

# ACEC Oregon

AMERICAN COUNCIL OF ENGINEERING COMPANIES  
OF OREGON

Representing engineering and surveying companies  
in Oregon and Clark County, Washington  
for more than 50 years.

## FALL 2009

# UPDATE

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Member of the  
American Council of Engineering Companies  
Washington, D.C.



## CALL FOR ENTRIES

# Engineering Excellence 2010

■ **Phase 1 "Intent to Enter" Deadline** - Monday, October 26, 2009

■ **Phase 2 Final Deadline** - Monday, November 16, 2009

Phase 1 is a brief "first draft" version; Phase 2 (final deadline) is when boards (photographic panels) and final write-up are due. Awards dinner is January 13.

Whether the project is big or small, special engineering achievements deserve recognition. If your firm has an outstanding project or study that was undertaken between November 1, 2007 and October 31, 2009, we encourage you to submit it to the annual Engineering Excellence Awards competition. Participating in Engineering Excellence is an excellent marketing opportunity.

**What is Engineering Excellence?** Engineering Excellence is an annual design competition that recognizes engineering achievements which demonstrate the highest degree of merit and ingenuity. For more than 40 years, hundreds of consulting engineering firms have entered their most innovative designs in state competitions.

For more information and to download the 2010 Call for Entries, including the official entry form, go to <http://www.acecOregon.org/engineeringExcellence.php>.

If you are unfamiliar with the Engineering Excellence entry process, you may want to drop by the office on October 26 as this is a good time to review boards (photographic panels) from previous years and ask questions. Please contact ACEC Oregon at (503) 292-2348 or [mwebber@acecOregon.org](mailto:mwebber@acecOregon.org) with your Engineering Excellence questions.

### Other Dates to Remember

- **Phase 2 Q&A Session** (optional) Monday, October 26, 4:00 to 5:00 P.M.
- **Phase 2 FINAL Deadline** Monday, November 16
- **Judging of Entries** Wednesday, December 2
- **Awards Dinner** Wednesday, January 13, 2010, Portland, Oregon
- **ACEC NATIONAL Entries Due** January 8, 2010, Washington, D.C.

## Surveying Firms Now Qualify for Membership

ACEC Oregon now accepts surveying firms for full membership, as approved by a recent vote of member firm representatives. The bylaws now read "Membership in ACEC Oregon shall be limited to and held in the name of duly organized and constituted consulting engineering **and surveying** firms."

This means surveying firms are also eligible to participate in ACEC's health and insurance programs. Members have several options from which to choose, including a retirement program. Click here for more information on our Health and Business Insurance and Retirement Plan programs: <http://www.acecOregon.org/join/insuranceInfo.php>.

New member firms also receive the special membership dues incentive which means the firm would pay one-third dues the first year, two-thirds dues the second year, and full dues the third year.

If you know a surveying firm that may be interested in membership or would like membership information, please contact [echurchill2@acecOregon.org](mailto:echurchill2@acecOregon.org) or call (503) 292-2348.



**We just installed new, anti-spam software on our server. If for some reason you're unable to reach us via e-mail, please let us know at (503) 292-2348.**

## From the President

by Gayle Harley, P.E.



**Gayle Harley, P.E.**  
OBEC Consulting  
Engineers

It has been a busy year for ACEC Oregon. The legislative session ended with a transportation package, HB 2001B, that our membership worked hard to pass, and although not as robust as we had hoped, is still a positive for our industry. I would like to thank **Mel Sears, Parametrix**, for his extensive participation on the Governor's Vision Committee; **Kay Van SICKEL, Otak**, for her many hours of testimony in front of the legislature; and **Marshall Coba** for his tireless work behind the scenes at the legislature, all representing the best of what ACEC firms have to offer Oregon. Thanks also to **Ken Wightman, David Evans and Associates** and **Bob Carson, Mason, Bruce & Girard** for their invaluable assistance on this issue. Through our continued positive interaction with ODOT leadership, our biennial trek to Salem for our "Day at the Capitol," and our well placed PAC contributions, we have raised the overall awareness and respect for ACEC firms throughout Oregon. Thanks to all who helped in this lengthy process.

As we move into the new (fiscal) year, I would like to also welcome all of our members who have signed up for our various committees for 2009-2010. These committees provide an important voice for ACEC throughout our industry, especially ODOT and our legislative committees. Bi-monthly interaction with ODOT through our Liaison and Steering Committees is vitally important for ACEC firms so that we can continue to share in the delivery of transportation projects through the new state funding package. Recently joining the ODOT/ACEC Steering Committee are **Walt Bartel, David Evans and Associates**, and **Kay Van SICKEL, Otak**, for the start of their 3-year terms, replacing **John Ferguson, TY Lin International**, and myself as past Steering Committee members.

