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IN THE PIPELINE

NUCA OF NM NEWS

November 2008

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~President's Message

by **Boyd Dunham**

We are coming up on a very busy time of year for everyone as the holidays are just around the corner. There are a few things that you need to be aware of at NUCA of NM:

- The ballots have been counted and tallied for the 2009 Board of Directors and I am looking forward to working with the new Board as we plan for another successful year in 2009. I want to personally thank the outgoing Board members: Mike Smith, Hydro-Systems Inc., Wendy DeGraaf, Albuquerque Asphalt Inc.; and Dan East, Cone Construction for their service and dedication to the Board and the association over the years. As you are all aware, this is an association run by volunteers and members are the essential element to the success of the association. Please join me December 4th at the next membership meeting to show appreciation to the outgoing Board members and to welcome the incoming 2009 Board of Directors.
- The Board will be meeting in December to make a plan of success for 2009! It's essential that we have member involvement, so why not get involved in a committee next year? There is no obligation to serve, but your time and effort is always appreciated, and you will soon learn that you actually get more out of your association by being involved. Standing committees include Safety Committee, Education Committee, Government Relations Committee, Planning Committee, and we are now putting together a Human Resources Committee. There is no complicated membership or commitment to attend committee meetings; simply, if you work for a member

company, you can be on a committee.

- Membership renewals will also be going out in December. Please review the documents carefully because you will be billed for the same amount of dues that you paid in 2008. Sometimes, your membership level may change and your dues may change also. As you consider renewing your membership, remember that we are working at the local and national level to get more funding and business friendly legislation for the industry. NUCA of NM is your frontline for Promoting, Protecting and Preserving the Utility Industry. If you have questions or concerns about membership, please contact Jane Jernigan at the Association office at 888- 0752.

Need I say? Don't forget to Vote today, and Happy Thanksgiving. I hope to see you at the next Membership Meeting on December 4th.

~Membership Meeting

There were two guest speakers at the previous NUCA of NM Meeting: Kurt Wagner, AMAFCA and Carlos G. Martinez.

Kurt Wagner, AMAFCA, assisted by Jerry Lovato, briefed the audience on previous AMAFCA projects and stressed the importance of the bond passage to continue the funding of AMAFCA projects in the Albuquerque area. The bond does not raise taxes. The 2009 Bond would allocate \$20 million for construction projects through AMAFCA.

Carlos G. Martinez, Butt Thornton & Baehr PC, spoke to the group about worker's compensation insurance. He gave a brief over view of the differences of Worker's Compensation and liability insurance and where your company may be vulnerable to lawsuits. Originally used to indemnify, cover wages, medical and attorney's fees with a cap, WC did not include provisions for punitive damages or pain and suffering. The law become focused on 'intent' to go beyond the realms of WC. However, after the Delgado Vs. Phelps Dodge Case in New Mexico, the Supreme Court changed the rules on the 'intentional act.'

Martinez also touched on the subject of lump sum payments, and the differences between a law suit in district court vs. a worker's compensation court case.

He concluded that the best way to prevent law suits was to have an excellent safety program, and to make sure that your company has enough coverage. Ask your insurance agent some tough questions, and ask about certain scenarios that you are concerned with and that may damage your company. Also, make sure that you document your conversation with your insurance agent to confirm the answers to your questions.

The next NUCA of NM Membership Meeting is scheduled for December 4, 2008. Watch your mail box for a postcard with more information.

~Eye on New Mexico



By Carla Sonntag
NUCA of NM Lobbyist

According to Alex Kaplun, Greenwire reporter, "If the political earthquake that many predict occurs Tuesday (11/4/08), its epicenter

could be New Mexico, which appears poised for a dramatic leftward shift in its congressional delegation."

It's interesting that New Mexico is receiving such national focus, but not too surprising given the retirement of Senator Pete Domenici. Domenici, who chaired the Senate Energy and Natural Resources Committee for many years, has remained the national spokesperson for this committee even after being succeeded in that role by Senator Bingaman. He is retiring from the Senate after 36 years, leaving a desirable seat open which has led to a fierce battle to fill it.

