



Western Canada Roadbuilders & Heavy Construction Association (WCR&HCA) News

Bob Reidy, Chair of the MHCA, will be installed as the 2012 WCR&HCA Chair in February 2012. Joining Bob on the Board are Barry Arnason, Immediate Past Chair of the MHCA and Chris Lorenc, President of the MHCA who also serves as President of the WCR&HCA.

The MHCA has advanced three policy areas for consideration by the WCR&HCA Board when it meets February 15, 2012 and those are:

1. National Infrastructure Summit (NIS) Regina, Saskatchewan, September 2012

The second NIS is taking place in Regina, Saskatchewan in September 2012. It is designed to further the debate and move public policy support for sustained investment in municipal infrastructure across Canada.

The WCR&HCA will be asked to support the NIS in ways and means which enable advocacy of our message(s) while collaborating/coordinating with the Canadian Construction Association (CCA). This may mean sponsorship, seeking presentation opportunity, participating in the shaping of the program and the promotion of the event and related positioning of the WCR&HCA to be a visible, credible, contributing and supporting partner.

2. National Infrastructure Accord (NIA)

The WCR&HCA will be asked, working with the Canadian Construction Association (CCA) and related stakeholders, to pursue support from the Council of the Federation, the Big City Mayors Caucus and the Federation of Canadian Municipalities (FCM), in urging the federal government to implement a National Infrastructure Accord (NIA) whose elements could include:

- a. A permanent transfer to municipalities of the current \$2 billion annual federal Gas Tax Fund with annual increases indexed to a minimum of the annual rate of inflation and population growth.

...Continued on page 2

In this issue

Breakfast with Leaders Event		3
More Message Than Money		4
Bid Protest Bulletin		6
Weekly Tenders		10

- b. Over three years, transition the remaining portion of federal gas tax revenues to municipalities using the existing Gas Tax Agreement framework. (Currently this would result in an additional \$3.2 billion allocated to Canadian municipalities. This would provide Manitoba municipalities with approximately \$100 million annually.)
- c. Transition an increase in the GST by up to 2 points, dedicated by legislation for investment in Canada's municipal infrastructure deficit.
- d. Continue tri-level government infrastructure funding agreements to address emerging infrastructure needs and shared priority investment opportunities.
- e. As part of the above, strategically encourage and support public education and advocacy which is critical to public policy evolution. Concurrent therefore with the above are the imperatives of public opinion research.

3. Canadian Construction Association (CCA) - An Industry Champion for Economic Growth

The CCA has well established itself as a major stakeholder and influence in public policy infrastructure development and should so continue.

However the CCA should be encouraged to position itself as a public policy 'go to' national champion of economic growth for Canada, including becoming a major voice on the need to enhance productivity in Canada (not just our industry), competitiveness (not just in our industry) and international trade.

All of the aforementioned cannot occur without a solid foundation (i.e. state-of-the-art public infrastructure). CCA's role should be to speak to the larger economic issues and national concerns that shape Canada's overall economic future beyond those that simply have a direct impact on the construction industries it represents.

Background

The Western Canada Roadbuilders & Heavy Construction Association (WCR&HCA) of which the MHCA is a member primary focus, is advocacy of policy initiatives in support of sustainable funding of Canada's core infrastructure in support of economic growth. (See www.wcrhca.org)

The WCR&HCA headquartered in Winnipeg, Manitoba has four member provincial associations which represent the heavy construction industry in western Canada. They are: B.C. Roadbuilders & Heavy Construction Association (BCRHCA), Alberta Roadbuilders & Heavy Construction Association (ARHCA), Saskatchewan Heavy Construction Association (SHCA) and the Manitoba Heavy Construction Association (MHCA).

The governing body of the WCR&HCA is its Board of Directors. It is made up of two (2) directors plus the Chief Operating Officers from each of the four member provincial associations. The office of Chairman rotates annually, with the annual convention hosting association concurrently holding the office of Chairman. The Chair and Board are served by its President located in Winnipeg.



