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Arkansas Construction Hall of Fame

THE ARKANSAS CONSTRUCTION HALL OF FAME RECOGNIZES, HONORS AND CELEBRATES THE ACCOMPLISHMENTS OF ARKANSANS WHO HAVE DEDICATED THEIR LIVES TO THE ADVANCEMENT OF THE BUILT ENVIRONMENT THROUGH THEIR

chosen fields of architecture, construction and engineering. Inductees are selected from a nomination process which measures their professional contributions, personal character and involvement in other organizations or activities that further the well-being of the state of Arkansas and its communities.

On April 28, four worthy individuals were inducted into the 2016 Class of the Arkansas Construction Hall of Fame in front of a packed crowd at the Hillary Rodham Clinton Children's Library and Learning Center. Two new awards for Champion of Construction and Emerging Professional were also presented.

Hall of Fame – This award recognizes those individuals who have left a lasting footprint on the built environment in Arkansas through their work in the fields of architecture, construction and engineering. Excellence is measured not only by their professional contributions through the projects they have developed

but also through the esteem and regard through which they are held by their peers and contemporaries.

Champion of Construction – This award is given to an individual, public official, member of any allied profession, company or not-for-profit group who exhibits vision, passion and interest in advancing opportunities for Arkansans through the development of infrastructure. This individual or entity is not affiliated with an architecture, construction or engineering firm but is worthy of recognition due to their commitment to and investment in improving the lives of their fellow citizens.

Emerging Professional - This award recognizes a new professional who, through civic involvement, advocacy efforts or professional development, has advanced the public perception of those industries working in the built environment.

Rick Geraci PE, FACEC

Electrical Engineer and Master Electrician Rick Geraci loves a good challenge, especially “extremely difficult projects that others avoid.” He spear-headed the emergency change-out of ten sections of failing 2400V switchgear supporting the core hospital at UAMS in Little Rock. His precision scheduling and coordination of more than 100 workers over two weekends completed the job in time, without disrupting core operations.



His healthcare portfolio also includes major upgrades at Baptist Health in Little Rock and a \$35 million expansion of the Northwest Medical Center in Springdale, featuring a 7-floor patient tower, cafeteria, OBGYN/nursery, new physical plant, new primary service entrance, new power parallel generating plant and a 350-car parking deck.

For the University of Arkansas, Rick helped design his alma mater's \$8 million student health center, \$35 million Northwest Quad, and 9-story, \$29 million Harmon Parking Garage. He's also designed for almost every LRSD facility, and nearly every Arkansas college, including ASU's Convocation Center and Dean Ellis Library, UCA's Torreyson Library, Henderson's Garrison Student Union, and UALR's School of Law.

Rick was the electrical engineer for the renovation of the State Capitol Building's south half. The project earned an ABC Excellence in Construction Award and included the Senate chamber, a new electrical service entrance, the building's first fire alarm system, and archival restoration of the Rotunda lighting system. His work also includes the Alotian Golf Club, Oaklawn Park and Hot Spring's historic Bathhouse Row.

Rick's exceptional data center expertise comes from decades of service to Acxiom, Fidelity Information Services, American Internet Services, and the Arkansas Department of Information Systems. He recently designed the electrical infrastructure for the new MISO South Region Operations Center in Little Rock and Conway Corporation's new Headend Facility, which won an ABC EIC Award.

As a member of the Order of the Engineer, Rick actively promotes the engineering profession to students and the public. The former Director of the Arkansas Junior Academy of Science, he often speaks on professional ethics and is a member and Past President of over a dozen professional organizations, including the Arkansas Engineering Foundation, the Electrical League of Arkansas, and past National Director for the Arkansas Chapter of the American Council of Engineering Companies (ACEC).

While serving on the State Task Force to the Legislative Joint Committee on Educational Facilities, Rick developed the Electrical Standards used by all Arkansas schools. He is currently a member of the state's Electrical Apprenticeship Committee.

In 2001, Rick was named Engineer of the Year by the Arkansas Society of Professional Engineers (ASPE) and was inducted into the Arkansas Academy of Electrical Engineers in 2006. He received the ASPE's Distinguished Service Award in 2010, and was inducted into the national ACEC College of Fellows in 2013.

As Vice President at Brown Engineers, Rick continues designing challenging projects, advocating for his profession, and mentoring the next generation of engineers.

W. Kent Ingram, Jr.

Since 1965, Kent Ingram has served as President of Razorback Concrete Company which is headquartered in West Memphis. This family-owned business has 18 plants in 16 Arkansas cities, and has more than 200 employees. Kent also serves as President of RazorRock Materials, another family-owned business with five locations in Arkansas. Today, Razorback Concrete is one of the largest ready-mix producers in the state.



His contributions to healthcare have been significant. Kent served as a member of the Board of Trustees for Crittenden Regional Hospital and was elected Chairman of the Board in 1999. He went on to serve as a member of the University of Arkansas Medical Sciences Foundation Board, and was later elected Treasurer of that body. Kent served on the Methodist LeBonheur Health Care Board for nine years. Because of his interest, dedication and efforts on that board, he was honored in 2013 with the Methodist LeBonheur Life Inspiration Award.

Kent was elected in 1981, to fill the unexpired term of his late father, Senator W.K. Ingram. He went on to serve as senator until 1990.

He has served on the Board of Directors for the West Memphis Chamber of Commerce for many years and was elected President in 1974. Kent went on to serve as a member of the Board of the Arkansas State Chamber of Commerce and as President from 1994-1996.

Kent has long been active in the West Memphis Boys Club and served on the Board of Directors for seven years. But his support and commitment to the Boy Scouts is well-known. Every year since 1980, Kent and his brother Keith have hosted an annual fund-raising fish fry for the Crittenden County Chickasaw Boy Scouts. And, because of his friendship, support, and dedication to scouting, he was the recipient of the prestigious Silver Beaver Award from the Boy Scouts of America.

Kent was elected to the Associated Industries of Arkansas in 1979, and later served as President of the Arkansas State Ready Mix Association.

Under Kent's leadership, some of Razorback Concrete's significant projects include: Nucor-Yamato Steel Mill and Nucor-Hickman Sheet Mill in Blytheville, Dickey-Stevens Baseball Park in North Little Rock, Plum Point Electric Energy Plant and Big River Steel Mill in Osceola, Welspun Pipe Mill in Little Rock, North East Arkansas Baptist Hospital in Jonesboro and numerous Interstate Highway, Bridge and Paving projects including the I-40 Mississippi River Bridge Crossing in Memphis.

Kent graduated from Memphis University School in 1960, and graduated from the University of Arkansas in January of 1965.

His family has always been his heart and his top priority. He enjoys spending time with his daughter Hadley (Scott) and two granddaughters Abigail and Scottie. A life-long Dodger fan, Kent follows them religiously.

Bruce McFadden

Bruce McFadden was born April 6, 1938 in Hickory Ridge, Ark. to Boyce McFadden and Aileen Slocum McFadden. His parents and grandparents were hardworking farmers who well remembered the Great Depression of the 1930's. They encouraged Bruce to do well in school and go on to college which he did, finishing top of his high school class and earning a tuition scholarship to Arkansas State College for pre-engineering. At age 20 he married his high school sweetheart Anita Bramlett and they hooked on to a trailer load of basic necessities and headed to Fayetteville and the University of Arkansas. Anita worked as a cosmetologist providing their basic necessities while Bruce earned his BSCE with Honors in August 1960. Bruce selected Civil Engineering because it offered outdoor opportunities of building structures and facilities to make life better and more interesting.

