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Creating a Culture of Safety

On June 10, 2008 the AGC celebrated the safety achievements of contractors throughout the state with the annual safety awards luncheon at the Hilton in Costa Mesa. The opening speaker was Vicky Heza of Cal/OSHA, who described the achievements we have made by working together. With the combination of the AGC training, awards and bulletins, and the growing number of contractors who are making safety equal to production and cost, huge strides have been made in the safety of our industry.

This got me to thinking about quantifying the actual gains we have made over the last couple decades. Digging through old files in 1990, records show we thought we were being safe when we had one doctor’s case in 10,000 worker hours and one lost time incident in 100,000 worker hours. Let’s put this into perspective. That means for every five people working full time for one year, there is only one nicked finger. Contrast that to today, where the winners of the AGC awards are exceeding 100,000 worker hours with only one doctor’s case and in some cases reaching one million worker hours without a doctor’s case. That is over 50 full-time craftsmen, working a full year, without a nicked finger. It’s incredible what has been achieved, but wouldn’t it be great if we could eliminate accidents in the work place altogether! That should be everyone’s goal.

Make sure you start planning now for next year’s awards. The categories include: Harry Eckstein Safety Professional of the Year, High Hazard Award, Superintendent Award, Unique Safety Application Award, and Specialty Contractor Award. Building and Heavy/Civil/Highway awards are given to companies in under 200,000 worker hours, 200,000 to 500,000 worker hours, 500,001 to 1 Million worker hours, and over 1 Million worker hours. This is based on a calendar year, so start preparing now to enter this prestigious annual AGC competition.

Speaking of preparing, keep in mind what the AGC can do for you to get prepared to maintain a safe workplace in your company. A successful safety program requires five significant acts:

- Let people know what is expected of them
- Do the necessary training
- Monitor for compliance
- Determine and implement non-compliance discipline
- Thank and recognize individuals for safety compliance

Keep in mind that this can be a culture shift for some companies, and the AGC can help. The culture that makes safety a priority starts at the top of your organization and trickles down to your foremen and craftsmen. Check out AGC’s new web site at www.agc-ca.org to find specific services that can help in your safety efforts, such as crane certification classes, training videos, safety publications, regulatory alerts, Cal/OSHA programs and updates, recordkeeping guides, safety training and supplies and much more. Bo Bradley, Director of Safety, Health & Regulatory Services for AGC, heads up the AGC Safety & Health Council in which over 100 safety professionals from member companies participate. These safety professionals can provide a wealth of information to help you with safety issues.

Last but not least, do you want to save money? If you don’t have enough hours to self insure and can show a safe record, you can have the next best thing with the AGC program called SeaBright Insurance Partnership, where you can participate in a multi-employer self insurance program. The safety savings is refunded back to you through SeaBright’s aggressive claims handling, loss control and medical cost containment.

Again please join me in congratulating all of the winners of the AGC Safety awards. They have all learned the value of providing great safety programs and deserve our recognition.

-Wayne Lindholm
There used to be two certain things in life – death and taxes. Now we can add a third – a dysfunctional Legislature. And, depending on where you are sitting, that may be a good thing.

State Budget Deadlock

Again this year the Legislature deadlocked on approving the state budget on time and cancelled the scheduled summer legislative recess. It takes a 2/3rds vote of the Legislature to pass the state budget and any tax increase that might go along with a budget deal. The Democrats consistently advocate new taxes to fill the revenue gap, and the Republicans support spending reductions to keep spending in line with revenues. This year both sides dug in their heels and waited for the other side to blink.

During this time legislative committees continued to meet as the legislative leaders met behind closed doors in attempts to find any compromise that would represent progress toward a budget solution. As the heat index in Sacramento rose to record temperatures, so did frayed tempers on both sides of the political isle. Neither side gave any indication it would cave in to the other’s demands.

The budget and state economy has been in a steady slide for about the last two years. Last year the Governor and Legislature pasted together a budget that postponed pension payments, loaned funds from special accounts, and took money from transit districts to allow the state to keep spending more than it was producing in revenues. Mandates for school programs, prison funding, health and welfare programs continue to push spending requirements higher each year, outstripping the ability of revenues to keep pace. This is the so-called “structural deficit” that continues to widen as the economy sputters.

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Dead Bills

Dead for the year are bills opposed by AGC that would have:
• Imposed burdens on contractors for verifying residency status of construction workers (AB 2421 and AB 2089);
• Repealed the sales tax on gasoline thus eliminating Proposition 42 funding (AB 1306, SB 540, & AB 1190);
• Established a lead abatement registration program with the Division of Occupational Safety & Health (AB 354);
• Required hospital construction inspectors to be state employees (AB 2966); and
• Authorized the Franchise Board to revoke a contractor’s license for failure of the qualifier to pay his or her personal taxes (AB 1925).