BREAKFAST WITH LEADERS

CITY OF WINNIPEG WATER & WASTE CAPITAL PROGRAM PRESENTATION

Date: Wednesday March 7, 2012

Location: Victoria Inn Winnipeg (1808 Wellington Avenue)

Room: Carlton Room

Registration: 7:30am

Hot breakfast: 7:45am

Presentation: 8:00am

Price: \$35.00 + GST per person

Contact Christine Miller at 947-1379 or by email at christine@mhca.mb.ca to register!

There will be a Jets ticket draw for the March 14th game - must attend to win!



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The MHCA Welcomes New Members !

Cadieux Trucking Incorporated

Terry Cadieux
Box 190
Ste. Agathe, MB R0G 1Y0
Ph: (204) 882-2166
Fax: (204) 746-5930

Email: cadieuxt@mts.net
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Tiffany Burkard
254 Beauchemin Road
Grande Pointe, MB R5A 1H8
Ph: (204) 256-0702
Cell: (204) 997-0125

Email: tburkard@corporateconceptsLtd.ca
Web: www.corporateconceptsLtd.ca
Additional Information: Promotional products company based out of Winnipeg. Provides promotional products, clothing & design, branding, incentive & recognition programs, global sourcing, importing & exporting, custom online stores.

More message than money for northern road

Feds pony up \$2.67M for \$3-B project

It's only \$2.67 million -- a drop in the bucket of cash needed -- for a project to cut through 1,000 kilometres of wilderness and make the first all-weather roads on the east and north sides of Lake Winnipeg.

But a federal funding announcement Friday for a road linking Bloodvein First Nation to the first stretch of that network sent powerful signals to Manitoba's highway builders.

"This is an opportunity for the East Side Road Authority and the Bloodvein First Nation to demonstrate to Canada how well we work together," said Ernie Gilroy, the authority's CEO.

"We think this is something the federal government should recognize, and it may make it easier talking to them about ongoing funding."

The all-season road network could ultimately cost more than \$3 billion and take 20 to 30 years to complete, if Manitoba goes it alone.

The province has committed \$1.2 billion, at a rate of \$75 million a year for the next 15 years.

"If the federal government were to contribute a similar amount, it would take half as long to build," Gilroy said.

The network includes two major routes. One runs north-south -- Hollow Water to Poplar River and east to Pauingassi and Little Grand Rapids. The second is an east-west route to link the Island Lake and Northern Cree communities to Norway House.

For now, Manitoba has put up \$830,000 and Bloodvein First Nation \$390,000 toward construction of a 2.5-kilometre access road to link it to the province's 87-kilometre east-side road segment from Hollow Water First Nation to Bloodvein.

In a federal, provincial and First Nations announcement, Ottawa issued a couple of statements Gilroy tagged as hopeful.

Aboriginal Affairs Minister John Duncan was quoted as saying Ottawa is committed to improving infrastructure in remote communities, while Public Safety Minister Vic Toews, Manitoba's regional minister, said: "This announcement is one example of how our government is working with First Nations and other partners to create jobs and economic growth."

Bloodvein will receive millions of dollars worth of contracts to



create 30 jobs on the Ojibwa First Nation, which is currently linked by air or winter road to the south.

"We have been waiting for a long time for this, and we are excited to have access to the east side road," Chief Roland Hamilton said in the statement.

The province will award \$15 million in contracts to the First Nation through a community benefits agreement with the East Side Road Authority.

Bloodvein will get another \$106 million in contracts and jobs over five years for building the road through its territory as the all-weather link is extended north from its boundaries.

"It is where the jobs are right now, and it will benefit anyone wanting to come in and out of the community with reduced costs and waiting times. This project shows that with the province, the federal government and the community working together, things can get done," the chief stated.

Quebec gov't to sue over concrete tunnel collapse; blames shoddy prep work

MONTREAL - The Quebec government will head to court to seek a multimillion-dollar compensation from an engineering consortium it blames for last summer's collapse in a Montreal tunnel.