After four years with the US Corps of Engineers, with two years at Beaver Dam, he decided to accept an Albert Sloan Fellowship at Stanford University earning a Master's Degree in Civil Engineering-Construction, graduating in June 1965. Bruce returned to Arkansas and very soon began working as Superintendent for the McNulty's at Pine Bluff's highway construction company. Gordon McNulty and his nephew Randy McNulty were great teachers and encouragers for the next five years.

At the age of 32 in 1970, Bruce formed Improved Construction Methods, Inc. (ICM) to offer, as the name implies, continuous improvements in the high tech area of construction, a dream he had while at Stanford. ICM has just completed 46 years in business doing just that. Sales were over \$100,000 that first year and grew to over \$20 million. The concentration has been in the mid-south with locations in Arkansas, Oklahoma, Texas, Tennessee, Mississippi and Alabama but with specialized rentals and sales all over the US and in some foreign countries. During the recent recession period ICM was fortunate enough to sell approximately \$2 million of high tech survey equipment – Total Stations and Gyroscopes – to the Egyptians and sent ICM experts to train them.

McFadden has held many positions within the community and industry including president of AGC Arkansas, president of the Arkansas Association of Equipment Distributors, president of the University of Arkansas Civil Engineering Academy, president of Jacksonville Rotary and president of the Jacksonville Chamber of Commerce. He is a recipient of the AGC Arkansas Distinguished Service and Rotary Paul Harris awards. He has also served as a deacon and elder in his church.

ICM, with help from Johnny Hudson, became an ESOP company in 1985, and has plans to be 100 percent employee owned as Bruce begins his retirement years. Bruce and Anita will celebrate 58 years of marriage on June 8. She has been a wonderful teammate and is looking forward to lots of travel over the next few years as they sell their stock to the ESOP. They have 4 sons: Greg, Mark, Chris, and Clay, along with 12 grandchildren and 4 great-grandchildren.



Charley Penix AIA

Born in 1954 in Jonesboro, AR, Charley was the third child of four children of Bill and Marian Penix, both progressive attorneys actively engaged in the civil rights movement. In the 1970s before pursuing a career in architecture, Charley attended Georgetown University as a political science student and worked in the U.S. Senate. He soon realized that his true calling was in design and transferred to the University of Arkansas, Fay Jones School of Architecture. Charley was awarded the AIA Henry Adams Medal for graduating first in his class and is also a member of Phi Beta Kappa.

After graduating, Charley interned in New York City for world-renown architect I.M. Pei, where he received a Progressive Architecture citation for his work on the Mission Bay Master Plan in San Francisco. Charley returned to Arkansas in 1983, joining Cromwell Architects Engineers in Little Rock, AR and beginning a 33-year long career to date with the firm. He is now CEO and has led Cromwell through some of the most tumultuous economic times of our generation.

In his career as architect, project manager, or principal in charge, Charley has participated in the design of over 17.8 million SF of facilities worth over 1.4 billion dollars in construction costs. While he has worked on every building type from private residences to new headquarters buildings of international corporations, his primary focus has been on world class medical and higher education facilities.

Some of his most iconic projects include the UAMS Winthrop P. Rockefeller Cancer Institute, the award winning UAMS Jackson T. Stephens Spine and Neurosciences Institute (AIA Design Award), the University of Arkansas School of Law (AIA Merit Award and South Central Construction's Best Public Design Award), and the Winthrop Rockefeller Institute (Arkansas Preservation Award Outstanding New Construction in a Historic Setting) on Petit Jean Mountain.

Charley is a leader in promoting architecture that is resonant, unique and sustainable, believing that every structure should reflect and enhance its surroundings and purpose. He played a significant role in the design of the first LEED building in Arkansas, the University of Arkansas Innovation Center (AIA Honor Award), and also University of Arkansas at Little Rock's George W. Donaghey EIT Building, the first LEED Gold facility for the entire University of Arkansas System.

In his spare time, Charley enjoys biking, running, skiing, yard work, traveling and a good glass of wine. He is also an active member of many professional and community organizations including the American Institute of Architects, U.S. Green Building Council, Campaign Arkansas Fay Jones School of Architecture Committee, UAMS Chancellor's Circle, Arkansas Arts Center Museum Circle, and Little Rock Chamber of Commerce Fifty for the Future.





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CHAMPION OF CONSTRUCTION

Bobby Roberts PhD

Bobby Roberts recently retired from the Central Arkansas Library System (CALS) after serving almost twenty-seven years as director. During his tenure, central Arkansas voters approved more than \$162,000,000 in bonds for books, automation, and construction. Completed construction projects, include 14 buildings and 5 expansions. Currently, in Little Rock, four additional expansions have started and a parking deck on the downtown campus is almost finished. Also, construction should begin soon on a new Sherwood library.



Roberts thinks that voters should expect public buildings to be efficient, aesthetically pleasing, long lasting, and make a significant contribution to the community. The fourteen libraries have met that test, winning over thirty awards in areas such as architectural design, construction excellence, materials selection, and interior furnishings. Roberts is especially proud of three awards. The first is the 1998 Associated Builders and Contractors Award for the Main Library. Anyone who remembers the old Fones Building must be impressed by the retrofit that Polk Stanley Architects, led by Joe Stanley, and Flynco, Inc. did to convert the warehouse into the Main Library. Also, CALS has won two joint awards from the American Institute of Architects and the American Library Association. The AIA/ALA award recognizes the very best work by American architects and is a world-wide competition. Since its 2011 inception, only sixteen libraries have been recognized. Ours is the only system to win two such awards. The first for the Arkansas Studies Institute in 2011 and the second for the Hillary Rodham Clinton Children's Library in 2015. Both were designed by the Polk Stanley Wilcox Architects and constructed by East Harding, Inc. Roberts remarked that these were truly remarkable collaborations and demonstrate the outstanding talent of the lead architect, Reese Rowland.

Roberts grew up in Helena, Arkansas. He received a master's degree in Library Science from the University of Oklahoma and his doctorate in American History from the University of Arkansas. Roberts has served on the faculties of the University of Arkansas and UALR. He is the author of several books and articles on the Civil War. Roberts left academia to work for Governor Bill Clinton during much of the 1980s. At various times he served as the Governor's Liaison for Public Safety, as a legislative assistant, and as a member of the Board of Correction. Roberts came late to public libraries, but, as he remarked, "I first came to respect public libraries and later to love them. They truly are one of America's finest creations."

Roberts has been recognized for his commitment to quality buildings by the Arkansas Chapter of the American Institute of Architects, the Quapaw Quarter Association, and the Little Rock Downtown Partnership. In 1998 he received one of his profession's most prestigious awards when he was named Library Journal's Librarian of the Year.

Roberts lives in Little Rock with his wife Kathy Wilson Roberts. He has three step children and one grandson. "It is my future hope," Roberts said, "to try to become the historian I once aspired to be."

