

THE FLOW

Upcoming Events

January 18th

**Installation of Officers &
Annual Meeting
Maggiano's, 6:00 pm
More Details & registration
on Page 5**

January 23rd

**Safety Director's Forum
Northeast Florida
Safety Council
11:30 am**

January 30th & 31st

**NUCA of Florida
Legislative Days
Tallahassee
See flyer on page 11**



JANUARY 2024

INSIDE THIS EDITION

<i>President's Message</i>	2
<i>Calendar of Events</i>	3
<i>The Law & Your Business</i>	4
<i>Installation of Officers & Annual Meeting</i>	5
<i>NUCA News</i>	7
<i>Safety News</i>	8
<i>NUCA Annual Convention & Exhibit</i>	9
<i>NUCA of Florida Legislative Days</i>	11
<i>2024 Slate of Officers</i>	13
<i>2024 Membership Dues Invoices</i>	14
<i>Jacksonville Icemen Info</i>	15
<i>Featured Sponsor—United Rentals Trench Safety</i>	16



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PRESIDENT'S MESSAGE

Dear Colleagues,

Hope everyone had a Merry Christmas, and here is to a happy new year. Thank you to all our sponsors and volunteers, this organization would not be possible without your continued support.

2023 was an exciting year filled with opportunities and challenges and we look forward to what 2024 brings and wish success for all of you. On November 15 we held our annual NUCA Seamark Ranch Top Golf Benefit, generating \$11,500 for the Seamark Ranch. Thank you to everyone for your sponsorship and kind donations. We had a great turn out, and I believe all in attendance enjoyed the fellowship. Please join us at our next meeting, which will be January 18, 2024 for our installation of Officers at Maggiano's.

With this new year being an election year, we will be on watch for new administrations and new legislation that may be helpful or harmful for our industry. Should anyone have concerns with our local governing bodies please reach out so that we may start a discussion and then act to protect one another.

I am grateful for your endorsement to represent our NUCA chapter and hope to make you proud.

Respectfully,

Caleb

Caleb Hurlbert

Project Manager

A.J. Johns, Inc.

O: (904)-641-2055 X 119

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CALENDAR OF EVENTS

Upcoming Events

Jan. 9th
Executive Committee
3:30 pm

Jan. 18th
Installation of Officers &
Annual Meeting
Maggiano's
10367 Midtown Parkway
6:00 pm

Jan. 23rd
Safety Director's Forum
Northeast Florida Safety
Council
11:30 am

Jan. 30 & 31st
NUCA of Florida
Legislative Days

Feb. 16th
Jacksonville
Icemen

The Law and Your Business

The Law and Your Business – Punitive Damages

Tony Zebouni, Lindell, Farson & Zebouni, P.A.

A recent case reported that FPL obtained an easement to install an underground powerline on the eastern property line in Miami Beach, Florida. The powerline was installed via boring technology.

Contractor began digging up the street in front of the property accidentally struck a powerline. Because of this incident, the powerline was tripped, and FPL received a digital notification that the powerline was "offline", meaning it might not be where it was supposed to be. After an initial investigation into the incident, FPL learned the powerline might be on or near Owner's property. The exact location of the powerline, however, remained unclear. After the Owner received notice the powerline was potentially on his property, he demanded FPL immediately remove it. Because no survey of the property had been conducted, neither party was aware of the exact location of the powerline or even if it was necessarily on the Complainant's property.

The owner demolished his existing home and built another on the property and sought removal of the powerline as well as approximately \$27 million in damages based solely on the powerline's encroachment on his property.

FPL discovered that unbeknownst to its workers, the bore shifted during the installation process causing the powerline to mistakenly enter the owner's property. The powerline was found to be located 2.3 feet onto the property at its furthest encroachment point and was buried between fifteen and forty feet below the ground. No evidence that any trespass was intentional, and Owner suffered no damages or injury. FPL offered to compensate the Owner for trespass caused by the powerline but that didn't satisfy the Owner who sought damages for trespass and punitive damages against FPL. The court disallowed any claim for punitive damages.