If New Mexico can be called the 'epicenter' of activity for the current election season, energy is certainly a large part of the epicenter of current economical issues. At the very least, it has affected foreign policy decisions and our economy.

In New Mexico, we have seen some of the most vicious fights in memory for positions to be filled at almost every level. We lost strong business advocates in the state legislature in the June primary and hope to retain others fighting for re-election in the general election. Money continues to pour into our state from outside sources seeking to influence these races for special interest groups.

If you have not voted, please take the time to do so on Election Day, Tuesday, November 4, 2008. Elections have been decided by as few as a couple of hundred votes. Your voice DOES matter and CAN make a difference.

If you voted absentee, you can track your ballot at: <http://www.bernco.gov/absenteevote>

~ One Election Over

The 2009 NUCA of NM Board of Directors have been voted on the results are as follows:

Boyd Dunham, Western Summit of NM
Kari Biernacki, AUI Inc.
Gary Greene, Tom Growney Equipment
Bill Alexander, AMEC
Matt Lehman, TLC Plumbing & Utility
John Taylor, Cone Construction (transfer)
Teresa Baker, HD Supply Waterworks
Steve Moore, RMCI Inc.
Luke McCoy, ERS Constructors
Rick Coe, Python Construction
Dub Girand, Highway Supply LLC

Congratulations to those newly elected to the Board. Thank you Mike Smith, Hydro-Systems, Inc.; Wendy DeGraaf, Albuquerque Asphalt, Inc.; and Dan East, Cone Construction for your service, time and efforts over your previous Board terms.

Please join us to introduce and welcome new Board members, and recognize the outgoing Board members at the December 4, 2008 Membership Meeting.

~AUI Honored



AUI Inc, and its CFO Michele Zulka-King were honored this week in the *New Mexico Business Weekly Top Performing CFOs of 2008*.

Michele Zulka-King CFO ranked 3rd in the category of Top Performing CFOs of Large Private Companies.

Congratulations Michele and AUI Inc.!

~ **New Member**

Welcome New Member:

Jeff Pasquier
SGP Construction LLC
PO Box 67409
Albuquerque, NM 87193-7409
505 896-0464
505 994-4104

~TLC Plumbing and Utility Platinum Sponsor



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~2008 Sponsors

2008 Sponsors:

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- Albuquerque Asphalt Inc.
- AUI Inc.
- Tom Growney Equipment
- New Concepts Inc.
- Triad Builders of NM
- AMEC
- Hydro-Systems Inc.
- Western States Insurance
- HD Supply Waterworks

~November Dates

- 11/04/08 Election Day
- 11/11/08 Veteran's Day
- 11/12/08 Safety Committee 8:00 am
- 11/13/08 Planning Committee 8:30am
- 11/13/08 Education Committee 3pm
- 11/17/08 Executive Board Meeting
- 11/17/08 Board of Directors Meeting
- 11/27/08 Thanksgiving Day

If you would like more information on the Committees or other meetings, please call the Association office at 505 888 0752 or email nucanm@nucanm.org

NUCA of NM Committees are open to all members, and all committee meetings are held at the Association office unless otherwise noted.

Visit the NUCA of NM Quick View Calendar

~ NUCA Report



Jane Jernigan, NUCA of NM Executive Director, attending the NUCA Fall Board and Committee meetings in Indianapolis IN in October. The information below is a summary of those meetings attended.

NUCA Opening General Session

- NUCA attended the first Contractor/Engineer Partnership meeting on October 8, 2008 and will have another meeting at the EXPO in Phoenix in March 2009.
- NUCA staff will be meeting with members in Colorado before the end of the year to move forward in forming a Chapter in Co. As of 10/07/08, there are 1603 members which is about 150 members down from this time in 2007.
- NUCA was instrumental in raising the SRF up to 7.5 billion and the Highway fund to 12 Billion this year and will send out a letter to chapters that can be sent to local representatives to encourage voting for infrastructure.
- NUCA puts out a Water News Update that summarizes major collapses or failures in infrastructure across the country. It is a free service to sign up and NUCA will be using the data collected to take to Congress.
- NUCA is also collecting pictures of infrastructure collapses and failures to use to show members of Congress the dire need for funds to fix the American infrastructure. Liquid Assets has a 15 minutes presentation on the infrastructure crises in the United States, and NUCA asked that chapters write a letter to local TV stations and ask them to show the video.
- The NUCA Big Show scheduled for March 09 in Phoenix is looking good as far as vendors and classes are concerned; right now, NUCA is trying to boost attendance. NUCA asked that Chapters really push the EXPO locally and encourage participation.