EMERGING PROFESSIONAL

James Meyer AIA

James Meyer is an associate and project architect at WER Architects in Little Rock, as well being a founding member of studioMAIN, a board member of the Architecture + Design Network, and the Regional Associate Director for the Gulf States Region of the American Institute of Architects.

James' first exposure to architecture and the AIA was through a summer function while he was in the Boy Scouts. A local architect



brought some graph paper and trash paper and tasked the scouts with drawing the floor plan of their family homes. James was immediately hooked, and in the years to come would hound many family friends and even complete strangers into having house plans drawn for them.

James attended the Fay Jones School of Architecture at the University of Arkansas and received his Bachelors of Architecture in 2006. Upon his graduation he was awarded a prestigious Traveling Fellowship from the Skidmore Owings and Merrill Foundation as part of their annual portfolio competition. James is the only Arkansas student to ever have been awarded the Fellowship, and was the only undergraduate student awarded that year. On his Fellowship, he traveled throughout Europe studying many of the great cities in the world, with a particular focus on public space and city fabrics. The core lesson James learned during his fellowship is that every problem should be addressed at multiple scales, and that properly developed solutions provide flexible models for problem solving. The notion of solving problems to improve quality-of-life in one place, but in such a way that it could be applied to many places, has driven James' early career.

James returned to Little Rock in 2007, with the hope of making a difference in the city he grew up in – and since then has been using his hard work, dedication, and passion for architecture and placemaking, to make an impact on both his city and his profession. Through the community outreach and design center, studioMAIN, James has been one of the key cogs in local PopUp events and the Envision Little Rock Competition Series. Currently, he is working to develop a program to get design-based learning into local classrooms.





In 2015, James was selected by The American Institute of Architects to receive the Young Architects Award. This award is given by the AIA to individuals who have shown exceptional leadership and made significant contributions to the profession in an early stage of their architectural career. Meyer was selected along with thirteen other architects from around the country, from a pool of over 20,000 eligible young practitioners.

James is committed to bringing a level of excellence to everything he does, and believes that every project must consider its role in the wider debate of our built environment. ■

EVENT PHOTOS



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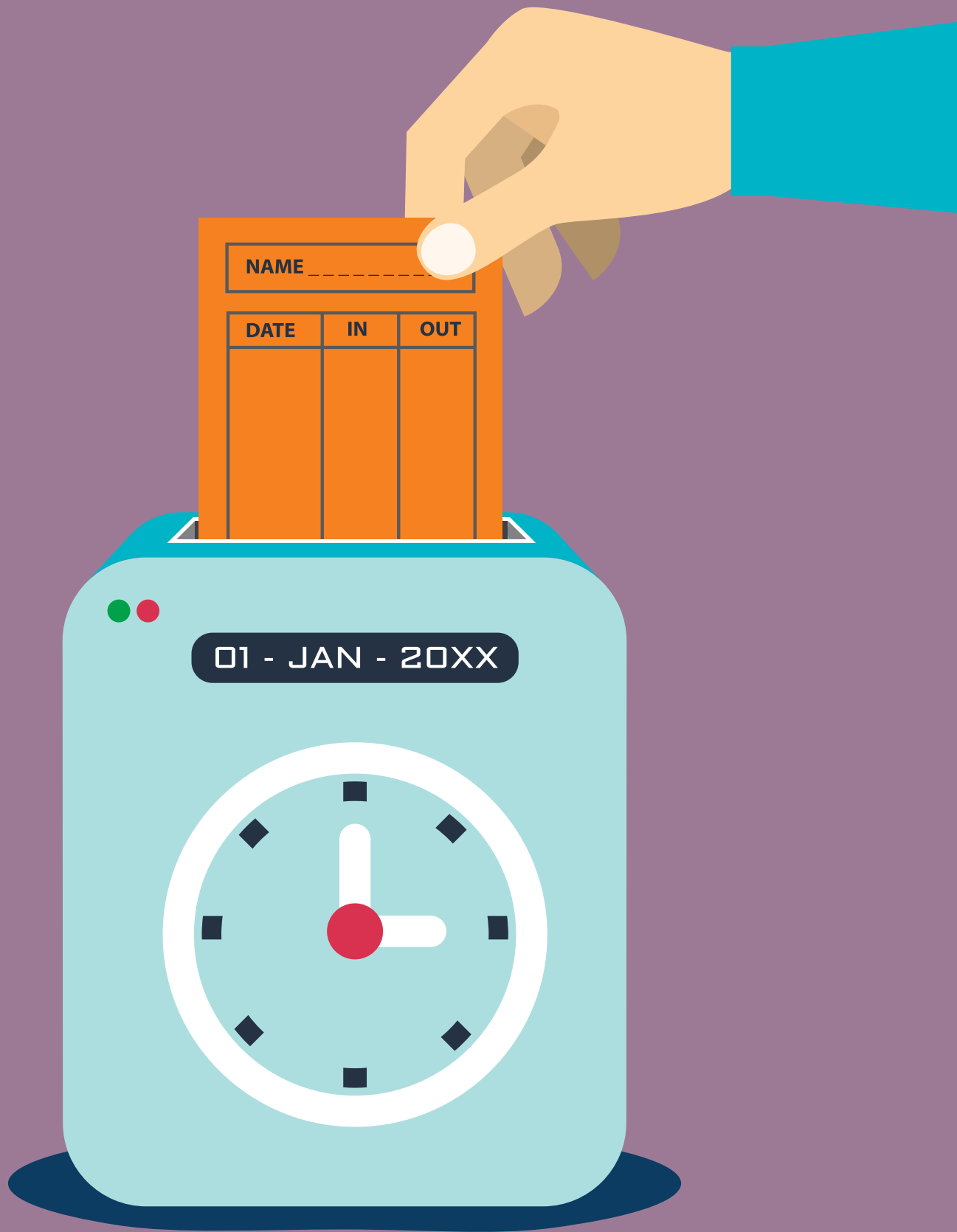


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Department of Labor's

Impact on Your Business

by S. Brent Wakefield
Member/Owner,
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YOUR EMPLOYEES WORK LONG HOURS — HOW SHOULD YOU COMPENSATE THEM IN LIGHT OF THE DEPARTMENT OF LABOR'S (DOL) NEW GUIDANCE?

Final Overtime Rule

On May 18, 2016, the DOL issued its Final Rule on Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees under the Fair Labor Standards Act (FLSA) (the "Final Rule") effective December 1, 2016. This change could potentially affect how general contractors pay their site supervisors, project managers, etc. who are paid a salary and are ordinarily classified exempt from overtime pay pursuant to the "administrative" exemption.

Previously, administrative employees were exempt from overtime pay requirements if they were paid at least \$455 per week (\$23,660 per year) and their duties fit within the "standard duties" of an exempt administrative worker. Under the Final Rule, however, the minimum salary for such a white collar worker has increased to \$913 per week

(\$47,476 per year). Additionally, the Final Rule employs a mechanism to automatically update the minimum salary every three years, the first of which comes in 2020. If you have employees that are on the borderline, be aware they could automatically fall below the threshold in a few years.

