## THE FLOW

#### **Upcoming Events**

<u>April 5th</u> Golf Tournament St. Johns Golf & Country Club 12:30 Shotgun Start See rules on page 18

<u>April 11th</u> Safety Director's Forum

<u>May 12th</u> Jacksonville Jumbo Shrimp Ticket Order Form on Page 10



#### **APRIL 2022**

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#### 2022 OFFICERS & BOARD OF DIRECTORS

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#### PRESIDENT'S MESSAGE

#### Dear Friends,

Happy spring everyone! This is one of my favorite times of the year. The weather warms up a bit, days last a little longer, and it's time for my favorite hobby. Turkey hunting! I know it doesn't get everybody excited, but I love it. Especially when I get to share it with the kids. Y'all get outside and enjoy the outdoors any way you can. As always, thank you to our monthly sponsors! Without you, this great organization would not exist.

Our Billiards, Brews, and Bites event was a huge success! Good times and good food were had by all. The Andrew Scott Johnson Memorial Bass Tournament was also held last month and had the most anglers ever. All the proceeds for this event go directly to scholarships given out by the foundation, most of which benefit members of NUCA of Florida. Speaking of scholarships, be on the lookout for the NUCA of North Florida scholarship offerings. These scholarships directly benefit members of NUCA of North Florida and are available to anybody entering college or a trade school, and anybody already in college or trade school if they are the child of anybody that is an employee with one of our members. DON'T MISS YOUR OPPORTUNITY FOR FREE MONEY!!!

I know you all are excited about our golf tournament! It is completely sold out. Even if you missed on the chance to golf, come out to Saint Johns Golf and Country Club on April 5<sup>th</sup> to hang out. Once again, thank you all for your generosity and continued support! We plan on having our Next Man Up class on Materials Testing on April 7<sup>th</sup>. Get ready for Thirsty Thursday again, our annual Jumbo Shrimp even will be held on Thursday, May 12th. NUCA National's Washington Summit will be held on May 23<sup>rd</sup>-25<sup>th</sup>. If you are able, try to attend and get a feel for politics at the national level. Remember, this year is an election year and things will get very interesting at all levels of government. Support the NUCA National PAC and participate in the Bidding for Benjamins program offered by NUCA of Florida to put your money to work and help us "make friends" across the political system. I generally don't like to look too far ahead here, but the NUCA of Florida Annual Conference will be held at the Opal Grand in Delray Beach on July 21<sup>st</sup>-23<sup>rd</sup>. Come join us as we tackle some major issues that we all face as an industry and enjoy some good company too!

As always, please continue to support our members and associates. If there is anything I can do to help you out, please do not hesitate to give me a call.

Sincerely, Mike

Mike Kivlin

#### 2022 NUCA of North Florida

#### **Monthly Sponsors**

#### **Diamond Sponsor**

United Rentals Trench Safety Fortiline Waterworks Sunbelt Rentals

#### Platinum Sponsors Beard Equipment Company

<u>Gold Sponsor</u> Alta Equipment Company Forterra Pipe & Precast Nimnicht Chervolet

#### Silver Sponsor

A. J. Johns Inc. ECS Florida, LLC Gate Fuel Service John Woody, Inc. Lippes & Bryan Petticoat-Schmitt Civil Contractors Ring Power Corporation

#### **CALENDAR OF EVENTS**

<u>April 5th</u> Golf Tournament St. Johns Golf & Country Club

<u>April 7th</u> Next Man Up Material Testing <u>May 10th</u> Board of Directors Meeting Zoom

> <u>May12th</u> Jacksonville Jumbo Shrimp Night

July 14th Scholarship Night Maggiano's

<u>July 21-23rd</u> NUCA of Florida Conference Opal Grand Delray Beach

> <u>August 27th</u> Fishing Tournament St. Augustine

#### **The Law and Your Business**

#### The Law and Your Business – Forum Selection Clauses Christian Lake, Esq., Lindell Farson & Zebouni

When things go wrong on a jobsite, it is important to know not only who your conflict is with, but also where the conflict must be litigated. While common sense would seem to dictate that a dispute arising in one state would be litigated within that state, that is not always the case. Florida law recognizes and enforces "forum selection" clauses within contracts, which require the parties to litigate a dispute in any state or city in the country. This can even be the case in instances where you have not signed a document containing the forum selection clause, as was the case in a recent Florida Court of Appeals decision, *W. Bay Plaza Condo Ass 'n. v. Sika Corp*.