Bills Opposed by AGC

Other legislation opposed by AGC still moving through the Legislature includes:
• AB 1698, which would require public works contractors to obtain a separate license from the Contractors License Board in order to bid public works projects;
• AB 734 which maintains the “needs test” for apprenticeship programs and limits membership on the California Apprenticeship Council;
• AB 1352, which will protect contractors from having to pay wages and penalties arising from liquidated damage claims prior to a contractor’s request for an administrative hearing (co-sponsored with the Construction Employers Association);
• AB 191, which would require all state school bond funded projects to operate labor compliance programs;
• AB 2177, which would allow “Group Compliance Officers” to access job sites to verify compliance with labor laws through interviews with workers; and
• SB 1717, which would increase workers compensation benefits for permanent disability.

AGC Sponsored Legislation

Some of AGC’s sponsored and co-sponsored bills opposed by the construction industry:
• SB 1449 to give contractors protection from liability from faulty plans and specifications provided by public agencies (co-sponsored with the Construction Employers Association); and
• AB 983, which protects a contractor from paying wages and penalties arising from liquidated damage claims prior to a contractor’s request for an administrative hearing (co-sponsored with the Construction Employers Association).

License Board in order to bid public works projects;

• AB 734 which maintains the “needs test” for apprenticeship programs and limits membership on the California Apprenticeship Council;
• SB 569, which would give employees a right of action for up to four years to bring a prevailing wage violation claim against an employer;
• SB 191, which would require all state school bond funded projects to operate labor compliance programs;
• AB 2177, which would allow “Group Compliance Officers” to access job sites to verify compliance with labor laws through interviews with workers; and
• SB 1717, which would increase workers compensation benefits for permanent disability.

A complete Legislative Report will be available at the end of the 2008 legislative session.
The AGC of California honored approximately 20 companies for their commitment to safety, handing out a variety of awards during the 21st Annual Safety Awards of Excellence luncheon in Costa Mesa on June 10th. More than 100 safety professionals and AGC members gathered for the prestigious Safety Awards luncheon and presentations.

The program recognizes contractors and their commitment to safe work practices through management commitment and employee involvement.

The awards were given in various occupational categories, including Building, Heavy/Civil/Highway and Specialty, and were organized by the number of work hours. AGC also named several special category awards, including naming Juanita Kirkpatrick, Rex Moore Electrical Contractors & Engineers, as the Harry Eckstein Safety Professional of the Year Award winner.

Vicky Heza, Deputy Chief of Cal/OSHA, delivered the keynote address at the AGC Safety Awards of Excellence luncheon. She commended AGC and its members' leadership in the safety arena, and noted that jointly industry and Cal/OSHA have helped bring about a decline in injury and illness rates reported over the last few years in the construction industry. “Collectively, Cal/OSHA, AGC and members of the industry have continued to work together individually, as well as in partnership, to reduce those statistics even further,” she said. “AGC’s role is a very vital one in terms of safety at the construction site. It also does an excellent job in keeping its members informed of new regulations that affect them and oftentimes is directly involved in the rulemaking process.”

Speaker and presenter Doug Hirsch, Vice President of Loss Control with SeaBright Insurance, noted the decline in workers’ comp rates in recent years, but added, “It is never time to rest on one’s laurels. The construction industry in California has seen a significant reduction in the cost of workers’ comp over the last few years, but we believe we’ve seen the end of the rate reductions as a result of the reforms and we will see rates for construction begin to creep upward. Safety efforts and effective claims management will become even more important now as we try to control rates.”

Additional speakers and awards presenters at the awards luncheon included AGC of California President Wayne Lindholm, Hensel Phelps Construction Co.; AGC Safety & Health Council Chair Dan Schuetz, Independent Construction; Vice Chair of the AGC Safety & Health Council Jerry Shupe, Hensel Phelps Construction; Ike Riser, Shimmick Construction; and Jack Kastorff, Gregory B. Bragg and Standards Board member.

**AGC presented the following Special Safety Awards of Excellence to:**

- Safety on a Highway Hazard Project
Safety of Excellence Award – Syblon Reid, for the Emergency Slide Repair at Akin Powerhouse project in Pollock Pines.

• Unique Safety Application Safety of Excellence Award – Hensel Phelps Construction Company for a unique scaffolding system devised and installed for a high-rise project.

Safety Awards Judges

The AGC Safety & Health Council establishes the selection process of winners of the Safety Awards of Excellence. Judges review and score applications individually, and the results are sealed until the safety awards presentation. The Harry Eckstein awards are the only ones that are decided jointly.

Judges do not review or judge applications in any category in which their company or subsidiaries were entered. The judging panel includes companies and individuals that have received AGC safety awards in prior years, the Chair of the Safety & Health Council and a specialty contractor.

This year’s panel of judges included:

• AGC Safety & Health Council Chair Dan Schuetz, Independent Construction Co.
• AGC Safety & Health Council Vice Chair Jerry Shupe, Hensel Phelps Construction Co.
• Gena Roberts, Harbison-Mahony-Higgins Builders
• Nick Cloud, McCarthy Building Company
• Marjorie Boone, JoshuaCasey Training Corp.
• Shelli Shephard, Epic Incentives
• Wade Obermann, Swinerton Builders
• Ike Riser, Shimmick Construction
• Don Bradway, Monarch-Kneis
• Vicky Heza, Deputy Chief of Cal/OSHA Enforcement
• Jack Kastorff, Risk Control Manager for Gregory B. Bragg and Associates and Standards Board Member
• Doug Hirsch, SeaBright Insurance

Winners and runners-up in the company worker hours categories were selected in up to four categories and three occupational divisions for 2008, as outlined below.