The Board held our yearly planning session in late August and followed that with our first board meeting at the annual Fall Conference at Salishan jointly attended with ACEC Washington. Some of the goals for this year are:

■ **Develop a joint Liaison Committee with ACEC Washington.** Discussions at our joint conference led to many common issues that include working with the DOT's, development of fair contract language, continual erosion of QBS guidelines in both

states, and competition from government agencies for normally outsourced work.

■ **Roll out a steady and coordinated media outreach plan.** The Board will enlist the Future Leaders Forum for ways we might utilize "new media" opportunities such as texting, Twitter, and blogs to enhance and expand ACEC awareness.

■ **Revisit QBS with local government agencies.** Cities and counties seem to be forgetting the advantages of the QBS selection process and the Board will look for opportunities to re-educate through various committees and organizations.

■ **Continue to seek new members.** Survey firms are now eligible for full membership in Oregon, and the Membership Committee will be reaching out to survey firms along with other new firms to bolster our overall membership size.



**Governor Ted Kulongoski** signed the Jobs and Transportation Act on July 29 at Portland's Union Station. The bill calls for more than \$1 billion in infrastructure funding and raises Oregon's gas tax for the first time since 1993. Oregon's gas tax will increase from 24 cents to 30 cents after two consecutive quarters of statewide job growth or in January 2011. Pictured at the bill signing are, from left: ACEC Oregon Executive Director **Alison Davis**; ACEC Oregon President **Gayle Harley, OBEC Consulting Engineers**; Governor Kulongoski; ACEC Oregon Secretary/Treasurer **Kay Van SICKEL, Otak, Inc.**; ACEC Oregon Past President **Mel Sears, Parametrix, Inc.**; and ACEC Oregon lobbyist **Marshall Coba**. (Photo courtesy of ODOT)

I also want to remind everyone of the ACEC National PAC fundraising drive. We are fortunate to have a strong advocate in **Jack Beemer, David Evans and Associates**, and through his efforts we achieved our 2008 goal. I know he is counting on all of us to do our part in reaching our 2009 goal (we are over half way there at this point).

Thanks to all of you for your support of ACEC and I look forward to a great year.

## Among Ourselves...

The ACEC Oregon Board of Directors is pleased to announce the following new member firm. Please welcome...

**MAZZETTI NASH LIPSEY BURCH (M+NLB)**, 520 SW 6th Avenue, Suite 500, Portland, OR 97204, phone (503) 620-3232, www.mazzetti.com. Firm rep is **Karl Atteberry**. Other key personnel are **Doug Brown, Bob Gulick, Tom Pride, Susan Strom** and **Emily Toliver**. The firm is a full-service consulting and design firm focused on the engineered systems of buildings, including HVAC, plumbing, fire protection, process piping, technology, lighting, and power systems.

**ACEC Oregon** has a new suite number. They are now located at 5319 SW Westgate Drive, **Suite 224**, Portland, OR 97221.

**Degenkolb** congratulates **Chris Poland** for his election into the National Academy of Engineering. Poland is CEO, Chairman of the Board and a passionate seismic safety advocate. He joins the prestigious rank of engineers inducted into the NAE. Poland was selected as the lone seismic engineer in this year's inductees. The academy recognized Poland for his leadership in the development of performance-based design procedures and standards for evaluating seismic events and rehabilitating structures.

Congratulations also to Degenkolb's **Dave Chilton** on his recent promotion to Associate Principal. He has more than 20 years experience, and for 15 of those years he designed buildings in Alaska's arctic and high seismic regions, giving him a unique perspective. He is currently working on Portland's Union Station.

**Engineered Monitoring Solutions** has moved. The firm is now located at 617 N. Main Street, Newburg, OR 97132. New phone number is (503) 537-0900 and new fax number is (503) 537-0909.

As they celebrate 25 years of providing geotechnical and environmental consulting services, **GRI** is pleased to announce the opening of their Vancouver, Washington branch office and soil-testing laboratory. GRI co-founder **Dave Driscoll** and 15-year veteran **Matt Shanahan** lead the Vancouver team. GRI has been an ACEC Oregon member firm for more than 20 years.

**Kittelson & Associates, Inc.** announces the following honors and awards: **Julia Kuhn** received WTS Portland Member of the Year Award; **Alison Stiven** was appointed Secretary for the American Marketing Association Portland Chapter; **Wayne Kittelson** was awarded the ITE Western District Individual Achievement Award for his commitment to ITE and excellence in the profession.



**Arlan Rippe, P.E., DGE, FASCE**  
Kleinfelder

After 16 years at their previous location, **Kleinfelder** has moved. Their new address is 9200 SW Nimbus Avenue, Suite A, Beaverton, OR 97008. Phone and fax numbers remain the same.