Trenchless Technology Committee

- NUCA is working on a Tunneling Compliance Program. The Committee discussed the program and asked that members review the slide presentation to ensure that the information is correct and nothing has been overlooked.
- George Kennedy is still waiting on a response from OSHA regarding when an auger boring operation must be designated a tunnel v. confined space. OSHA is understaffed and it is unlikely that an interpretation will be provided until the new proposed confined space rule is finalized or dropped.
- There is a new crane standard coming out soon since there have been a lot of crane accidents over the past year. The Proposed rule came out on October 3rd and is 415 pages long. It incorporates inspections, operators, mechanic trucks, small cranes, over 2 ton cranes, and certification. The operators will be tested on load charts, and operations and may have to have different licenses for different types of cranes. The actual standard is about 20 pages long and the rest refers back to reasoning of the proposal which is found in the preamble. Bottom line is machines must be certified and operators must be licensed; however, OSHA does not have the resources to train their inspectors to enforce the new ruling. If there is a crane accident the OSHA crane experts will be on the scene, but the regular inspectors in individual states may have little or no training.
- A member mentioned that contractors should make sure that chains and spreads are rated before use, or there could be a penalty from OSHA.

Education Committee

- Chapter 1 of the Pipelayer Training CD is now on sale. There have been 47 of chapter 2 sold so far and NUCA anticipates at least 60 sales. APWA and VISTA are the only other associations/companies that are selling the product.
- Committee is ready to focus on Chapter 3 of the Pipelayer Training CD. Chapter 3 focuses on working with pipe. At this time, the committee is waiting for input from the pipe companies.
- The committee discussed the best ways to market the product and feels that the only reason sales are low is due to lack of marketing of the product. It was suggested that VISTA prepare a 3-minute snippet of the training for use at meetings both nationally and in the chapters.
- It was suggested that a marketing tool include purpose and content, demonstration of multimedia, highlight industry need for product, target audience (semi-skilled crew), and current owner testimonials. Committee discussed the Procedures Sharing section of the NUCA web page.
- There was a discussion about NUCA Membership and Chapter relations and information on new chapters that are being worked on around the country. The Chapter Awards of Excellence applications will be going out late October and will be due back in March of 2009.

Executive Directors Council

- George Kennedy, NUCA's Vice President of Safety, has been comparing several online training companies for the past few months, and narrowed his recommendations down to three. He discussed the attributes, content, price, and ease of training and how well the companies will work with NUCA. He also stated that NUCA can easily have downloadable podcasts on the NUCA web page which could be Safety Articles or Tool Box Talks. Webinars could also be available but have a significant cost.
- Council discussed the upcoming NUCA Leadership Conferences and concluded to have the 2009 Leadership Conference in conjunction with the NUCA Big Show and Expo in Phoenix, AZ in March 2009.
- Heather Caldwell talked about the new membership campaign which is "Remainder of the Year Free." Meaning that new members who join now will receive the rest of 2008 for free if they pay for a full year for the 2009 dues.

Safety Committee

- Fleet Safety - The Safety Committee has been working on a NUCA Fleet Awareness and Safety Manual for a few months and may consider using a manual from JJ Keller. At this time, the task of creating a Fleet Awareness and Safety Manual has proven to be a daunting undertaking and there are also updates that would have to be done periodically throughout the year. It would be extremely difficult for NUCA to have a manual that works well for every state and then provide updates for each state as changes come around.
- Committee discussed the membership of the Safety Ambassador's Club and what the revenue from membership dues are used for. They voted to add another level of \$250 to accommodate smaller contractors. It was also suggested that the level of participation be displayed on a NUCA name badge when meetings are held.
- CNA has a Safety Orientation DVD that they would like reviewed by the NUCA Safety Committee. It is a basic overview and would work well as a new-hire or refresher training. CNA would be willing to co-brand the DVD with NUCA as long as the DVD was given away at no cost. CNA has safety related documents on their web page free to download and use.