AGC of California’s first place Safety Awards of Excellence winners include:

• Building Division under 200,000 work hours – Frank Schipper Construction Co.

• Superintendent Safety Award – Dan Long with Hensel Phelps Construction Company

• Heavy/Civil/Highway Division under 200,000 work hours – American Paving Company
• Specialty Division under 500,000 work hours – Kroeker Inc.
• Building Division 200,001 to 500,000 worker hours – Panattoni Construction, Inc.
• Heavy/Civil/Highway Division 200,001 to 500,000 work hours – Syblon Reid
• Building Division 500,001 to 1 million work hours – Hensel Phelps Construction Company
Rex Moore Electric’s Safety Manager Named AGC Safety Professional of the Year

Juanita Kirkpatrick, Safety and Risk Manager for Rex Moore Electric, Inc., was named the AGC/Harry Eckstein Safety Professional of the Year.

Named in honor of Guy F. Atkinson Company’s former safety director, Harry Eckstein, the award reflects the safety knowledge and experience, the quality and effectiveness of the award winner’s company safety program, as well as the leadership quality and performance displayed by the individual.

Kirkpatrick has been with Rex Moore for over five years, overseeing the safety and health functions of the Sacramento-based company that has over 600 field employees and about 75 office employees. She has a bachelor’s degree in occupational safety and health, and has her construction safety & health technician certification from the Board of Safety Professionals. Kirkpatrick is also a trainer in CPR/First Aid, fall protection, and other safety related areas.

In addition to her active involvement on AGC’s Safety & Health Council, she is the incoming president for the Sacramento Chapter of the ASSE, and a member of the National Safety Council. She has actively assisted with a local Girl Scout chapter, providing a safety orientation for the Girl Scouts’ “Under Construction” program each year and introducing new generations of girls to the construction industry.

In nominating Kirkpatrick for the award, Rex Moore’s Greg Anderson said, “It is recognized that there is not a ‘one-size-fits-all’ solution to safety. Juanita looks for any and all approaches to making the projects safer for all trades by developing relationships with our general contractors’ safety personnel, the superintendents and other tradespersons. She is the driving force behind the Rex Moore Return to Work policy,” Anderson added. “She is intent on improving the effectiveness of the company safety program by aspiring to a higher standard.”
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• Heavy/Civil/Highway Division 500,001 to 1 million work hours – Independent Construction Company
• Heavy/Civil Highway Division over 1 million work hours – Kiewit Pacific Co.

Third place Safety Awards of Excellence winners include:
• Heavy/Civil/Highway Division 200,001 to 500,000 work hours – R & I. Brosamer, Inc.

Accepting second place in the over Heavy/Civil/Highway Division, over 1 million worker hour category was Terry Wilsey with Kiewit Pacific Co (right).

• Building Division 500,001 to 1 million work hours – Harbison-Mahony-Higgins, Inc.
• Heavy/Civil/Highway Division over 1 million work hours – Flatiron Corp.

AGC’s Twenty-first Annual Safety Awards of Excellence competition was sponsored by SeaBright Insurance Company and the members of the AGC Safety & Health Council. Shimmick

• Building Division 500,001 to 1 million work hours – Harbison-Mahony-Higgins, Inc.

John Sloan, American Paving Co., (left) accepted the 1st place award in the Heavy/Civil/Highway Division, under 200,000 worker hours category from Jerry Shupe.

Corey Ward, Clark Construction Group, (right) accepted second place award in the Building Division, 500,001 – 1 million worker hours category from Jack Kastorff.

Dan Schuetz with Independent Construction Co. (right) accepted second place in the Heavy/Civil/Highway Division, 500,000 – 1 million worker hours category from Jack Kastorff.

Paul Cocotis of Shimmick/Obayashi Joint Venture (right) accepted second place award in the Heavy/Civil/Highway Division, 200,001 – 500,000 worker hours category from Dan Schuetz.

Brent Wilcox with Ausonio Inc. (right) accepted the second place award in the Building Division, 200,001 – 500,000 worker hours category from Dan Schuetz.

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Hensel Phelps Superintendent Honored

Dan Long, a general superintendent for Hensel Phelps Construction Co., was recognized for his safety efforts with the “Individual Effort on the Part of a Superintendent” safety award from AGC of California. Long has been with Hensel Phelps for 13 years and has over 34 years experience in the construction industry.