**Kleinfelder** announces that **Arlan Rippe, P.E., DGE, FASCE** is founding president of ASCE's Academy of Geo-Professionals (AGP). The AGP

provides geotechnical engineers with the opportunity to earn post-license, specialized credentials. Rippe is responsible for coordinating the development of the new academy and defining the body of knowledge the candidates for D.GE (Diplomate, Geotechnical Engineering) certification must demonstrate. The first group of qualified geoprofessionals were awarded certification earlier this year.

**KPFF Consulting Engineers** congratulates **Curt Vanderzanden, P.E.**, its newest Principal. Vanderzanden joined KPFF in 1986 at 20. "I was lucky enough to be teamed with a core group of engineers that were incredible mentors," he said. Added fellow Principal and Division Manager **Mike Schmid, P.E.**, "Curt has made a great contribution to KPFF's success. This is well deserved."

Founded in 1969, **Kramer-Gehlen & Associates, Inc.** is pleased to announce their 40 year anniversary. The Vancouver, Washington firm is dedicated to the practice and advancement of structural engineering and has been an ACEC Oregon member firm for 25 years.

**Marvin, Chorzempa & Larson, P.C.** is pleased to announce **Bill Thrush** has joined the firm as an Associate Attorney. The firm serves the design and construction community and represents design and construction professionals and individual clients in a variety of legal matters.

The ACEC Oregon board of directors is pleased to bestow life membership upon **Ray Miller, Raymond T. Miller, P.E., S.E., FASCE, Consulting Engineer**, and founder of **Miller Consulting Engineers** (retired). Prior to retirement, Miller served on ACEC Oregon's board of directors and is an ACEC Oregon past president (1993-94).

**PACE Engineers, Inc.** has moved. They are now located at 5000 Meadows Road, Suite 345, Lake Oswego, OR 97035. Phone and fax numbers remain the same.

**R & W Engineering, Inc.** announces the move of their Bend office. The new address is 231 Scalehouse Loop, Suite 202, Bend, OR 97702, phone (541) 322-8940. Incorporating the firm's philosophy to be **GREEN**, they were sustainable in the move by purchasing low VOC paint, used office furniture throughout, occupancy sensors and LED light fixtures.

■ **IN MEMORIAM Ralph Peterson**, who led **CH2M Hill** to prominence in the engineering world and was a tireless booster of ACEC, has died after a long illness in Denver. Peterson, 64, will receive ACEC's 2009 Distinguished Award of Merit posthumously at the upcoming ACEC National Fall Conference. As the highest honor that the Council can give to an individual, Peterson receives this award for his lifetime of contributions to the industry and the nation. Under Peterson's leadership, CH2M Hill grew from a \$400-million firm into a global leader with more than 25,000 employees worldwide and over \$6.4 billion in revenues. Peterson served on numerous national industry and government boards, was an early champion of sustainability, and contributed significantly to ACEC's advocacy and political programs.





## New Board of Directors Sworn in for 2009-2010

ACEC Oregon's new board of directors was sworn in June 24 during Networking Day activities at Langdon Farms Golf Club. Pictured from left are: Vice President **Andy Vessely, Cornforth Consultants**; Vice President **Erik Peterson, Peterson Structural Engineers**; Secretary/Treasurer **Kay Van Sichel, Otak**; Vice President **Dave Simmons, CH2M Hill**; President-Elect **Troy Bowers, Murray, Smith & Associates**; and President **Gayle Harley, OBEC Consulting Engineers**. Not pictured: Immediate Past President **Gregg Scholz, R&W Engineering**; Vice President **Marc Butorac, Kittelson & Associates**; and Regional Vice President **Scott Wallace, Kleinfelder**.

## ACEC NATIONAL NEWS...

### GOVERNMENT AFFAIRS

- Provided ACEC's views on health care reform – including opposition to potentially onerous new employer mandates – to congressional leaders; and created new web resource for ACEC members on current health care reform proposals. For more information please visit ACEC's Health Care Reform Resource Center at <http://www.acec.org/advocacy/committees/healthcare.cfm>.
- Participated on panel sponsored by the Society of American Military Engineers to present the industry's views on liability issues related to disaster response projects.
- Successfully challenged QBS violations and addressed other A/E contracting issues at the Indian Health Service, FEMA, and other federal agencies.
- ACEC/PAC hosted in-district fundraising events for Senator Daniel Inouye (D-HI), Congressman Mike Rogers (R-AL), Congressman Kurt Schrader (D-OR), and Congressman Mark Souder (R-IN).
- ACEC's Environment and Energy Committee discussed renewable energy opportunities and western environmental issues with several federal, local, and industry leaders in Golden, Colorado.

## Thanks, Dessert Auction Bidders!

Thank you to the following individuals for their winning bids on desserts that were auctioned off during the fall conference; proceeds support ACEC Oregon government affairs.

- **Bill Thrush, Marvin, Chorzempa & Larson, P.C.**
- **Jon Larson, Marvin, Chorzempa & Larson, P.C.**
- **Tim Anenson, AECOM**

## Job Board Added to Website

If your firm has job openings you'd like to post on the ACEC Oregon website, please contact [echurchill2@acecOregon.org](mailto:echurchill2@acecOregon.org) or call (503) 292-2348. For member firms only, we will link to your firm's job postings.