Of course, even if your employees are paid more than the "new" minimum of \$47,476 per year, they still may not be subject to the white collar exemptions. The Final Rule did not change the "standard duties" test for white collar employees. As a starting point, courts "narrowly construe" exemptions against the employer, and the employer must prove the exemption "plainly and unmistakably" applies to the employee. To use some sports analogies, this means that a "tie goes to the employee" and you must have a "slam dunk" case in order to prove that the employee is exempt.

continued on page 12

Employees fit within the administrative exemption when their primary duty is performing work “directly related to

the management or general business operations.” Job titles mean nothing. In effect, the administrative employee’s primary duty must entail the “exercise of discretion and independent judgment with respect to matters of significance.”

In the construction world, courts have been called on to determine whether, based upon their specific duties, project managers and field supervisors were exempt or not. Here are some factors that led courts to find that allegedly exempt employees were actually hourly employees subject to overtime rules and regulations despite their salaries: (1) rarely spending time at the main office; (2) inability to hire subcontractors not on an approved list; (3) assisting in manual tasks; (4) following too many standing orders; (5) having no contact with personnel department and/or accounts receivable/payable department; (6) not involved in formulating policies or making major decisions; (7) not performing any budgeting tasks; and (8) seeking approval from several senior supervisors on a daily basis. This list is not all-inclusive, and the important thing to remember is that each court/judge is different, and each job position and company will have specific facts that could sway a decision to one side or the other.

[There is also a “highly compensated employee” exemption for folks who are paid over \$134,000 per year and perform at least one of the exempt duties of

an executive, administrative or professional employee. That minimum salary was raised from \$100,000 by the Final Rule too.]

In order to comply with the Final Rule, employers have a variety of options. First, an employer could simply raise salaries to meet the new threshold. Second, an employer could pay the same salaries, but pay its workers overtime for hours over forty (40) per week. As an aside, timekeeping requirements are paramount. There are several third party vendors that supply time keeping software, complete with smart phone applications, through which employees can “clock in.” Third, employers could simply adjust working schedules, and spread out their workforce to cover the work week. Fourth, employers could adjust wages to ensure that workers are paid for their overtime wages with essentially the same pool of funds. Remember though, there are still minimum wage laws that you cannot dip below.

There is also a way to incorporate a “fluctuating hour work week” schedule into your business, but that issue is for another day. Please note, however, the “fluctuating hour work week” is NOT simply giving an employee “comp time” or a “day off” the week after that employee worked for more than forty (40) hours in lieu of overtime pay.

In the end, remember that minimum salary is only one prong of the analysis in determining whether your employees are exempt from the overtime pay requirements of the FLSA.

FLSA wage and hour lawsuits have been on the rise since 2000 (1,935 cases) and have doubled since 2005 (4,039).

In 2015, suits reached a record high of 8,160, and we expect that record to be broken in 2016, largely as a result of employees suing pursuant to the new Final Rule.

Independent Contractors v. Employees

Another area where “misclassification” lawsuits arise involves the distinction between independent contractors and employees. Of course, an employer does not owe overtime wages to an independent contractor, so the DOL issued an Administrator’s Interpretation Letter in July of 2015 (AI No. 2015-1). The DOL received many complaints that independent contractors were really employees who were not being paid overtime wages for their work.

The FLSA defines “employ” as “to suffer or permit to work.” Courts use the “economic realities” test to focus on whether the worker is economically dependent upon the employer or is in business for himself. If he/she is dependent upon the employer, the employer “employs” that person.

The first factor of the economic realities test is whether the work is an integral part of the employer’s business. The first “example” of this factor provided by the DOL is troubling for the construction industry. It states:

“For a construction company that frames residential homes, carpenters are integral to the employer’s business because the company is in business to frame homes, and carpentry is an integral part of providing that service.

In contrast, the same construction company may contract with a software developer to create software that, among other things, assists the company in tracking its bids, scheduling projects and crews, and tracking material orders. The software developer is performing work that is not integral to the construction company’s business, which is indicative of an independent contractor.”

In other words, the DOL takes the position that framers are not independent sub-contractors – they are employees of the general contractor and are owed hourly/overtime wages by the general contractor for hours worked over forty (40) per week.

The second factor is whether the worker’s managerial skills affects the worker’s opportunity for profit or loss. This is another way of asking, can the worker change the manner in which he

**...minimum salary is only
one prong of the analysis in
determining whether your
employees are exempt from...
overtime pay....**

works (not just the amount of hours he works) in order to increase his profit margin and/or take a loss on the job? If not, that worker is likely not an independent contractor according to the DOL.

The third factor looks at how the worker's relative investment compares to the employer's investment. For instance, the DOL will compare the cost of hammers and nails purchased by a framer to the employer's investment in the overall residential construction project. This is a simplistic example, but it represents the gist of the matter. The DOL noted a case where a federal court compared a rig welder's investment of \$35,000 - \$40,000 in trucks to the hundreds of thousands of dollars of equipment at each work site to find the rig welders were employees.

Whether the work requires skill and initiative is the fourth factor. Again, the DOL used an example in the construction world. In the opinion of the DOL, a highly skilled carpenter who does not exercise those skills in an independent manner is an employee. If he does not make independent judgments at the job site, does not determine sequence of work, and does not think about bidding

the next job, but instead does work he is told to perform . . . he is an employee.

The fifth factor considers the relationship between the worker and employer and whether it is permanent or indefinite. Even if the relationship lasts only weeks or months instead of years, the DOL might consider that an indefinite time period evidencing an employee-employer relationship. In the DOL's view, independent contractors work one project for an employer and do not work continuously or repeatedly for that same employer.

Finally, the DOL looks to the nature and degree of control by the employer. Relatively flexible work schedules do not suffice to relinquish control. Cellular phone communication – texts, etc. – could be used as evidence of control. In the end, the “control” factor is very fluid and is somewhat of a catch-all for a court or the DOL to find a worker is an employee and not an independent contractor.

Conclusion

The DOL has made it difficult for general contractors, and others, to operate within the confines of the FLSA by making sweeping changes to bring millions

of workers within the parameters of those entitled to overtime wages. Each industry and company differ, and it is important to assess the individual facts of your business in order to determine whether you are safe from a FLSA class action lawsuit – something which can be very costly to your business, even if you are ultimately successful in defending it. ■

S. Brent Wakefield, of Barber Law Firm PLLC, is a member of the firm's Employment Law Practice Group. In his practice, he assists businesses and non-profit organizations in defending employment discrimination and wage and hour disputes. He is familiar with the investigative procedures of the Equal Employment Opportunity Commission, Department of Labor, and National Labor Relations Board, and has helped clients navigate various investigations and administrative inquiries. Contact Brent at brent.wakefield@barberlawfirm.com.



