

# BLUE TOP

THE VIRGINIA TRANSPORTATION CONSTRUCTION ALLIANCE

March 2016

## Shuttle Astronaut Mike Mullane To Kick Off Spring Conference

Is your company falling victim to the normalization of deviance? Is the status quo good enough? The space shuttle *Challenger* was lost due to the failure of a booster rocket O-ring seal. This failure was predicted. False feedback over several years of safe shuttle flights, however, had strengthened NASA's conviction that all flights would be safe. In other words, the absence of something bad happening was being falsely interpreted as an indication that the team's actions were safe when, in fact, it was mere random chance that a disaster hadn't occurred.

Thanks to support provided by VTCA member **Rutherford**, kicking off the VTCA Spring Transportation Construction Conference will be Astronaut Mike Mullane. His keynote is titled "Stopping Normalization of Deviance: A Safety Program." Mullane uses the *Challenger* disaster to define this term, its safety consequences, and how individuals and teams can defend themselves from the phenomenon.

Join us at the VTCA Spring Transportation Construction Conference and Trade Show to hear from Mike Mullane and many, many others, including:

- ◆ Virginia Secretary of Transportation Aubrey Layne (invited)
- ◆ Virginia Commissioner of Highways Charles A. Kilpatrick, PE
- ◆ VDOT Chief Engineer Garrett Moore, PE
- ◆ ARTBA Senior Vice President for Policy and Chief Economist Alison Premo Black, Ph.D.

With an emphasis on the future of the Commonwealth's dynamic transportation program, the Spring Conference will offer multiple sessions led by the industry's most experienced leaders. The Trade Show will showcase the latest tools, materials and services available to facilitate your success.

For all of the details and to register or become a sponsor, visit us on the web at [www.vtca.org](http://www.vtca.org).

### 2016 Premier Conference Sponsors



Dedicated to Advancing the Interests of the Transportation Construction Industries

## General Assembly To Finish Work By March 12

VTCA is actively engaged in the legislative process on behalf of its members. Here is a summary of key initiatives we are working on in the General Assembly.

**Budget:** VDOT is seeking a budget amendment to increase its MEL by about 340 positions. The Department will not use these positions to supplant activities that are currently performed by the private sector. Budget amendments look like the General Assembly may limit this increase. We are opposing several other budget amendments, including ones that would: 1) take money from the priority transportation fund and transfer it to the port to use for expansion instead of bonds; and 2) require toll collectors to report fines and other data to the General Assembly.

**Tolling:** Numerous bills and budget amendments have been introduced to deal with tolling, both statewide and on a project specific level. VTCA supports a comprehensive state-wide tolling bill (as opposed to piecemeal project specific efforts) that would set forth requirements for tolling and the collection of tolls. While a comprehensive tolling bill that VTCA supports has passed the House, “politics” between the House and Senate likely mean no tolling bills in 2016. The comprehensive tolling bill language, in a political maneuver, has now been included as a budget amendment.

**SWaM:** Legislation in the House that would have changed the current definition of “small” to be consistent with the federal SBA definition for qualification as a SWaM business has failed. A similar bill has been carried over to 2017 in the Senate.

**Design-Build Alternative Technical Concepts:** VTCA initiated legislation that would allow VDOT to solicit alternative technical concepts within design-build procurements. The bills have passed in the House and Senate. Several local governments have attempted to amend the bills to address local issues dealing with DB projects. We have defeated those efforts.

**Consultant Procurement:** VTCA is supporting amendments to the procurement laws that would limit agencies’, including local governments, ability to “score” engineering companies, during the RFP process, on their willingness to accept uninsurable risks. These bills have been passed by both the House and Senate.

**Funding Initiatives:** VTCA supports efforts to increase the gas tax in Hampton Roads (to reduce the need for tolls), and floors on the gas tax in NOVA and HR to eliminate the erosion of gas tax revenues in those areas. While the Senate bill has passed, it will face an uphill battle in the House.

**Bonding Initiative for I-66:** VDOT is currently procuring the expansion of I-66 outside the Beltway through a P3 concession. The contingent bonding bills would allow VDOT to pursue the project on a design-build basis with “self-funding” should the concession process fail. The House bill has been carried over to 2017 while the Senate version has passed.