In that case, a condominium association sued a number of parties for allegedly defective repair work to the condominium building. Among those sued was the company that provided the sealant for repairs in the garage and provided the association with a warranty for that product. While the sealant company provided the association with the warranty, the condominium association never signed the warranty. However, the association's sole basis for suing the sealant company was for breach of that warranty due to what it alleged was defective product.

The sealant company moved the trial court to dismiss the association's complaint since the warranty contained a forum selection clause requiring that all litigation arising from the warranty be held in New Jersey exclusively. The association argued that the forum selection clause was not enforceable against the association, and the association was not required to litigate in New Jersey, since the association never signed the warranty.

However, both the trial court and the court of appeals ruled in the sealant company's favor and dismissed the complaint in Florida due to the forum selection clause requiring that litigation be in New Jersey. The Court supported its position by stating that the association's decision to sue for breach of warranty required that all the terms of the warranty be enforced, including the forum selection clause. The absence of the association's signature on the warranty did not prevent the association from suing the sealant company if the product was defective, and the association was not permitted to cherry-pick which clauses it wished to be effective in a breach of warranty action.

Florida courts have long recognized the rights of parties to choose where litigation will take place in the event of a dispute. The association suing under the warranty necessarily triggered the forum selection clause and required the Florida courts to dismiss the complaint as against the sealant company. The association would be free to renew its action against the sealant company in New Jersey if it so desired.

If you have a contractual dispute, first make sure you are litigating in the right court. This can prevent wasted time and funds spent litigating in the wrong court in the event a forum selection clause requires litigation elsewhere. Additionally, having to travel across the country to litigate a dispute may influence whether litigating makes economic sense. If you have questions about the effect of forum selection clauses, contact the law offices of Lindell Farson & Zebouni, P.A.

#### **NUCA SAN ANTONIO CONVENTION HIGHLIGHTS**

The NUCA convention had record attendance this year in SanAntonio in early March. The convention began with committee meetings on Wednesday and Thursday morning followed by the Board of Directors meeting and golf tournament. The convention kicked-off with Keynote speaker John Register speaking about a new normal. A welcome reception under the Texas sky followed. Friday was a busy day with Profit Pipeline, Exhibit Hall and team building events. Saturday included Industry Hot Topic meeting followed by the Annual Meeting & Officer swearing in. NUCA welcome three new chapters,, AZUCA (Arizona Utility Contractors Assoc), NUCA Gulf Coast (Texas) and NUCA San Antonio. The convention ended with a Buffet dinner and awards presentation followed by a live auction.

Due to Con Expo, next year's convention will be held in the fall.





Congratulations to SUCA on their \$5,000 Workforce development grant.

It was great to catch up with The Bakers & The Hyatts from Florida Roads who made the trip to San Antonio.

Look for NUCA Digs Podcast coming soon!

#### **WELCOME NEW MEMBERS!**

Please join us in welcoming Sterling Seacrest Pritchard who recently joined our association.

## **Sterling Seacrest Pritchard**

Business: Insurance Company Contact: Hunter DeWitt, Client Advisor 3111 W. Dr. Martin Luther King Jr. Blvd, Suite 350 Tampa, FL 33607 Phone: 941-400-5507 Email: hdewitt@sspins.com Website: sspins.com





#### FY22 Appropriations Bill Signed Into Law

The massive \$1.5 trillion FY2022 omnibus spending package to fund the federal government and the many Infrastructure Investment and Jobs Act (IIJA) program increases was sent last Friday to President Biden for his signature. NUCA is happy to report the president signed it into law on March 14, ending almost six months of speculation on final FY2022 funding levels for our programs.

The measure also includes year-over-year increases for many construction programs, and includes an additional \$500 million for broadband projects. The omnibus package also includes about \$650 million for specific water project earmarks, the first directed spending amendments from Congress in years.

The Senate passed the measure 68-31 on Mar. 10, with the House passing it with strong bipartisan support the day before. The federal government's fiscal year ends Sept. 30.

#### 2022 H-2B Visas Increases Are Welcome, But More Are Needed

A recent change to the Federal government's temporary visa rules increasing the amount of available H-2B visas to be issued in 2022 is welcome news for America's utility construction companies, but it still falls short of what is needed. 13,500 of the new visas are being made available to returning past visa holders over the last three years. The additional 6,500 visas were reserved for citizens from Haiti, Honduras, El Salvador, and Guatemala. The construction industry is still short about 430,000 employees to fill open jobs. NUCA has urged Congress to expand the existing H-2B visa program, citing the competition for the existing 66,000 visa slots is nowhere near enough to meet the labor demands of the U.S. construction industry and those of other businesses using this program. Industry workforce and labor challenges will be a top issue at the upcoming Washington Summit. <u>Read more here</u>.