Or, in some cases, we can directly post information about your opening(s) on our "Job Postings" page, <http://www.acecOregon.org/jobopenings/index.php>. Be sure to include contact information for interested applicants.

## Fall Conference Auction Bidders Raise \$1,000 for Scholarship Fund

Thank you to the following individuals for helping raise \$1,000 for the scholarship fund during the recent joint fall conference: **Ermel Quevedo, Cornforth Consultants**; **Cathy Della, Kleinfelder**; **Anne Monnier, KPFF Consulting Engineers**; **Steve Johnston, Landau Associates**; **Dennis Strasser, Lane Powell**; **Gayle Harley, OBEC Consulting Engineers**; **Kay Van Sichel, Otak**; **Jerry Jacksha, Shannon & Wilson**; and **Jim Duncan, Sparling**.

Thank you to **Langdon Farms Golf Club** and **Salishan Spa & Golf Resort** for donating auction items.

## Scholarship Committee Announces 2009-10 Scholarship Recipient

The Scholarship Committee is pleased to announce it's new scholarship recipient for 2009-10: **Ryan Brown** of Eugene. Brown will attend Oregon State University in the fall and plans to study civil engineering. He is a graduate of Winston Churchill High School, where he finished with a 3.96 GPA.

Brown earned his Eagle Scout designation from the Boy Scouts of America, plays

French horn and has performed in the orchestra pit during several high school plays, was involved with high school government, and has mentored and taught for various camps, including Junior Leadership and YMCA. He was also a member of the high school Chemistry Club and is in the National Honor Society.

Brown writes in his scholarship application essay that "I want to be an engineer because they make our way of life possible." *Good luck, Ryan!*

"I want to be an engineer because they make our way of life possible."

## Thank You, Joint Fall Conference Exhibitors and Sponsors!

Thank you to all the exhibitors and sponsors for supporting the joint fall conference at Salishan! We truly could not have done it without you!

### SPONSORS

- ACEC Business Insurance Trust
- ACEC Retirement Trust
- Daily Journal of Commerce
- enginUNITY ADVANTAGE
- Hall and Company
- Kibble & Prentice, a USI Company
- PNCE Health & Welfare Trust
- Skellenger Bender

### EXHIBITORS

- AES
- ColumbiaSoft
- HRnovations
- Ideate, Inc.
- IEC Group
- Lane Powell
- The PPI Group
- Universal Field Services

And thank you to **A/E Consulting Services** for sponsoring golf prizes.



## Networking Day Raises \$7,800 for Scholarship Fund

At Langdon Farms Golf Club in June, the 4th Annual Networking Day Benefit Golf Tournament and Dinner, held with the American Society of Civil Engineers Younger Member Forum (ASCE YMF), attracted more than 144 golfers and raised approximately \$7,800 for their respective programs. Proceeds support each group's scholarship fund and activities. Funds raised were from hole sponsorships and mulligan sales. Thank you to all the golfers who purchased mulligans and the following sponsors:

- Daily Journal of Commerce
- Document Locator by ColumbiaSoft
- Kittelson & Associates, Inc.
- The PPI Group

*Thank you!*

- Anderson Engineering & Surveying, Inc.
- Cardno WRG
- Catena Consulting Engineers
- Coffman Excavation
- David Evans and Associates, Inc.
- Degenkolb Engineers
- DeWitt Construction, Inc.
- GeoDesign, Inc.
- GRI
- Ideate, Inc.
- Kennedy/Jenks Consultants
- Kibble & Prentice, a USI Company
- KPFF Consulting Engineers
- Marvin, Chorzempa & Larson, P.C.
- OBEC Consulting Engineers
- Pacific Geotechnical, LLC
- PNCE Health & Welfare Trust
- Parametrix, Inc.
- Parsons Brinckerhoff
- Raymond T. Miller, P.E., S.E., FACEC
- R & W Engineering, Inc.
- TBH & Associates, LLC
- URETEK ICR Concrete Lifting
- Waddell & Reed Financial Advisors



## Do You Have a Voice in Congress?

Congress is now debating several measures that will dramatically affect the profitability of engineering firms: transportation funding to state DOTs, funding for infrastructure projects (including water and aviation), changes to the federal tax code, and of, course, health care reform. Each of these federal issues has far-reaching consequences for each state, as well as the entire industry.

That's the bad news. The good news is that ACEC members have a way to make sure their voice is heard on Capitol Hill: the ACEC Political Action Committee. ACEC/PAC is the primary weapon in our industry's political arsenal to help elect candidates to office who support pro-business, pro-engineering positions. ACEC/PAC is bipartisan and operates out in the open in full compliance with the Federal Election Campaign Act and applicable state laws. Each state is represented by PAC Champions to help meet its state's annual PAC goal.