- The OSHA Confined Space hearing was in July; there has been no word back from OSHA as to how they will proceed with the proposed language. NUCA and other construction associations are opposing new penalties from OSHA on PPE. The new language would change the current penalty which fines the company for a violation of PPE standards, to a penalty for each violation. This means that rather than one fine for the company, the fines would be assessed for each violation.
- NUCA will train CNA personnel as NUCA Certified Trainers as long as they meet the current criteria.

Government Relations Committee

- Good news on the economic stimulus legislation that allows 6.5 billion for SRF, 3 billion for Clean Water, and 300 Million for RUS. The SRF reauthorization bill is out of Senate Committee. This is a good sign because this has not happened since 1995. This means that the Senate will act on a bill that provides 38 billion on infrastructure funds such as SRF, Sewer, drinking water, etc. SB 3500
- The Clean Water Council now has 34 groups involved and the Committee is encouraging local chapters to start a CWC in their area. The committee also discussed the Water News Update that is also sent to legislators.
- Employment Verification is going to be a big issue in 2009. NUCA's main concern is safe harbor language and sub-contractor flow-down protection must be in any legislation.
- Other legislation that will be a priority for NUCA in 2009 is Card Check, FMLA, Family Leave, Death Tax. There is a new case with MCI suing a company in GA for 2.2 million for loss of use; previously, STRAF funds helped a company in VA who was being sued by MCI for loss of use. The contractor won this case and did not have to pay loss of use penalties.

~Western Summit of NM 2008 Platinum Sponsor



Thank you Western Summit of NM for your Platinum Sponsorship.

Visit the Western Summit Web Page

~NUCA BIG Show

**Utility Construction
EXP '09
The BIG Show
March 4-6, 2009
Phoenix Convention Center**

Utility Construction EXPO '09 "The Big Show" will be held March 4-6 at the Phoenix Convention Center in Phoenix, Arizona. Presented every three years, "The Big Show" offers an impressive display of heavy construction equipment, as well as the latest technologies, products and services being offered by the leading manufacturers and suppliers in the utility construction industry. Education sessions--being led this year by EXPO exhibitors--will help contractors make more informed business decisions.

As always, there will be motivational speakers-- John Powers and Tedy Bruschi--to make attendees think about their lives and businesses in new ways.

Finally, EXPO '09 will offer a variety of social events that provide opportunities for both networking and fun -- opening golf tournament, Welcome Reception, Auction and President's Ball

Registration is easier than ever!
 Register online by clicking [Here](#)
 Check out the brochure by clicking [Here](#)

~On Capitol Hill



Economic Recovery Front and Center in Lame Duck Session

On behalf of NUCA and the 34-member Clean Water Council (CWC), NUCA President Terry Dillon will once again take to Capitol Hill, this time to testify before the full House Committee on Transportation and Infrastructure (T&I). Titled "Investing in Infrastructure: The Road to Recovery," the hearing will be held at 9:30 a.m. on Wednesday, October 29.

It can be viewed online at <http://transportation.house.gov/> Dillon's testimony will explain why water infrastructure investment must be included in any economic recovery legislation that might be considered if and when Congress returns for a "lame duck" session following the November 4 election. He will also announce preliminary findings from the economic impact study being conducted by Americans for Pure Water, a public relations campaign managed by the CWC. As reported previously, the House passed economic stimulus legislation in September that included almost \$8 billion in water and wastewater infrastructure funding, including \$6.5 billion for the Clean Water State Revolving Fund (SRF), \$1 billion for the Drinking Water SRF, and \$300 million for water, wastewater and reclamation projects. Although the Senate failed to pass its version of a stimulus package, the continuing downturn in the economy has spurred new discussions, and a lot of press coverage, about the need for an economic stimulus/ recovery bill before the 110th Congress adjourns. A major focus of the current debate is whether and how much infrastructure investment should be part of the package. NUCA's testimony before the House T&I Committee on Wednesday will show that recent data regarding "ready-to-go" water/wastewater infrastructure projects around the country and the economic benefits generated by such projects justify a \$10 billion appropriation in economic recovery legislation. If and when legislation is introduced, NUCA and the Clean Water Council will be front and center in supporting the inclusion of underground infrastructure investment, and we'll need your help.

