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Let’s not pretend we don’t have problems

The fact is that jurisdictional disputes are not the problem they once were. In the old – I can’t use the term “good” because they weren’t – days, union contractors were the object of work stoppages by the dozen; most of which were almost exclusively related to jurisdictional disputes. As we have evolved on the union side of the equation, TAUC contractors rarely face work stoppages, or even the threat of one. But, that does not mean the problem does not still exist.

Today, I sometimes feel that TAUC contractors face the iron fist in the velvet glove approach. The velvet glove consists of the “codes” that seek to improve attitudes and performance of the trades men and women; the codes that have been previously mentioned in this space. The iron fist is the fact that a dispute involving work assignments can spill over to the jobsite and affect the very aspects of work behavior and performance that the “codes” attempt to thwart.

Let me be clear: jurisdictional disputes are still a huge problem for TAUC members. We are told these issues are the domain of the unions with whom we work so closely, yet, we often feel we and our productivity are the collateral damage of this sniping. It is true some unscrupulous contractors purposely misassign work to drive a wedge in the workforce. That is regrettable. But, good TAUC members should be supported by all crafts, not used as leverage in a game where we all lose.

It has long been my contention that, given the proper funding, I could prove through indisputable empirical data that fighting jurisdictional disputes has absolutely no statistical impact on work-hours performed at all. In other words, regardless of how many jurisdictional disputes are won or lost by a union, the hours picked-up or lost as the result of a determination are not significant enough to make any overall difference.

Therefore, let me offer a solution that, if embraced by our business partners at the international unions, could prove revolutionary. I call on the brothers and sisters of the international union community to observe a 12 month moratorium on filing work assignment disputes. This proposal does not dispense with a contractor’s obligation to conduct a pre-job conference and follow the work assignment agreements found in the TAUC Craft Jurisdiction Guide or historical or area practice. It simply means the unions will have an opportunity to measure work-hour data and see if there was any change, based on work assignment dispute hearings, in work-hours performed. It will also allow our contractors to focus more resources on completing the jobs we have on time and on budget, which will lead to more work opportunities, as well as taking the resources used to satisfy jurisdictional dispute obligations and utilizing them in trying to expand our work opportunities.

I am not so naïve as to think that this proposal will be widely adopted, or even adopted at all. However, I do know that once an idea is born there is nothing that can be done to erase it. So, if the 12 month moratorium is not observed effective January of 2009, then let’s start it in February, or March or whenever. Let’s adopt it and take a giant step toward abandoning a century-old model that doesn’t work, in favor of a new day where we, as TAUC members, march hand-in-hand with our union business partners in expanding our markets and work opportunities.

I invite you to tell me, via e-mail at info@tauc.org, your thoughts on how union contractors can succeed in these challenging times.

by Robert Hoover, TAUC President

LET’S NOT PRETEND we don’t have problems.

Since my term as president concludes in May 2009, I am running out of opportunities to make a point in this space, and would be remiss if I didn’t raise some of the key issues that concern nearly every TAUC member. The item I address today is, in a word, jurisdiction.

Every union-bashing organization prominently sells the point that non-union contractors are not saddled with unproductive jurisdictional disputes. The bitter reality is that they are correct. Jurisdictional disputes are highly unproductive. I despise jurisdictional disputes. They are the bane of my existence. However, as my therapist tells me when I lay on his couch and ramble about how jurisdictional disputes poison some jobsites, recognizing the problem is the first step toward solving it.

My good friends and colleagues who represent the international unions, and whom I’ve dealt with for years, indicate jurisdiction isn’t really a problem anymore. They contend that the level of cooperation is at a historic high and, further, formal agreements have been reached over the years that have served to dramatically dampen the rancor that has existed in the past.
THE PAST YEAR was a milestone for the Building and Construction Trades Department. Not only was 2008 the year of our centennial celebration, but it also marked the beginning of an entirely new strategic approach designed specifically to reposition the union construction sector to its rightful place as the most trusted entity in the North American construction industry.

Since becoming president of the Building and Construction Trades Department, my primary focus has been to assist our affiliated unions in implementing structural, operational and cultural changes that will enable us to offer an entirely new building trades "brand" for the 21st century. To put it simply, that new brand will be constructed upon a values foundation that is comprised of three simple, yet profound, concepts: pride, performance and professionalism.

We are in the midst of a transformational moment in the history of our country. It is a moment that requires new thinking to not only meet and solve the challenges facing owners and contractors in our industry, but also help alleviate our nation’s most pressing problems, such as our ever-expanding need for domestic energy.

Our boundaries are unlimited if we — unions, contractors and owners, alike — learn and practice the discipline of teamwork, and place trust and respect at the center of our relationships.

We cannot succeed as a nation, society or industry sector if the owners of capital and suppliers of labor are engaged in continued and escalating conflict. We must achieve a basic understanding of each side’s perspective and organizational goals, and how those goals can be intertwined so they are not mutually exclusive, and, therefore, work for the collective interests of both parties.

To that end, the Building and Construction Trades Department and its 13 affiliated unions are building a new future from a blueprint for success. In short, today’s building trades unions are all about one simple concept: promises made and promises kept... every day, on every job, in every region of the United States and Canada.

If we are to survive, prosper and be competitive together, then it only makes sense that all of us must be working on the same team, trying to move the ball in the same direction, down the same field, focused on the same goal.

We understand the actions and behaviors, both good and bad, of a building trades council in one region, on one project, can directly affect the economic prospects of councils in other parts of North America. Similarly, the mismanagement of a job by an owner or a contractor in one area can affect our ability to secure future work, of a similar nature, elsewhere.