**Mineral Mining Facilities Bonding:** VTCA supported the DMME in its efforts to increase the bonding levels on mineral mining facilities to insure there is sufficient funding to pay for the reclamation on abandoned facilities. After facing opposition in the House committee, the patron withdrew the bill.

**Practical Design:** Two convoluted “practical design” bills were introduced that would require, among other things: life-cycle costing; maximum flexibility in the application of design standards; maximizing efforts to reduce project costs; the “reuse” of existing infrastructure; and the use of design exceptions and waivers. VTCA opposed these bills because: a) they were very poorly drafted; b) the use of poorly defined terms would limit VDOT’s ability to deliver projects; and, c) they exposed projects to uncertainty, challenge, and litigation. The bills have been defeated.

**Prequalification:** A bill that would limit the use of the insurance “experience modification rating” is proceeding through the House. The bill would prevent agencies from utilizing a specific EMR score to disqualify a prospective bidder. The bill would not impact VDOT’s ability to use EMR in its prequalification process.

**Best Value Procurement:** Two bills have been introduced that would allow the procurement of construction services utilizing a variety of factors in addition to low price from a qualified bidder. VTCA opposed these bills and they have been defeated.

Visit [www.vtca.org/images/uploads/high\\_priority021516.pdf](http://www.vtca.org/images/uploads/high_priority021516.pdf) for a list and status report of priority bills that VTCA is lobbying on behalf of its members.

## Federal Aid Highway Projects Affected By Cargo Preference Act Changes

By Memorandum dated December 11, 2015, the Federal Highway Administration (FHWA) changed the FHWA's legal position regarding applicability of the Cargo Preference Act of 1954 (CPA), 46 U.S.C. § 55305, to federally-funded highway projects. That Memorandum reversed and superseded a policy in place since 1988 and beginning in February 2016, imposes specific transportation requirements on certain equipment and materials purchased for use on Federal-Aid Highway Projects.

**The Law** - Congress passed the CPA in 1954 to promote a U.S. maritime transportation system. The CPA's policies are intended to provide a revenue base that will retain and encourage a privately-owned and operated merchant marine. The CPA achieves these goals by requiring "at least 50 percent of any equipment, materials or commodities procured, contracted for or otherwise obtained with funds granted, guaranteed, loaned, or advanced by the U.S. Government . . . [to] be transported on privately owned United States-flag commercial vessels, if available." Previously, the FHWA interpreted the CPA as not applicable to federally-financed State highway projects. That interpretation changed with the December 11, 2015, Memorandum.

**The Change** - FHWA's new interpretation is that the CPA's 50% requirement applies to equipment, materials or commodities purchased specifically for a federally-financed highway project, including state projects with partial federal funding. As example, fabricated steel, tunnel boring machines, large-capacity cranes, and other goods or materials bought specifically for FHWA-funded federal-aid highway projects must comply with the CPA transportation requirements; however, compliance is not required for shipments of cement, asphalt cement, or other materials regularly purchased to replenish existing raw material inventories, and not procured for a specific project.

**Implementation** - The FHWA has directed implementation of the change for all federal-aid projects awarded after February 15, 2016. Pending development of FHWA-specific clauses, the recommended clauses in 46 CFR 381.7(a)-(b) are expected to be incorporated by reference into the federal-aid projects.

**The Impact** - Contractors must now consider whether foreign purchases of equipment and materials for federal-aid projects will require CPA compliance, including associated logistical coordination and cost implementation into bids and proposals. Practically, CPA will still not apply to many projects since most equipment and materials will not require maritime transportation, and project Buy America Act (BAA) requirements may further limit CPA impact. But, as companies consider their options regarding foreign sources of specially-purchased equipment and project materials, CPA compliance requires consideration as the transportation cost impacts of using US-flagged vessels can be considerable.

*Editor's Note:* This summary was written by VTCA member **Vandeventer Black LLP**. For more information regarding the CPA or other government or construction contracting matters, please contact Pat Genzler ([pgenzler@vanblacklaw.com](mailto:pgenzler@vanblacklaw.com)) or Neil Lowenstein ([nlowenstein@vanblacklaw.com](mailto:nlowenstein@vanblacklaw.com)) at Vandeventer Black's Construction and Government Contracts Team ([www.vanblacklaw.com](http://www.vanblacklaw.com)).