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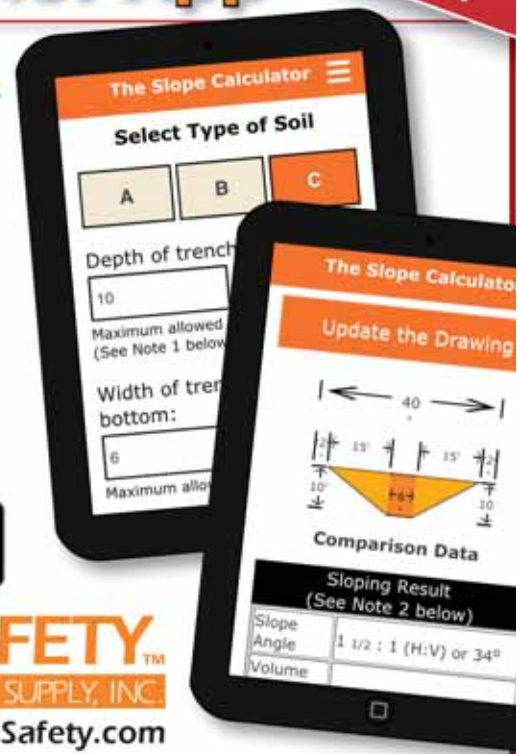
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2016

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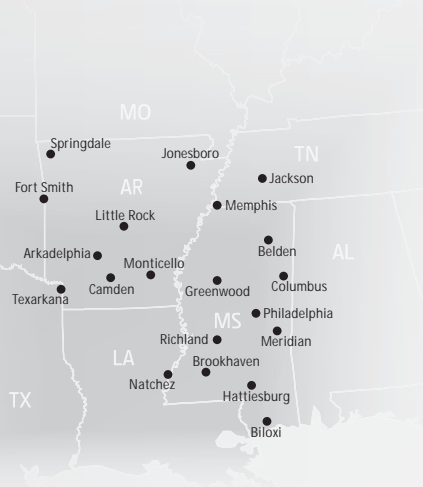
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AGC Wins Big: SCOTUS Rules on WOTUS

Waters of the United States

by Leah Pilconis
Senior Environmental Advisor,
AGC of America

THE U.S. SUPREME COURT ISSUED AN IMPORTANT RULING ON MAY 31, 2016, THAT WILL GIVE THE CONSTRUCTION AND DEVELOPMENT INDUSTRIES A WAY TO RESPOND IMMEDIATELY

to overly aggressive assertions by the federal government that the property they want to build contains jurisdictional “Waters of the United States” (WOTUS). A “jurisdictional determination” (JD) significantly impacts how land may be used, dramatically raises costs, and often reduces the feasibility of constructing critical infrastructure. AGC submitted a joint “friend of the court” brief in the case, *U.S. Army Corps of Engineers v. Hawkes Co. Inc.*, presenting a strong argument for why it is vital for contractors to know with certainty whether their projects contain WOTUS.

In a fact-pattern all too familiar to AGC members: the case involved landowner(s)/operator(s) who wanted to engage in an activity in a wet area but

the federal government put all activities on hold when it determined the property contained WOTUS – which triggered the need to first apply for a costly and time consuming Clean Water Act (CWA) Section 404 permit to authorize the earth-disturbing work. Going ahead without a permit puts both landowners and construction contractors at risk of substantial penalties and even possible jail time. The Supreme Court’s unanimous decision allows landowners and operators in these situations to proceed immediately with a lawsuit that challenges the federal government’s claim to jurisdiction over their land, when they disagree with it.

Although the CWA does not require JDs, if the U.S. Army Corps of Engineers

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AGC Wins Big

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(Corps) deems water, wetlands or any wet area on a property jurisdictional (meaning it is a “Waters of the United States” or WOTUS), then it is subject to all of the protections and permitting provisions of the CWA. For example, the owner/operator of a construction site is required to obtain a Section 404 permit prior to discharging dredged material (e.g., excavation) or discharging fill material (e.g., placement of dirt to make dry land) in jurisdictional WOTUS.

The Department of Justice (DOJ) had argued on behalf of the Corps that property owners who disagree with an approved JD – and instead believe their land includes no protected waters – can either seek a CWA Section 404 permit and then sue over its terms or discharge

without a permit and raise jurisdiction as a defense against a federal enforcement action. “Neither alternative is adequate. As we have long held, parties need not await enforcement proceedings before challenging final agency action where such proceedings carry the risk of ‘serious criminal and civil penalties,’” Chief Justice Roberts wrote in the Court’s 10-page opinion. They shouldn’t have to wait until the end of the permitting process, which “can be arduous, expensive and long,” he added. DOJ’s “count your blessings argument” (i.e., landowners/operators benefit from the JD process the Corps created and lawsuits shouldn’t be allowed until after the Corps takes permitting or enforcement action) is not an “adequate” response where there is the risk of serious criminal and civil penalties, Roberts wrote.

The Court’s findings close-

ly track the points AGC argued in its joint amicus brief (<http://www.scotusblog.com/wp-content/uploads/2016/03/15-290-bsac-American-Farm-Bureau-Federation.pdf>) that explains why “the regulated community must be afforded a way to respond, at a definitive but still early point in the process, to overly aggressive determinations” that WOTUS are present on land, which makes the property subject to CWA restrictions and permitting. The brief explains why the Corps’ JDs, which are “the hallmark of ‘final agency action,’” must be afforded immediate review in civil court.

AGC was the only trade association to advance the commercial construction industry’s interest in the outcome of this case and, once again, AGC has succeeded in changing facts on the ground. This decision will have a material impact on

Where are we with WOTUS



New Rule on Hold

New U.S. EPA/Army Corps Final Rule, redefines CWA term “Waters of the United States”

Published in Fed. Register 6/29/15 (<https://www.epa.gov/cleanwaterrule/documents-related-clean-water-rule#the-final-rule>)

Stated effective date 8/28/15

Identifies scope of water/wet features controlled by feds and subject to CWA permitting, other requirements

Legal Challenges

Lawsuits filed by 70+ private parties, 30+ states

ND US Dist Court: put rule on hold in 13 States 9/4/15

6th Circuit: issued Nationwide Stay 10/9/15

Legislative Challenges

Bill to block WOTUS rule Vetoed by Obama 1/19/16

NOTE: It’s likely that the legality of the 2015 definition of WOTUS will ultimately be decided by the U.S. Supreme Court. With the potential for litigation to proceed in both the 6th Circuit and various district courts, AGC expects the precise scope of federal authority under the Clean Water Act (CWA) to remain in limbo for the foreseeable future.

What You Need to Know TODAY!

Fed Control Over Work in Water, Wet Areas

Jurisdiction & Permitting Decisions being made using:

WOTUS Regs codified in 1986 [33 C.F.R. §328.3 (Corps); 40 C.F.R. §122.2 (EPA)]

2008 Rapanos Guidance (http://www.usace.army.mil/Portals/2/docs/civilworks/regulatory/cwa_guide/cwa_juris_2deco8.pdf)

2007 Corps-EPA joint coordination memo (http://www.usace.army.mil/Portals/2/docs/civilworks/regulatory/cwa_guide/rapanos_moa_o6-05-07.pdf), as modified by Jan 2008 Corps memo (http://www.usace.army.mil/Portals/2/docs/civilworks/regulatory/cwa_guide/jd_coord_proc_28jano8).

the way that the Section 404 permit program actually functions.

"For a landowner or operator faced with an adverse jurisdictional determination, therefore, the only 'adequate remedy in a court' is immediate review of the jurisdictional determination itself," AGC's brief states.

AGC Represents Contractors' Interests

AGC joined with industry groups representing agriculture, mining, manufacturing, and petroleum and gas interests in filing a joint "friend-of-the-court (amicus) brief" with the Court in support of Hawkes' lawsuit against the government. Hawkes Co. Inc., a Minnesota peat mining firm, applied for a Corps permit to expand its existing peat mining operations in 2010. The Corps issued a final JD that the property was a WOTUS, making it subject to CWA permitting and other requirements, even though the property is approximately 120 miles from the nearest navigable waterway. Hawkes contested the "unlawful" JD.