While power companies are held to a higher duty of care, courts have held that punitive damages are only warranted where a company had knowledge of damage or a dangerous condition and chose not to remedy it.

Punitive damages are a form of extraordinary relief for acts and omissions so egregious as to jeopardize not only the particular plaintiff in the lawsuit, but the public as a whole, such that a punishment, not merely compensation, must be imposed to prevent similar conduct in the future. Under Florida law, the purpose of punitive damages is not to further compensate the plaintiff, but to punish the defendant for its wrongful conduct and to deter similar misconduct by it and other actors in the future.

Under Florida law, where the record evidence demonstrates that a trespass was a mistake, there was no unreasonable delay in remedying the mistake and no damage resulted to the plaintiff, the trespass cannot serve as the basis for punitive damages.

Gary I. Manheimer v. Florida Power & Light Company,

OFFICER INSTALLATION & ANNUAL MEETING

Please join us for our Installation of Officers & Annual Meeting to be held on January 18th at 6:00 pm at Maggiano's, Little Italy at the St. Johns Town Center, 10367 Midtown Parkway. We will have a social time followed by the installation of officers, recognition of our monthly sponsors, committee chairs and board members and distribution of some plaques and awards. We will hear from our out-going President Tim Gaddis and our in-coming President Caleb Hurlbert. Our guest speakers will be Nina Stickler, Dir. Of Public Works for the City of Jacksonville & Robin Smith, Chief of Engineering Construction Management for the City of Jacksonville. Refreshments will be served.

Please [RSVP here](#) with your name and company name and the names of those people attending with you no later than Friday, January 12^h. There is no charge for this meeting.



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Pipeline Reauthorization Bill Passes House T&I Committee

The long-anticipated House action on pipeline reauthorization took place last week, when the House Transportation and Infrastructure (T&I) Committee passed by voice vote the Pipeline Efficiency and Safety (PIPES) Act (H.R. 6494). [NUCA released a statement](#) strongly supporting the PIPES Act. "NUCA in particular endorses the bipartisan proposal to strengthen damage prevention laws, by encouraging and endorsing state implementation of best practices long advocated for by those in the excavation community," said NUCA Chief Executive Officer Doug Carlson. The damage prevention and excavation safety language in the legislation largely aligns with the recommendations made by the Infrastructure Protection Coalition's 2021 Damage Prevention study, which can be found at ipcweb.org. The legislation now moves to the full House for a vote.

EPA Proposes New Lead Pipe Replacement Regulations

On December 5, the Environmental Protection Agency (EPA) [proposed new regulations](#) to require the replacement of almost all remaining nine million lead pipes in the United States over the next decade. [Under the proposal](#), utilities must replace lead pipes entirely over the next decade at a pace of 10% each year, and must create inventories of all their lead pipes.

The 2021 Infrastructure Investment and Jobs Act authorized \$15 billion to help utilities finance the replacement work, along with \$11.7 billion in general-purpose funding through the Drinking Water SRF. While the SRF remains unfunded for FY2024, it is hoped that this new White House-driven proposal will push Congress to fully fund these critical programs. An additional \$350 billion in funding from the 2022 American Rescue Plan is also available for lead pipe mitigation. The agency will accept public comments on the proposal for 60 days and will finalize the rule sometime next year.

Safety Pros: Attend The Safety Damage Prevention Conference, Jan. 25-26, 2024

NUCA's annual Safety Damage Prevention Conference offers a unique opportunity for members involved in safety and damage prevention to hear from experts on a wide variety of topics that impact the industry, and network with others from across the country. This conference also provides an opportunity to address and strategize how members can better navigate complex damage prevention issues. If you're an industry safety professional, mark your calendars for January 25-26, 2024, held at the Hyatt Centric French Quarter hotel in exciting New Orleans, Louisiana. More information will be found at nuca.com/sdpc.

NUCA at 60: Contractors, Come To The 2024 Annual Convention & Exhibit in California!

