents these awards to ambitious leaders working to find creative solutions to improve quality of life through engineering, planning, marketing campaigns, and the development of commuting alternative programs that are shifting behavioral change.

Andrew Gould has already been responsible for preliminary engineering and final design on one of the Greater Philadelphia area’s most complex bridge and highway projects. As a designer on the U.S. 422 River Crossing Complex – which consists of several individual construction packages – Gould worked on the replacement of the existing eight-span, welded steel-girder bridge carrying highway over the Schuylkill River and Norfolk Southern Railroad. The replacement bridge will provide a six-lane facility and is part of the solution to the overall project goal of relieving congestion around Valley Forge Historic Park. A graduate of Drexel University, Gould specializes in highway design and has experience with development of right-of-way plans; pavement and drainage designs; and erosion and sediment control and traffic control plans.

Larry Mitros also has extensive experience in highway design. As a part of the Pennsylvania Turnpike Commission’s Roadway and Bridge Reconstruction Project from Milepost A31 to A38 on the Northeast Extension, he was responsible for designing the stormwater management plans and obtaining a NPDES permit from the Pennsylvania Department of Environmental Protection. The project proposes to widen the Pennsylvania Turnpike from four to six lanes, adding significant capacity to the limited access highway. Mitros’ experience includes developing roadway plans and profiles; maintenance and protection of traffic plans; stormwater management; and erosion and sedimentation control plans. He is a licensed professional engineer in the state of Pennsylvania and earned his undergraduate degree in civil engineering from the University of Maryland, as well as an MBA from Temple University.

TDM affects everyone and their diverse backgrounds. GVF is a not-for-profit group created to advocate and promote a viable transportation network for the Greater Valley Forge Region’s economic vitality. The organization honors TDM professionals under 40 years of age annually as a testament of the ever-evolving role TDM and these individuals play in local communities.
Key Promotions at McMahon Associates

McMahon Associates Inc., announced that Christopher J. Williams, P.E., vice president and Mid-Atlantic regional manager, has been nominated and elected to the firm’s board of directors and appointed as a principal of the firm. Williams has been with McMahon for 23 years and has risen steadily from project management to regional management roles. In January 2019, he was promoted to the position of Mid-Atlantic Regional Manager with a responsibility for more than 115 employees and handling a large and diverse client-base in both public and private sectors. His well-earned promotion is part of the leadership transition and growth within the firm.

Williams has been involved in transportation engineering and planning since 1991, with an emphasis on the interrelationship between land-use and multimodal transportation. He also led the opening and growth of McMahon’s Chester County office in 2000. Over his career, Williams has conducted numerous traffic engineering assignments and traffic planning studies, ranging from land-development traffic impact studies and reviews, parking studies, municipal and regional traffic planning studies, preparation of transportation improvement plans, traffic signal operations analyses, PennDOT highway occupancy permit access design reviews, and other traffic studies. He also assists a number of Pennsylvania municipalities, primarily in Chester County, providing traffic engineering review and support services. Williams regularly provides expert witness traffic engineering testimony, as well as transportation-related presentations to a variety of professional and community organizations.

Williams has also established himself in professional association leadership, including previous service as the vice chair and chair of the Transportation Management Association of Chester County (TMACC) Board of Directors, and current service as the chair of the TMACC Foundation Board. Additionally, he has volunteered and/or maintains membership with other organizations, including the Institute of Transportation Engineers (ITE), Mid-Colonial District and Mid-Atlantic Section, Chester County Engineers, and the Urban Land Institute. Williams also volunteers his time to support STEM activities with elementary school students to inspire future generations of engineers, and he has been instrumental in the McMahon Gives Back program, which allows the firm and its employees to “pay it forward” through involvement in our local communities.

Also announced is the promotion of Christopher K. Bauer, P.E., PTOE, to associate of the firm. Bauer is the general manager of McMahon’s Camp Hill office. For more than 20 years he has developed a proven, and wide-ranging expertise in project management in all aspects of transportation engineering, including aviation, rail, highway design, traffic engineering, and transportation planning. He has successfully completed projects for the Pennsylvania Turnpike Commission, PennDOT, Port Authority of New York & New Jersey (PANYNJ), NYSDOT and other state agencies. His knowledge of local transportation issues and the transportation funding process has enabled him to serve and guide numerous municipalities through their responsibilities as a local project sponsor on state and federally funded projects. This is in addition to serving the day-to-day traffic consulting needs of municipalities. Bauer also has private-sector traffic consulting experience.

Acrow Bridge, Mabey Bridge Join Forces

Acrow Bridge, a leading international bridge engineering and supply company, has completed the recent acquisition of the assets and employees of UK-based Mabey Bridge. The acquisition results in a prominent global provider with unsurpassed critical mass and a team with the ability to offer more extensive premium quality infrastructure solutions to customers. Located in Lydney, England, Mabey Bridge is a subsidiary of Mabey Holdings, Ltd, a fourth-generation family-owned global bridge and engineering services group. Both firms will continue to operate under their own brands. Financial terms of the deal are not being disclosed.
Specializing in accelerated construction, pre-engineered modular bridging solutions that help develop, improve, and repair essential infrastructure in urban and rural areas, Acrow and Mabey have shared a similar mission in the industry. Uniting the companies provides customers with solutions that are based on a more expansive global reach, enhanced manufacturing capabilities, a larger product portfolio, more access to commercial and governmental banking solutions that provide flexible and innovative project financing, and a wide-ranging talent pool of engineers, production, and commercial team members all working to the success of customers’ projects.

**WSP USA Announces Launch of Federal Programs & Logistics**

Following the acquisition of Louis Berger, WSP USA announced the launch of the new Federal Programs & Logistics (FP&L) group, which company leaders say will expand the company’s presence in the federal market.

“Federal Programs & Logistics is now fully operational,” said Gregory A. Kelly, president and CEO of WSP USA. “We are now ready to take full advantage of the recent integration of two great companies.”

“Combined with WSP’s 135-year history of providing services to state and local clients, together we are uniquely poised to dominate the governmental market. With more than 10,000 employees in the U.S., the combined company has unmatched capability to handle any challenge that faces governmental entities at any level.”

Tom Lewis, former president of Louis Berger, will lead the new division.

“We are poised to expand upon our broad capabilities and niche specialties – across transportation, buildings, water and environment, advisory, energy, and PM/CM end markets,” said Lewis. “With the expansion of FP&L, we will offer expanded comprehensive services to federal government clients from a single source.”

**ECA Names New Service Managers**

Equipment Corporation of America (ECA), a leading distributor of specialty foundation equipment, has named new service managers at two of its U.S. branches.

Chris McCune has been promoted to service manager at ECA Pittsburgh after working as a service technician at the branch since 2016. McCune’s background in foundation and directional drilling combined with his professionalism in dealing with customers made him the best choice for this role. McCune’s goal is to mentor younger employees and current technicians.

Rich Weinstein joined ECA Philadelphia as service manager in April 2019. He came to ECA with 17 years of experience in operations, service, parts, and warranty management. With his comprehensive experience, Weinstein aims for the service team to be even more responsive, resulting in less machine downtime and a better overall experience with ECA. He also plans to spend more time in the field and visiting customers to develop a deeper understanding of their needs.
APC is already preparing for another great Fall Seminar. This year we look to enhance the attendee experience so be on the look out this summer for important information. See you in Hershey!

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