AGC recognized early on that this case has important implications for construction work that occurs in, or around, water or wetlands. As AGC's brief in the Hawkes case explains, the resulting uncertainty over the scope of federal jurisdiction over wet areas has "unfairly exposed amici's members to the risk of civil and criminal liability under the CWA." The federal government's broad jurisdictional theory affects construction site operators engaged by landowners to improve real property. Any determination that a property contains jurisdictional WOTUS "significantly impacts how the land may be used and dramatically raises the cost, and often reduces the feasibility of constructing critical infrastructure... [and opens the door for] severe criminal and civil penalties and third party litigation" the brief states.

As AGC's brief lays out, "[g]iven the great legal and factual uncertainty about what features constitute jurisdictional waters under the CWA, and the cost, delay and disruption involved in seeking a permit, it is of immense importance to amici and their members that Corp's jurisdictional determinations can immediately be challenged in court."

The Supreme Court's May 31 decision provides the construction and development industries with a way to respond, at the outset of the project, to unacceptable delineations. This means

Check out
www.agc.org/environment
for fact sheets on WOTUS,
stormwater e-reporting, ozone
NAAQS and lead paint.

that recipients of overreaching JDs are no longer faced with the unacceptable choices of (1) abandoning their projects, (2) incurring costs/delays to seek permits that may not have been needed (when the JD is later challenged), or (3) risking large fines or imprisonment so they can seek review of the JD by challenging the enforcement action.

Future Implications

AGC members' construction activities often involve dredge-and-fill activities in waters and wetlands. Whether those activities require a CWA Section 404 permit from the Corps depends on whether they occur in WOTUS – a statutory term that agencies and courts have found difficult to construe. Judicial review of JDs will help clarify the prop-

er limits of the Corps' CWA jurisdiction by allowing courts across the country to weigh in on which waters fall under CWA control. This may provide some much-needed clarity, in light of the ongoing controversy and confusion surrounding the definition of WOTUS rule. The new, 2015 Final Rule redefining the term is currently stayed by a nationwide court order (see side-bar box below).

It remains to be seen exactly how the Corps will interpret and respond to the Hawkes decision. Notable, as explained above, the Corps is not statutorily obligated to issue JDs.

Background

The Corps has an administrative

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AGC Wins Big

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appeals process for contesting approved JDs (33 CFR Part 331); in the past, however, prior to the *Hawkes* decision, a Section 404 permit applicant could not, generally, immediately challenge a JD in court. Rather, to obtain judicial review of a JD, an project proponent was forced to: (1) continue through the costly and lengthy permitting process (studies put individual Section 404 permit application costs/time at more than **\$270,000** and more than **two years**) and obtain a per-

mit based on an unacceptable JD, or be denied a permit; or (2) proceed with excavating or filling waters/wetlands without a permit and face an enforcement action to stop work and pay a penalty (CWA fines may reach **\$37,500 per day per violation** and possible **imprisonment**).


The specific question in the *Hawkes* case was whether the recipient of a JD can sue before the Corps or the U.S. Environmental Protection Agency (EPA) takes permitting or enforcement action based on the jurisdictional finding. The U.S. Court of Appeals for the Fifth Circuit and U.S. Court of Appeals for the Ninth

Circuit previously ruled that a JD is not a reviewable "final action" because it carries no financial penalties or other direct consequences separate from those attached to an ordinary violation of the CWA. However, a 2015 U.S. Court of Appeals for the Eighth Circuit decision found that JDs carry significant practical consequences for their recipients and thus are subject to judicial review. The Corps sought Supreme Court review to resolve a split in the circuits.


Under Section 704 of the Administrative Procedure Act, judicial review is only available for "final agency action," which the Supreme Court has defined as "the consummation of the agency's decision-making process" that can determine rights or obligations "from which legal consequences can flow" (*Bennett v. Spear*, 520 U.S. 154 (U.S. 1997)). The U.S. Supreme Court's 2012 decision in *Sackett v. EPA* called the application of this doctrine into question, by holding that the Corps' issuance of an administrative compliance order was a final agency action subject to immediate judicial review. The *Sackett* case has allowed groups to challenge in court a federal regulators' assertion of CWA jurisdiction in a compliance order issued under the CWA, prior to a federal agency initiating an enforcement action. In contrast, the *Hawkes* case addresses the right for groups to seek judicial review of CWA jurisdictional determinations made outside the context of a compliance order. ■

Please contact
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Meet the new EVP: *J. Kelly Robbins*

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"Congratulations"... "it's a great organization"... "they're a busy bunch"... "what a wonderful opportunity," these are just a few of the many comments I've heard since having been fortunate enough to be chosen to join the AGC Arkansas team.

Time will tell as to whether or not our members should appreciate the tireless and unheralded work performed by the Search Committee responsible for identifying and hiring an Executive Vice President. I'm certainly thankful for their efforts and hopefully as the days go by, others will at least forgive them.

Below is a listing of the committee members, so feel free to drop them a note to either question their choice/integrity or express your appreciation for their willingness to take on the task:

- Doug Wasson (chair), Kinco Constructors
- Dan Wright, Diamond Construction
- Don Weaver, Weaver-Bailey Contractors
- Mike Hocutt, Clark Power Corporation
- Gary Smith, Glass Erectors
- Lance Wright, Nabholz Construction Services
- D.B. Hill, III, D.B. Hill Contractor
- William Fletcher, Kinco Constructors

In addition to hearing complimentary words and encouraging remarks about this association and having worked the past eighteen years in the Arkansas trade association arena, I was already familiar with AGC Arkansas' reputation. I was not only aware of AGC's existence, but also its relevance and impact on its members' behalf within the political and public policy areas.

Those previous years in the non-profit association world were spent with the Arkansas Forestry Association

(ten years) followed by an eight-year stint with the newly formed Arkansas Independent Producers & Royalty Owners Association. The former represents all facets of the timber and forest products community, while the latter works on behalf of those involved in oil and natural gas production in our state. Association management was not something I had aspired to do ever since being a young lad. In fact, I knew nothing about such employment options during those crucial early childhood development days or even up through college. How I got here isn't really exciting or sexy, but my instructions for this article were to provide introductory information about myself, so here we go...lucky you!

I'm a native and resident of Hot Springs, born to a couple of young local, country kids in what is now the Arkansas School for Mathematics, Sciences and the Arts...back then it was simply Saint Joseph's Hospital. After having two children (I have a younger sister), my father decided to better himself and the life of his family by expanding his education. Our young Arkie clan moved to Nashville, Tennessee for three years, knowing all along that Arkansas, and specifically the Hot Springs area, would be our final home. After a brief 4-year stint in Benton, we did in fact return to the Spa City and I attended and successfully graduated from Lake Hamilton High School.

The University of Central Arkansas would be the last site of my post-high school matriculation, and in 1986 I graduated with the always-impressive Political Science degree. On graduation day, we (my lovely and long-suffering wife of two-years--Vickie and I) moved back to Hot Springs. Soon thereafter I would begin what was originally to be a six-week internship in the Little Rock office of U.S. Senator David Pryor. My duties there, and later in the local office of then-U.S. Representative Beryl Anthony, would stretch through the end of 1996.