We further recognize our unions are in the skilled manpower supply business. We invest in human capital, America’s single greatest natural resource. And, when we train apprentices today, we are adamant that they receive strict instruction on issues relating to attitude, appearance, professionalism, productivity, respect for the contractor, respect for the owner and respect for each other.

In other words, the “tail will no longer wag the dog.”

The opportunities facing owners and contractors in our industry today, and the challenges they must overcome, are intertwined with our own. We will rise, or we will fall, together. So, in the end, we all need to become more visionary and strategic, and less reactive.

We must construct and nurture partnerships that transcend the simplistic “labor-management” relationship. For we do not want owners and contractors to simply “buy” the skilled manpower we provide. We want them to become members of a community that is focused on long-term, sustained success, rather than short-term self-interest.

Isn’t that what we are all striving to achieve?

Mark H. Ayers is president of the Building and Construction Trades Department, an alliance of 13 international and national unions that collectively represent 2.5 million skilled craftworkers in the United States and Canada.
AS WE GET ready to greet a brand new year and are afforded the opportunity to reflect on the year past, surely 2008 will stand every chance of being remembered as ‘The Year of the Crane.’

The high profile accidents that were such a feature of the second quarter, and the media attention they garnered, would likely have been sufficient to have justified that epithet. But, 2008 was also unique in the flurry of crane-related regulatory activity these incidents sparked at the local and state level, all of which was capped in October by the long-awaited publication of the Occupational Safety and Health Administration’s proposed rule governing the use of cranes in construction.

This proposed rule, known as C-DAC (a reference to the Cranes and Derricks Advisory Committee that developed the advisory document on which it is based), is the first thorough revision of OSHA’s requirements for cranes since they were written 40 years ago. It’s a radical rewrite that addresses a host of issues including assembly/disassembly, hoisting personnel, inspections and power line safety.

Central among these are the new qualification requirements for crane operators and signal persons. As noted in the Preamble to the Proposed Rule, the C-DAC subject matter experts who met almost monthly for a year to overhaul the regulation, and completed it in August 2004, “expressed a concern that testing conducted without a check on the quality of the test, with respect to both its content and administration, has been ineffective in ensuring that crane operators are qualified to operate the equipment safely.”

OSHA notes, also, that the proposed rule “would afford employers several options for ensuring that operators have obtained sufficient knowledge and ability . . . designed to provide . . . flexibility for meeting the proposed requirement.”

The first option proposes operators be certified by an accredited certifying body. The National Commission for the Certification of Crane Operators (NCCCO) has provided that service since 1996, and has been nationally accredited since 1998. While the proposed rule also provides for an employer’s examinations to be audited by such a body, most employers to-date have avoided the expensive and time-consuming process of developing their own exams, and instead opted for the more cost-effective approach of utilizing the services provided by accredited certifying bodies.

The proposed rule requires operators to be tested via written and practical tests that have been demonstrated to be valid and reliable, and to have been developed and administered in accordance with prevailing standards. NCCCO offers written exams in traditional paper-and-pencil format, as well as computer-based testing.

These tests are offered nationwide at employer sites, union locals and educational institutions on a regular basis; more than 30,000 tests in various crane categories might be offered through more than 1,500 test administrations in a typical year.

Alternatively, employers can have their own representatives trained and authorized to administer practical exams. To help meet that training need, NCCCO holds Practical Examiner Workshops at various locations around the country on a regular basis.

For the first time, OSHA has laid out specific requirements for signal persons in the proposed rule. “The safety of equipment operations depends in many situations on signals given to the operator,” the Preamble notes. “The Committee was concerned that some signal persons are not able to recognize the hazards involved with certain crane operations, do not, in some cases, understand what it is that the crane needs to do to accomplish the task, and do not know how to give the appropriate signals.”

As with crane operator qualification requirements, the only “portable” option (i.e. the credential transfers with the operator if (s)he changes employers) is to have been tested by a “third party qualified evaluator.” NCCCO is one such evaluator, having launched its Signalperson Certification program in October 2008. Written and practical tests are administered on the same day at test sites nationwide.

Clearly, the clock is being wound in preparation for the dawn of a new age in crane safety regulations. With the publication of the proposed rule, and an unprecedented level of activity at the state level (some of which is even more stringent than federal provisions), it can be a challenge to keep up. The National Commission for the Certification of Crane Operators is here to assist you in navigating the new requirements.
LAST YEAR, TOYOTA Motor Corp. received one million suggestions from their employees on how to improve productivity, product quality and work environment. Also last year, Toyota began its final challenge to GM as the number one automaker in the world. I believe these facts are inter-related, and our lesson to learn is embodied in a concept called “kaizen.”

Kaizen is a core philosophy that many Japanese and other global firms have developed to improve their competitive position. While I am as pro-American as anyone, proven strategies and ideas should have no limits and no borders.

Kaizen is considered a daily workplace activity, the purpose of which goes beyond productivity improvement. It is also a process that, when done correctly, humanizes the workplace, standardizes where possible and teaches people how to identify and eliminate waste in business processes.

To be most effective, kaizen must operate with three principles in place:

• Works consider both the process and the results, not the results alone;
• Workers are taught big picture, systemic thinking;
• Managers promote a non-judgmental, non-blaming approach to the re-examination of existing assumptions (because blaming is wasteful).

