# THEFLOW

# **Upcoming Events**

June 10th
Next Man Up
Line & Grade
A.J. Johns Training Center
6:00 pm

June 14th to 18th
Trench Safety Stand Down
See Details on page 10 & 11

June 17th to 19th NUCA of Florida Annual Conference The Ritz Carleton Naples

July 14th
Scholarship Night
Aloft, Tapestry Park

**JUNE 2021** 

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#### PRESIDENT'S MESSAGE

Hello Members,

It was great seeing everyone at our Jumbo Shrimp baseball outing. I believe a good time was had by all.

The Florida Legislation has ended their session. There have been some changes that affect our industry. We will get a list put together and share the changes with our group.

The principle of "supply and demand" is really hurting our industry. Every month we are getting hit with an increase in price, and on top of that, delivery of products has been an issue. PVC and DIP fitting prices are very volatile right now. Ductile iron fitting prices are about to increase +/- 31% at the end of this month. At times I feel that some of these situations are illegal. This is just my feeling/opinion. I am here for you if you want to share any issues you may be having. We are the "Voice of This Industry". Pricing and delivery are major problems, for it is costing contractors and owners a lot more than what was originally budgeted for projects. Who would have thought a 2" x 12" X 16' would cost \$77 dollars? A price increase is one thing, but manufacturers not honoring their quotes is a real problem.

We plan to hold the "Next Man Up" class on June 10<sup>th</sup>. This will be a line and grade class. We will show individuals how to set up and read a level. Kathy will send out an email on this.

Trench Safety Stand down week is June 14<sup>th</sup> thru June 18<sup>th</sup>. This is a very important week for our industry. Please take part if you can. We have a Safety Directors forum meeting on June 14<sup>th</sup> if you need any help with putting something together.

Stay Safe and God Bless,

Marty

Marty Adams madams@tblandmark.com

Don't Learn Safety by Accident!! Unknown

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### **CALENDAR OF EVENTS**

**June 8th Executive Committee** 

June 10th
Next Man Up
Line & Grade Class
A.J. Johns Training Center

June 14th
Safety Director's Forum
Northeast Florida
Safety Council

June 14th to 18th
Trench Safety Stand Down

June 17th to 19th
NUCA of Florida Conference
The Ritz, Naples

July 14th
Scholarship Night
Aloft, Tapestry Park

## The Law and Your Business

#### The Law and Your Business- Mediation Clauses in Your Contracts Christian Lake, Esq., Lindell Farson & Zebouni

During the course of your day-to-day operations, any number of things likely go wrong. These issues vary from matters that can be handled with a few mouse click or a short conversation to full-blown disputes that leave you considering your legal rights. When a dispute reaches the point where you think legal action may be necessary, knowing how your contracts handle dispute resolution is incredibly important.

For many people, the initial reaction when a dispute reaches a tipping point is to attempt to get a lawsuit filed as quickly as possible. However, rushing to court can often be a costly and ineffective action in the early stages of a contractual dispute depending on how your contract deals with dispute resolution. This is because many contracts now include a number of steps that must be followed before any lawsuit can be filed. Of particular importance is the increasing prevalence of the requirement that the parties submit their claim to mediation before initiating legal action.

For those who may be unfamiliar with mediations, during a mediation, the parties come together with a neutral third-party to determine whether an acceptable compromise can be met in order to put the dispute behind them early on in the process. The parties will share the facts and legal arguments they believe support their claim and the mediator will work to bring the parties towards a final resolution of the dispute. All communications within a mediation are strictly confidential and, therefore, cannot be used against either side if the case does not settle and further legal proceedings are required. If the parties cannot settle the dispute, the mediation concludes since the mediator has no authority to enter judgments or orders.

When a contract has a requirement to mediate before bringing a legal action, filing a lawsuit before mediating can result in an immediate dismissal of the lawsuit or arbitration claim. Only if the parties mediate or mutually agree to waive the mediation requirement can a lawsuit be filed without first mediating the dispute.

One important impact of the mediation requirement is that it results in added time before a party can properly file a lawsuit. All civil claims in Florida have statutes of limitations that set unwavering deadlines for parties to file suit depending on the claims being brought. If a party fails to file a lawsuit within the statute of limitations period, they could be prevented from ever bringing that claim upon would, in that event, lose the ability to recover damages relating to that dispute.

