As we reflect upon our many blessings, it is also important to reflect upon those among us who are less fortunate in health and prosperity. We extend our sympathies and prayers to those families that have lost a loved one this past year. We have experienced the loss of loved ones within the MICA family of members. At this time of Thanksgiving, we reflect on their lives and how we have been blessed with knowing them and sharing in their lives.

The concern for others and the willingness to help out has been and continues to be an endearing trait among MICA members. As new members join our MICA family, you all welcome them and make them feel at home. But most of all, you all are willing to help them become better insulation professionals. You come from such diverse backgrounds, but you all reflect true Christian values in your personal and professional lives. Our association is truly blessed to have such strong members. Cindy, our daughters, and I are most grateful to be a part of MICA and to have MICA a part of us. You have made and continue to make MICA a blessing to our family.

Thanksgiving marks the start of another Holiday Season and the end of yet another year. This next month will be filled with family gatherings, holiday shopping, Hanukah, and Christmas and New Year’s Eve parties.

Our fall season here in the Midwest has been mild again this year. It gives you pause to rethink this global warming phenomenon. We have not had any real cold spell (yet) and virtually no moisture of any kind. We are thankful for the nice weather but concerned about what may await us next year without the needed precipitation. For me, Thanksgiving means that there are only two weeks of classes before finals week. It also means that I have only two weeks to get all of our outside projects assigned and graded. The Christmas season for me does not start until after final exams.

Thanksgiving, though, is a time to reflect on the many blessings that have been bestowed upon us and our families wherever they may be. We give thanks for living in America where we are truly free to live as we please and to worship as we please. Even though the elections did not necessarily go the way we had hoped for our industry, we are truly blessed to live in a society where we have the opportunity to voice our opinions freely. And we are most thankful that the political commercials have ended.

As Cindy and I reflect on our year, we as a family have much to be thankful for. God has continued to bless us with good friends and excellent health. Our daughter, Mary, is working for a subsidiary of Union Pacific, daughter Sarah is a nurse working full-time in Lincoln, and Anna, the accountant, splits her time between Omaha and Denver.

As we reflect upon our many blessings, it is also important to reflect upon those among us who are less fortunate in health and prosperity. We extend our sympathies and prayers to those families that have lost a loved one this past year. We have experienced the loss of loved ones within the MICA family of members. At this time of Thanksgiving, we reflect on their lives and how we have been blessed with knowing them and sharing in their lives.

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PRESIDENT’S MESSAGE

TO: THE MICA MEMBERSHIP

HELLO MICA FAMILY,

The election 2012 is now over and so are the nasty political ads, at least for the next three years or so. WOW, I don’t know if I have ever seen such bad-mouthing in any advertisement as I have seen by both political parties in this election campaign. It would be nice if we could have a law that says you can only advertise and talk about yourself and what your agenda and goals will be if you are elected. And this should go for all politicians….Wishful thinking, I know. I have never been one to talk politics so I sure don’t want to start now.

What I would like to talk a bit about is the recent fall meeting held in Omaha, Nebraska. The Board of Directors really hit a homerun with the free FMI management seminar on Tuesday and the technical sessions that were presented on Wednesday and Thursday. All of the sessions were informative and well attended. The presentation on electronic contracting on the Internet by Gary Auman, the insights on how to run your company more efficiently and effectively by Don Emery, and the OBAMA Care update by Rob Beeler were worth the price of admission. The MICA associate distributor/ fabricators really put on an awesome table top display of the new and upcoming products for our mechanical insulation industry. I also would like to say a special “thanks” to Jon McCleary with Performance Contracting, headquartered in Kansas City, for sharing PCI’s company thoughts on proposal writing and clarifications and project management tips. This was very well received by ALL of our membership. Thanks Jon!

Thanks to you all for attending the MICA fall business meeting and supporting our industry. Oh and many thanks for all of you who brought “newbies” to the meeting, I had a chance to meet and talk to many of these bright newcomers in our industry (I know some of you may not be new in the industry, sorry), and we really look forward to seeing you all again in June.

