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# Watts News



**June 2007**

## It's a Blue Harbor Summer

As you know, the 2007 Summer Meeting will be held July 26 – 28 at the Blue Harbor Resort in Sheboygan.



The Blue Harbor Resort is located on the shores of Lake Michigan and features all suites with private deck or balcony and passes to the resort's 54,000 square foot indoor water-park facility.

Registration will be Thursday from 2:00 to 5:30 p.m. in the Grand Lobby of the resort. As always the meeting will start with a cocktail reception Thursday evening.

Our general meeting sessions will be held Friday, July 27 and Saturday, July 28 from 8:00 a.m. to 12:00 noon. Our speaker on Friday is nationally recognized, motivational speaker, Richard Flint. Richard's upbeat, can-do attitude is contagious and you will find yourself re-charged after listening to him. As has become the tradition, our Saturday morning session will be dedicated to State Electrical Inspector Joe Hertel, and his code update class, which he has approved for 4 CEUs.

The annual golf outing will be held Friday afternoon and we will again be offering prizes to golfers who sink a hole-in-one during the tournament, with a grand prize of \$20,000. The event takes place on The Bull Course at Pinehurst Farms Golf Course, a Jack Nicklaus Signature course that has won praise from Golfweek, Golf Digest, and GOLF magazine. It is sure to be a memorable round for all.

Almost before we know it, it will be Saturday evening, and that means time for our closing banquet, awards presentations, and annual ECPAC raffle. This year's raffle will include jewelry, show tickets, and special electronics, so you'll want to be sure to purchase tickets. Proceeds of the raffle go to support our PAC fund, which supports candidates who are pro-business.



Resort and registration information was mailed to all member and affiliate member firms. If you have not yet signed up, there's still time, but hurry. The registration deadline is June 25, and un-booked rooms will be released from our block of rooms shortly after that date.

If you have any questions, please contact Jennifer at the Chapter Office (608) 221-4650, and we look forward to seeing you at the Blue Harbor Resort in Sheboygan, your summer getaway destination!

The 2007 Prevailing Rate Survey completion period is upon us once again. The NECA Office is working closely with DWD to ensure that we have the correct matching numbers for each of our labor agreements. The rates will be mailed to each of you shortly for your use in completing the survey form. Please note that an exact match is required in order for the State to recognize the union rate as the prevailing rate. Contrary to common perception, the rates are not “averaged” to obtain a rate, but rather the State must select the rate at which the majority of hours are reported. You should report your supervisory employees, foremen, general foremen, at the exact JW rate and fringe benefit rate for this survey form, and do not include apprentices. Once the union rate prevails in an area, the State then reviews the labor agreement to determine if there is a sub-journeyman classification, which will then be allowed on prevailing rate projects. Even if the Unindentured Worker Letter of Understanding prohibits their use on prevailing rate work, the State will allow non-union firms to utilize the classification on that work, because it is a valid classification. Your are encouraged to report at least your largest projects on the survey.

4 out of 3 people  
have trouble with  
fractions ...

## NECA Convention in San Francisco, CA

Registration is now open for the 2007 NECA Convention and this year’s convention and trade show promises to be better than ever before! The event will be held October 5 – 8 in the heart of San Francisco, the City By the Bay. The Wisconsin Chapter will be staying at the San Francisco Marriott Hotel, and will once again, jointly sponsor a hospitality suite with the Milwaukee Chapter.

One of the new features of the convention this year is a Labor Relations “Town Hall” meeting. Convention participants will have an opportunity to ask questions of the panel, which will include John Grau, Ed Hill, and NECA Labor Relations Vice President, Geary Higgins, regarding the most current and critical labor relations issues facing contractors today. The Town Hall session will be moderated by Mark Breslin, a nationally recognized, negotiator, arbitrator, contractor advocate, and author of “Organize or Die” and “Survival of the Fittest.” John Grau noted the town hall format was selected to allow members to hear about the issues they want to hear about, and to allow for interaction with members in attendance.



The opening reception will be a “Flavors of San Francisco” event featuring cultures and cuisines of the city’s ethnic neighborhoods from Chinatown to the Haight Asbury district, the diversity of the city will be on full display.