ACEC certainly is interested in your support of this critical political program, but federal law first requires ACEC/PAC to seek your approval before soliciting you on behalf of ACEC/PAC. To see if your firm has given approval for the current year, go to [http://www.acec.org/advocacy/committees/pdf/pac\\_prior\\_approvals.pdf](http://www.acec.org/advocacy/committees/pdf/pac_prior_approvals.pdf). If it has, you can then go to the ACEC/



ACEC Oregon members held a PAC fundraiser for **Congressman Kurt Schrader** (D-OR) on August 3. During the meeting, Congressman Schrader voiced his support for highway transportation reauthorization for the repeal of the three percent withholding mandate. Schrader also took time at the event, held at David Evans and Associates in Portland, to answer questions concerning health care legislation. Pictured from left: Associated General Contractors of America President-Elect **Ted Aadland, Aadland Evans Constructors, Inc.**; Congressman Kurt Schrader; ACEC Oregon Past President and ACEC Vice Chair **Ken Wightman, David Evans and Associates, Inc.**; and ACEC Oregon Executive Director **Alison Davis**.

PAC online contribution center: [http://www.acec.org/pacmembers/av\\_login.cfm](http://www.acec.org/pacmembers/av_login.cfm).

Supporting political programs like ACEC/PAC is the best thing we can do to make sure engineering firms have a voice at the table when key decisions are made

affecting our future.

If you have questions about ACEC/PAC, please contact our PAC Champion **Jack Beemer** at [jdb@deainc.com](mailto:jdb@deainc.com) or phone (541) 389-7614.

## ACE Academy Update: Independent Report Evaluates First Year

An independent report of The Academy for Architecture, Construction & Engineering (ACE) indicates that ACE has finished strong in its first year, and is posed to increase that success in year two.

Overall, stakeholders feel ACE has been effective in meeting its mission, which is to provide a contextual educational experience within the architectural, construction and engineering disciplines, leading to the achievement of rigorous academic benchmarks and additional post-secondary education for a diverse high school student body. Many reported the career and technical education at ACE as "outstanding."

The performance evaluation was commissioned by the ACE Academy Board of Directors and is required by ACE's Char-

ter Agreement. The objective was to see if ACE was "making the grade" in delivering its innovative, credit-by-proficiency learning model.

### Finding Highlights:

- ACE demonstrated an unusual level of implementation of the school design for a first year, new school.
- Students rated their educational experience at 4.0 and their career preparation a 4.1 on a 5 point scale; noting that ACE was more rigorous than their home high school programs.
- Student GPAs were higher than their cumulative incoming GPAs. Students love this school – and the hands-on contextual learning has re-engaged their individual learning.
- ACE's contextual education experience

received the highest mark.

- Parents gave ACE high ratings for its first year: 8.4; with complimentary remarks during phone interviews ("He loves it!" was a common reaction about their child's experience of ACE).
- High level of student responsibility for their own learning.
- Strong integration of applied math.
- ACE provides an array of opportunities for further learning through its credit by proficiency model. In other words, committed students continue a lesson until they have really learned it.

More than 180 juniors and seniors from six local high schools will start the second year of ACE Academy this fall. For more information about ACE, please visit: [www.acecharterschool.org](http://www.acecharterschool.org).

Focus on risk management...

## Getting Paid in a Slow Economy

The following material is provided for informational purposes only. Before taking any action that could have legal or other important consequences, speak with a qualified professional who can provide guidance that considers your own unique circumstances.

**For the full, detailed text of this article** (four pages), go to [http://www.acecoregon.org/documents/Focus\\_on\\_RM\\_Getting\\_Paid\\_sept09.pdf](http://www.acecoregon.org/documents/Focus_on_RM_Getting_Paid_sept09.pdf). Or, go to <http://www.acecoregon.org/riskManagement.php> and click on "Getting Paid in a Slow Economy."

With the economy firmly in the doldrums, design firms are not only finding it more difficult to secure new projects, they are finding it challenging to get paid promptly for the work they have started. Some clients who planned their projects when times were good are now finding themselves in a financial pinch. With real estate prices suppressed, demand for new commercial and residential properties diminished and credit lines vanishing before their eyes, many project owners are facing a cash squeeze. Increasingly, design firms are being paid late--if they are being paid at all.

Making matters worse, designers who try to take legal action to get paid face the real possibility of being hit with a counter lawsuit from their clients. Even in good times, you tread on shaky ground if you threaten to sue your client for unpaid fees.