You all probably have big plans for the Thanksgiving and Christmas holidays that are just around the corner. In fact, you probably will get this newsletter about the time you are either thawing the turkey for the big feast or back at work after the holiday. Thanksgiving is definitely one of my favorite holidays of the year. Thanksgiving is a time to be with family and friends, enjoy great food and drinks, but most of all, it’s a special time to be thankful for all that you have. We all have a lot to be thankful for in this wonderful industry that has treated many of us and our families very well.

Judy and I would like to wish all of you a very Happy Thanksgiving holiday and remember, don’t eat so much that you don’t have room for the pie. My favorite pie is large, and I will have two slices, please!

Talk to you all soon, and thanks for reading.

Regards,

Rich Huseman
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SUBCONTRACTOR’S ‘SUBSTANTIAL COMPLIANCE’ WITH BOND STATUTE IS SUFFICIENT TO PRESERVE VALID BOND CLAIM, ASA TELLS MINNESOTA SUPREME COURT

ALEXANDRIA, Va. — If the Supreme Court of Minnesota does not reverse an appeals court’s decision holding construction subcontractors to strict compliance with the state’s payment bond law, subcontractors could lose valid claims based on technicalities, even when those claims notices are actually received by both the general contractor and the surety company.

The American Subcontractors Association on Oct. 31 asked the Minnesota Supreme Court for permission to file an amicus curiae brief in the case of Safety Signs, LLC, v. Westfield Insurance Co., stating that “substantial compliance with notice requirements is sufficient to preserve a bond claim.”

The Minnesota Appeals Court dismissed Safety Sign’s payment bond claim because the subcontractor sent the notice to the general contractor’s principal address, not the address listed on the payment bond, as required under Minnesota’s Public Contractors Performance and Payment Bond Act.

“The public policy implications of not granting review, the uncertainty that currently exists, and the troubling legal and equitable issues that would result if this Court does not clarify whether substantial compliance with notice requirements is sufficient to preserve a bond claim under the notice provisions of [the payment bond law] … all support granting the current Petition for Review,” ASA wrote. “There is no compelling legal or equitable reason why, given the remedial purposes of the statute, the doctrine of substantial compliance should not be extended to the Act.”

Safety Signs subcontracted with Nile-Wiese Construction to perform traffic control and pavement marking work on the “Owatonna Degner Regional Airport Construct Runway 5/23 and Taxiway B project,” owned by the City of Owatonna. Safety Signs properly performed its scope of work without complaint, but was not paid after the city paid the contractor. Safety Signs sent its notice to the surety company, Westfield Insurance, and the contractor, but sent the notice to the contractor’s principal place of business listed in the subcontract and on the contractor’s Web site, not the address listed on the payment bond. The surety and contractor acknowledged receipt of the claim and the contractor paid the

(Continued on page 5)
requested amount.

Safety Signs commenced with the second phase of the project work, but again, was not paid for its work. In January 2010, Safety Signs served the contractor and surety with a second payment bond claim, and again, sent it to the contractor’s principal place of business. Nile-Wiese and Westfield refused to pay, based on the technicality that the notice of claim was not sent to the contractor’s address listed on the bond as required under Minnesota’s bond statute. Safety Signs sued. The trial court found substantial compliance with the statute and awarded Safety Signs 100 percent of its claim, plus attorney fees, costs and 18 percent interest under the state’s prompt pay law.

The surety appealed, and the appeals court reversed the trial court decision, stating that strict compliance with the notice requirements of the bond statute was a condition precedent to a payment bond claim.

ASA reminded the Minnesota Supreme Court that the primary purpose of the bond statute is to protect those who perform labor or furnish material to public projects. “Yet in the Decision the [appeals] court held that substantial compliance with the Act — through serving notice on the surety and attempted service on the bond principal at its regular business address — was insufficient to pre-

serve otherwise valid bond claims,” ASA wrote.

The appeals court’s decision, ASA also noted, “would create an incentive for collusion between the surety and contractor to (as occurred here) list different notice addresses for the contractor in the subcontract and bond, and then refuse to accept certified mail service of claims.