The general convention opening session will feature Steve Young, former quarterback for the San Francisco 49ers, and a football commentator on ESPN. Join Steve as he shares his secrets to leading a fulfilling life and how to create a championship team environment within your company.

The closing general session features Nando Parrado, who survived a 1972 plane crash in the rugged Andes Mountains and has become a bestseller author and highly sought motivational speaker.

The closing gala this year will feature a special performance by San Francisco’s very own Dana Carvey, formerly of Saturday Night Live. Carvey is well known for his George Bush impersonation and his Church Lady character, and will be a lively performer, sure to make you say, “Well, isn’t that special?”

As always, the NECA Convention will include numerous technical and management seminars for participants to choose from and the largest electrical trade show of the year.



NECA has also lined up a number of guided tours for participants during the course of the convention. See San Francisco’s highlights, tour the world-famous wineries of Napa Valley, visit Alcatraz or see the Giant Redwoods. A special post-convention tour will take you to northern California to see Mendocino and Healdsburg. There is something for everyone to enjoy at the 2007 NECA Convention in San Francisco, so don’t miss out.

The NECA Convention “Early Bird” registration deadline is August 10, 2007. Convention registration will be mailed to all members in the next couple of weeks, however, information is readily available now on the NECA Convention website, [www.necaconvention.org](http://www.necaconvention.org).

## From the Desk of Attorney Kay



Recently, we had the honor of representing Rewald Electric Company, Inc. before the courts when Rewald challenged the decision of the Wisconsin Department of Administration to ignore Rewald's low bid on a state project and rebid the entire project because of an error DOA perceived in the invitation for bids. However, before Rewald retained us, the rebid had occurred and a low combination bidder was determined by DOA from the rebid. DOA wished to give the contract to the low combination bidder after the rebid while Rewald wanted to obtain the electrical contract as low bidder under the original bid.

When a bidder wishes to challenge a governmental decision not to award a contract to a low bidder, the relief which the aggrieved low bidder must seek is injunctive relief preventing the governmental agency from awarding the contract to anyone other than the low bidder. Once the contract is awarded to someone other than the low bidder, it is too late for the low bidder to seek relief. Therefore, Rewald had to act quickly to commence an action in the Dane County Circuit Court before a contract was awarded to the low combination bidder under the rebid.

The circuit court granted a restraining order for 30 days preventing DOA from awarding the electrical construction contract to anyone other than Rewald and scheduled an evidentiary hearing within that period of time to determine whether Rewald was entitled to a temporary injunction preventing DOA from awarding the electrical construction contract to anyone other than Rewald.

Our investigation of DOA's conduct revealed that DOA was in error when it concluded that its original invitation for bids was incorrect. Yet, since the Wisconsin Statutes require the DOA to issue an explanation for not awarding a construction contract to the lowest bidder, DOA insisted that it rebid the contract because of an error in its original invitation for bids. At the evidentiary hearing, DOA admitted that it was wrong in ordering a rebid because there was no error in the original invitation for bids. Yet DOA insisted that because it had conducted a rebid, the lowest combination bidder under the rebid was entitled to the contract, not Rewald.

The circuit court ruled against Rewald after the evidentiary hearing because Rewald had not retained us early enough to permit us to seek the injunction before DOA rebid the project. It was obvious from the trial court's decision that Rewald would have been granted the temporary injunction had it commenced its legal action against DOA immediately upon receiving notice that DOA intended to rebid the project.

The underlying rule of law requires the governmental unit to

### July 2007

#### **July 4**

Independence Day

#### **July 9**

Kenosha-Racine Golf Outing

#### **July 11**

Madison Membership

#### **July 19**

Wisconsin Valley Membership

### Upcoming Meetings

#### **July 26 - 28, 2007**

Summer Meeting  
Sheboygan, WI

#### **October 5 - 8, 2007**

NECA Convention  
San Francisco, CA

#### **January 25 - 26, 2008**

Winter Meeting  
Bloomington, MN

#### **April 6 - 9, 2008**

Midwestern Region Spring Conf.  
Key Largo, FL

#### **July 24-26, 2008**

Summer Meeting  
Eagle Ridge Resort, Galena, IL



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## NTI in August

The NJATC will once again sponsor the National Training Institute (NTI) in Knoxville, Tennessee at the University of Tennessee.