During his years with Hensel Phelps, Long served on projects totaling more than $2.1 billion and demonstrated his dedicated safety efforts on all of them. His most current project is the largest construction project in Orange County and the first complete design-build hospital in California, the UCI Medical Center Replacement Hospital in Orange. Other recent projects include the FDA Laboratory in Irvine, Scripps Research Institute project in San Diego, and Controlled Industrial Facility project in San Diego, among others. His commitment to safety and dedication to put people first on project has yielded over 325,000 supervised craft worker hours without a lost time accident.

Long’s focus on incorporating safety at all levels of a project are demonstrated by frequent safety training held on the projects, weekly tool box meetings, a team safety audit, incentive programs, and more.
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Syblon Reid Project Wins High Hazard Award
Monumental Safety and Engineering Challenges Overcome to Complete Emergency Slide Repair at Akin Powerhouse

When Syblon Reid Construction contracted with El Dorado Irrigation District (EID) to perform emergency slide repairs above the Akin Hydro-Electric Powerhouse in Pollock Pines, California in late 2006, even this company known for its ability to provide solutions to difficult projects knew it had its work cut out for it.

The challenges were monumental. They included starting a project in the middle of the winter in a remote location that offered very limited site access, set on 55 degree, 200 foot high slopes that were difficult to stand on, much less modify and operate equipment to run on. Strict compliance with environmental regulations was required.

Syblon Reid’s project management team, with the support of key subcontractors, rose to the challenge, successfully planning and executing the difficult job safely, with no lost time injuries. AGC of California awarded Syblon Reid the Safety Award of Excellence on a High Hazard job for the project.

The project was required due to a series of landslides having occurred directly above EID’s Akin Hydro-Electric Powerhouse and to complete emergency slide repair at Akin Powerhouse.

“Critical success factor in ensuring the safety of all employees on the project was the SRC craft employees placed on the project who are recognized safety leaders. Their experience and commitment to executing safe work practices every day gave the project team confidence in managing the risks. The SRC Project Manager, Marc Rietema, and SRC Project Foreman, Steve Phillips, did an outstanding job of planning, executing, and providing safety leadership on a hazardous project that resulted in zero injuries.”

Marc Rietema, SRC Project Manager

Environmental Issues

Working on a 55 degree slope during rain and snow season that also happened to be 50 feet away from the pristine environment of the South Fork of the American River presented difficult environmental challenges. Prior to the start of the project, Syblon Reid collaborated with the State Water Resources Control Board to ensure Storm Water Pollution Prevention Plans (SWPPP) were in place to minimize sediment runoff from the project into the American River. The area where sediment runoff would concentrate during and after precipitation was set up for strict containment, with numerous measures put in place to ensure that happened.

Syblon Reid contracted with EID to remove 3,000 cubic yards of unstable material from a 55 degree slope, install rock anchors as tiebacks for wire mesh drapery, install concrete grade beams and shot crete v-gutters providing drainage along the slope, and install a concrete crib wall at the base of the slope to ensure stability. Additional project scope included stabilizing slide blowouts on the single lane access road that provides the only access to the powerhouse.

Access Challenges

The project site lies within a steep canyon of the South Fork of the American River. The only access to the site is a three mile single-lane dirt road winding down to the bottom of the canyon to the powerhouse slide below. With only a single vehicle was traveling on the road at any one time. Because a single-lane road provided sole access, not all materials could be hauled safely to the project site. As a result, wire mesh drapery required for slope stabilization was flown in by helicopter from a nearby staging area which required precise planning and execution at both locations.
Weather Challenges

Winter rain and snow presented challenges in scheduling and execution on the project. When critical activities were scheduled, they needed to be completed regardless of weather conditions with environmental controls in place. To meet project schedules employees and subcontractors regularly worked in adverse weather conditions while keeping safety a priority.

“There were many unusual safety risks on this project: the weather and time-of-year, steepness of the slopes and surrounding work area, and limited access to the site,” commented Marc Rietema, SRC Project Manager. “Being directly next to the American River the environmental hazards were a serious consideration. The risks to health and safety were ever-present on this project.

“What made this project successful was that all SRC and subcontractor employees gave their full commitment and attention every day – many times in extreme weather and working conditions – to finishing the project safely.”

Site Challenges

Stabilizing the slide area directly above the powerhouse area required working on a 55 degree 200 foot high slope that could only be accessed from the powerhouse road below. To visualize how steep a 55 degree slope is, consider that an Olympic ski jump is a 37 degree slope and few ski resorts have runs steeper than 50 degree – simply standing on such a slope is difficult at best. In addition, equipment continued on page 17
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requires modification to operate on slopes over 45 degrees. The first project phase entailed pulling an air track drilling rig with a two-part block and tackle to drill and place anchors for subsequent equipment and employees to safely secure to while performing their work. To perform excavation and movement of dirt down the slope, a D4 LGP dozer with a winch was attached to a cable anchored 50 feet deep at the top of the slope. To perform the dirt removal, the dozer was repeatedly winched by cable up the slope and back down again, pushing material down to the road below where it was loaded with an excavator into articulated dump trucks to be off-hauled. Engineered to strict safety requirements and called “yo-yoing” a dozer, this was the most efficient way to move material on the slope. This process was engineered to strict safety requirements and completed without incident.