“ASA is concerned about maintaining consistency and integrity in Minnesota case law since there are already cases applying the substantial compliance doctrine to the Act, which the Minnesota Court of Appeals dismissed as implicitly overruled,” ASA said. “As an amici participant ASA could provide valuable perspective and information on the use of payment bonds on construction projects, the importance of such bonds to subcontractors, the practical concerns regarding payment on construction projects, and the risks of non-
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VOTERS APPROVE NEARLY 70% OF STATE & LOCAL TRANSPORTATION BALLOT INITIATIVES

(WASHINGTON)—Voters on November 6 demonstrated once again the importance of transportation by approving 68 percent of the measures to increase or extend funding for highways, bridges and transit, an American Road & Transportation Builders Association (ARTBA) review finds.

The association tracked 31 measures overall—five were statewide initiatives and 26 were local. All of the seven bond initiatives were approved by voters. Eighteen measures were for increasing, extending or renewing a sales tax for transportation purposes, two were property tax extensions and one was for a local gas tax. The total value approved was $2.4 billion.

The results are consistent with previous elections, ARTBA says. In 2010, voters approved 61 percent of similar measures, 78 percent in 2008, 77 percent in 2006 and 76 percent in 2004.

“The results show the American people are looking for solutions to address their transportation challenges and are willing to pay more if they know the revenue generated will be used for its intended purpose,” says ARTBA Chief Economist Alison Premo Black, who compiled the list.

Three of the four statewide measures to raise additional transportation funds passed with an average approval rate of 63 percent. Arkansas voters approved a one-half cent increase in the state sales tax to cover a $1.3 billion bond issue for roads and bridges. The temporary sales and use tax will help fund improvements for state highways and bridges, county roads, city streets and other surface transportation.

Alaska voters approved a bond issue of $453.5 million for transportation.

Although a strong majority of voters (65 percent) in Los Angeles, Calif., supported Measure J, which would have extended the 30-year one-half sales tax passed in 2008 for an additional 30 years, the ballot initiative needed a 66 percent super majority for approval. The current sales tax measure is set to expire in 2039. Had the measure passed, it would have extended the current sales tax to 2069.

Three ballot initiatives did not specifically ask voters to increase funding for roads, bridges or transit, but they did address transportation issues. Voters in Michigan opened a path to one of the largest bridge projects in the nation by rejecting an initiative that would have required a statewide referendum before building an international crossing to Canada. The referendum was initiated by the owner of the Ambassador Bridge to prevent a new crossing over the Detroit River. Earlier this year, the Canadian government announced an agreement with Michigan Governor Rick Snyder (R) to build and pay for a new, publicly owned bridge between Windsor, Ontario, and Detroit, just two miles south of the Ambassador Bridge. The Canadian Transport Minister said the bridge will now be built “as soon as possible.” The cost of the project is estimated to be $1 billion.

Voters in Cornelius, Ore., rejected a measure to repeal the local fuel tax, which is used to improve roads. Residents of Virginia Beach, Va., approved a nonbinding referendum in support of having the local city council explore extending a local light rail system into the city.

A complete copy of ARTBA’s report can be found in “current issues” of the “government affairs” section of www.artba.org.
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FUTURE MICA MEETING DATES


56th Annual Spring Convention — June, 17 — 20, 2013, Waldorf Astoria Naples, Naples, Florida. [Please note that the convention will begin on the Monday after Father’s Day. This slight change in the schedule is the direct result of member feedback to the Board].

Fall 2013 Annual Fall Business Meeting — October 16 & 17, 2013, Embassy Suites Downtown, Omaha, NE.

MICA MEMBER ADDRESS/INFO. UPDATES

Be sure to inform the MICA office of any changes or corrections to your listing for either the MICA Directory, e-mail correspondence or mailing address. Even if you update your company listing on the MICA website, please inform the MICA office of the changes. We try to be as current as possible with your help. For those not in attendance at the fall meeting, we will be sending out an up-to-date MICA Directory.
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BOARD SETS DUES AND ADVERTISING RATES FOR 2013

At its October meeting, the Board of Directors of MICA approved MICA’s operating budget for 2013. In its deliberations, the Board voted to increase the annual membership dues by $25.00 for contractor and associate member firms. Advertising rates for 2013 will remain the same as in 2012 except for inserts. Due to the increase in postage rates when an insert is included in the newsletter, monthly inserts will be $250 in 2013. The Board is very cognizant of the current state of the economy and wants to keep MICA affordable to all current and prospective members. Annual dues have remained constant for the past three years.