It announced the lawsuit Friday upon releasing a report that said the collapse of a huge concrete slab onto an expressway happened because of shoddy preparation before maintenance work.

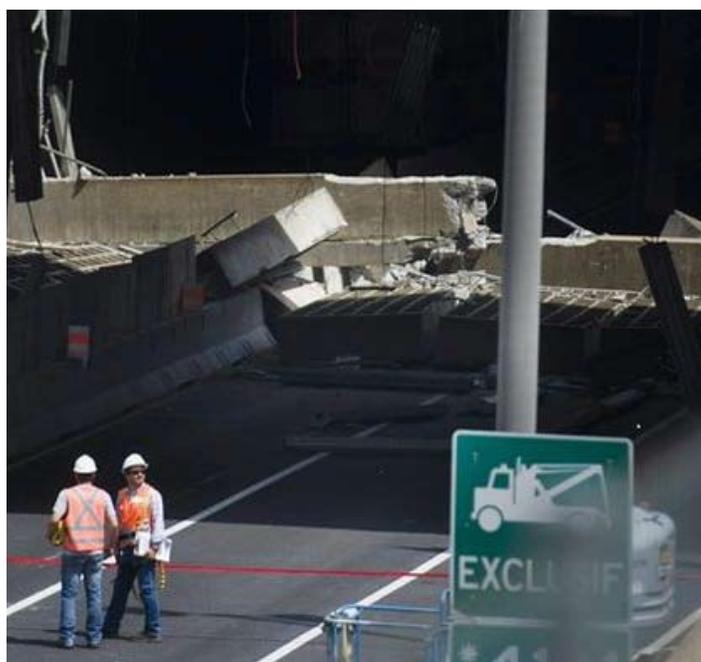
Transport Minister Pierre Moreau said the study revealed that the pressurized blasting of the downtown tunnel's walls was poorly planned.

"The finding of the experts that have been mandated by the (Quebec Transport Department) is the fact that the conception of the work was improperly done," Moreau told a news conference.

"It is very clear that a mistake was made during the planning of the work and that it is at the root of the accident that occurred last July 31 — and those responsible will have to live with the consequences."

Moreau said the Quebec government will seek financial compensation of "several million dollars" in damages from Cima+Dessau-SNC Lavalin, the consortium of firms which was mandated in 2009 to prepare the maintenance work.

Last summer's near-disaster fuelled local concern about the decaying state of Montreal's roads and also some national discussion about funding levels for municipal infrastructure.



Luckily, no one was injured when the 25-tonne concrete paralume collapsed in the Ville-Marie tunnel. The span is usually filled with bumper-to-bumper traffic during weekday rush hour — but the incident happened early Sunday morning.

When asked Friday whether criminal charges might follow, Moreau said it's possible but it's up to police to decide.

The 40-page report focuses on work being done on the surface of a support wall which held up the structure known as a paralume, which ultimately collapsed.

It faults improper specifications provided to the crews that performed pressurized blasting, a process that scrapes away layers of old concrete before they can be replaced with new ones.

Put simply, too much wall support wound up being blasted away. That caused the giant paralume to cave in on the expressway.

"The collapse of the structure was the result of two situations which led to an insufficient structural capacity of the remaining concrete brackets supporting the paralume system," Moreau said.

"That's the reason why we think we have the legal grounds to make a case with this."

Laco Construction Inc., the firm hired to perform the repairs, performed the water-blasting — or "hydro-demolition" — under the supervision of the consortium.

The paralume that collapsed measured about 15 metres in length and comprised several concrete blocks designed to prevent glare as drivers entered the tunnel.

The transport minister also says his department can't take any responsibility for work that was not done properly.

"The court will have to decide on that issue as well," Moreau said.

The report did not find any fault with the original 1970 construction plans for the tunnel, which were up to code.

At the time of the accident, police said it could have had disastrous consequences had it had occurred on a weekday. About 100,000 vehicles use the expressway during an average weekday, according to Transport Quebec.