Besides moving material on the slope, project conditions required employees to be tied-off when working on the slope. Work done on the slope requiring active fall protection measures included placing anchors and stabilization fabric, placing wire mesh directly from the helicopter fly-in, and the placement of shot crete for v-gutters.

**SRC Delivers**

With core values of safety and exceeding client expectations, Syblon Reid delivered on both as the project was completed on schedule with zero injuries.

“The Akin Emergency Slide Repair Project typifies Syblon Reid’s mission statement, “Solutions to Difficult Projects,” commented SRC President Jim Hunt. “With the extreme safety, access, environmental, and schedule challenges, this was the kind of project we seek out and excel at.”

Hunt added, “The major success factors on the project were the mutual trust and team approach displayed by the owner, engineer, key subcontractors, and the SRC team as they came together to address the many challenges in a safe and economical manner. This project is a great example of what can be accomplished when all team members share common vision, values and goals.”
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Hensel Phelps Provides Unique Safety Solution On High Profile Hilton Hotel Project in San Diego

Cantilevering Scaffold System Employed to Safely Install Facade At Top of 30-Story Structure

Soaring 30 stories above the San Diego skyline, just south of the Convention Center and adjacent to the new PETCO Park, the new Hilton San Diego Bayfront Hotel will be a high profile addition to the city when it is completed later this year.

The Port of San Diego selected the team of Hilton Hotels, PPSD as the developer and design-builder for the over one million-square-foot complex. Hensel Phelps Construction Co. is the construction manager / general contractor, and the architect is Portman Architects in association with Joseph Wong Design Associates.

During construction of the project, Hensel Phelps and its subcontractors needed a unique solution for installing structural support and exterior façade at the top of the 384-foot-high hotel structure. The height alone made traditional scaffolding infeasible. The decision was made to install a cantilevered scaffold system, one more typically used in shipyards when working on the exterior of the ship.

This design and successful execution of this system earned Hensel Phelps Construction Co. the “Unique Safety Application” Safety award of excellence from AGC of California for 2008. The award recognizes companies that have designed a unique or creative system or systems to address a safety hazard or provides employees safety in unusual situations.

DHC Engineering designed the scaffold to cantilever over the top of the structure and drop down four scaffold frames, while being completely tied back to the building. The lowest scaffold frame hung suspended 364 feet above the ground.

Access to the scaffold was carefully preplanned to ensure safety to all users. A fully enclosed ladder was provided to eliminate a fall hazard, and all scaffold planks were secured to the scaffold with #9 wire to ensure they did not blow off the scaffold due to the wind.

The engineered drawings were revised four times. Hensel Phelps wanted to ensure that the drawings met applicable OSHA requirements and that all safety concerns were addressed. The scaffolding was erected in seven phases. After completion of each phase, the structural engineer inspected the scaffold to ensure it was installed per specifications. Prior to inspection and acceptance by the structural engineer, only the scaffolding installers were allowed on the scaffolding. Daily scaffold inspections were conducted by a designated competent person to verify that the scaffold was safe for users.

During the erection and dismantling of the scaffold, 100 percent fall protection was in place. All scaffold users completed site specific training on this scaffold and participated in daily safety meetings regarding the job hazard analysis of this system, ensuring that all crew members were updated and reminded every morning of the safety expectations.
Get Answers From the Source!
Speakers from the California Labor and Workforce Development Agency, California Department of Industrial Relations, Division of Labor Standards Enforcement, Division of Labor Statistics and Research, Division of Apprenticeship Standards, and more...

August 28, 2008 (Thursday)
PREVAILING WAGE/LABOR COMPLIANCE WORKSHOP
Facility: California State University, Fresno
Location: Fresno, California

October 23, 2008 (Thursday)
PREVAILING WAGE/LABOR COMPLIANCE/UNDERGROUND ECONOMY ENFORCEMENT WORKSHOP
Co-Sponsor: SAMTRANS/California Board of Equalization
Location: San Carlos, California

December 11, 2008 (Thursday)
PREVAILING WAGE/LABOR COMPLIANCE WORKSHOP
Co-Sponsor: City of Sacramento
Location: Sacramento, California

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A Closer Look at Termination Grievances

Corporate Policies Related to the ‘Just Cause’ Standard Must Be Followed to Minimize a Company’s Exposure

By Mark Reynosa, Field Services Manager - IR Northern California

In the past there has been a direct correlation between the economy and the number of termination grievances filed by the unions in the construction industry. When the economy and work opportunities are down, termination grievances are up. During these times, it is important to become familiar and develop company policies related to the “just cause” standard in order to best discourage wrongful termination grievances as well as minimize your company’s exposure to alleged unjust termination grievances.

In each labor agreement there is specific language requirements that employers must have “just cause” for terminating covered employees. As a result of this “just cause” obligation, the burden of proof lies solely on the company to support its position for terminating the grievant, and the company must first present its case before the panel and the arbitrator at the grievance hearing. Generally, when deciding a discharge grievance, arbitrators use six separate tests to determine if the “just cause” standard had been satisfied.