This simple, yet obviously powerful, business strategy is applied from the CEO down the line to the production employees with one central goal: continuous improvement. There are a number of key lessons our industry can learn from this:

1. The GM lesson. If you don’t focus on continuous improvement, and instead depend on old-school thinking, your competition will eventually kick your ass. What got you here, won’t get you there in the future. Construction is still, in many ways, a very traditional business model. It generally does not actively encourage a structured focus, discipline or commitment to continuous improvement. When asked for examples of a five year improvement report card, most contractors might talk the talk, but empirical evidence of systemic change would likely be hard to find.

2. The culture lesson. A central theme that employees come to understand, embrace and act upon is what defines a company’s culture. There can be no doubt that Toyota places a critical value on training their employees into a culture, not just a job. They are reaching the hearts and minds, not just the hands, of every worker. As such, culture is what shapes Toyota’s competitive position, not worker skills. What is the union construction culture? Productivity? Entitlement? Quality? Indifference? More importantly, what are both labor and management doing to cultivate and communicate the culture to the field?

3. The empowerment lesson. The second most powerful workplace motivator, behind praise and recognition, is participation in decision-making. One million times each year, Toyota employees rise to the challenge of improvement within their company. They know for absolute certain that everyone has the opportunity and obligation to create value. And, supervisors are listening respectfully. Again, how does our construction culture measure up? Can even one great idea make it past the foreman’s desire to maintain his authority? Do we teach the big picture or just how to perform the task at hand? Does our workforce understand “why,” or just “how?”

Kaizen replaces the “command and control” management model of the late 20th century with something much more engaging and competitive. The results are inarguable. Our challenge is not wholesale adoption of kaizen, but something much more basic.

BUILDING A ‘HIGH VALUE-HIGH PERFORMANCE’ CULTURE

Contractors and unions need to work on an internal campaign to shape our workplace culture. This industry needs
to understand what it is and what is expected. I use the term ‘high value-high performance.’ How do you get two million craftpersons to clearly and unequivocally understand and embrace this cultural norm? You work your ass off at it. Tens of thousands of apprentices are entering our culture every year trying to understand what it means to be a union craftperson. I see few substantial efforts on this front. I also see billions of dollars in net profits unrealized. I see an industry that often substitutes skills training and high wages for a culture.

A NEW WAY OF MANAGING

The current management model in construction is something out of the dark ages. Contractor management systems are generally pretty good until you get into the field. Kaizen dies a horrible death in a hundred thousand foremen’s pick-up trucks every day in North America. In our industry, a suggestion to a foreman is usually treated as a challenge to his authority. An unprecedented effort must be made by the industry to modernize and humanize field management. My Italian contractor grandfather was a hard-ass yeller and screamer. And, much as I revere his memory, some traditions die hard, but die they must. A high-value-high-performance culture must be built on new ways of managing: information, engagement, motivation, empowerment, codes of performance, peer-to-peer accountability and, of course, constant improvement.

A NEW WAY OF MEASURING

Finally, might it be time for a new way of measuring our success? All measures that currently drive the business are necessary absolutes. Gross profit. Net profit. Market share. But, what about measurement of our internal systems? What about starting small with this concept of constant improvement and tracking it very closely? What about indoctrinating and training every new manager down to every new apprentice in this manner? Might this effort result in better outcomes relative to our collective profits and market share?

The industry is where it is today because of the ways of the past. If you are content with our competitive platform, then the content of this article is irrelevant. On the other hand, if you think we need a more competitive foundation for our businesses, unions or industry, perhaps kaizen begins with you.

Kaizen

“Kai” means “change” or “the action to correct” “Zen” means “good”

Mark Breslin is a strategist and author specializing in labor-management challenges. He is the author of Survival of the Fittest, Organize or Die and Million Dollar Blue Collar.

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Open Letter from LIUNA

New administration’s roads already in need of repair

by ROD BENNETT
Special Contributor

FROM THE EARLIEST days of the republic, presidents and Congress have spent huge sums of money building turnpikes, canals, railroads and other critical infrastructure, believing the investment would expand commerce and generally serve as an engine of growth.

The challenges facing the next president will be daunting, even without considering the recent near collapse of the nation’s financial system. The traditional components of economic prosperity such as moving people and goods, have been severely undermined. The new administration will quickly be faced with the question of what role federal spending on bridges, highways, waterways and other public works should play in any recovery.

Today, we face no longer being able to compete in a global economy because our highways are too crowded to efficiently move people and goods. Our railways are outdated, our waterways are insufficient, our basic public facilities, such as schools, are crying out for attention and our reliance on traditional energy sources is sapping our economy. Let’s face it: Our nation’s infrastructure is in peril — a fact driven home by the tragic I-35 bridge collapse in Minneapolis.

It is scary to think that the last major overhaul of the nation’s transportation system occurred during the administration of Dwight D. Eisenhower. It’s appalling to hear U.S. Department of Transportation statistics indicate the annual cost of maintaining the highway system at its current capabilities is 12 percent more than what the government is currently spending.

Modernizing the nation’s infrastructure without breaking the bank and increasing the deficit will be an early focus of the next administration and a key agenda item for building trades unions and their contractors.

Leadership will be needed to restore the country’s confidence, and there’s no better way than by creating jobs to build America. The next administration needs to make building America a top priority.

In 1964 the federal government spent about ½ of one percent of the GDP on non-defense related investment for states and localities. Today, it is less than one-half of one-tenth of one percent. Union workers and contractors will look to the new administration to make the choice to renew and rebuild America. Unions, contractors and the new administration must unite together behind a new vision to take care of our nation and redirect resources to increase federal investment for infrastructure projects.