Courtesy of The Canadian Press

Ontario court finds privilege clause in tender permits bypass of lowest bidder

Bid Protest Bulletin | Paul Emanuelli

In a formal binding bidding process, owners are under an implied duty to award to the low bid.

However, this duty remains subject to exceptions, particularly where the owner includes reserved rights and privileges in its tender call that permit a bypass of the low bid or the cancellation of the tendering process. The specific rules contained in a tender call play a significant role in shaping the owner's implied duties, including the implied duty to award to the low bidder.

For example, in its January 1987 decision in *Elgin Construction Co. v. Russell (Township)*, the Ontario High Court of Justice found that the owner was entitled to rely on a privilege clause in its tender call to avoid awarding the contract to the low bidder. The case involved a municipal tender call for the construction of a sanitary sewer and water distribution system. The lowest bidder offered a completion time of 52 weeks. The township bypassed that bidder in favour of a higher bidder who promised a 28-week completion time. As the court noted:

...although the plaintiff's bid was lower than Atomik Construction Company's bid, the cost to the township, in accepting the plaintiff's bid, would have been greater than if it accepted Atomik Construction Company's bid (bearing in mind the total of the relevant bids plus contemplated engineering supervision costs).

The low bidder sued, maintaining that there was an industry practice of awarding tendered contracts to the low bidder. However, the court found that the privilege clause contained in the tender call prevailed over any implied industry low bid rule:

It is my opinion that no "custom of the trade" can be deemed to qualify the most explicit words of the advertisement that "Tenders are subject to a formal contract being prepared and executed. The township reserves the right to reject any and all tenders and the lowest or any tender will not necessarily be accepted," and the equally explicit words in the "Information for Tenderers", as stated in para. 12, "The Corporation reserves the right to reject any or all tenders ... without stating the reasons and the lowest or any tender will not necessarily be accepted."

Since the court found that the express tender call terms trumped any implied industry low bid rule, the township was within its rights to rely on its privilege clause to bypass the



lowest bid in favour of a higher bid whose better completion time actually made it the least expensive option.

While in certain instances those reserved rights and privileges enable an exception to the implied winning bidder rule, the cases show a complex interplay between that implied rule and the owner's reserved rights. On balance these cases reveal the following governing principles:

- (1) As a general principle, the tendered contract should be awarded to the bidder with the highest ranking tender based on the tender call's evaluation criteria.
- (2) A privilege clause reserving the right to bypass the winning bidder generally overrides the application of the implied winning bidder rule.
- (3) The exercise of reserved rights and privileges is not an unfettered right. It remains subject to legal challenge and judicial oversight. In order to protect the integrity of the bidding process, the courts place significant restrictions on the manner in which these reserved rights and privileges are exercised.

Owners who fail to award to the apparent winning bidder should therefore be prepared to defend their actions with sound reasons and show that they acted in good faith.

Paul Emanuelli's procurement law practice focuses on all aspects of the tendering cycle including bid dispute resolution.

Henri Joseph Emmanuel Baudry: 1926-2012

Henri was born December 11, 1926 passed away peacefully on February 6th, 2012 with his family by his side. Leaving to mourn his beloved wife and soul mate, Jeanne (nee Delorme), his spouse of 60 years.

Left to carry his legacy are his seven children and families as follows: Richard and Gloria (nee Lenchyshyn), Marilynne and Steve Chapman, Annette and Alex Fast, Denis and Kim (nee Huebner), Gilbert and Sharon (nee Lamontagne), Alain and Linda (nee Wiebe), Renee and Ron Monin.

