

# HIGHWAY HAPPENINGS



**AGC** SOUTH DAKOTA  
HIGHWAY-HEAVY-UTILITIES CHAPTER  
THE CONSTRUCTION ASSOCIATION

**WINTER 2023**

*Mission Statement: "The AGC of South Dakota and its members promote skill, responsibility and integrity through construction and services which enhance the quality of life for all who live, work or travel in South Dakota."*

## New Member Benefit - Enova!

**TOGETHER, LET'S BUILD FOR TOMORROW**

### RECRUIT

Recruit better candidates.

### TRAIN

Train for tomorrow's job.

### RETAIN

Retain employees longer.

AGC is excited to announce that we have partnered with Enova for a second year to provide a comprehensive talent strategy for our members to better recruit and retain people! The talent strategy hub: [enovaadvantage.com/agcsd](http://enovaadvantage.com/agcsd) offers four areas of complimentary human resources consulting. As an AGC of SD member, you can take advantage of the following complimentary HR services to help you build your business.



**HRhealthcheck** – Take the 12-minute survey and receive a complimentary HR health report, action plan and consultation. This is the best way to understand areas of opportunity and how you stack-up to other companies within the same industry.

**Virtual Talent Webinars** – Join us for an hour-long webinar to learn about key recruiting and HR topics that help increase knowledge and boost employee engagement. \*Launching again Fall 2023\*

**Talent Consulting** – More than 35% of our members have no dedicated HR resources. Enova provides companies of all sizes with guidance to help businesses succeed. We're only a phone call away!

**Resumé Distribution/Job Board** – With unemployment in South Dakota being the lowest in the nation, AGC advertises jobs across the state and distributes applications at no cost. Sign up to receive applications directly to your inbox. In 2022, we had over 5,900 visitors to the portal and 300 applications received.

Obtaining and retaining a talented workforce takes extensive internal resources and dedicated personnel – or the necessary budget to create the right solutions. AGC of South Dakota believes that our members should have access to the HR resources that help construction workforces succeed. This partnership will help your HR team and your company strengthen your ability to recruit top candidates as well as retain them. For questions regarding your AGC-Enova Talent Solutions benefits, shoot us an email at [AGCJobs@EnovaAdvantage.com](mailto:AGCJobs@EnovaAdvantage.com).

## ON THE INSIDE

**WZAW Get Involved Letter, AGC Scholarship Poster, AGC/SDDOT Summit Agenda, CONPAC Pledge Card**

# LEADERSHIP 2023

## CHAPTER OFFICERS



**President**  
Rob Knight  
Foothills Cont.  
Webster



**Senior Vice President**  
Andy Johnson  
A-G-E Corp.  
Ft. Pierre



**Vice President**  
Elroy Buren  
Complete Contracting  
Rapid City



**Sec./Treas.**  
Chad Hartman  
Myrl & Roy's Paving  
Sioux Falls



**Past President**  
RC Skull  
R.C.S. Construction  
Rapid City

## CHAPTER DIRECTORS



Melissa Austin  
J&J Asphalt  
Rapid City



Jesse Bruns  
Reede Construction  
Aberdeen



Travis Haarsma  
ASCO  
Sioux Falls



Shaw Loiseau  
Loiseau Construction  
Flandreau



Photo Coming Soon



Chris Ritter  
Prunty Construction  
Brookings



Robert Sopher  
Jensen Rock & Sand  
Mobridge



Derek Suhr  
Quinn Construction  
Rapid City

## NATIONAL GOVERNORS

## LIFE NAT'L GOVERNORS



Jared Gusso  
SFC Civil  
Sioux Falls



John Morris  
Morris, Inc.  
Pierre



Jim Soukup  
Soukup Const.  
Sioux Falls



Gary Johnson  
AGE Corp.  
Ft. Pierre



Kari Karst  
BX-CC  
Dell Rapids



Mark Knight  
Knight Const.  
Aberdeen

## AGC STAFF



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## ASSOCIATE DIVISION OFFICERS



**President**  
Andrew Heitzler  
BPAS  
Sioux Falls



**Vice President**  
Toby Royer  
Butler Machinery  
Aberdeen

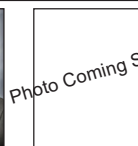


Photo Coming Soon

**Sec./Treas.**  
Scott Norman  
Pete Lien & Sons  
Rapid City



GUNDERSON | PALMER | NELSON | ASHMORE LLP  
ATTORNEYS AT LAW



JASON M. SMILEY  
(605) 342-1078  
[JSMILEY@GPNA.COM](mailto:JSMILEY@GPNA.COM)

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- CONSTRUCTION DEFECT CLAIMS
- SURETY BOND CLAIMS
- GOVERNMENTAL CLAIMS
- ARBITRATION & MEDIATION
- SUPERVISORY TRAINING
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- AVAILABLE AS CO-COUNSEL OR REFERRALS



**Rob R. Knight**

# FROM THE PRESIDENT:

Fellow AGC Members,

I am excited and humbled to serve our Association as the 2023 President. Along side our Chapter Officers and Directors I am confident that we can continue to grow and strengthen our industry in South Dakota. I base this confidence from just observing a few of our recent AGC leaders, Tim Forester, Gary Johnson, Jim Soukup, and RC Scull. These gentlemen took on many challenges over the past four years and managed to navigate right through them with great success. It is good to know that leaders like these guys are only a phone call away if any of our members need anything.