Clients who are sued for fees are very likely to respond by suing the design firm for negligence, and these counterclaims



ACEC Oregon President **Gayle Harley**, **OBEC Consulting Engineers**, and ACEC Washington Chairman, **Dwight Miller**, **Parametirx, Inc.**, kick-off the joint fall conference at Salishan.

are not always meritless in the client's eyes. Almost all instruments of service have some degree of error, omission, inconsistency or ambiguity. While such imperfections may not rise to the level of negligence, a client's lawyer may have little trouble finding a "hired-gun" expert witness who will testify that the design firm performed below the standard of care. They will contend that negligent performance damaged the client – and presented a valid reason for nonpayment.

In many cases, the cost of defending a negligence claim will be greater than the amount of fees you would likely net from a successful claim of nonpayment. This puts your client in a position of great leverage, especially if payment terms are not detailed in your contract. That's why many design firms are willing to settle a dispute by accepting only a fraction of the fees they are owed.

### It Starts with Client Selection

Careful client selection is a cornerstone of risk management. In bad economic times, it becomes paramount. Design firms must avoid the temptation to take on any project offered when business is slow. Instead, check a potential client's history of litigation with other design firms. Examine financial statements. Consider the viability of the project itself. How are similar projects progressing in your locale?

Assuming the client and project check out, your next line of defense is your contract.

### Contractual Rights to be Paid

There are contractual measures you can take to increase the chances of being paid and to help avoid the problem of a countersuit related to client nonpayment.

### Billing and Payment Terms

Your billing and payment terms should address the following issues:

- Retainer
- Payment Terms
- Interest
- Collections

### Use a Satisfaction-with-Services Clause

If possible, incorporate a satisfaction-with-services clause in your contract. Such a clause can help you in the event a client fails to pay a subsequent invoice and later claims dissatisfaction with your entire

range of services.

### Withholding Fees for Disputes

Refuse to allow your client to include contract language that permits the withholding of all fees for disputed invoices.

Set a time limit (e.g., within 10 business days of receiving your invoice) for notification of any objection or dispute regarding the invoice.

Most states have a prompt payment statute.

### Suspension of Services

One of the most effective contract provisions for getting paid on time requires the client to pay any undisputed due portion of the bill within a specified period or otherwise face a curtailment of your services.

### Termination of Services

When all else fails in your efforts to collect fees due, you should have the right to lower the final hammer – the termination of your contract.

### Withholding Transfer of Documents

Where appropriate, consider making payment in full for services rendered a condition of transferring the ownership of your design documents to the project owner.

### Be Wary of a Resistant Client

Be wary of any potential client who balks at signing any language that protects you from nonpayment.

### Pay-When-Paid Clause

When it comes to payment terms, subconsultants have the right to be treated by the prime as the prime wants to be treated by the client.

### Surviving Hard Times

A counterclaim filed over fee disputes is one of the fastest growing areas of litigation among design firms.

This article is provided by **Morgan West, Kibble & Prentice**, a **USI Company**, a member of the ACEC Oregon Risk Management Committee. Kibble & Prentice is a leading broker for the insurance needs of design professionals in the Northwest and specialize in risk management and loss prevention education services.





## Committee Reports from Annual Business Dinner...

Committee involvement is always encouraged. If you're interested in learning more about a committee or volunteering for a committee, please contact ACEC Oregon at [echurchill2@acecOregon.org](mailto:echurchill2@acecOregon.org) or (503) 292-2348. Additional committee information can also be found at <http://www.acecoregon.org/committees.php>.

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### LEGISLATIVE COMMITTEE

During the 2009 legislative session, the committee examined many new bills and discussed how they would or would not affect ACEC Oregon members. Committee members also assisted ACEC Oregon lobbyist **Marshall Coba** when testimony on legislation was needed. The committee also participated in the "Day at the Capitol" in March. The transportation funding issue attracted more than 40 members to Salem this year.

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### ODOT LIAISON COMMITTEE

CHAIR: **Karen Tatman, Quincy Engineering**  
Committee goals:

- Maintain open communication with ODOT by consultant community
  - Improve and streamline project delivery processes for consultant delivered projects
  - Support efforts to continuously improve consultant delivered products
  - Help ODOT improve their contracting processes
  - Share technologies
- Committee accomplishments:
- Brown Bag lunch sessions – first full year, well attended sessions in ODOT's Region 1 office in Portland
  - 4th annual ODOT/ACEC Conference: The Future of Transportation; Costs, Innovations, and Sustainable Systems
  - Helped develop consultant evaluation process (hope to further develop into 360 degree review)
  - Attended OTC Meeting to support ODOT's goals to streamline project delivery--Programmatic permits, concurrent processes, appropriate standards



Pictured during the May Business Dinner are, from left: **Doug Smith, David C. Smith & Associates; Teresa and Tim Blackwood, Pacific Geotechnical;** and **Troy Bowers, Murray, Smith & Associates.**

Other items of note:

- ACEC continues to have a very healthy relationship with ODOT
- We should continue to foster and grow this relationship.