What our country needs is a new American Marshall plan to tackle this crisis; we need a new way to think about and invest in the basics of America. That is how we became the only country to land on the moon, to lay claim to the tallest building, to build the Golden Gate Bridge and the Hoover Dam, to win the Cold War and become the beacon of hope and promise around the globe.

Every day that we wait, the situation only gets worse. Now is the time to create jobs to build America, strengthen our economy and make America the country it needs to be.

Rod Bennett is the director of government relations at the Laborers’ International Union of North America.
The American Group of Constructors hosts inaugural safety retreat

by LISA TANGER
Staff Contributor

THE AMERICAN GROUP of Constructors hosted the first safety retreat in its history in August, according to a press release by the company. The retreat featured a presentation by Billy Robbins, a motivational speaker who had both of his hands amputated as a result of a workplace injury in 1980.

“A safety-first work environment cultivates improved attitudes and behaviors, and the recent safety retreat is an illustration that TAG is taking employee well-being to the next level,” John Marsch, chief executive officer of The American Group of Constructors, said in the release.

Additionally, several TAG employees were recognized for their dedication to workplace safety at the event. Pipefitter General Foreman Josh Brown received the Most Improved Safety Performance award. Labor Foreman Robert Nowak was honored with the Safety Excellence in the Trenches award. And, Estimator Keith Streeter was recognized with the Safety Excellence in Planning award.

More than 100 employees and family members attended the three-day retreat in Indianapolis.

Workplace injuries and illnesses decline in 2007

THE RATE OF workplace injuries and illnesses in private industry declined in 2007 for the sixth consecutive year, according to an Oct. 23 announcement by the U.S. Department of Labor Bureau of Labor Statistics. Nonfatal workplace injuries and illnesses reported by private industry employers declined from 4.4 cases per 100 workers in 2006 to 4.2 cases in 2007.

The overall number of nonfatal occupational injuries and illnesses reported declined in 2007 to 4 million cases, compared to 4.1 million in the previous year. One-half of the 4 million cases were of a “more serious nature,” involving days away from work, job restrictions or transfers, according to the Bureau of Labor Statistics.

The overall decline in the total recordable case incidence rate among private industry employers was driven primarily by declines among all goods-producing sectors, including construction and manufacturing, according to the press release.

### Category A

**ZERO INJURY PLAQUE – SILVER STAR**

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**ZERO INJURY PLAQUE – BRONZE STAR**

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### Category B

**ZERO RECORDABLE INJURY CERTIFICATE OF MERIT**

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### 2008 NMAPC Awards

- **APComPower Inc.**
  - **Dominion Power**
  - Boilermakers Local Union No. 45
  - 265,605 Work Hours
  - Chesapeake Power Station
  - Chesapeake, VA

- **APComPower Inc.**
  - **Dominion Power**
  - Richmond Building Trades Council
  - 265,605 Work Hours
  - Chesterfield Power Station
  - Chester, VA

- **APComPower Inc.**
  - **PPL Corporation**
  - Central Pennsylvania Building Trades Council
  - 255,045 Work Hours
  - Montour Plant
  - Washingtonville, PA

- **Enerfab Corporation**
  - **American Electric Power**
  - Charleston Building Trades Council
  - 237,644 Work Hours
  - John Amos Power Plant
  - Saint Albans, WV

- **Commercial Contracting Corporation**
  - **General Motors Corporation**
  - Michigan Building Trades Council
  - 108,488 Work Hours
  - Pontiac Transmission Plant
  - Pontiac, MI

- **Enerfab Corporation**
  - **American Electric Power**
  - Tri-State Building Trades Council
  - 155,533 Work Hours
  - Muncie Power Plant
  - New Haven, WV

- **Commercial Contracting Corporation**
  - **General Motors Corporation**
  - Nashville Building Trades Council
  - 116,308 Work Hours
  - Spring Hill Assembly Plant
  - Spring Hill, TN

- **Performance Mechanical, Inc.**
  - **Texaco Petroleum Corporation**
  - Contra Costa Building Trades Council
  - 96,933 Work Hours
  - Golden Eagle Refinery
  - Martinez, CA

- **Neoter Construction Co.**
  - **Suncor, Inc.**
  - Eastern Oklahoma Building Trades Council
  - 92,110 Work Hours
  - Tulsa Plant
  - Tulsa, OK

- **Commercial Contracting Corporation**
  - **General Motors Corporation**
  - Michigan Building Trades Council
  - 88,259 Work Hours
  - Orion Assembly Plant
  - Orion, MI

- **Pioneer Pipe, Inc.**
  - **American Shipyards**
  - Parkersburg-Marietta Building Trades Council
  - 88,036 Work Hours
  - Marietta Chemical Plant
  - Marietta, OH
# Zero Injury Safety Awards Winners

## Category C

**Zero Lost Workday Plaque**

- Superior Construction Company, Inc.
  - BP Products North America, Inc.
  - Northwestern Indiana Building Trades Council
  - 3,387,407 Work Hours
  - Whiting Refinery
  - Whiting, IN

- Chapman Corporation
  - Bayer Corporation
  - Upper Ohio Valley Building Trades Council
  - 1,122,078 Work Hours
  - New Martinsville Plant
  - New Martinsville, WV

- RMF Nooter, Inc.
  - BP Products North America, Inc.
  - Northwestern Ohio Building Trades Council
  - 942,082 Work Hours
  - Toledo Refinery
  - Toledo, OH