Written Notice

The first test of the “just cause” standard is written notice of the rules as well as for the cause of termination. From the date of hire, an employee should be made aware and have knowledge of what standards are expected of him or her from the company and what the discipline policy is for any violation of the standards. Updated employment and discipline policies and procedures, complete with a list of consequences for non-performance and repeated violations, and a signature page, will assist your defensible position and establish preliminary notice. Some rules such as stealing and fighting do not need to be communicated to the employee.

In addition, if an employee is terminated for cause, an employer should provide the discharged employee a written notice of the cause or causes for termination at the time of discharge (along with his/her two checks). A written termination notice is not only a contract requirement in most labor agreements, but also important supporting evidence, which may be presented at a grievance hearing.

Reasonable Rules

The second test of the “just cause” standard is that the company rules must be reasonable. Does a direct linkage exist between the rule and the effective operation of the business? In other words, the rules must be concerning a legitimate business concern and not concerning a moral belief of the company. Violations of subjective rules are often difficult to support and defend from opinions.

Thorough, Timely & Impartial Investigations

Because employment decisions should be based on fact, arbitrators tend to examine the third and fourth tests collectively. The third test is that investigations must be thorough and timely. A case may easily be lost because an investigator missed a relevant fact entirely, or the facts they presented were dated (i.e. disciplining an employee for a problem a month after the incident). The fourth test is that investigations must be fair and impartial. Both sides of the issue need investigation and always allow the accused to present their side. To create a defensible position, the investigation process, and subsequently any decisions made, must be free from bias or pretext, and consideration must be given to mitigating circumstances.

Specific Criteria Met

Passing the fifth test mandates that the proof presented meets specific criteria. Proof must be adequate, pertinent, recent, and relevant. Witnesses must be reliable, credible, and able to provide first hand accounts of the facts, not hearsay evidence/testimony. Any documents presented must be current, dated and signed. Circumstantial evidence is inadequate. Here, our level of success will be determined by our ability to present multiple forms of irrefutable evidence that validates our positions.

Consistent Treatment

Finally, the sixth test for the “just cause” standard is an employer’s even policy of treatment and punishment. Historically, arbitrators in the construction industry will evaluate the employer’s past application of policies and punishment to determine if they are consistent. Any punishment imposed must suit the offense and can not be arbitrary or capricious. With this in mind, arbitrators view harsh and disparate treatment as a serious issue and are more willing to rule against an employer in a case where they believe the discharge was unjustified.

In conclusion, a failure to meet any one of the aforementioned “just cause” standards may constitute sufficient grounds for an arbitrator to rule against an employer in a discharged grievance. Understanding just cause is essential in determining your defensible position and minimizing the risk associated with an adverse decision by the arbitrator. Understanding just cause is essential in minimizing the risk associated with an adverse decision by the arbitrator.

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Flatiron Names Curt Weltz President of Western Region

Flatiron Construction Corp., one of the nation’s largest transportation and infrastructure contractors, has consolidated its Western Region operations under new executive management. The company has promoted Curtis Weltz to president of its Western Region, effective May 1. Weltz is now responsible for the overall strategy and management of Flatiron’s operations across California and the West.

“Curt is a recognized leader in the industry and has made substantial contributions to Flatiron’s success. I am confident Curt’s leadership will enable Flatiron to continue to provide clients, partners, and employees with the highest level of service,” said Tom Rademacher, Flatiron’s president and CEO.

Weltz, who has over 25 years of industry experience, joined Flatiron in 1997 as an operations manager and assisted with the start-up of Flatiron’s Northern California division based in Benicia. Three years later he served as project manager for the Carquinez Suspension Bridge. Completed under budget and ahead of schedule, this was the first suspension bridge built in the U.S. in 35 years. In 2003 Weltz was promoted to president of Flatiron’s Northern California division (formerly known as FCI Constructors Northern Division).

“There is a real opportunity for personal growth at Flatiron,” says Weltz. “As the company adopts a regional model, it provides a career path for our employees as they move from project managers to area and district managers. Flatiron recently promoted four individuals to district manager, and as we grow I can envision eventually having as many as 10 district managers over the Western Region.”

Weltz emphasizes that sustained success can only be achieved through gradual and controlled growth. “Flatiron’s expansion into California nearly two decades ago resulted in two highly successful district businesses that now account for 60 percent of Flatiron’s overall revenue. We will base any future growth on these well-founded models already in place.”

With a sales volume of $752 million in 2007, Flatiron Construction Corp. is one of the leading providers of transportation construction and civil engineering in North America. Its core competencies include major bridge, highway, and rail projects. In Canada, Flatiron also operates as a contractor in public-private partner-ship projects. Founded in 1947, the firm is a subsidiary of HOCHTIEF, one of the world’s leading international construction service providers.