His grandchildren; Steve and Courtney (Lepischuk), Patricia and Matt Simner, Greg and Sheri Fast, Alison and Cam Fehr, Curtis, Nelson and Samantha Chapman, Jason and Jocelyn Fast, Stephen and Sherisse Fast, Matthew and Darcy Fast, Diane and Erik Lauzon, Aurele and Gina (Lambert), Adrienne and Sheldon Sawatzky, Katie and Kyle Gough, Rachel, Christine, Jeanne, Patrick, Donald, Lindsay Baudry, Alex and Sophie Monin, his great-grandchildren Elle Simner, Hayden and Ginger Fast, Baely, Jachin and Layanie Fehr, Owen Fast, Ava, Carter, Deklan Fast, Noah Fast, Jeremie Baudry and Nicholas Lauzon, Liam Sawatzky.

Also left to mourn are dad's brother and sisters Marcel and Therese, Colette and Fern LeGras, Beatrice and Joseph Sherwood, Alice and Peter Laver, Lily and Leo Desrochers and numerous brother and sisters-in-law, countless nephews and nieces.

Predeceased by his parents Clovis and Lucia Baudry (nee Lemoine) his brother Leopold, sisters, Annette, Rachel (Bohemier) and Juliette

Dad was born to Clovis and Lucia (nee Lemoine) on December 11, 1926 in his hometown of Sainte Agathe.

As a young man, growing up with his brothers and sisters, papa attended a small rural school in the district of Saint-Adolphe where he made many lifelong friends. He later met the love of his life, Jeanne Delorme and a long distance love relationship started. They were married on September 29, 1951 in Saint-Joseph. They started their lives together with a simple home along the Red River which later became their palace. A farmer first, then a mink farmer, then an entrepreneur, Henri was a progressive visionary. He cherished his family and provided for them in whatever fashion he could.

He saw opportunities in business that were way before their time. Seeing the great potential in the road construction



business, he and Mom were very proud to start H. Baudry Construction Ltd. along with their four sons. Henri was very proud to be a member of the Manitoba Heavy Construction Association. Henri loved farming with his boys as well. He took an active part till the end whether it was checking on the crops or letting the boys know what needed to be done.

Henri was a bargain hunter, he loved a deal. When the newspaper arrived, he would comb through them to be current on the news. He had many great discussions with friends and family; he always loved to debate.

Henri was a loyal husband and friend, always inviting people in his home. His greatest joys were the pride in his children, grandchildren and great-grandchildren. Papa always cherished and appreciated the blessings God had bestowed on him and Henri thanked God daily for these.

Cher Papa, nous vous aimons. Vous etes parti trop vite. Nous allons prendre soin de "votre belle Jeanne". Nous vous n'oublierions jamais. Nous allons vous porter dans nos cœurs toujours. Avec notre amour Papa, vos enfants, vos petits-enfants et vos petits-petits enfants.

Funeral Mass will take place at 11:00 a.m. on Saturday, February 11, 2012 at the Sainte-Agathe Roman Catholic Church with viewing starting at 10:30. Interment of the cremated remains will take place at a later date in Sainte-Agathe.

We thank the staff at Victoria General Hospital for their amazing care provided. We would also like to thank the staff at Desjardins Funeral Chapel. Thank you also to Father G. Damphousse, Father A. Bongo, Father Barry Schoonbaert for helping dad with his journey to the Lord.

Condolences may be sent to www.desjardinsfuneralchapel.ca.

TPP: Not Just Another Acronym

By Peter Hall, Vice-President and Chief Economist of Export Development Canada

Get used to it, because it's fast becoming a part of international trade language. Yes, there's another acronym to learn, but it's no fly-by night buzzword. The Trans-Pacific Partnership, or TPP, is here to stay, and it's gaining momentum. What is it, and why does it matter for Canada?

For one thing, it is big. The Trans-Pacific Partnership (TPP) is a very ambitious regional free trade agreement touching the Americas, Asia, and Oceania. It took effect in 2006 with four charter members – Brunei, Chile, New Zealand, and Singapore. With no heavy-hitters on board, it failed for a long time to gain much traction. But more recently, the tide has turned, and momentum is building.