## Hampton Roads District News

Jim Utterback, PMP, District Administrator for VDOT's Hampton Roads District, has announced several organizational changes.

Deputy District Administrator - Kevin Gregg is returning to the Hampton Roads District as Deputy District Administrator. Kevin is currently the Division Administrator for the Maintenance Division; previously he was Resident Engineer in the Franklin Residency. In between those two VDOT positions, Kevin held a number of key positions with the consulting firms of Parsons Brinckerhoff and Wilbur Smith Associates. Kevin will assume responsibility for managing internal operations and will transition into his new role over the next couple months, reporting to the Hampton Roads District full time on April 25, 2016.

District Construction Engineer - John Jacobs will immediately assume the role of District Construction Engineer. John brings a wealth of organizational knowledge and professional experience to this position. John is currently District Maintenance Engineer and was previously Staff Engineer for the Accomac Residency. Prior to joining VDOT, he was Director of Public Works for the City of Salisbury, Maryland and had a distinguished career in U. S. Army. He served as Deputy District Engineer in the Wilmington District of U. S. Army Corps of Engineers. An Army Ranger, John also served in Sarajevo/Bosnia and Wurzburg and Fulda, Germany.

District Maintenance Engineer - Joe Lomax, Franklin Residency Administrator, will assume the role of Acting District Maintenance Engineer until the position is filled permanently. Jerry Key, Assistant Franklin Residency Administrator, will assume the role of Acting Franklin Residency Administrator position.

Major Projects Management - Rick Correa will assume the role as Project Manager for the I-64 High Rise Bridge Project. This VDOT administered \$600M project has formally started development. Rick was the VDOT Project Manager for the \$125M I-64/I-264 Interstate Reconstruction Design-Build projects and also for the \$345M Dominion Boulevard Project. Rick will report to Pete Reilly, District Engineer Project Development.

Senior Project Manager - ERT - Jim Long will assume full time responsibility as Senior Project Manager for the \$2.3B Elizabeth River Tunnels project. Jim was previously managing both HRTAC projects and the ERT project. This change allows him to focus his efforts full time on the delivery of this critical P3 Project. Jim will report to Pete Reilly, District Engineer Project Development.

HRTAC Program Manager - Tony Gibson will continue his focus on the HRTAC Program as the Program Manager. Tony has been working the HRTAC program since it started and will continue to facilitate programmatic oversight for the \$1.6B portfolio of regional projects. Tony will report to Dawn Odom, District Program Investment Management.

## Dialogue With The Richmond District Set For March

VTCA's "Dialogue with the Richmond District" will be held on Wednesday, March 16 at the Four Points by Sheraton in Midlothian.

The day begins with presentations on what's going on in the District -- contracting, construction, maintenance, operations, consultant engineering and the CEI program are all on the agenda. Next is an interactive discussion on project and program delivery - the advantages and issues surrounding various delivery methods including PPTA, design/build and design/bid/build.

Discussion will continue at lunch where VDOT professionals will host tables by topic – sit with VDOT and industry experts on the topic of most interest to you.

Registration begins at 8:00 a.m. with a continental breakfast. The event will conclude after lunch. In only a half-day you will take away the most current information on doing business in the Richmond District. To register, visit [bit.ly/RichmondDD16](http://bit.ly/RichmondDD16).

### Dialogues Down The Road

Mark your calendar for the Lynchburg/Salem District Dialogue set for April 26 in Salem. The Culpeper/Fredericksburg Dialogue will be on May 26 in Charlottesville. Details soon.

## ESCCC Class Schedule

The Erosion and Sediment Control Contractor Certification class schedule follows. Visit [www.vtca.org](http://www.vtca.org) for more details and to register.