- Nooter Construction Co.
  - BP Products North America, Inc.
  - Northwestern Ohio Building Trades Council
  - 417,016 Work Hours
  - Toledo Refinery
  - Oregon, OH

- Chapman Corporation
  - U.S. Steel
  - Pittsburgh Building Trades Council
  - 335,106 Work Hours
  - Clairton Works
  - Clairton, PA

- Chernine Contracting Corporation
  - East Kentucky Power Cooperative
  - Greater Cincinnati Building Trades Council
  - 321,459 Work Hours
  - H.L. Spurlock Power Station
  - Maysville, KY

- McCarl’s, Inc.
  - PPL Corporation
  - Central Pennsylvania Building Trades Council
  - 264,929 Work Hours
  - Montour Plant
  - Washingtonville, PA

- Chapman Corporation
  - American Electric Power
  - Upper Ohio Valley Building Trades Council
  - 254,619 Work Hours
  - Mitchell Power Plant
  - Moundsville, WV

## Category D

**Zero Lost Workday Certificate of Merit**

- Walbridge East
  - American Electric Power
  - Charleston Building Trades Council
  - 217,871 Work Hours
  - John Amos Power Plant
  - Saint Albans, WV

- Industrial Contractors, Inc.
  - American Electric Power
  - Tri-State Building Trades Council
  - 209,695 Work Hours
  - Sporn Plant
  - New Haven, WV

- Nooter Construction Co.
  - BP Products North America, Inc.
  - Western Reserve Building Trades Council
  - 1,122,078 Work Hours
  - New Martinsville Plant
  - New Martinsville, WV

- Cornerstone Construction Co.
  - ConocoPhillips Company
  - Southeastern Ohio Building Trades Council
  - 182,609 Work Hours
  - Gibson Station
  - Princeton, IN

- Stevens Painton Corporation
  - American Electric Power
  - East Central Ohio Building Trades Council
  - 161,703 Work Hours
  - Conesville Power Plant
  - Conesville, OH

## Additional Winners

- APEM Power Inc.
  - PPL Corporation
  - Central Pennsylvania Building Trades Council
  - 83,448 Work Hours
  - Brunner Island Station
  - York, PA

- Enerfab Corporation
  - PPL Corporation
  - Central Pennsylvania Building Trades Council
  - 84,942 Work Hours
  - Brunner Island Station
  - York, PA

- Atlantic Contracting and Specialties, LLC
  - Public Service Enterprise Group (PSE&G)
  - Fairfield County Building Trades Council
  - 81,876 Work Hours
  - Bridgeport Harbor Station
  - Bridgeport, CT

- Performance Mechanical, Inc.
  - ConocoPhillips Company
  - Contra Costa Building Trades Council
  - 80,997 Work Hours
  - Rodeo Facility
  - Rodeo, CA

- Solid Platforms, Inc.
  - ArcelorMittal
  - Indiana/Kentucky Regional Council of Carpenters – Northern Office
  - 80,943 Work Hours
  - Burns Harbor Works
  - Burns Harbor, IN

- Midpoint Mechanical, Inc.
  - ConocoPhillips Company
  - Central Pennsylvania Building Trades Council
  - 79,114 Work Hours
  - Toledo Refinery
  - Oregon, OH

- EMEC Home Electric Co. of Indiana, Inc.
  - ArcelorMittal
  - Northwestern Indiana Building Trades Council
  - 76,582 Work Hours
  - Burns Harbor Plant
  - Burns Harbor, IN

- Burns & Roe Construction Group, Inc.
  - U.S. Department of Energy
  - Tri-State Building Trades Council
  - 74,130 Work Hours
  - Depleted Uranium Hexafluoride Processing Plant – Portsmouth
  - Piketon, OH

- Sutch Mechanical
  - Hemlock Semiconductor Corporation
  - United Association Local Union No. 85
  - 73,885 Work Hours
  - Hemlock Plant
  - Hemlock, MI

- Stevens Painton Corporation
  - PPL Corporation
  - Central Pennsylvania Building Trades Council
  - 71,120 Work Hours
  - Brunner Island Station
  - York, PA

- Commercial Contracting Corporation
  - General Motors Corporation
  - Michigan Building Trades Council
  - 54,486 Work Hours
  - Pontiac Assembly Center
  - Pontiac, MI

- EMEC Home Electric Co. of Indiana, Inc.
  - ConocoPhillips Company
  - IBWE Local Union No. 102
  - 54,430 Work Hours
  - Bayview Refinery
  - Linden, MI

- Mel’s Electric Company, Inc.
  - ConocoPhillips Company
  - IBWE Local Union No. 102
  - 53,582 Work Hours
  - Bruce Mansfield Plant
  - Shippingport, PA

- Nooter Construction Co.
  - ConocoPhillips Company
  - Washington State Building Trades Council
  - 52,848 Work Hours
  - Mountaineer Power Plant
  - New Haven, WV

- Stevens Painton Corporation
  - ArcelorMittal
  - Iron Workers Local Union No. 395
  - 52,382 Work Hours
  - Burns Harbor Plant
  - Burns Harbor, IN
WASHINGTON, D.C. — The National Maintenance Agreements Policy Committee presented 74 winners with the Zero Injury Safety Awards on Oct. 29. This year’s ZISA recipients represent more than 20 million injury-free work-hours on projects in 19 states around the country.

The annual awards program recognizes owners, contractors and craft personnel for applying the zero injury philosophy to projects completed under the terms of the National Maintenance Agreements. This award cycle, covering calendar year 2007, marked the highest total number of injury-free work-hours in the program’s history: 20,288,778 million.