During that ten-year span, Vickie and I were blessed with two children, son-Jay and daughter-Shara, who both reside in Little Rock.

A quick stint at the Greater Hot Springs Chamber of Commerce led to missing the work environment and political goings on in the Capitol city. Soon I learned of an opening with the forestry group, which served as the beginning of eighteen plus years and counting in this unusual profession. The association road has now proudly brought me to AGC Arkansas.

Owning golf clubs does not a golfer make and though an extremely poor player, I do like to participate from time to time. My favorite away-from-work pursuit is high school football officiating, which I've done for over twenty-five years. An often blank dull stare is a certain giveaway to a low IQ and a thick skin, both of which are required for such activities. I've been involved in many animated conversations on gridirons all across our state on autumn Friday nights. Hope to continue this avocation as long as the good Lord and my knees will allow. Additionally, I try to be found, so to speak, in the woods during spring in pursuit of those bearded gobbling wonders.

On a much more serious and important front, let me again state how absolutely delighted and blessed I am to be working with and for AGC, its dedicated members and staff, and the industry we proudly represent. From the start I've learned we are indeed a very busy bunch, complete with lots of events, activities, meetings and opportunities.

The existing staff, which includes a combination of long term folks and new faces, creates a great condition for continuing a rich history and tradition of service and representation with new and exciting possibilities. The construction industry, and all those fortunate enough to work within it, serve an incredibly important role for our state, our fellow Arkansans and our futures. We will

continue to represent, educate and communicate both internally and externally to help foster a business climate that is positive and productive.

As AGC continues to make a mark and a difference for our members, we need you, your input and your time and talents to make certain we meet your expectations and needs. Look for a membership survey that will help us as we better seek and strive to serve you.

From workforce development (Arkansas currently has the lowest unemployment rate in 40 years) to advocacy in the political and public policy arena to networking opportunities to safety and education classes and beyond, AGC is here to assist you. We appreciate you and your ongoing support. Let's honor and respect AGC's heritage and those who started it all back in 1946 by staying involved, getting more involved and encouraging others to do the same.

Again, I'm honored and blessed to be here and I pledge to work hard with you and my co-workers to keep AGC moving forward and in the right direction.

"I pledge to work hard... to keep AGC moving forward and in the right direction."



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Protecting your company's information assets

by Fara Francis
Chief Information Officer,
AGC of America

“Cybersecurity insurance is a risk-management strategy.”

We now live and conduct business in a world where security is an everyday concern; from protecting our personal identity (identity theft) to managing and securing our organization's assets: data, network, infrastructure from intrusions that can interrupt business operations. Cyber threat has ushered in a heightened sense of security for CEOs and their IT leaders as they partner to deliver processes and procedures to protect their business environment. For the construction industry, it is critical that cybersecurity is addressed since an attack could mean significant delays in business operations and consequently delays in delivering on work to our customers. Cybersecurity should be a business and strategic concern, not just an IT concern.

Construction companies own a lot of valuable data that hackers are interested in stealing. Some of these data elements include, drawings, specifications, construction plans which may include security system information that can be used for a later, more traditional attack on the physical premises, financial information, employee data (SSN, salary information and other personal details), confidential data, proprietary data, subcontractor employee data, list of clients and client information. As a construction business owner, there is an expectation from those with whom you conduct business for safekeeping and security of their information.

For years, management at construction firms was not concerned about cybersecurity. The general consensus included thoughts such as:

- Who wants to steal our stuff?
- Who wants a bunch of documents?
- We don't accept credit cards - what could they possibly want from us?

Well, the use of computers and connectivity to the internet to use various software applications provide opportunities for hackers. The industry is quickly

recognizing that with the everyday occurrence of cyber-attacks, companies are at risk for harmful penetration to files such as blueprints to a facility, HVAC drawings and employee data stolen electronically. Companies are also at risk for “phishing” – when an employee responds to what looks like an official office email with confidential information to another party who is actually a hacker.

In an effort to improve the security of their data and technology environment, some firms retain a full-time Chief Information Security Officer (CISO) who can constantly assess and provide remediation; other firms outsource this service.

Discussions on cybersecurity have increased over the years since cyber attacks are varied; from email “phishing” schemes to highly sophisticated hacking or denial of service attacks (DOS) and the latest concerns about Ransomware. However, good planning, preparation and constant monitoring of your infrastructure can reduce/mitigate the risk. While the conversation on cybersecurity and securing a company's information assets can be a very long and sometimes complex one, this article addresses a few key reminders and nudges to consider in preparing your firm to operate with a security perspective. The following are recommendations to position your firm to include and embrace security as part of your business strategy:

Review the entire landscape: Compile a list of your IT assets: servers, hardware, software, etc. Be sure to also include any employee data assets. Note: This task also provides great input to a Disaster Recovery plan.

Assess first then buy: Conduct an assessment/audit by working with a security professional to identify areas of vulnerability within your infrastructure. Audits on the infrastructure should be done at least once a year. This process should include penetration tests – which is a process of testing a computer sys-

tem or a network to uncover any vulnerability that makes it easy for a hacker to abuse.

Understand all risks in your environment: Decide how to mitigate these risks and protect the assets.

Develop a Disaster Recovery Plan: A document which identifies the process and procedure for recovery of a business IT infrastructure in the event of a disaster. This plan will include an inventory of all IT assets and a list of other related and important tasks to support recovery of the business in the event of business interruption.

Purchase Cybersecurity Insurance: Discuss with your insurance provider the terms of this policy. According to a 2014 issue of CIO Magazine, “**cybersecurity insurance is a risk-management strategy.**” Cybersecurity insurance transfers some of the financial risk of a security breach to the insurer. First-party insurance typically covers damage to digital assets, business interruptions and, sometimes, reputational harm.

Create a scorecard to rate vulnerability levels: Identify high criticality and low criticality items. These can further be segmented on low versus high risk. A scorecard allows you to (1) determine the current state of IT risk and security at your company; (2) develop a path moving forward on what to invest to fix any shortcomings and issues within the enterprise and (3) enforces a strategy of IT security and execution. Consider rating the following categories:

- Laptops (PC and Mac) Backup and Encryption
- DMZ 3rd party access
- Field permissions and group management
- Policy education/employee awareness training
- Penetration and vulnerability testing

- Anti-spam and spearphish attacks
- Remote access
- Wireless network security
- Passwords (IT admins and employees)
- Anti-virus/anti malware
- Weekly PC patching
- Encryption of data in motion for critical systems
- Anti-virus serves and PCs
- Monthly and weekly server patching

Purchase logical and defensible technology: With the vulnerability levels known, purchase technology that is appropriate. You will find that some of the “fixes” needed may not require a purchase but perhaps an adjustment to the network – maybe apply a patch, or set up alerts or reminders.

Develop a security policy for all staff: Train staff on these security policies. Demonstrate to staff that IT security/cybersecurity is a serious strategic goal for the organization and highlight areas where they need to assist with maintaining this strategic position. In addition to the security policies, force staff to change their passwords every 90 days. It is recommended that educating staff must be on a schedule – not just a one-time training, but a repeated training and reminder.

Install security software on the company's IT assets such as computers, servers, etc. This protects your assets and allows for automatic updates as needed.