March 4: Front Royal - Holiday Inn and Suites

March 25: Roanoke - Higher Education Center

April 22: Newport News - Marriott at City Center

May 6: Richmond - VTCA Office

June 3: Abingdon - Southwest Virginia Higher Education Center

November 4: Roanoke - Higher Education Center

December 19: Richmond - VTCA Office

## Time To Apply For VTCA Scholarships

VTCA is proud to offer five scholarship programs. These are great opportunities for qualified students. A summary can be found at <http://bit.ly/16-17scholarships>.

This flyer gives a brief description of each program. The criteria for each is a little different, so read closely.

Please post the flyer in your offices and at your work sites. Circulate this information to your employees as soon, and as often, as possible. In newsletters, in paycheck envelopes, on bulletin boards, in safety meetings -- any way you can help us get the word out will be greatly appreciated!

Visit us online at [www.vtca.org](http://www.vtca.org) or contact Stephanie ([stephanie@vtca.org](mailto:stephanie@vtca.org)) for more information or an application package.

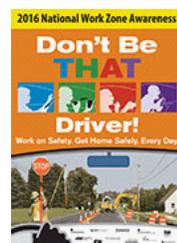
## National Work Zone Awareness Week Set For April 11-15

At the start of the construction season each spring, National Work Zone Awareness Week is held to encourage safe driving through highway work zones. The theme for 2016 is "Don't Be THAT Driver: Work on Safety. Get Home Safely. Every Day."

VTCA offers free supplies of the neon orange "Drive Safely Through Work Zones" pencils – contact Jan Morehead, [jan@vtca.org](mailto:jan@vtca.org). These are especially appreciated by high school drivers education teachers!

The American Traffic Safety Services Association is the source for orange pins, ribbons and bracelets. Proceeds help to support the ATSSA's Foundation programs, including the Roadway Worker Memorial Scholarship Program and the National Work Zone Memorial Program.

Show your support and order pins, ribbons and bracelets at [bit.ly/WZAwarenessOrders16](http://bit.ly/WZAwarenessOrders16).



Spread the word. Wear orange on April 13.

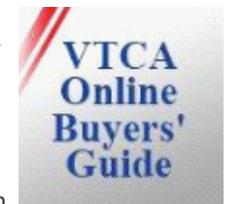
Put up the poster in your offices and on your job sites. Order posters at [bit.ly/WZAwarenessPoster16](http://bit.ly/WZAwarenessPoster16).

Additional resources can be found on the Federal Highway Administration's page at [www.ops.fhwa.dot.gov/wz/outreach/wz\\_awareness.htm](http://www.ops.fhwa.dot.gov/wz/outreach/wz_awareness.htm).

## Who Is Looking For Your Business?

Make it easy for industry professionals to find your company quickly. The new *Online Buyers' Guide* lists all VTCA members at no cost. A wide variety of customized listings with enhanced content are available at very reasonable rates.

Reach decision-makers in Virginia's thriving transportation construction industry. Contact our partner Naylor Association Solutions today. Reach out to Adam Lingenfelter, our Project Manager, at [adaml@naylor.com](mailto:adaml@naylor.com). His phone number is 352-333-3451.



### A Reference at Your Fingertips:

- Google™ integration returns richer results
- Customized listing and enhanced content
- Directs visitors to a landing page to learn more about your business
- Users can set the Online Buyers Guide as their default browser, bringing them to your listing
- Cross-promoted in other VTCA communication pieces

## Aggregate Lunchbox Seminar Set For March 9

The Aggregate Operations Committee has put together a Lunchbox Seminar focusing on several critical areas of maintenance and their impact on daily production success. Topics covered will include:

- Taking industrial bolting to the next level, making it significantly safer, faster and more accurate with minimal additional costs over prior methods;
- Chemical repairs of conveyor belts, leaking water lines and other issues around the plants;
- Discussions of conveyor belting, how they are constructed and why you would choose the different constructions.

The seminar is set for March 9, 10:00 a.m. to 2:00 p.m., with lunch included. It will be hosted by **Luck Stone's** Boscobel plant in Manakin, near Richmond. Registration is online at [www.vtca.org](http://www.vtca.org) or contact Sam Hollins at [sam@vtca.org](mailto:sam@vtca.org).