#### Take Advantage of NUCA's Virtual Safety Training Programs

NUCA's motto is 'There Is NO competition In Safety' and we are pleased to offer another safety and education training avenue to our members. Through National Partner United Rentals, NUCA is now offering our members virtual training classes for "Confined Spaces in Construction Training" and "Excavation Safety for Competent Person." These live virtual trainings can give members the opportunity to pick from multiple dates while giving them the flexibility of remote training. Spring classes and registration can be found on the NUCA website under "Event Calendar." Please log into your NUCA membership profile to register for the seminars.

#### Your Investment in NUCA Delivers Many Benefits: Webinar-on-Demand

Are you a new member of NUCA? Or as a long-time member you're seeking a refresher on all the many benefits your annual NUCA membership investment delivers to you and your employees? Our membership department recently held a quick webinar on the growing number of benefits NUCA offers to each member, including some you may not know about. We invite you to watch our quick NUCA membership overview to make sure you're getting the most for your business. <u>Click here</u> to watch our YouTube video.

## SAFETY NEWS

By Jeff Blomgren Safety Director at Petticoat-Schmitt Civil Contractors

#### Women in Construction

Normally, the articles that appear here are focused on safety. This is a little bit different in that it relates more toward opportunity as well as safety. Today, women make up 46.8% of the workforce in America but only 10.9% of those women work in construction. That means that for every 10 people in construction only one is a woman. Are we missing an opportunity? One of the major advantages for women in construction is that women make 99.1% of what their male counterparts make. That's higher than any other industry. In addition, there is job opportunity. There are lots of different jobs and, progression is much high in construction than in other industries. The unique aspect of construction is that in addition to the physical and mental exertion required, it also creates opportunity for problem solving. A natural skill that women possess. Many women have a natural instinct for operating machinery. Equipment operators are valued and hard to find. In fact, labor is hard to find. Are we exploring every opportunity? Women are coming out of the military with skills they have acquired while in service. Many of those skills can be adapted to a career in construction. Many women are looking for something different. They don't want the college education and a 9-5 job in an office someplace. They want freedom, fresh air, and a challenge to be a part of something, to create something.

This is the safety part. Any company that has women in the construction workforce recognizes that there are some issues that need to be addressed which include some of the unique safety requirements. PPE may need to be specific to the physical makeup of women. Smaller vests, smaller gloves, even smaller hard hat liners or fall arrest harnesses. Sanitary facilities or areas may need to be considered. Jobs that require more physical strength may have to be carefully assigned.

Construction is a demanding occupation. Many women are single parents and there could be child care issues, transportation concerns, work hours, pregnancies, or any number of possible roadblocks but they can be overcome with effective recruiting and screening methods. The value added is that we are faced with a shrinking workforce as it stands today. Unless we can think out of the box and take some creative steps, we will continue to struggle to find people who are even interested in doing what we do.

#### JACKSONVILLE ICEMEN EVENT—A BIG HIT!

We had 120 people buy tickets to attend our first Jacksonville Icemen event on Feb. 25th. Guests were treated to a welcome reception in a private area. We watched the Icemen take on the Florida Everglades. In between the first and second periods, some of the kids went for a ride on the Fan boni. Unfortunately, the Icemen lost by a score of 3 to 2. Hopefully, we will add this as an annual event if there is enough interest.



Mike Teston from Linder brought the whole family.

The Fan Boni was a bit hit with the little kids and some big kids as well!



Top Photo: Marty Adams, TB Landmark enjoyed a night out with his wife and daughter.

Immediate Right Photo: Greg Allegro, Ring Power Corp. rode the Fan Boni with his young son.

Far Right Photo: Fang, the mascot for the Icemen is one of the hardest working member of the team.





#### JACKSONVILLE JUMBO SHRIMP TICKET ORDER FORM

#### May 12th

Tickets are \$30 each and include your game ticket as well as an All-You-Can-Eat Buffet of hamburgers and hot dogs, potato chips, cookies, soda and water. Food service begins at 6:00 pm and lasts for 90 minutes. Game starts at 7:05 pm. Please provide mailing address for tickets.