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### U.S. ARMY CORPS OF ENGINEERS LIAISON COMMITTEE

CHAIR: **Lance Helwig, USACE**

ACEC REP: **Tim Blackwood, Pacific Geotechnical** (*chair alternates every year between USACE and ACEC Oregon*)

Mission statement: The U.S. Army Corps of Engineers (USACE) Portland District and the American Council of Engineering Companies of Oregon (ACECO) commit to a meaningful partnership between our organizations in the common purpose to provide quality and responsive engineering and consulting services to the nation and the world.

Committee goals:

- Ensure a cooperative dialogue between USACE and ACECO at all levels.
- Clarify and understand the changing roles of USACE and the private sector.
- Foster an attitude that explores opportunities and resolves issues.

Enhance professionalism and integrity throughout the design and construction industry.

- Promote quality & value through improved business practices.
- Invest in the future by promoting new technology, continuing education, and research and development.
- Promote qualifications-based-selection procurement of A-E services.
- Promote the use of project delivery methods that best serve the public interest.
- Support a healthy USACE and a strong U.S. engineering industry.

Collaborate to expand U.S. business opportunities in the global marketplace.

Meeting highlights:

- Oct 2008 - **Duke Loney** and **John Etzel, P.E.**, with the Corps' Hydroelectric Design Center, presented an assessment of 8 mini-hydro projects that the Corps completed in Afghanistan.
- Jan 2009 - **Jerry Chris-**

**tensen**, Program Manager for the Portland District Levee Safety Program, gave a comprehensive overview of the Corps levee program focusing on policy, authorization, organizational structure, implementation, and levee database inventory and tools.

■ Apr 2009 - **Chad Croft**, Project Manager for PGE, presented an overview of the design and construction of the 273-foot underwater tower and fish collection facility that is being built at Round Butte Dam and Lake Billy Chinook.

Other items of note:

General discussion about American Recovery and Reinvestment Act - On April 28, 2009 the USACE released a list of civil works projects to be funded by the ARRA of 2009. The legislation, signed into law by President Barack Obama on February 17, appropriated \$4.6 billion to the Corps for its Civil Works program. More than \$131 million has been identified for Portland District projects in western Oregon and southwestern Washington. *(For a detailed committee report, including a list of the specific local projects, go to <http://www.acecoregon.org/committees.php> and then scroll down to U.S. Army*



## More Committee Reports (continued from page 8)

*Corps of Engineers Liaison Committee, then click on the link to the report.)*

Businesses and contractors interested in contracts which the Corps has advertised in support of Recovery Act projects should visit the Federal Business Opportunities (FedBizOpps) website at <https://www.fbo.gov>, a free online listing of government contracting opportunities. Stimulus projects are highlighted under a red “Recovery Opportunities” button on the right side of the page. If interested in an opportunity, click “Register Now” in the Vendors/Citizens block. Firms must be registered in the database before a contract can be awarded.

The lists of projects released and additional information on the Corps’ role in the Recovery Act are available on the Web at <http://www.usace.army.mil/recovery>.

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### SCHOLARSHIP COMMITTEE

CHAIR: **Julia Kuhn, Kittelson & Associates**  
Committee activities:

- Selection of newest scholarship recipient to take place soon. (*Scholarship has since been awarded; see story on page 5.*)
- Update on existing scholarship recipients—they are flourishing. For an update, go to [http://www.acecoregon.org/documents/scholarship\\_recipients\\_update\\_Winter2009.pdf](http://www.acecoregon.org/documents/scholarship_recipients_update_Winter2009.pdf).
- 4th Annual Networking Day Benefit Golf Tournament & Dinner (proceeds benefit scholarship fund and activities). Thank you to all the sponsors, and golfers who purchased mulligans. *See story on page 5.*

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### MEMBERSHIP COMMITTEE

CHAIR: **Mike Meyer, Cornforth Consultants**

Committee goals: Increase new membership, foster development, and retain existing members.  
Committee accomplishments: Group was very active with meetings every five to six weeks. Primary efforts involved recognizing new engineering firms or non-members in the area; identifying key contacts at those firms; communicating the benefits of ACEC to them; and inviting them to participate. Even through the tough economy this year, the committee was still able to add seven new firms, with a net gain of 53 employees.

Other items of note:

- Since the start of the Membership

Committee five years ago, there has been consistent positive growth in the number of member firms.

- The Future Leaders Forum, initiated by the Membership Committee, has taken root and evolved into its own entity within ACEC Oregon.

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### FUTURE LEADERS FORUM (FLF)

CHAIR: **Tony Roos, Cardno WRG**

Committee objectives:

- Create opportunities for “future leaders” to engage in ACEC
- Build a foundation for future leadership within individual companies and the next generation of ACEC leaders
- Provide outreach to engineering professionals and the ACEC board by creating opportunities for future leaders to create, lead, and participate in ACEC events, while connecting with industry leaders.