The NTI will be held August 4 – 10, and offers an extensive variety of educational and training courses designed to help trainers, apprentices, apprenticeship committee members, and interested parties meeting the growing demands and changing market of electrical construction.

The weeklong session is one of the premier training events of the year for the electrical industry, and includes a trade show, and numerous product demonstrations.

For more information, visit [www.njatc.org](http://www.njatc.org).



Have you got a code question for Tom? Let us know and we'll ask him to answer it in a future newsletter.

## Long Term Care Insurance Break

Minnesota soon will offer state residents an incentive to buy long-term care insurance. The Minnesota Long Term Care Partnership Program will reward residents who purchase long-term care insurance by allowing them to maintain assets equal to the policy amount. For example, a resident who purchased a qualified policy worth \$200,000 would then be allowed to keep \$200,000 in assets in addition to the spouse's home and car, and still receive medical assistance once the benefits of that policy are exhausted. The state estimates the program will save state taxpayers \$120 to \$154 million by 2030.

Few people want to spend their last years in nursing homes but sometimes it's unavoidable. At a cost of \$50,000 to \$60,000 annually, years of nursing home care can quickly impoverish middle-income families. Premiums for the policies are not cheap, and can cost thousands of dollars per year, however, the cost of the insurance is significantly lower than the cost of nursing home care. Premiums are lower if the policy is purchased at a younger age, however, few plan to become dependent on such facilities until they get nearer to retirement age.

About 64 percent of nursing home care in Wisconsin is paid by the federal Medicaid program, according to 2005 figures from the Kaiser Family Foundation. Costs for long-term care will increase as the baby boom generation ages.



## Tom's Code Corner

**Question:** The new Code indicates that the ground under a gasoline dispenser is not classified. Something about no air underground to make an explosive mixture. Does this mean we don't need to seal the conduits to the dispensers or canopy?

**Answer:** No. 514.8

The Code did change. Section 514.8 of the 2002 Code stated "Any portion of the electrical wiring or equipment that is below the surface of a Class 1 Division 1 or a Class I Division 2 location shall be sealed within 10-feet of the point of emergence above grade." The area within 20-feet of a gasoline dispenser is a Class 1, Division 2 location up 18-inches from grade.

514.8 Exception No. 2 permits RNC with 24-inches of cover as long as the conduit that emerges from ground at each end is threaded RMC or IMC. The conduit run would have to be sealed at the both ends even if it only passes under the 20-foot radius around the dispenser.

The 2005 NEC dropped the word "equipment". Electrical wiring is still covered by the requirement. The intent was to permit underground equipment such as a cathodic protection system to be located underground and within 20 feet of the dispensers or close to the tank vents or any other hazardous location. There was no intent to change the requirements for wiring. So the requirements for conduits and seal fittings remained the same.

## MANPOWER STATISTICS

For the Month of -- **April 2007**

Local Union #	14	127	158	159	388	430	577	890	TOTAL
	=====	=====	=====	=====	=====	=====	=====	=====	=====
Local Contractors: NECA	9	4	3	17	5	5	4	6	53
Non-NECA	35	12	16	21	16	15	11	18	144
<b>Total Local Contractors:</b>	<b>44</b>	<b>16</b>	<b>19</b>	<b>38</b>	<b>21</b>	<b>20</b>	<b>15</b>	<b>24</b>	<b>197</b>
Traveling Contractors: NECA	7	6	7	6	8	5	6	6	51
Non-NECA	5	14	4	1	2	5	3	1	35
<b>Total Traveling Contractors:</b>	<b>12</b>	<b>20</b>	<b>11</b>	<b>7</b>	<b>10</b>	<b>10</b>	<b>9</b>	<b>7</b>	<b>86</b>
<b>TOTAL # OF CONTRACTORS - LOCAL AND TRAVELERS:</b>	<b>56</b>	<b>36</b>	<b>30</b>	<b>45</b>	<b>31</b>	<b>30</b>	<b>24</b>	<b>31</b>	<b>283</b>
Contractors More Than Two Months Delinquent in N.E.B.F.	2	1	1	0	1	2	0	1	8
Total Number of Contributing Contractors in Area:	58	37	31	45	32	32	24	32	291
Employees: NECA	280	61	141	581	275	57	199	199	1793
Non-NECA	235	137	219	96	54	72	68	86	967
<b>TOTAL EMPLOYED:</b>	<b>515</b>	<b>198</b>	<b>360</b>	<b>677</b>	<b>329</b>	<b>129</b>	<b>267</b>	<b>285</b>	<b>2760</b>