## Smoke Schools Coming This Month

VTCA's Visible Emissions Certification Classes ("Smoke Schools") are scheduled for March 18 in Roanoke, March 19 in Abingdon and March 21 in Richmond. Registration is available online at [www.vtca.org](http://www.vtca.org). Questions should be directed to Stephanie Rusnak at 804-330-3312.

Anyone involved in taking visible emissions readings is required by the Environmental Protection Agency to receive certification every six months.

## Check Out YouTube Video on Morefield Gem Mine

Located in Amelia County, Virginia, Morefield Gem Mine is one of the most unique mines in Virginia. The mine first opened in 1929 and is operated now similar to the way it was then. Check it out on YouTube!

[www.youtube.com/watch?v=SAc0Y3bLulc](http://www.youtube.com/watch?v=SAc0Y3bLulc)

## VTCA Aggregate Leadership Meets With MSHA Head

On February 25th members of the VTCA Aggregate Leadership Committee met with MSHA leaders. The meeting was held in Staunton at the MSHA field office. Newly appointed Northeast District Manager, Pete Montali, was present. This was the first opportunity VTCA had to meet the new manager and share VTCA's vision for safety in Virginia. APLC and Safety Committee chairmen, Bobby Bolling and Troy Austin accompanied Sam Hollins to the meeting.

## MSHA Tour Of Luck's Bull Run Plant

On February 24 a contingent from the US Department of Labor attended a tour of the **Luck Stone** Bull Run Plant. The group included Joe Main, Assistant Secretary of Labor for Mine Safety and Health, and U.S. Deputy Secretary of Labor Chris Lu. Also in attendance was Neil Merrifield, Administrator for Metal and NonMetal.

**Luck Stone** continuously looks for ways to improve safety because the company understands that the health and well-being of associates is critical to its operation.

Protecting workers at all 12,000 metal and nonmetal mines in the United States is a top priority for the Labor Department's Mine Safety and Health Administration. "Thanks to the work of MSHA and the proactive leadership of companies like **Luck Stone**, the more than 250,000 workers at metal and nonmetal mines in the U.S. can feel safe on the job and return home every day free of injury and illness," said Lu.



## Boxley Announces Agreement To Sell To Summit Materials

**Boxley Materials Company** has announced that it has signed a definitive agreement to sell the company to Denver-based Summit Materials, Inc. The transaction is expected to close in mid-March, pending expiration of the standard regulatory review period.

Ab Boxley, President and CEO of the family-owned business, stated that Summit met the criteria that he and the company's shareholders were seeking. "The sale needed to benefit the shareholders of Boxley Materials, provide growth opportunities for our employees, and the buyer had to be a strong corporate citizen," said Boxley. "Summit is a great match with our company's culture and supports our plans for the continued growth of Boxley Materials."

The company will retain the Boxley name and the existing leadership team will remain in place. Boxley Materials currently employs 350 people throughout Virginia. Summit CEO Tom Hill added "Boxley is a perfect fit with our materials-based acquisition strategy to increase our geographical diversity and create a platform of scale in the high-growth Mid-Atlantic area. Boxley enjoys a market leading position and experienced and entrepreneurial management who will continue to be led by Ab Boxley. We are very excited to team up with this high-caliber company and look forward to its continued growth."

For more information about Summit Materials, please visit [www.summit-materials.com](http://www.summit-materials.com).

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## Terra Site Expands Services

**Terra Site Constructors, LLC** is pleased to announce that the Virginia Department of Small Business and Supplier Diversity has approved its request for expansion of services to include additional services provided by the firm. "The revised and expanded list of services eligible for DBE credit better reflects the suite of services we provide. We look forward to offering these expanded services to our clients who are looking to procure construction services from certified firms in the transportation/infrastructure, government, commercial and private markets," said Babur R. Mian, PE, Chairman and CEO. "The addition of experienced leaders in our field and office staff coupled with the expansion of our equipment fleet has positioned us well to service our clients in 2016."

Terra Site Constructors is now certified to provide the following services in these NAICS codes:

237310 Highway, Street, and Bridge Construction including bridge jacking, bridge repairs, drainage structures, culverts, arches, and concrete strengthening, epoxy injection, hydrophilic grout injection, helical anchors, and bearing replacement.