Additional goals:

- Build leadership skills
- Learn business development skills
- Bridge the gap between principals and future leaders
- Be a liaison to the principals and ACEC leadership

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### RISK MANAGEMENT COMMITTEE

CHAIR: **Jack Beemer, David Evans and Associates, Inc.**

Committee objective: The purpose of the Risk Management Committee is to assist member companies and others in under-

standing and managing risk and, on their behalf, to advocate changes in legislation and regulation to properly control or allocate risk.  
Committee goals:

- Provide basic risk management and professional liability insurance information to members
  - Develop risk management programs to educate members
  - Recommend tort reform and other legislation for consideration to the legislative committee
  - Review proposed legislation and regulations as requested
  - Provide risk management assistance to ACEC Oregon committees, staff and board
- Committee happenings this last year and planned for this year:
- SB 955—codify Economic Loss Rule (in light of unfavorable ruling by Oregon Supreme Court—didn’t get out of committee, but may reintroduce next time—need a sponsor.
  - City of Springfield—Working with the City to improve or eliminate their three-party Public Improvement Project Permit agreement.
- Programs:
- November breakfast: “Your Contract: Friend or Foe?” with **Jon Larson, Marvin, Chorzempa & Larson, and Stan Austin, Miller Nash**. Good for two continuing professional development (CPD) credits; attended by more than 30 registrants.
  - February ½ day program: “Successful Government Contracting: Understanding & Applying the FAR Cost Principles for
- (continued on page 10)



Pictured from left are: **Nancy Whitsel, Performance Resources Consulting; Mike Reed, Gene Tupper and Scott Schlechter, GRI; and Gerry Heslin, Cornforth Consultants.**

## Committee Reports (continued from page 9)

& Applying the FAR Cost Principles for Improved Profitability” with **John Pruitt**. Good for four CPD credits; attended by more than 40 registrants.

■ June 8-9 two-part program, four modules: “Characteristics of Design-Build and Contracting Strategies” and “Design-Build Negotiation and Risk Management Strategies” with **Erin Austin, David Evans and Associates; Robin McKnight, Parsons Brinckerhoff; Doug Smith, AMEC Earth & Environmental; and Tom Wil-**

**loughby, Parsons Brinckerhoff**. Good for four CPD credits. (The program later attracted 40 registrants.)

“Focus On Risk Management” – Article in each newsletter (also archives via website button; go to <http://www.acecoregon.org/riskManagement.php>.)

National issues:

■ NCHRP/AASHTO – “Best Practices in the Management of Design Errors and Omissions.” Go to <http://design.transportation.org/?siteid=59&pageid=849> for list

of reports, presentations, and links.

- Designing for construction site safety
- Professional liability survey

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### OPERATIONS/ADMIN COMMITTEE

CHAIR: **Mike Reed, GRI**

Chair **Mike Reed** presented the ACEC Oregon budget for the 2009-10 fiscal year. The budget was approved without a dues increase for 2009-10.



Fifteen people and five dogs made the hike to Drift Creek Falls on September 12 during the joint fall conference held at Salishan on the Oregon coast. Pictured from left are: **Karen Wallace; Bob Galtland, Reid Middleton; Scott Wallace, Kleinfelder; Chris Quevedo; Jack Beemer, David Evans and Associates; Alison Davis, ACEC Oregon; Matthew Copus, Hall & Company; Janelle Chorzempa, Marvin, Chorzempa & Larson; Gregg Scholz, R & W Engineering; Mary Ann Scholz; Lexie Beemer; Merideth Webber, ACEC Oregon; and Robin McKnight, Parsons Brinckerhoff.** (Photo courtesy of Shawn Kolbe)

## Mark your calendar...

### OCTOBER

- **October 7-10 Wednesday - Saturday**  
ACEC National Fall Conference  
Palm Springs, California  
[www.acec.org/calendar/conferences.cfm](http://www.acec.org/calendar/conferences.cfm)
- **October 15 Thursday**  
Board of Directors Meeting  
OBEC Consulting Engineers, Lake Oswego
- **October 26 Monday**  
ACEC Oregon Engineering Excellence  
Phase 1 “Intent to Enter” Deadline &  
Phase 2 Q&A Session (optional)

### NOVEMBER

- **November 12 Thursday**  
Board of Directors Meeting  
OBEC Consulting Engineers, Lake Oswego
- **November 16 Monday**  
ACEC Oregon Engineering Excellence  
Phase 2 FINAL Deadline

### DECEMBER

- **December 2 Wednesday**  
ACEC Oregon Engineering Excellence  
Judging of Entries
- **December 8 Tuesday**  
Board of Directors Meeting  
OBEC Consulting Engineers, Lake Oswego

### JANUARY

- **January 8 Friday**  
ACEC National Engineering Excellence  
Entries due, Washington, D.C.
- **January 13 Wednesday**  
ACEC Oregon Engineering Excellence  
Awards Dinner, Portland

**ACEC Oregon**

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*“The Engineers”*