OSHA Looks to Expand Reach of PPE Rule

The construction industry is asking the U.S. Occupational Health and Safety Administration (OSHA) to rethink its approach to the proposed rule regarding personal protective equipment (PPE). Specifically, the industry is concerned that OSHA will broadly use a "per-employee" approach to enforcing the rule, rather than reserving it for flagrant or willful violations. OSHA maintains that "per employee" citations would be reserved for "egregious" cases, but the industry believes that the language indicates otherwise. Indeed, the current proposal states: "[T]he employer must provide PPE to each employee required to use the PPE, and each failure to provide PPE to an employee may be considered a separate violation." The ambiguous "may be" is what is causing the concern because it raises the specter of increased employer liability. Unfortunately, while the construction industry agrees that the rule as written would make an already burdensome regulation worse, union officials support the proposal and note that the change is also backed by Advisory Committee on Construction Safety and Health (ACCSH). As a leader of the Construction Association Safety and Health Information Network (CASHIN), NUCA will work with like-minded construction organizations to encourage OSHA to clarify in the PPE rule when per-employee citations would be issued, or continue with current enforcement policy.

Construction Employment Sheds More Jobs in September

All of this discouraging data only serves to underscore the need for Congress to pass economic

recovery legislation this year, and the fact that infrastructure investment must be a part of that legislation. >

Information in this reported duplicated with permission of the National Utility Contractors Association, and provided by Eben Wyman Vice President, Government Relations and Ben Gann Government Relations Coordinator

~NUCA Safety Instructor

REGISTRATION FOR 2008 SAFETY DIRECTORS FORUM NOW OPEN:
NUCA's annual Safety Directors Forum will be held December 1-2 in San Antonio, Texas. This year's theme--Safety Programs & New Ideas--will be examined in sessions like:

- "Certification: Benefits, Types and How To,"
- "DBO2--Identifying Hazards and Unsafe Trends,"
- "Understanding Your Experience Modification Rate,"
- "Confined Space in Construction,"
- "Heavy Equipment Safety,"
- "Alcohol and Drug Abuse: DOT Reasonable Suspicion Training for Supervisors,"
- "How Is Your Safety Program Working."

Since 1994, NUCA's Safety Directors Forum (SDF) has been bringing together utility construction safety and risk management professionals from around the country to learn from expert presenters and each other about how to create and maintain accident-free workplaces and jobsites. We invite you to join us for the 2008 SDF, which will be held December 1-2 in San Antonio, Texas. This year's theme--Safety Programs & New Ideas--will be explored in the following sessions: "Certification: Benefits, Types and How To," "DBO2--Identifying Hazards and Unsafe Trends," "Understanding Your Experience Modification Rate," "Confined Space in Construction," "Heavy Equipment Safety," "Alcohol and Drug Abuse: DOT Reasonable Suspicion Training for Supervisors," and "How Is Your Safety Program Working." As always, the event will conclude with an Open Forum where attendees will have an opportunity to discuss their own company challenges and share successful safety solutions.

[Click here to download the registration form](#) or to register online. The fee is \$425 for NUCA members, \$645 for non-members.

NUCA 2008-2009 Safety Ambassador Club members receive one complimentary registration per company.

NUCA has reserved a block of rooms at the Drury Inn & Suites River Walk at the discounted rate of \$133 single/double. To make reservations, please call (800) 325-0720. The hotel cut-off date is November 7, 2008; after that date, the discounted rate cannot be guaranteed.

You can save \$25 per registration if you register by November 7th, 2008. And if you are a Safety Ambassador, you get one free registration! Contact NUCA for more details on registration discounts 703- 358-9300

~ **NUCA Member Honored**

Congratulations to Jim Giannelli, RMCI Inc. for being honored as NUCA Ditchdigger of the Year 2008!

Ditchdigger of the year is presented annually at the NUCA EXPO to a contractor member who has made a significant contribution to NUCA and the underground utility construction industry.

~**East For Congress**



Help put a HARD HAT in Congress! VOTE!



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