Data back-up is critical for security. Back-up regularly. Engage a highly recommended hosting provider to store your data backups – a cloud service provider is highly recommended.

Protect company's WiFi: The Company's WiFi network should be protected - apply encryption to the wireless signal. Be sure to consider this for both the office and on the jobsite. Create a router password that only staff and persons you to access it.

When a company is breached, the effects are widespread. It impacts not only internal stakeholders but clients/customers and other key external associates.

The construction industry is experiencing explosive growth in the use and value of sophisticated technology to conduct business. We have seen growth within jobsite connectivity software, mobile apps, full-scale enterprise systems and impressive technology platforms serving various functions such as project management, estimating, accounting and bidding. These systems all rely on connectivity to the internet and therefore, are exposed to cyber threats. Cyber attacks are here and there is no sign of it going away. If anything, hackers are getting more sophisticated. All CEOs and other members of the C-Suite should be collaborating with the IT department to remain vigilant on securing the IT assets. In closing, please note AGC will host a series of WebEducational (Webinar) series on cybersecurity beginning in November 2016. More information is forthcoming at www.agc.org.

Fara Francis, Chief Information Officer for AGC of America, is a forward thinking IT leader with more than 15 years of experience managing and executing IT strategies and projects for organizations. She is a senior executive with a history of leveraging emerging technologies to effectuate positive change in customer-focused, service-driven environments. Contact Fara at francis@agc.org.



2016 Arkansas Construction Hall of Fame



Doug Wasson, Beth Franks, Clay Gordon and Keith Jacks



Bruce McFadden, W. Kent Ingram, Jr., Rick Geraci, James Meyer, Charley Penix and Bobby Roberts



For more information, contact Jerry D. Holder Jr., PE | Director of Transportation
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Comings & Goings

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Job Changes

Kinco Constructors is excited to announce **Walt Jines** as Project Manager. Jines is a 2007 graduate of the University of Arkansas at Little Rock with Bachelor of Science degree in Construction Management. He is an ASHE Healthcare Construction Certificate Holder, a Certified Document Technologist, is OSHA 30 Hour trained, and has been actively involved in numerous AGC activities for several years. He and his wife Aunna have two children and reside in Little Rock, AR.

Nabholz Construction Services has hired **David Petty** to manage the Specialty Services for the Rogers office. David brings over 14 years of construction experience and 40 years of managerial experience to his new position at Nabholz.

Jeff Ward joins **Nabholz Environmental Services** and serves as Project Manager. Jeff is a licensed Professional Geologist with a background of integrating technical and regulatory solutions to environmental issues. He has experience in environmental consulting with an emphasis on soil and groundwater.

William (Bill) Simpson has been promoted to New Systems Sales Team Leader for **Harrison Energy Partners**. Bill has the primary responsibility of leading the Little Rock based equipment team serving consultants, contractors and building owners. He earned a Bachelor of Science in Mechanical Engineering from Georgia Institute of Technology. Upon graduation, Bill began working at HEP as a Sales Engineer in June 2004.

Greg Blair has been promoted to General Sales Manager for **Harrison Energy Partners**. Greg will have the primary responsibility of expanding Harrison Energy Partners client base in Arkansas. Greg earned a Bachelor of Science in Business Administration from the University of Arkansas. Upon graduation, Greg worked with Carlton Industrial Automation as a Sales Engineer. He joined Harrison Energy Partners in September of 1999 as a System Sales Account Manager.

Baldwin & Shell's Vice President of Northwest Arkansas, **Jim Minor**, was recently appointed to the Baldwin & Shell Board of Directors.

Baldwin & Shell is excited to announce the following promotions: **Jeff Marcussen** was promoted from Director of Preconstruction Services & Construction Technology to Vice President of Marketing & Business Development. Former Director of Estimating, **Chuck Hesselbein**, has been in the construction industry since 1972. He was promoted to Vice President of Estimating & Preconstruction. **Mike Meadors** started as a Project Estimator in 2000, was promoted to Chief Estimator in 2014, and was recently promoted to the Director of Preconstruction in the Central Arkansas Office. **Zack Harvey** was recently promoted to Assistant Director of Materials and Equipment Management. As a part of the Industrial Services Team, **Larry Hiegel** was recently promoted from Project Estimator to Senior Estimator for Industrial Services. **Teri Ringgold-Smith** has been a part of Baldwin & Shell for over 8 years and was recently promoted from Executive Assistant to Director of Contract Administration & Compliance. Located in the Northwest Arkansas Office, **Juanita Torres** was promoted from Administrative Assistant to Project Assistant. **Roger Short**, also located in the Northwest Arkansas Office, was promoted from Chief Estimator to the Director of Preconstruction in the Northwest Arkansas Office. With over 20 years of experience, **Chuck Garrett** was promoted from Project Estimator to Senior Estimator for our Construction Services team. **William Smith** has been in the construction industry since 1979 and was recently promoted from Superintendent to General Superintendent for the Central Arkansas team.



Blair



Crawford



Garrett



Harvey



Hesselbein



Hiegel



Jines



Koon



Livingston



Marcussen



Meadors



Minor



Northcutt

Baldwin & Shell has also welcomed several new members to its team: **Randy "Red" Reedy** joined the Central Arkansas team of Superintendents. **Jeff Crawford** has been hired as a Project Manager for the Central Arkansas team. The Northwest Arkansas team has hired **Jeff Ramming** as a Project Estimator, and **Cameron McKay** as a Project Coordinator.

Company News

Effective June 27, 2016 the lawyers and staff of **Chisenhall, Nestrud & Julian, P.A.** will join with the **Barber Law Firm, PLLC**, one of Arkansas' oldest and most respected law firms. The Barber Law Firm will now offer legal services in the practice areas of Environmental; Regulatory and Public Utilities; Real Estate; and Banking and Finance.

Ralph Livingston, Safety Director at **CDI Contractors**, celebrated 50 years in Safety in June. His safety career began in June 1966 with the US Air Force. During the late 1970's, Ralph furthered his aviation safety expertise in airport operations and also the petroleum industry engaging in petroleum fire protection. During this era of his career, he was formally trained in Occupational Safety. In the 1980's, Ralph served as the Senior Safety Consultant for the American International Group (AIG) in New York City (1988). He was later appointed as National Safety Manager for AIG Aviation in Atlanta, GA where he specialized in aviation operations and worker safety nationwide. Since the mid 1990's, Ralph has administrated safety practices in many enterprises including consulting, employee health, program direction, and general contractor/construction project safety in 48 of the 50 United States, including Alaska and Hawaii. Ralph has been the Safety Director at CDI Contractors for the past 6 years.

Baldwin & Shell announces that **Jeff Marcussen** has been appointed to the State of Arkansas Academic Facilities Review Board.

Congratulations to **Charles Dawson** of **Alessi Keyes Construction Company** for being the first CM-BIM certified constructor through the AGC Arkansas Building Information Modeling Education Program.

AGC Arkansas is pleased to announce the following who have recently earned CM-LEAN certification through the AGC Arkansas LEAN Construction Education Program: **Tyson Reimer** and **Eriks Zvers** of **Kinco Constructors** and **Jordan Northcutt** of **UAMS**.



Petty



Ramming



Reedy



Reimer



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