NAME:	11	
COMPANY NAME:		11 - Sc - S
MAILING ADDRESS:		
Cell Phone:	Email	address:
# of Tickets	@\$30/ticket	Total Ticket Cost
Payment: Check (N	UCANF) Bill my	y account Charge credit card*
Credit Card #:	I	Billing Zip:
Expiration Date:		V-Code:
		ture strip on the back of the credit It on the card for American Express.
Name on card:		
*A 5% proce	ssing fee will be adde	d to all credit card charges.
Please complete and	d email to <u>nucanf@gm</u>	nail.com by Wednesday, April 30th.
PO BOX	( 16810, JACKSONVILLE, FL 32	2245 PHONE: (904) 296-1230

#### JUNE IS TRENCH SAFETY MONTH!

## Safety Training and Protective Systems Save Lives







#### Trench Safety Stand Down Week | June 20-24, 2022

Make plans for your company to participate in this year's NUCA Trench Safety Stand Down Week. Being a part of our popular 6th 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 22,000 employees on 2,200 jobsites from 340 companies participated in the 2021 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

Alex E. Paris Contracting Atlas Excavating Barber Utilities Case Construction Equipment Caterpillar, Inc. Core & Main CNA Ditch Witch Efficiency Production Ferguson Waterworks 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 #TSSD22 #TrenchSafetyMonth

#### **BOARD MEMBER SPOTLIGHT WITH ALVARO RIOS**

In this edition, we are spending some time with Alvaro Rios from T.G. Utility who joined NUCA of North Florida Board of Directors in January.

#### Tell us about the services your company provides.

T.G. Utility performs underground utility construction. We have comprehensive experience in sanitary sewers, storm sewers, water lines, lift stations, and force mains.

#### What is your business philosophy?

Constructing the project with integrity and providing each customer the ability to reach there goal.

#### What are your hobbies or interests outside of work?

Surf fishing, coin collecting, attending baseball games. All of this with my family beside me.

#### What is your favorite travel location?

Boston is a city I would revisit. Visiting a unique tropical island is next on the list.

#### If you could have dinner with anyone, living or deceased, who would it be and why?

Jackie Robinson. Sitting down with one of the best baseball players of all time would be a dream, but also to take in his point of view on his fight for equality.

#### What are you currently reading?

Turn The Ship Around!

#### Grill master or reservations?

Grilling in my beautiful backyard is therapeutic





# 2022

of FLORIDA

## Annual Conference

## July 21-23, 2022 Opal Grand | Delray Beach

Registration Now Open

**Click Here** 



#### July 21-23, 2022 Opal Grand | Delray Beach

Join us at the Opal Grand Oceanfront Resort July 21-23, 2022, for the NUCA of Florida Annual Conference. Sponsorship of the event offers an exceptional opportunity to collaborate and discuss innovative ideas. Conference attendees include company decision-makers-Presidents, CEO's, General Managers, Safety Directors, Project Managers, Supervisors, Engineers-as well as manufacturers, distributors and dealers involved in water, sewer, gas, cable and telephone installations achieved through open excavation or trenchless technology. Network in a relaxed, casual setting throughout the conference, whether its poolside, beachside, or dockside. Showcase your company and its products as a Conference Exhibitor-an excellent, cost-effective way to market your products and services to industry decision-makers and increase your company's visibility. Register today online at www.nucaflorida.org.

\$7,500 - DINNER SPONSOR	· · · ·	2 conference registrations Exclusive Wi-fi password Opportunity to speak at Keynote Breakfast One reserved table at the Saturday night dinner Logo on sponsor signage throughout event Live company introduction at Keynote Breakfast and Saturday night dinner Premier Booth at Contractor's Day Prominent logo displayed throughout conference events/brochure	• • • • • •	Your firm's profile included in the conference program (*deadlines apply) Company logo displayed on "Sponsor Page" in the NUCA of Florida Ditchmen Sponsor ribbon added to name tag Company logo displayed on NUCA of Florida website as a "Platinum" Sponsor Company's logo on pull-up banner provided by NUCA of Florida Sponsor signage at conference and included in conference brochure One-year ad placement in Ditchmen magazine
\$5,000 - PLATINUM	•	One reserved table at the Saturday night dinner One full registration at the conference Logo on sponsor signage throughout event Live company introduction at Keynote Breakfast and Saturday night dinner Premier Booth at Contractor's Day Prominent logo displayed throughout conference events/brochure Profile of your firm included in the conference program (*deadlines apply)	•	Company logo displayed on "Sponsor Page" in the NUCA of Florida Ditchmen Sponsor ribbon added to name tag Company logo displayed on NUCA of Florida website as a "Platinum" Sponsor Company's logo on pull-up banner provided by NUCA of Florida Sponsor signage at conference and included in conference brochure Ad placement in Ditchmen Magazine for 4 months
\$3,500 - DIAMOND		Logo on sponsor signage throughout event Live company introduction at Keynote Breakfast and Saturday Dinner Prime booth location at discounted rate at Contractor's Day Prominent logo displayed throughout conference events/brochure Profile of your firm included in the conference program (*deadlines apply)	•	Company logo displayed on "Sponsor Page" in the NUCA of Florida Ditchmen Sponsor ribbon added to name tag Company logo displayed on NUCA of Florida website Company's logo on pull-up banner provided by NUCA of Florida Sponsor signage at conference and included in conference brochure