Granite Construction CEO Elected Chairman of Industry Ethics Initiative

William G. Dorey, Chief Executive Officer of Granite Construction Incorporated, was recently elected chairman of the governing body for the Construction Industry Ethics and Compliance Initiative (“CIECI”). Granite is one of the 13 founding members of the CIECI. The CIECI is a non-profit association of construction industry firms whose sole purpose is that of promoting and monitoring ethical behavior and full compliance with the law. Each of the founding members, including Kiewit Corporation, Lane Construction Company, Balfour Beatty Infrastructures, Inc. and others has subscribed to a set of principles requiring compliance based on ethical values, open communications in the industry, avoidance of conflicts of interest and a high level of transparency. The initiative’s focus is to share best practices, training and public accountability.

In Memoriam: Past President Bob Balliet Dies at 80

Robert “Bob” Balliet, a Past President of AGC of California and AGC of America Lifetime Director, died on July 26 at the age of 80.

Balliet served as President of AGC of California in 1984 and was long active in the association at both the state and national level.

After attending U.C. Berkeley, he served in the US Navy Reserves as a SeaBee chief petty officer on the island of Guam during the Korean War. He rejoined his father’s construction company, Balliet Bros Construction Corp, upon his return, and served as CEO of the company from 1974 until his retirement in 1996.

He was also active in his community, and served as president of the California Golf Club of San Francisco for two years.

Balliet is survived by his wife, Rita, and children Robert Balliet (Lisa), Martin Balliet, Denise Wallace (Steve) and Debbie Moyle (Bill), as well as several grandchildren, a sister and many nieces and nephews. A memorial service was held on July 8th in San Mateo. In lieu of flowers the family requested the donations be made to Sutter V.N.A. Hospice, Special Olympics or Habitat for Humanity.
Top 10 Projects Awards

Following are the top 10 public project awards California last month, compliments of McGraw-Hill Construction.

<table>
<thead>
<tr>
<th>Low Bidding General Contractor</th>
<th>Project Title</th>
<th>Apparent Low Bid Amount</th>
<th>Project City</th>
</tr>
</thead>
<tbody>
<tr>
<td>WM Lyles</td>
<td>Palmdale Water Recl Plant Stage Five Plant Expansion PHI</td>
<td>$114,116,000.00</td>
<td>Palmdale</td>
</tr>
<tr>
<td>Tutor-Saliba Corp</td>
<td>Pier A West / Area 2 Interim Source Removal Action HDS2291</td>
<td>$67,360,836.00</td>
<td>Long Beach</td>
</tr>
<tr>
<td>Coffman Specialities</td>
<td>CA/DOT Construct the Managed Lanes- South Segment Unit 2 112T0924</td>
<td>$60,545,000.00</td>
<td>San Diego</td>
</tr>
<tr>
<td>Atkinson Construction</td>
<td>CA/DOT To Construct Managed Lanes North Segment 2 112T0824</td>
<td>$47,420,115.00</td>
<td>Escondido</td>
</tr>
<tr>
<td>Top Grade Const, inc.</td>
<td>CA/DOT Roadway Widening &amp; Pavement Rehabilitation 04290844</td>
<td>$41,553,079.00</td>
<td>Livermore</td>
</tr>
<tr>
<td>S J Amoroso Construction Co Inc</td>
<td>Science II Seismic Replacement Building (RE-BID) 04727</td>
<td>$40,037,000.00</td>
<td>Turlock</td>
</tr>
<tr>
<td>C Overaa &amp; Co Construction</td>
<td>(SD320) (RARE) Richmond Advanced Recycled Expansion Water SD320</td>
<td>$31,460,000.00</td>
<td>Richmond</td>
</tr>
<tr>
<td>R. A. Burch Construction Company, Inc.</td>
<td>P-135 Upgrade Existing Magnetic Silencing Facility N68711-02-D-8076</td>
<td>$29,400,000.00</td>
<td>San Diego</td>
</tr>
<tr>
<td>Sinanian Dev Co</td>
<td>Valley Region Elementary School #12 5640047</td>
<td>$26,777,000.00</td>
<td>North Hills</td>
</tr>
<tr>
<td>Ranger Pipelines</td>
<td>Victoria Canal Conveyance Pipeline &amp; Microtunnel 105480</td>
<td>$23,951,597.00</td>
<td>Holt</td>
</tr>
</tbody>
</table>
CALENDAR OF EVENTS

August 15
Training, “OSHA 10 Hour Certification,” at National University, Sacramento

August 18
Safety training, “Asbestos Awareness,” at Joshua Casey, Anaheim
Safety training, “8-Hour HAZWOPER Annual Refresher,” at Joshua Casey, Anaheim

August 21-22
Training, “Microsoft Excel for Construction Personnel,” at National University, Sacramento

August 21
Safety training, “Medic First AidTM Version 6.0,” at Joshua Casey, Anaheim
California Construction Expo 2008 at the L.A. Convention Center, Los Angeles

August 25
Training, “NavisWorks Coordination,” at Dynalectric Los Angeles, Los Alamitos
Safety training, “Lead Awareness Training,” at National University, San Bernardino

August 26
San Joaquin District training, “Stormwater Pollution Prevention,” at the Fresno Metropolitan Flood, Fresno

September 17-19
AGC Safety & Health Council Planning Workshop in Lake Tahoe

September 18
Tri Counties District Membership Meeting at F. McLintock’s Shell Beach

September 22-24
Supervisory Training Program, “The Indispensable Supervisor,” at the Hilton Hotel, Orange County

Save the Date:
AGC Fall Conference Is October 16-18

Plan to attend this year’s Fall Conference. The Fall Conference Committee has planned several special events around this year’s “Surfin AGC” theme. Among the events planned are educational seminars, a Welcome Cocktail reception and the Friday reception and dinner. Optional sporting events will include the golf classic, bocce and croquet tournaments.