<u>Union #</u>	<u>NECA Division Name</u>
127	Kenosha Division
158	Northeastern Division
159	Madison Division
388	Wisconsin Valley Division
430	Racine Division
577	Fox Valley Division
890	Janesville-Beloit Division
14	Indianhead/La Crosse Division

NOTE: These figures only reflect employees of contractors not more than 2 months delinquent in their N.E.B.F. payments.

### OSHA Alliance

The Chapter is forming a formal “alliance” with OSHA which will allow members access to customized training, assistance with establishing safety programs, safety-related newsletter articles, and a “contact” with OSHA for questions relating to job site safety. Leslie Ptak, based in Madison, will be the Chapter contact, however, the representative for each specific area will also be available to contractors.

- Leslie Ptak would be the rep for Madison, La Crosse and Janesville/Beloit Divisions
- Jim Taetsch is the rep for the Fox Valley, Northeastern, and part of Wisconsin Valley
- Mary Bauer is the rep for Indianhead and part of Wisconsin Valley
- Pat Ostrenga covers Milwaukee and Kenosha/Racine areas



## From the Desk of Attorney Kay

*(Continued from page 3)*

have a meritorious reason for rejecting a low bid. Otherwise, it is guilty of an abuse of discretion or arbitrary and unreasonable conduct. The circuit court, the Honorable Maryann Sumi presiding, held:

*It's my conclusion that it was not an arbitrary or unreasonable decision based on the information that the Department had before it, albeit erroneous, when it decided to undertake the rebid. Why do I come to that conclusion? It, I think, was best stated by Mr. Cramer in his testimony: Because all bidders were then given a fair opportunity to rebid. That includes Cullen, that includes Rewald. It is true that at that point everyone knew everyone else's bid. But that put everyone on the same footing. And I think that ultimately is what ends up being in the public interest, which is placing all bidders on the same footing through the rebid process.*

*I can't disguise or hide the fact that this whole thing is a fiasco. But does it mean that the Department's decision was unreasonable, that it was arbitrary at the time it made the decision that it did? I can't come to that conclusion.*

*And for that reason I will find that the Plaintiffs have not met their burden to show a reasonable probability of success on the merits.*



The moral of this story is simply: When a contractor as low bidder believes that it is entitled to a contract but is advised that it will not be awarded that contract, it is imperative for the contractor to seek legal counsel immediately in order to prevent the governmental unit from taking a course of action which will in effect deny the contractor the needed relief, such as rebidding the project. In this instance, DOA's rebidding the project changed the circumstances significantly and produced a new low bidder. The circuit court was not willing to grant the injunctive relief when the Department of Administration had proceeded to rebid the project even for an erroneous reason.

Fortunately, most public construction is conducted without these kinds of issues arising. However, this is not the first time that I have assisted a contractor to enjoin a governmental agency from awarding a construction contract to someone other than the lowest responsible bidder. Time is absolutely of the essence. Legal action must be commenced immediately. Whether the expense of seeking such legal relief is justified depends upon the size of the construction contract. In Rewald's case, it was a \$5,000,000.00 electrical construction contract, well worth the legal fees needed to seek injunctive relief.



### Good News?!?

Wisconsin has dropped from sixth highest to eighth highest taxed state in the nation, according to analysis from the U.S. Census Bureau. State and local taxes claimed just over 12 percent of personal income from 2004 – 2005, down a fraction from the previous year. The drop in ranking for Wisconsin was due to increased taxes in other states, among them Alaska, which went from nineteenth to fifth place. Individual income taxes and sales taxes dropped slightly during the 2004 – 2005 year, but property taxes remained virtually unchanged.