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Profile of your firm included in the conference program

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(\*deadlines apply)

\$1,000 - BRONZE

15

#### **NETWORKING EVENT AT SEVEN BRIDGES**

We had a good turnout at our event at Seven Bridges. This casual event was a great opportunity for our members to gather with old friends and make some new friends. Guests were treated to wings, chicken sliders, beef sliders and meatballs as well as beverages. We even had a few people play some pool.



Marty Adams, TB Landmark, Caleb Hurlbert, A.J. Johns and Al Rios, T.G. Utility Johnny Lloyd, T.B. Landmark spent some time with our guests Jon & Sarah from Enterprise Truck Rentals.

Our Pool Sharks!



Valinda Krynicki, United Rentals & Billy Hood, J.B. Coxwell

Mike Kivlin, John Woody, Inc., Kirk Blomgren, Petticoat-Schmitt and Tim Gaddis, Vallencourt Construction



We're not sitting on our laurels, after our industry's historic success with last year's \$1.2 trillion infrastructure bill.

This year's Washington Summit opens up the next chapter of this bill: **Implementation**.

We've got four important Summit goals ahead:

- Implementing the Infrastructure Investment and Jobs Act: Five Years Of Funding
- Workforce / Labor: Finding Our New Employees / H-2B Visa Reforms / Project Labor Agreements
- Private Activity Bonds (PAB): Unlocking Private Finance for Infrastructure
- Lead-Pipe Replacement: Delivering The Resources To Finish The Job

WeDigAmerica.org | #NUCASummit

Come to Washington, D.C. this spring and meet in-person with your lawmakers for our annual Washington Summit. Last year's success proved your advocacy works. Let's keep the momentum on Congress, especially during this crucial election year.

Registration and hotel information: WeDigAmerica.org









#### GOLF TOURNAMENT ST. JOHNS GOLF & COUNTRY CLUB TUESDAY APRIL 5<sup>th</sup>, 2022

#### RULES SHEET

SCRAMBLE (CAPTAIN'S CHOICE): All members of the team will tee off then select the best shot. The shots that were not selected should be picked up and moved to the selected shot. When placing a golf ball back in play, the ball is to be placed within one club length of the chosen shot, no closer to the hole. The drop may not improve position (*i.e. if the best shot is in the bunker or rough, the drop may not be in the fairway*). The team will continue this format until the golf ball is holed. Please record the team score for each hole in the space provided and turn in your scorecard to the professional staff after the round.

PAR IS YOUR FRIEND: The maximum score that can be recorded on a hole is par. Once your team has reached par on the hole please pick up and proceed to the next hole.

GOLF BALL THROW: A Throw is just like a Mulligan but instead of hitting your golf shot, you throw it. The major difference is throws may not be used to get on the putting service or while on the putting surface.

TEES: Men will play from the White tees. Women will play from the Red tees.

SPECIAL EVENTS: For your enjoyment the following special events will be taking place:

#2 - LONGEST DRIVE #5 - CLOSEST TO THE PIN, HOLE IN ONE #10 - SKIRT FOR STAKE #13 - HOLE IN ONE #15 - LONGEST PUTT #16 - CORNHOLE #17 - HOLE IN ONE



#### **APRIL FEATURED SPONSOR**

## **CONFIGURED FOR SUCCESS**



### EASY. EFFICIENT. COMFORTABLE.

#### 920 Compact Wheel Loader

- Maximum Gross Power 121 HP
- Operating Weight 21,742 lb
- Bucket Capacities 1.3-1.9 m3 (1.7-2.5 yd3)



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