Solid Platforms, Inc., BP Products North America, Inc. and the Indiana/Kentucky Regional Council of Carpenters were recognized with the Gold Star Award, the highest honor in the program. Solid Platforms performed 2,569,267 work-hours with zero recordable injuries, while employing union craft personnel from the Indiana/Kentucky Regional Council of Carpenters at the BP Whiting Refinery in Indiana. This is the highest number of injury-free work-hours by any single winner in the program’s history.

“All of the credit for our excellent safety culture belongs to our employees,” Jason Lammertin, Solid Platforms president and chief operating officer, said. “Scaffolding is an extremely demanding profession that takes constant effort and attention to safety.”

More than 200 guests were in attendance at the 8th annual NMAPC Zero Injury Safety Awards, which were held at the National Building Museum. Participants who returned this year after having attended past events noticed a change in the evening’s schedule. This year’s program included pauses between the awards, the

Solid Platforms, BP Products North America and the Indiana/Kentucky Regional Council of Carpenters earned the Gold Star Award.
meal and the speaker, with the goal of keeping momentum in the award-packed schedule.

Jeff “Odie” Espenship, a former U.S. Air Force fighter pilot, delivered an attention-grabbing talk about the personal devastation that can result from cutting corners when it comes to safety, and urged each member in the audience to take the time to complete even the most basic safety steps every day.

With more than double the total number of injury-free work-hours than the previous year and the largest number of applications in the program’s history, ZISA has solidified its title as the most prestigious safety award in the construction industry.

To-date, the NMAPC program has accounted for more than $300 billion of work and more than 2 billion work-hours for the building trades and contractors.

Lisa Tanger is the executive editor of The Construction User and manager of communications at The Association of Union Constructors.
Sponsoring a Culture of World Class Safety

**Platinum Sponsor**
Solid Platforms, Inc.

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Ironworker Management Progressive Action Cooperative Trust
McCarls, Inc.
NECA-IBEW National Labor Management Cooperation Committee

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Commercial Contracting Corporation
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Graycor
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Laborers’ Health & Safety Fund of North America
Manta Industrial
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Thank You for your support!
STEVENS PAINTON CORPORATION
Contractors and Engineers
“Committed to Achieving a Zero Accident Workplace”

SPC offers the following services through our group of companies.

Construction - SPC
Site work, excavation, civil and foundations, structural steel erection, buildings, mechanical and millwright work, boilermaker work.

Engineering - CDMG
Multidiscipline engineering, civil, structural, mechanical, interconnecting process piping, electrical instrumentation, process automation.

Specialty Contractor - Martinez Construction Services
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TAUC Leadership Conference 2009 heads to Orlando

TAUC Leadership Conference 2009 will be held at the Ritz-Carlton Orlando Grande Lakes, in Orlando, Florida, from Tuesday, May 5 through Friday, May 8, 2009.

Agenda and registration details will be developing in the coming weeks and will be announced on www.tauc.org.

Rooms are limited. To make reservation, contact Ritz Reservations at 800.542.8680, and mention “The Association of Union Constructors” room block.

Nominations now open for 2009 Thomas J. Reynolds and Craftperson of the Year Awards

NOMINATION FORMS ARE now available on TAUC’s Web site (www.tauc.org) for the annual Thomas J. Reynolds Awards and the Craftperson of the Year Award for Ingenuity & Innovation in Construction.

All association members are invited to submit nominations. Nominations will be accepted until March 8, 2009. Mike Dorsey, manager of membership, is available at 703.524.3336 x122 to assist members with questions regarding the nomination process.

The awards will be presented at TAUC Leadership Conference 2009.

Contractors rapidly complete W.O.R.K. profiles

HUNDREDS OF CONTRACTORS have responded to the call to complete their profiles in the Work Opportunity Reference Key, commonly referred to as the W.O.R.K. tool. If you are one of the few remaining contractors who have not yet completed your online profile, please visit www.tauc.org and do so today. You don’t want to be left out of the bidding process!

The W.O.R.K. tool will help association member owners locate qualified contractors for construction, maintenance and repair work across the United States. The database will include a search function that will allow them to narrow the list of qualified contractors by specific demographics, such as location or certifications. The release date of the search function is scheduled for January 2009.

In these uncertain financial times, the W.O.R.K. tool will be your greatest ally in keeping your business moving full-steam ahead.
Hilton promoted to senior vice president

THE ASSOCIATION OF Union Constructors and National Maintenance Agreements Policy Committee jointly promoted Kevin Hilton to the position of senior vice president in November. Hilton has assumed a number of internal operational leadership responsibilities, as well as an increased policy development role.

“This is a long-awaited and well-deserved promotion within TAUC and the NMAPC,” Stephen Lindauer, TAUC chief executive officer and NMAPC impartial secretary, said in his announcement to staff. “Kevin has proven himself to be a visionary thinker and steady leader over the past 11 years with our organizations, and we are pleased to have him stepping up in this way.”

Hilton was previously the vice president of industrial relations for the association and policy committee. He holds a bachelor of arts degree in industrial relations from the University of Michigan and a master of science in industrial relations from the University of Wisconsin.

Tanger named manager of communications

THE ASSOCIATION OF Union Constructors welcomed Lisa Tanger as its new manager of communications in September. Tanger will serve as the executive editor of The Construction User, as well as handle all media relations.