237990 Heavy Civil Construction including mechanically stabilized earth wall systems, post and panel walls, noise walls, sound walls, perimeter walls, security barriers, tie-back walls, and gabion baskets.

238110 Installation of retaining walls, traffic barriers, coping, and moment slab.

238120 Installation of precast concrete panels and structural steel.

238140 Installation of masonry retaining walls.

238910 Site preparation including excavation/backfill, load transfer platforms, ground improvement, foam block and flowable fill installation, geogrid installation, aggregate pier installation, drilled shaft installation, and drilled pier installation.

541690 Installation, maintenance, and monitoring of geotechnical and structural instrumentation.

# VTCA Winter Meeting - A “Magical” Event

From the FAST Act to fireworks over Disney, VTCA Winter Meeting attendees enjoyed excellent presentations and quality time with colleagues and family. Held February 4 – 7 at Disney’s Yacht Club Resort, the meeting was a great success. Visit the Resources tab on the VTCA home page to link to these PDFs:

- ❖ **What the FAST ACT Means for Virginia**, Alison Premo Black, PhD, ARTBA
- ❖ **Building A Corporate Culture Of Safety: The Ten Things Executives Need To Do**, Mark Ligon, ARM, CRM, PHR, CESCO, Vecellio Group
- ❖ **VDOT 2016 Program Update**, Garrett Moore, PE, Chief Engineer, VDOT
- ❖ **VTCA Online Buyers’ Guide & Directory of Members**, Heather Greyling, Naylor Publications



David Abernathy (*Abernathy Construction*), Babur Mian (*Terra Site Constructors*) and Clint Diers (*Rutherford*) share a moment.



VTCA meetings are always family friendly! Our youngest attendee enjoys the party.

*We thank these members for serving as our Winter Meeting sponsors!*



## Welcome To Our New Members

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# BLUE TOP



A monthly publication of the Virginia Transportation Construction Alliance

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## Jay Openshaw Of E. V. Williams Joins VTCA Board

Jay Openshaw of *E. V. Williams, Inc.*, Virginia Beach, has been appointed by the VTCA Board of Directors to fill a vacancy created by the resignation of Will Karbach, *Branch Highways*. Karbach resigned for personal reasons, including spending more time with his elderly mother.

## In Memoriam

Jack S. Liles, Sr., former President/CEO of Tidewater Construction, passed away peacefully on January 25; he was 87. A 1949 graduate of Clemson's University's ROTC program with a B.S. in Civil Engineering, Liles was appointed as second lieutenant in the U.S. Army. Upon graduation he joined Tidewater as a field engineer. His career with Tidewater advanced and in 1984 he accepted the role of President and CEO. He retired in 1990 after 40 years of distinguished service.

Details: <http://foxandweeks.com/memorial/Jack-S.-Liles,-Sr./5566>

*JMT (Johnson, Mirmiran & Thompson)* is pleased to announce that John Riley, PE, PTOE, has joined the Richmond office as part of the Traffic Engineering Team as a Senior Associate. John will be responsible for business development and project management in the traffic engineering field. He brings over 16 years of transportation planning and traffic engineering experience in the public and private sectors. His experience includes preparing traffic signal designs, signing and striping plans, traffic management plans, safety studies, bicycle and pedestrian plans, transportation elements for comprehensive plans, and traffic impact analyses. John is a registered professional engineer in VA, MD, FL, TX, and ND. John can be reached at 804-205-5599 or by email at [jriley@jmt.com](mailto:jriley@jmt.com).

*Michael Baker International* has recognized the achievements of several transportation professionals in its Virginia offices with new titles:

- Ken Mobley was appointed to Associate Vice President.
- Jose Aldayuz, Winchester Falbe, Philip Quillin and Jennifer Riddle were appointed to Senior Associate.
- Huang Haoxiong, Deanna Nevling and Scudder Wagg were appointed to Associate.

## Health Care Corner

The continued rise in health insurance premiums has caused many employers to reduce their employer premium contributions for their employees. It is wise for employers to pre-tax their employee's premium share for themselves as well as their dependents. However, the IRS requires employers to have section 125 Premium Only Plan ("POP") in place in order to properly pre-tax these premiums. Please contact me with any questions.

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