Therefore, if one side waits until the eleventh hour to start the legal dispute resolution process, they could see their window to bring a claim shut with finality if they were not aware that the contract required them to mediate before bringing legal action. Neither Florida law nor Florida's courts provide extensions to the statutes of limitations even when the parties are mediating as a necessary step before filing suit. If you have questions about the dispute resolution provisions within your contracts, or how to best handle an ongoing dispute you or your company is experiencing, please contact the law offices of Lindell Farson & Zebouni, P.A.

#### VIRTUAL WASHINGTON SUMMIT HIGHLIGHTS

The day kicked off with our opening session at 9:00 am with NUCA CEO Doug Carlson and Chairman Lauren Atwell. We were very fortunate to hear from U.S. Rep. Peter DeFazio (D-Or) Chairman, House Transportation & Infrastructure Committee, Us. Rep. Sam Graves (R-Mo), Ranking member of House Transportation & Infrastructure Committee , U.S. Rep. Frank Pallone, Jr. (D-NJ) Chairman, House Energy & Commerce Committee. We were also able to hear from Senator Joni Ernst (R-IA) member of Senate Public Works Committee and Senator Deb Fischer (R-NE) member of the Senate Commerce, Science & Transportation Committee.

Our main legislative issues for this session:

#### Water Infrastructure

- The United States has over half a trillion dollars in water infrastructure needs through the year 2040
  - o \$271 billion will be needed to maintain and replace wastewater and stormwater treatment systems (Source: EPA)
  - o \$473 billion will be needed to improve drinking water infrastructure (Source: EPA)
- For every \$1 billion invested in water infrastructure, anywhere from 23,000-28,000 jobs are created, spread across multiple
  industries
- There are over 1.6 million miles of underground pipe water infrastructure in the US today, including 6.1 million lead service lines that remain in use in U.S. cities
- NUCA supports reauthorizing the State Revolving Funds at bold levels
  - o H.R. 1915 Water Quality Protection and Job Creation Act of 2021 \$40 billion/5 years for Clean Water SRF + \$10 billion in grants (Democratic bill, supported by NUCA)
    - ✦H.R. 3218 Republican bill appreciated by NUCA, but want to see higher funding levels in H.R. 1915.
  - o H.R. 1848 LIFT America Act \$51.6 billion in drinking water funding and lead pipe replacement water provisions supported by NUCA (**Democratic** bill)
  - o S. 914 Drinking Water and Wastewater Infrastructure Act of 2021 \$35 billion/5 years divided between both SRF programs (passed Senate on 89-2 vote; Cruz, Lee against) Strongly supported by NUCA.
- NUCA also supports lifting the cap on Exempt Facility Bonds (EFBs), under jurisdiction of House Ways and Means Committee.

#### **Surface Transportation**

- NUCA supports robust bipartisan reauthorization of the FAST Act, which is set to expire on Sept. 30th, 2021.
  - o The Highway Trust Fund needs \$94 billion over the next 5 years to avoid a shortfall
  - o NUCA has a mixed union/non-union membership, but **opposes** government-mandated projectlabor agreements (GMPLAs) o
    The industry is already facing critical skilled labor shortages GMPLAs would lock out essential parts of the workforce and guarantee that any infrastructure package would miss its deadlines
  - o The Fair and Open Competition Act (Republican bill, S.403/H.R.1284) would protect companies from GMPLAs, supported by NUCA

#### **Broadband**

- In rural areas, 22.3% of Americans lack 25/3 Mpbs home Internet service
  - o 19 million Americans (6%) lack access to fixed broadband at even basic threshold speeds
- Only 32% of subscriber broadband service is provided by modern high-speed fiber optics cable
  - most Americans still rely on outdated copper-based tech like DSL or cable
    - o Federal dollars that fund broadband deployment projects should be used to install the most effective technologies providing the best broadband service as possible at the speeds necessary for modern living.