“We’re pleased to welcome Lisa to the association. She brings a wealth of knowledge and experience to our office, and is uniquely poised to spread the word that union contractors are the safest, most competitive and most productive in the construction industry,” TAUC CEO Stephen Lindauer said.

Tanger came to the association from the news department of USA TODAY, where she wrote news briefs for the print paper and served as a producer for USATODAY.com. She has been published as a contributing editor on WashingtonPost.com and contributor on NewAmericaMedia.org.

Tanger holds an undergraduate degree in business administration from Marymount University and a master’s degree in journalism from American University.

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Construction is our specialty.

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- Marine Construction: A seamless program covering state act, USL&H and MEL under one policy.

- Oil & Gas and Alternative Energy

For more information, contact your insurance broker or visit our website at www.sbic.com

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Service Offices: AK, AZ, CA, FL, GA, HI, IL, PA, TX & WA
Website: www.sbic.com
First Circuit Court of Appeals decision puts market recovery programs in jeopardy

by STEVEN J. FELLMAN
Special Contributor

ON AUGUST 1, 2008, the United States Court of Appeals for the First Circuit reversed a decision by U.S. District Court Judge Richard G. Stearns and ordered that a trial be held on the issue of whether Local 7 of the International Association of Bridge, Structural, Ornamental and Reinforcing Ironworkers, the Building Trades Employers Association of Boston and Eastern Massachusetts (BTEA) and certain named and unnamed union contractors established and implemented a market recovery program in violation of federal labor laws and federal antitrust statutes.1

The District Court had granted summary judgment in favor of Local 7, finding it had not engaged in a violation of federal labor laws or antitrust statutes. The Court of Appeals held that the plaintiffs had produced sufficient evidence to show that there were genuinely disputed issues of material fact, and, therefore, the District Court should not have dismissed the case. The Court of Appeals ordered the case be sent back to the District Court for a trial on its merits.

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The court found that, with regard to steel erection work, labor costs account for approximately half of the cost of the contracts. Contractors that are signatory to the Local 7 agreement must pay the wage scale set in the Local 7 collective bargaining agreement. Non-union contractors, such as the plaintiffs in this case, are not bound by the collective bargaining agreement, and are often able to submit lower bids for steel erection contracts.

In recognition of the fact that non-union contractors offer lower wage packages than provided in the collective bargaining agreement, Local 7 established a market recovery program. Under the market recovery program, Local 7 “targets” certain construction projects and offers a subsidy to signatory contractors bidding on the project. The subsidy is intended to offset the higher cost of union labor, thus enabling union employers to bid competitively against non-union contractors.

When a signatory contractor is awarded a target project contract, Local 7 signs an agreement with the contractor detailing the terms and the amount of the subsidy. The subsidy is then taken from the target fund, which is financed with sums withheld by union employers from Local 7 member paychecks. The job targeting program was first established by a Local 7 member vote and was incorporated into the Local 7 union bylaws in 1992.

In November 1993, Local 7 and the BTEA agreed to codify the method of fund contributions in their collective bargaining agreement. Section 9 of the 2000-2006 Collective Bargaining Agreement provides that: “The working dues deduction of two percent of the total package plus $.85 for a market recovery program and $.03 for the political action league will be withheld out of net pay for each and every hour paid.” The market recovery plan monies are paid directly to Local 7, which deposits them into a separate fund. The fund then distributes wage subsidies on a case-by-case basis to BTEA employers who successfully bid on targeted projects.

The plaintiffs are non-union contractors who bid against union contractors on many of the projects that were targeted by Local 7. Plaintiffs alleged that there was a conspiracy between the union and union employers to monopolize the structural steel industry in the Boston area and push non-union contractors, like the plaintiffs, out of the market. Specifically, plaintiffs asserted that Local 7 used fund subsidies to assist signatory employers in underbidding plaintiffs on erection jobs.
Plaintiffs also alleged that Local 7 used threats and picketing to pressure fabricators, developers, owners and general contractors — none of whom directly employ Local 7 workers — into breaching contracts with plaintiffs and replacing them with signatory contractors.

In pleadings and during the course of discovery, plaintiffs described certain activities that they claimed violated both labor laws and antitrust laws. Included in the examples were situations where contracts originally had been awarded to open shop erectors, but subsequently were taken away and given to union erectors who had been awarded subsidies under the market recovery plan. According to the plaintiffs, not only did the union provide subsidies to union contractors, but it also strong-armed fabricators and owners. As an example, plaintiffs alleged that on a certain jobsite, equipment belonging to one of the plaintiff erectors was vandalized and stolen after Local 7 began to picket.

In an affidavit from the president of CNI Steel, Inc. (a fabricator), it was reported that Local 7 agents offered to pay fund money to the fabricator if he agreed to work with the union, and, further, that the union threatened “problems” on the job if he did not hire a signatory contractor. The affidavit continued that “problems” are well known to result in project delays, increased financial cost and property destruction.

At the close of discovery, Local 7 filed motions for summary judgment. The District Court found that the conduct of Local 7 in administering the market recovery plan was sheltered from antitrust liability by the statutory labor exemption, and the conduct of Local 7 using fund subsidies to encourage the use of signatory contractors was not coercive conduct prohibited by the LMRA.

The First Circuit Court of Appeals noted that the District Court judge did not specifically address the strong-arm tactics when reaching a decision on motion for summary judgment. Therefore, the Court of Appeals reversed the District Court and sent the case back to the District Court. As the Court of Appeals held: “Viewing the facts in the light most favorable to plaintiffs... we find that there are genuine issues of material fact with regard to the nature and extent of Local 7’s allegedly coercive tactics, and whether Local 7 through use of those tactics pressured neutral employers into agreements to refrain from using non-union contractors.”