Contractor member annual dues for 2013 are $675.00. The annual dues for associate members is $475.00. The advertising rates have not increased for 2013. Please contact the MICA office for a copy of the 2013 advertising rates. Advertising in the MICA Messenger continues to be an excellent forum to reach the membership on a monthly basis.

We will be mailing 2013 membership renewal notices and advertising contracts in December. We are anticipating 100% renewals and look forward to your continued participation in MICA in 2013.

NATIONAL COMMERCIAL & INDUSTRIAL INSULATION STANDARDS MANUAL-7TH EDITION

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U.S. DEPARTMENT OF LABOR’S OSHA ANNOUNCES NEW WHISTLEBLOWER PROTECTION PROGRAM DIRECTOR

WASHINGTON – Assistant Secretary of Labor for Occupational Safety and Health Dr. David Michaels today announced Beth Slavet as the new director of the agency’s Whistleblower Protection Program.

Slavet is an experienced administrator and manager with more than 30 years of experience with the enforcement of federal whistleblower statutes. She is the former chairman of the U.S. Merit Systems Protection Board, where she also served as vice chairman and a member from 1995-2003. She has spent the last decade in private practice where she had a special focus on whistleblower protection.

OSHA enforces the whistleblower provisions of the Occupational Safety and Health Act of 1970 and 21 other statutes protecting employees who report alleged violations of various workplace, commercial motor vehicle, airline, nuclear, pipeline, environmental, railroad, public transportation, maritime, consumer product, health care reform, corporate securities, food safety and consumer financial reform regulations. Additional information is available at http://www.whistleblowers.gov.
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<td>Metal Jacketing</td>
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The Obama administration moved forward today (November 20, 2012) to implement provisions in the health care law that would make it illegal for insurance companies to discriminate against people with pre-existing conditions. The provisions of the Affordable Care Act also would make it easier for consumers to compare health plans and employers to promote and encourage employee wellness.

“The Affordable Care Act is building a health insurance market that works for consumers,” said Health and Human Services Secretary Kathleen Sebelius. “Thanks to the health care law, no one will be discriminated against because of a pre-existing condition.”

“The Affordable Care Act recognizes that well-run, equitable workplace wellness programs allow workers to access services that can help them and their families lead healthier lives,” said Secretary of Labor Hilda L. Solis. “Employers, too, can benefit from reduced costs associated with a healthier workforce.”

The Obama administration issued:

- A proposed rule that, beginning in 2014, prohibits health insurance companies from discriminating against individuals because of a pre-existing or chronic condition. Under the rule, insurance companies would be allowed to vary premiums within limits, only based on age, tobacco use, family size, and geography. Health insurance companies would be prohibited from denying coverage to any American because of a pre-existing condition or from charging higher premiums to certain enrollees because of their current or past health problems, gender, occupation, and small employer size or industry. The rule would ensure that people for whom coverage would otherwise be unaffordable, and young adults, have access to a catastrophic coverage plan in the individual market. For more information regarding this rule, visit: http://www.healthcare.gov/news/factsheets/2012/11/market-reforms11202012a.html.

- A proposed rule outlining policies and standards for coverage of essential health benefits, while giving states more flexibility to implement the Affordable Care Act. Essential health benefits are a core set of benefits that would give consumers a consistent way to compare health plans in the individual and small group markets. A companion letter on the flexibility in implementing the essential health benefits in Medicaid was also sent to states. For more information regarding this rule, visit http://www.healthcare.gov/news/factsheets/2012/11/ehb11202012a.html.

- A proposed rule implementing and expanding employment-based wellness programs to promote health and help control health care spending, while ensuring that individuals are protected from unfair underwriting practices that could otherwise reduce benefits based on health status. For more information regarding this rule, visit: http://www.healthcare.gov/news/factsheets/2012/11/wellness11202012a.html.
FMI RELEASES Q3-2012 CONSTRUCTION OUTLOOK REPORT

RALEIGH, N.C., (November 12, 2012) – “Contrary to election-year rhetoric, the economy is inching its way to improvement, and the construction industry has not stopped working,” according to the third quarter 2012 Construction Outlook report by FMI, the largest provider of management consulting and investment banking to the engineering and construction industry. Released today, the industry forecast is calling for an 8 percent increase in total construction put in place for 2013. Contributing to this positive forecast is more robust growth in residential construction, as well as a few strong markets in nonresidential and non-building construction.