+NUCA supports a standard of 100/100 Mpbs, as well as supports the \$94 billion in funding levels laid out in the Accessible, Affordable Internet for All Act (S.745/H.R. 1783)

(Continued on Page 6)

#### **VIRTUAL WASHINGTON SUMMIT HIGHLIGHTS (Continued)**

#### **Other Issues**

- NUCA supports government efforts to bolster cybersecurity around key infrastructure (water, power generation, pipelines, etc.)
- The construction industry continues to face a critical skilled workforce shortage NUCA supports efforts by Congress to help address the gap, including funding for trade schools and apprenticeship programs
- NUCA opposes proposed increases in the corporate tax rate, and would prefer to see the infrastructure package funded through other means, including opening up opportunities for private investment in publicly-owned projects (i.e., EFBs)
- Our industry is always open to a jobsite visit by you or members of your staff. We're proud of what we construct for our local communities.

The entire presentation will be available on You Tube shortly.













#### Senate Passes NUCA-Championed Clean Water Bill

The U.S. Senate delivered on April 29th a long-sought National Utility Contractors Association (NUCA) legislative goal with the 89-2 passage of the Drinking Water and Wastewater Infrastructure Act (DWWIA) on a noteworthy bipartisan vote, sending this important bill (S. 914) to the U.S. House. Its main provision provides \$14.65 billion for each of the two major federal water infrastructure programs, the Drinking Water state revolving funds (SRF) and Clean Water SRF. Your participation in our Washington Summit gives you a chance to personally tell your U.S. Representative how important this funding is to completing your local water infrastructure projects. Learn more here.

#### **Independent Contractor Rule Rescinded by Biden Administration USDOL**

The U.S. Dept. of Labor withdrew on May 6th its proposed clarification on what kind of business constitutes an independent contractor. While this action was expected, it leaves in limbo what exactly is the relationship between contractors and subcontractors, and what kind of responsibilities contractors might have for subcontractor employee benefits and wages. NUCA supported the Trump-era proposed rule, finding it would have provided much needed clarity in the workplace. Because USDOL has not yet proposed a substitute rule, the former murky test used by USDOL and federal regulators has returned in the interim. Read more here and read NUCA CEO Doug Carlson's argument here.

#### **OSHA Submits Revised COVID-19 Workplace Standard For Review**

OHSA submitted on April 26 a draft of an emergency temporary standard for COVID-19 to the White House for review, but the timeline forward is not certain. USDOL Sec. Marty Walsh temporarily delayed the standard last month, but has apparently found a version that meets OSHA and regulatory standards.

If a standard does get officially published in the *Federal Register*, it could go into effect in six months. However, there is no limit on the White House review period. NUCA will keep the membership updated on this regulation.

#### Sign Up For NUCA's Muster Advocacy Program

With infrastructure the hot topic in Congress this spring, make sure you sign up to NUCA's Muster legislative action alert service. It's easy to do, and we'll then alert you by email to upcoming infrastructure legislation that you can help promote and support. We've even completed a pre-written letter that you can send to your federal lawmakers with a click of your mouse. Sign up today to make your company part of getting America back to work! Sign up here.

#### June 2021 Is All About Trench Safety! Are You Ready for TSSD Week, June 14-18?

June is our industry month to reinforce trench safety to your employees. Now in its fifth year, Trench Safety Stand Down (TSSD) Week (June 14-18) is your company's opportunity to talk directly to your employees and others about safety. Companies can conduct a Trench Safety Stand Down by taking a break to have a toolbox talk or another safety activity to draw attention to the specific hazards related to working in and around trenches/excavations. For more information and TSSD materials--including NUCA toolbox talks and OSHA trench safety posters and employee cards--visit <a href="mailto:nuca.com/tssd">nuca.com/tssd</a>.

#### **Expanded NUCA Advantage Member Benefits Program Introduced**

Our association's popular benefits program is expanding to help address our members' many employee workforce and business needs. The expanded program, announced at our 2021 Convention and now online at <a href="www.NUCAAdvantage.com">www.NUCAAdvantage.com</a>, will include not only include the online portal to an expanded healthcare benefits options but payroll, wellness, compliance, benefits administration, online learning, OSHA logs, and include a wealth of free benefits available only to NUCA members. You can learn more about the program by watching our April 2021 NUCA Advantage webinar, which is available at NUCA.com.

#### We're Heading to San Antonio for the 2022 NUCA Convention!

NUCA's leadership announced this month that the 2022 NUCA Convention & Exhibit will be held March 2-5, 2022 in San Antonio, Texas. We've chosen another beautiful resort for our members and families to enjoy, the Hyatt Regency Hill Country Resort & Spa. Convention registration will open in late summer 2021, but you can visit this country property today and get excited about next year's committee meetings, industry educational events, our scholarship golf event, and lots of time for relaxing fun! To learn more about next year's resort, click <a href="here">here</a>.