The court also suggested the possibility that if the market recovery program was a Davis Bacon violation, the existence of a Davis Bacon violation might eliminate the union’s ability to claim protection under the non-statutory antitrust exemption. However, the court noted that since neither side had raised this issue, the court would not decide it.

There are many issues that have been raised by the American Steel Erectors v. Local 7 case. However, the Court of Appeals for the First Circuit clearly indicated its belief that if Local 7 “attempted to enforce the market recovery program with strong-arm tactics,” it might not be able to escape antitrust liability.

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Steve Fellman is president of Galland, Kharasch, Greenberg, Fellman & Swirsky. He is also general counsel to The Association of Union Constructors.
A WARM GREETING to all our union contractor members and building trades brothers and sisters! May your holidays treat you well, and may 2009 be a more prosperous and safe year for all of us.

This has been a great year in promoting safety and health, specifically the zero injury philosophy, through the Association of Union Constructors. We are accomplishing a lot, but as the slogan “Safety — the race that never ends!” says, we have a lot more to do.

One of our goals as an association is to ensure our members have access to industry professionals, so they can get answers to the difficult questions they may be facing as union contractors. We were pleased to hear from the Occupational Safety and Health Administration at the State of the Union….Construction Industry forum. We remain committed to keeping our membership informed on all developments as they pertain to the new confined space rule, the proposed cranes and derricks rule and the Advisory Committee on Construction Safety and Health.

The association and our Safety and Health Committee are continually trying to get the message of safety down to the men and women who are actually doing the work, every minute of every work day. We do this through a variety of channels, including printed publications, regional meetings and outreach on our jobsites every day.

We must also ensure some of us older “goats” (me included) need to be certain that our well-trained safe work habits are passed on to incoming generations.

As you all know, we must continue to address the future needs of our industry concerning safety and health. These are very challenging times, to say the least. But, from feedback I have heard in major client safety meetings, the refinery and major utility settings, top executives are complimenting union building trades for excellence in safety! So, we are making progress. Let’s do all we can to keep this momentum rolling strong.

Keep ‘em safe out there!

Bill Hering is the corporate safety and health director for S.M. Electric in Rahway, New Jersey. He is also a TAUC governing member and chairman of the TAUC Safety and Health Committee.
What a union contractor needs to weather this economic storm...if anyone out there is listening

by CHARLES A. BURNS III
Member Contributor

I’M FROM PHILLY, and, in Philly, we get right to the point: We need a competitive advantage. The competitive advantage I envision is two-fold.

First, we need to be able to have confidence that we will be able to apply and get the approval to use a preferred agreement. In my case, we like to use either the National Maintenance Agreement or the General Presidents’ Agreement. The union contractor needs these types of agreements, because without them, there is an unlevel playing field between the crafts.

Automatic approval of national agreements for these jobs allows our internal resources to be focused on market-building, rather than administrative bureaucracy. No contractor in his right mind wants to have to read every local agreement around the country. We want to be able to use the NMA, or a similar agreement, every time, everywhere, to minimize inefficiencies in the labor relations process and maximize our investment in procuring and completing new projects.

In short, the National Maintenance Agreement allows us to concentrate on putting people to work. We need to begin a dialogue in Washington that allows our good TAUC union contractors to be able to use our tried-and-true all-union agreements to get more work.

Secondly, we need to get the ball rolling on a national system of craft fringe benefit reciprocity. That’s a fancy way of saying we need a system to allow tradesmen and women to travel around the country, work in another local union — or even be referred through another craft — that is in need of manpower, perform work safely and not lose their fringe benefits because they are working out of a local that is not their home local. We refer to it as ‘the fringes following the man.’

Now, I realize the credit crisis may delay projects that we previously thought would roll along on schedule. But, they will get done eventually. And, when that time comes, we will collectively look like fools if we have not resolved this issue.

If we are in the midst of a “bust” right now, that only tells me one thing: the next “boom” is just ahead. Let’s iron out our problems now.

The Association of Union Constructors was created to identify problems in union construction, craft solutions and implement strategic plans to move forward. We have a great relationship on the national and local level with the international unions and their local affiliates.

Let’s winnow through the petty differences and take action, so the tools contractors need will not be out of reach when work rebounds with a vengeance in 2009.

Bud Burns is the executive vice president for J.J. White, Inc. in Philadelphia. He is also a TAUC governing member and chairman of the TAUC Labor Committee.
COMING EVENTS

JANUARY 25-26
National Safety Council’s Utilities and Construction Joint Meeting
St. Petersburg, Florida

FEBRUARY 8-12
North American Ironworkers/IMPACT Labor Management Conference
Las Vegas, Nevada

FEBRUARY 19
Joint TAUC-NACBE Safety and Health Committee Meeting
Des Plaines, Illinois

FEBRUARY 23-24
NMAPC Labor Management Committee Meeting
Miami, Florida

FEBRUARY 23-26
Building and Construction Trades Department Governing Board Meeting
Miami, Florida

FEBRUARY 24
NMAPC Board of Directors Meeting
Miami, Florida

FEBRUARY 25
NMAPC Labor Section Meeting
Miami, Florida

MAY 5-8
TAUC Leadership Conference 2009
Orlando, Florida

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TAUC - 2007 Thomas J. Reynolds’s Award
(Construction safety and health)
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