AGC’s annual meeting and board meetings will be held just prior to the conference, October 15-16. Watch for complete conference details and registration information in the California Constructor’s special Fall Conference insert in September, or visit the new AGC website at www.agc-ca.org for complete details and online registration information.
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L.A. Convention Center

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DESIGN. BUILD. PROGRESS.
The ‘Heat’ is On!
Heat Illness Prevention Top Safety Priority That All Companies Must Address

By Bo Bradley

Governor Schwarzenegger activated the state’s plan for excessive heat emergencies in response to anticipated forecasts by the National Weather Service of temperatures in the 90s and 100s in many areas of California this last month. With added concerns over increased levels of smoke and air pollution, the Governor directed the Office of Emergency Services, the California Department of Public Health and other state agencies to implement activities outlined in Phase II of California’s Contingency Plan for Excessive Heat Emergencies.

In light of the Governor’s recent announcement, and the fact that Cal/OSHA is including Heat Illness Prevention in its High Hazard Sweeps, it’s important that your employees are protected. Many contractors have already received inspections and Regulation 3395 is now among the top FIVE cited regulations. Don’t let your company be one of these.

As we near and dip into the triple digit heat we hope that you and your company are already prepared and complying with Title 8, Regulation 3395 and Title 8, Regulation 1524 (Drinking water). Unfortunately there are companies out there that do not have an effective Heat Illness Prevention Plan in place, or even an adequate Emergency Response plan! This has already caused a few deaths due to heat stroke this year.

The specific purpose standard is to limit the exposure to employers with employees having significant exposure to outdoor work, with the intended effect of protecting employees performing such work from the increased risk of heat illness that can result from working without the environmental protections indoor working environments can provide.

**4 Actions Employers Should Take**

The standard requires all employers with outdoor worksites to take four basic actions to prevent heat illness:

1. Provide training to all employees including supervisors about the risks of heat illness. The areas of discussion should include environmental and personal risk factors, the different types of heat illness and their symptoms, the importance of hydration and acclimation, and procedures for responding to emergency situations.

2. Provisions for providing and encouraging the consumption of up to one quart per hour of water (2 gallons per person each day). Special attention to hydration when the work environment is hot and the employees are likely to be sweating more than usual in the performance of their job. You must be able to show your plan for having the proper supply or immediate restocking as needed. Documentation of when the water is checked and refilled is one way to do this and can be done in the daily log or an easy to fill in daily checklist.

3. The employees shall have access to shade when suffering from heat illness or believing a "preventative recovery period" is needed. The shade should be provided in an area that is open to the air or provided with ventilation or cooling for a period of no less than five minutes. The construction industry is allowed to provide other cooling measures (e.g., use of misting machines), in lieu of shade, if the employer can demonstrate that these measures are at least as effective as shade in allowing employees to cool.

4. Develop and implement a written heat illness program that includes procedures for providing training, supplying water, access to shade and responding to emergency situations. This written policy can be integrated into the employer’s Injury and Illness Prevention Program.

By understanding the importance of preventing and responding to heat illness on the jobsite, the employer will be able to provide a safe work environment in the upcoming hot weather.

**Drinking Water in Construction**

In regards to Title 8, Regulation 1524 Drinking Water in Construction: This regulation has recently been revised to now allow for other options when supplying drinking water. The most significant changes read as follows:

The employer shall take one or more of the following steps to ensure every employee have access to drinking water:

- Provide drinking fountains,
- Supply single-service cups,
- Supply sealed one-time use water containers, or
- Ensure re-usable, closable, personally identifiable containers are available for individual employee use.

If single-service cups are supplied, a sanitary container for the unused cups and a receptacle for disposing of the used cups shall be provided. Where sealed one-time use water containers are supplied, a receptacle for disposing of the used containers shall be provided.

- F. Only one individual employee shall drink water from an individual cup or container. EXCEPTION: Containers having a drinking fountain or faucet, and cups or containers that are effectively cleansed and sterilized between consecutive users may be used by more than one employee.

**Resources**

AGC has an easy to use CD with a Heat Illness Prevention Program ready to insert into your workplace, which now includes a Spanish version. Please contact the AGC West Sacramento office if you are interested in this CD at (916) 371-2422 or go to the website: www.agc-ca.org to the online store to order.

**Questions**

If you have any questions regarding these regulations please contact Bo Bradley, AGC Director of Safety, Health & Regulatory Services at (916) 371-2422.
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