# SAFETY NEWS

By Jeff Blomgren Safety Director at Petticoat-Schmitt Civil Contractors

#### **HURRICANE SEASON 2021**

June 1 – November 30

Hurricane season comes every year. We know it and we expect it but sometimes we aren't totally prepared for the consequences. The 2021 hurricane season is predicted to be very active. Experts are predicting 20 named storms, of those, 7 to 10 hurricanes and of those, 3 to 5 category 3 and above. Category 3 storms have winds of 111 to 129 miles per hour. Winds of this speed will do significant damage to property and create a risk of injury or death to people.

Being prepared is the best defense. For utility construction businesses, like ours, it's to have a Hurricane Preparedness Plan. The plan should include the preparations for each category of storm, right up to the major category 3 storms. Preparations should include plans for employees to be able to prepare for the storm at work by protecting company property and neighboring areas by securing anything loose. Employees also need time to get home and to follow authority guidelines for safety and for evacuation and personal property protection.

It's a good idea to review the Hurricane Preparedness Plan with supervisors so there is a clear understanding of the process for preserving assets and protecting our worksites. Designating one person to be a decision maker in the implementation process can prevent misunderstandings and costly mistakes. In summary; we are good planners or we wouldn't be in business. Nothing gets done without a good plan in place. John F Kennedy said, "The time to repair the roof is when the sun is shining." Have a safe hurricane season.



#### **NUCA of North Florida Welcomes New Members**

Please join us in welcoming the following companies who joined our association last month.

#### **FairchildHR**

Contact: Keith Fairchild

904 Margaret Street, Suite 101

Jacksonville, FL 32223

Phone: 904 685-9313 Email: keith@fairchildhr.com Business: Executive Search & Employee Recruitment

#### Brown & Brown of Florida, Inc.

Contact: Mat Glas

10151 Deerwood Park Blvd B100 S100

Jacksonville, FL 32256

Phone: 904 565-8259 Email: mglas@bbjax.com

Business: Insurance

#### Florida Pumping Solutions

Contact: Jay Friemark 51 Ellis Street, Suite 401 St. Augustine, FL 32095

Phone: 904 814-8450 Email: jay@floridapumpingsolutions.net

Business: Dewatering Equipment & Pumps

#### Smith Trucking Company, Inc.

Contact: Tyler Smith 51 Ellis Street, Suite 101 St. Augustine, FL 32095

Phone: 904 940-1226 Email: tyler@smithtrucking.net

Business: Heavy Hauling Equipment & Trucks



# O United Rentals



# Safety powered by productivity.

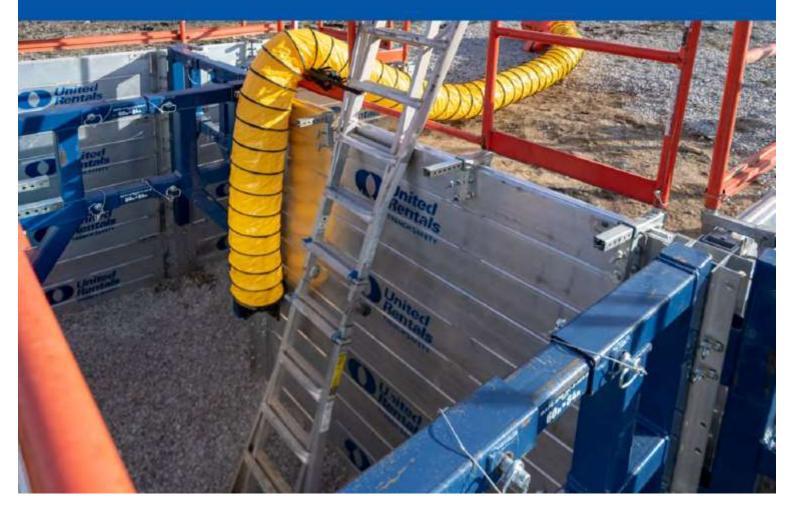
#### United Rentals supports Trench Safety Stand Down Week, June 14-18

Nothing is more important than safety on the worksite. But at United Rentals, we believe that compliance can help drive productivity. With expert knowledge and smart solutions, United Rentals can help your site stay safe without sacrificing efficiency.