What is more, five others – Australia, Malaysia, Peru, the US, and Vietnam – are negotiating to join. Now Washington is aggressively promoting the TPP as a way to re-engage itself in Asia. Statements by President Obama at APEC and ASEAN regional summits last fall gave the TPP added significant profile. Japan and Mexico have also expressed interest in joining the TPP. Japan's overtures are particularly notable, given how at odds Japan's highly protected agricultural sector is with key TPP tenets. Add up the GDP of TPP-aspirants and it well outmatches the EU. If negotiations succeed on all fronts, this group would clearly be the largest and most powerful trading bloc in the world.

Another key feature is its construct. The TPP is being cast as a 'next generation' trade agreement, with higher standards than its predecessors. Objectives include elimination of tariffs on goods and services between participating countries as well as a stated intent to negotiate terms on several more complex issues. These include freer government procurement; beefed-up intellectual property protection; increased regulatory coherence; rules governing state-owned enterprises; treatment of SMEs; labour rights; and environmental protection.

Canada is also interested in the TPP. Last November at the APEC summit, Canada formally announced its interest in pursuing negotiations. This was welcomed by TPP members, and Canada will commence consultations with the nine other



TPP Leaders at the APEC Summit in Japan, 2010

countries. At the end of last year, a round of broadly-based consultations commenced within Canada.

What's in it for Canada? Our exports to the Asia-Pacific region, net of the Americas and Japan, grew by 10 per cent annually between 2000 and 2008. And netting out the effect of the global recession in 2009, the recent pace of growth is more like 15 per cent annually. At the same time, Canada's traditional export growth barely budged. This aptly illustrates the nascent diversification of Canadian trade, which is steadily transforming Canada's trade landscape. Not only does the TPP promise to enhance this trade, but protect it from the likely drop-off that exclusion would bring.

Other benefits include the opportunity to help shape the development of new Asian strategies; access to bi- and multi-lateral institutions that reshape regional and global trade and investment rules; and the further facilitation of existing government strategies like the Asia-Pacific Gateway initiative.

The bottom line? Slow world growth could easily have ignited destructive neo-protectionism. Instead, we have major movement on a huge new trade initiative. It's nice to know that Canada is engaged.

WORKSAFELY

Construction Safety Excellence™

Training Schedule

Register by:

- » Email: safety@mhca.mb.ca
- » Fax: 204-943-2279

Cancellation Policy:

The *WORKSAFELY* policy states cancellation must be made at least two business days in advance, otherwise full course fee charge will apply.

FEBRUARY 2012	
February 6-7	Train the Trainer
February 8	WHMIS (1/2 day AM)/ TDG (1/2 day PM)
February 9	COR™ Auditor Refresher
February 10	Excavating & Trenching (1/2 day AM)
February 10	Flagperson (1/2 day PM)
February 13-14	COR™ Leadership
February 15	COR™ Principles
February 16-17	COR™ Auditor
February 21	Safe Work Procedures
February 22	Prime Contractor
February 23	Back Injury Prevention
February 24	Safety Administration (1/2 day AM)
February 24	Toolbox Talks (1/2 day PM)

MARCH 2012	
March 2	First Aid 1 - CPR
March 5-6	COR™ Leadership
March 7	COR™ Principles
March 8-9	Train the Trainer
March 14	WHMIS (1/2 day AM)/ TDG (1/2 day PM)
March 15	COR™ Auditor Refresher
March 16	Excavating & Trenching (1/2 day AM)
March 16	Flagperson (1/2 day PM)
March 26	Safe Work Procedures
March 27	Prime Contractor
March 28	Back Injury Prevention
March 28	Fatigue Management
March 29	Safety Administration (1/2 day AM)
March 29	Toolbox Talks (1/2 day PM)

REMINDER:
WORKSAFELY requires at least six people registered to deliver the course.

Rural Manitoba Training	
February 11-12	COR Leadership — Morden, MB
February 21-25	COR Week — St. Rose, MB
Feb. 27 - Mar. 2	COR Week — Brandon, MB
Call the MHCA Office for more details!	

Customized training is available for your specific requirements.
 Call the *WORKSAFELY* Office at (204) 947-1379 for more information.