The focus for 2013 will be on the movement of private money back into the markets. For the economy to grow at a faster rate with the fiscal cliff looming and state and municipal budgets still in repair mode, it will be the private markets that must lead the way. Total construction put in place for 2013 is forecast to be $892 billion, a solid improvement over the last few years, but still just edging out 2003 levels of construction activity.

Health care construction will see a solid recovery along with power construction. Both markets are expected to grow by 8 percent in 2013. Lodging, office, educational and commercial markets will continue to struggle to get out of the doldrums. However, growth for all will be in line with or ahead of expected GDP growth.

Residential Construction Housing starts rose to 603,000 units a year as of September 2012. Single-family permits also rose to a 545,000-unit pace, or 6.7 percent, returning to levels not seen since July 2008.

Nonresidential Construction Trends and Forecasts by Sector:

Lodging — Hotel developers will renovate before building new properties. Bank loans will be hard to justify until occupancy and room rates remain consistently high.

Office — Through the first two quarters of 2012, the U.S. office sector has now absorbed 10.4 million square feet, 100,000 square feet less of net absorption than was generated over the first six months of 2011. (Jones Lang LaSalle, "Office Outlook United States, Q2 2012). This is not yet enough activity to compare with prerecession highs, but we expect CPIP to improve 4 percent in 2013.

Commercial — Expect more thinking of commercial construction space to accommodate smaller stores and combining in-store sales with online shopping. Look for increasing multi-use projects.

Health care — New health care construction will include a growing number of renovation projects to update current facilities for modern hospital design, using more technology in the rooms as well as for improving air quality and reducing energy usage.

Education — Significantly less funding from states for K-12 schools.

Religious — The lending environment continues to be a challenge for many congregations.

Public safety — Despite overcrowding in prisons, we expect public safety construction to remain slow for the next couple of years, at least with only 1 percent growth in 2013 to $10.2 billion.

Amusement and recreation — Money for sports stadiums will be hard to find from local government investment, and banks will be reluctant to lend to anyone who couldn't already pay for the project from cash flow.

Transportation — This remains a strong sector for construction. CPIP is expected to grow 6 percent in 2013 to a total of $38.2 billion for the year. This is due in part to The FAA Modernization and Reform Act will provide $63.6 billion for the agency's programs between 2012-2015.

Communications — Growth in communication construction is being powered by an insatiable need for speed and to send and store large amounts of multimedia files over the Internet. One trend that might slow the growth in construction dollars is the trend to use mini cell "towers," which are small, easily installed boxes that help to maximize spectrum.

Manufacturing — Manufacturing construction is starting to make a comeback with both new growth in manufacturing output and with some companies repatriating their manufacturing capacity.

Power-related — Power construction will continue to be one of the strongest growth sectors for construction. Worthy to note is U.S. Army Corps of Engineers has a proposal out for $7 billion in locally generated renewable energy through power purchase agreements.

Highway — State budgets will continue to be strained and it will be difficult to get larger projects off the ground. Therefore, funds from the MAP-21 and TIGER grants make up a large percentage of construction put in place included in FMI's 2013 forecast of $84.7 billion for highways and streets.

Sewage and waste disposal — Waste-to-energy may be one of the best bets for future work in this sector if more municipalities can find ways to work with private investors.

Water supply — Expect this sector to struggle to find funds for necessary remediation and construction. Strength in water supply construction will be found in pockets for industrial projects like the mining sector, power and industrial plants.

Conservation and Development — The 2012 annual budget for the Department of Agriculture eliminates funding for the Resource Conservation and Development (RC&D) and Watershed and Flood Prevention Operations programs. New projects in this sector, like water system projects, will more likely come from cleanup for the mining and energy sector to comply with regulations.

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