During Trench Safety Stand Down Week, United Rentals will be hosting a series of webinars covering a range of important safety topics. Details are included on the second page.

For more information and to register for the webinars visit trenchsafetyevents.com

UnitedRentals.com | 800.UR.RENTS



### JUNE IS TRENCH SAFETY MONTH!

# Safety Training and Protective Systems Save Lives







# Trench Safety Stand Down Week | June 14-18, 2021

Make plans for your company to participate in this year's NUCA Trench Safety Stand Down Week. Being a part of our popular 5th annual TSSD Week will help educate your employees on trenching hazards at the jobsite.

OSHA's National Emphasis Program on Trenching and Excavation is a high agency priority. NUCA and OSHA have teamed up again this year for our annual trench safety program. More than 32,000 employees on 3,500 jobsites participated in the 2020 TSSD.

Every company or organization that holds a TSSD will receive a certificate of participation, as well as hard-hat stickers for every employee who participated. Recognition will also be given in NUCA publications. Please plan for your company to be a part of this vital industry safety event this year.



#### Also sponsored by NUCA's Safety Ambassadors Club

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Cemen Tech, Inc.
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Greg Strudwick & Associates
HCSS
HRP Construction

Hymax by Krausz

John Deere
Johnson Bros.
Komatsu America Corp.
L.G. Roloff Construction
McLaughlin Boring Systems
National Trench Safety
Oxford Plastics USA
Petticoat-Schmitt Civil Contractors
Safety Management Services
Sunstate Equipment Co.
Team Fishel
United Rentals
Xylem
Wacker Neuson Corp.

For more details and TSSD materials: nuca.com/tssd

#TSSD21

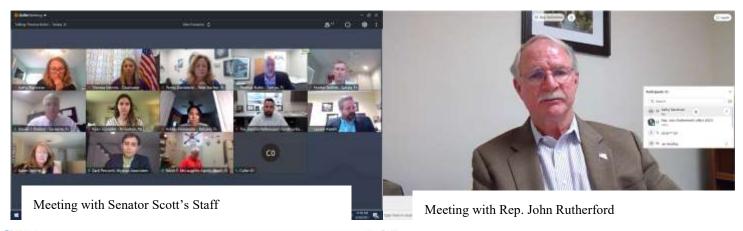
#TrenchSafetyMonth



#### VIRTUAL WASHINGTON SUMMIT—NORTH FLORIDA REPS.

We had some very successful meetings with our Senate and House Representatives on our virtual meetings on Wednesday, May 26th. First off was our meeting with Senator Rick Scott's office. We were on the call with his legislative aids and their were representatives from various NUCA Florida chapters participated. The call was lead by NUCA national GR Chair Tom Butler. Our next meeting was with Rep. John Rutherford and his legislative aid Jen Bradley. Lauren Atwell, Chairman of NUCA national was our spokesmen and Tim Gaddis, Vallencourt also participated in the call. Our third call was with Senator Marco Rubio's office. Again, the call was with his legislative aids and their were representatives from various NUCA Florida chapters participated. Next we meet with Will Smith, Legislative Assistant to Rep. Kat Cammack. Lauren & Tim were also on the call. Will shared with us some legislation filed by Rep. Cammack, Gigabit Opportunity Act, relating to High speed internet. Our last call of the day was with Jessika Elgin, Legislative Assistant to Rep. Al Lawson. We discussed having Rep. Lawson visit one of our local job sites to see some infrastructure building in person.

At the end of the day, NUCA national held a wrap-up session to discuss how the day went. Plans are underway for an in-person summit sometime this fall.





Meeting with Will Smith from Rep. Cammack's Office

Meeting with JessiKa Eglin from Rep. Al Lawson's Office



# NUCA Advantage Is Now More Than Just Great Healthcare Options

Our Expanded NUCA Member Benefits Program Includes A Full Spectrum Of Solutions





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Online resources to help your company meet your compliance obligations

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To find out more or to set up your NUCA member account, visit NUCAAdvantage.com.

Please contact NUCA's Meredith Leutbecker for more information about your many new NUCA Advantage benefits.

Phone: 703.358.9300 | Email: meredith@nuca.com

#### **New No-Cost NUCA Advantage Benefits**

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