Next year is NUCA's 60th anniversary, and what better way to celebrate it than at the elegant high desert resort hosting our NUCA's 2024 Annual Convention & Exhibit. Member contractors & suppliers are invited to join us next March 20-23 in Palm Springs, California for the industry's best networking events, educational sessions, industry awards, and much more. Our luxury destination at the Hyatt Regency Indian Wells Resort & Spa will entice you and your guest with its many delights. Registration is now open at NUCADigs.com.

This Season, Share The Details About Trenchless Tech Efficiency

Are you seeking to know more about horizontal direction drilling, or auger boring, or wish your city's administrators did, too? NUCA's "Trenchless Construction and New Installation Methods" manual can help your estimators, engineers, and project managers recognize that trenchless technology could deliver large cost savings to your excavation projects. The 148-page, full-color illustrated manual carefully addresses and explains the most common trenchless installation methods. This season, buy a copy for your local planning department as a professional gift to introduce their staff to these cost-efficient subsurface construction methods. The manual is available exclusively from NUCA and can be ordered online at www.nuca.com/trenchlessmanual.

SAFETY NEWS

By Jeff Blomgren
Safety Director at Petticoat-Schmitt Civil Contractors

New Year Action Plans Review

January is the perfect time to begin the review of safety processes and procedures. OSHA requires an annual review of safety documentation and safety action plans to keep up with regulatory changes. In addition, there may be changes and updates in company policies and procedures that need to be included. The most frequent updates may occur in the areas of PPE requirements, cell phones, drug, and alcohol compliance, and environmental regulations. Training programs may also need updates. Training methods change with time. New and more current materials become available every year and may fit with compliance regulations as it pertains to training responsibilities of the company. It's important to remember that OSHA recommends involving hourly employees in the development of these changes. An effective safety committee is one that includes representation from all areas of company operations without becoming a huge and unwieldy group. This group can be extremely valuable in pursuing updates and changes in safety policy and procedures. Don't forget the annual OSHA 300 and 300A requirements and the updated regulatory labor posters.

In terms of field operations, it's a good idea to have drivers check their registration and vehicle license to be sure they are current. One thing we don't always check is our first aid kits in our trucks. There are items in the kits that have expiration dates and need to be replaced. It's important to get started right so we aren't playing catch up. We all know that when our jobs start right they most times will end right. It comes down to planning and execution. Each year is a great opportunity to start fresh. We had a whole year to learn what worked best and to set our sites on getting better. We are looking forward to the challenges and opportunities of 2024. Good luck to everyone. Have a great 2024.





NUCA

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NUCA ANNUAL CONVENTION & EXHIBIT

MARCH 20-23, 2024

Hyatt Regency Indian Wells Resort & Spa

You and your guests are invited to elegant Palm Springs, California to attend the 2024 NUCA Convention & Exhibit.

Come to Palm Springs, California for our association's annual convention and join your fellow NUCA members for our high-octane learning sessions and exhibit hall featuring the latest utility and excavation products and services for contractors. Every NUCA member is welcome to attend.

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The 2024 Legislative Session kicks off early this year on January 9th. NUCA of Florida will be hosting their Legislative Days on Jan. 30-31, 2024, at A/C Marriott Hotel. On January 30th, attendees will gather for a Breakfast Legislative Briefing from 8 a.m.-10 a.m. Members will then “walk the halls” and meet one-on-one with legislators at the Capitol. Industry- specific bills covering Sunshine 811, heat illness & injury, construction practices, “Buy American,” and licensure are all on the table. In the evening, we’ll gather with lawmakers for a cocktail reception. On Jan. 31st, the Executive Committee begins at 8:30 a.m. and the Board of Directors convenes at 10:30 a.m. Join us in Tallahassee to advocate for the underground utility industry!

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Your company should have received your invoice for your 2024 NUCA of North Florida Membership Dues either by email or via USPS in early December. Payment is due January 31st. If you don't receive an invoice, please email me at nucanf@gmail.com.





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Save the date for February 16th at 7:00pm!

As part of the NUCA promotion, guests are able to purchase a discounted ticket to the game. Price is \$20 a ticket. If you want to add a \$20 food/beverage voucher, select the \$40 option once you are getting your tickets.

Scan the QR code or visit the link below for more details!

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