The 2023 State Convention in Rapid City was once again a great success! Thank you to the AGC Staff and all who put in so much time and energy to make it so. In our world of zoom meetings and conference calls it is always nice to meet with everyone in person when possible. I think the convention had a good variety of topics and information for all to find a useful take away.

A large focus of this upcoming year will be on the possible merger of our HHU and Building chapters. I believe the task force and members of both chapters are already doing a clear and thorough job on the feasibility of a possible merger. No matter what the decision, I really think both chapters will be stronger for going through this process.

As always, we still need to prioritize the recruitment of new members to the AGC. As we all know, our Association is only as strong as our membership. A good way to invite a possible member may be to invite them to be guest at one of our upcoming membership meetings. The Spring Membership Meeting will be March 28th in Sioux Falls and March 30th in Rapid City.

Another one of our exciting and informative events is the AGC/SDDOT Summit in Oacoma at the Cedar Shore Resort March 2nd & 3rd. This event is a great opportunity to meet with DOT representatives and learn more about a partnering relationship. Please consider sending your project leaders, foremen, project supt., anyone who might gain from a stronger relationship with the DOT. The topics discussed at this meeting have a meaningful effect on our projects.

In closing, thank you all for the opportunity to lead and serve this great organization for 2023. Here is to a SAFE, Productive, and Successful construction season!

Rob R. Knight





# AGC MEMBER BENEFITS



## LEGAL COUNSEL

The AGC of South Dakota, HHU Chapter has an attorney, Jason Smiley, on retainer to assist members and staff with construction-related legal questions. Member firms may contact Jason directly at 605-342-1078 or by email: [jsmiley@gpnlaw.com](mailto:jsmiley@gpnlaw.com)

## DENTAL PROGRAM



The AGC of South Dakota has a dental insurance program available to in-state member firms. For more information or to discuss eligibility requirements, please contact the Delta Dental office at 605-224-7345 or by email: [sales@deltadental.com](mailto:sales@deltadental.com).

## AGC MEMBERS SAVE MORE THAN \$10M ANNUALLY! ARE YOU PARTICIPATING?

AGC's Membership Discount Programs provide members access to high-quality services, cutting-edge technology and top-of-the-line products. From discounts on vehicles to office supplies to cloud-based construction management solutions, AGC has partnered with some of the best to give you the most for your money and improve your daily business operations. Visit the website: [www.agc.org/member-benefits/member-discount-programs](http://www.agc.org/member-benefits/member-discount-programs).



## EMPLOYEE RETIREMENT PLAN

Fringe Benefits Design Inc. is the administrator for the AGC of South Dakota sponsored 401(k) Profit Sharing Plan. They provide all contractors and associate members the education, investments, documents and other administrative needs to implement a qualified retirement plan. Contact Fringe Benefits Design, Inc. for more information at 605-331-5082.



## DISCOUNT SPOTLIGHT!

**AGC Members Saved Over 14.5 Million Dollars Last Year Using AGC Member Discounts!**

Add AGC Member Discount Programs To Your Toolbox!

The AGC Member Discount Programs offer a variety of benefits to our members, including access to high-quality services, state-of-the-art technologies, and premier products. Through our partnerships with leading companies, we are able to provide discounts on a wide range of products and services. These discounts are designed to help our members save money and improve their daily business operations.

Our value-added discounts provide a competitive advantage that can set your business apart from others in the industry. AGC Member Discount Programs are just one of the many benefits of being an AGC member, that aims to help our members succeed and grow.

[AGC.org/SAVE](http://AGC.org/SAVE)

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**EXTRA! EXTRA!**  
**READ ALL ABOUT IT!!**

# "IN THE NEWS"

*This section of the bulletin highlights the AGC, its' members and/or staff who have been quoted, interviewed, published, etc. by the media recently. If you are aware of AGC of SD "In the News" items, please forward them to the AGC Office.*

December 20, 2022 Dakota News Now: **AGC of South Dakota** mentioned in article titled "Department of Public Safety provides storm assistance to SD tribes".

December 22, 2022 Watertown Public Opinion: **AGC of South Dakota** mentioned in article titled "Gov. Kristi Noem declares 'winter storm emergency' for South Dakota; activates National Guard".

December 22, 2022 Yankton Daily Press & Dakotan: **AGC of South Dakota** mentioned in article titled "DPS Provides Storm Assistance To Several South Dakota Tribes".



January 12, 2023 Siouxland Proud: **AGC of South Dakota** mentioned in article titled "\$200 million for South Dakota housing clears hearing".

January 13, 2023 Capital Journal: **John Morris, Moris Inc.** pictured and mentioned in article titled "Riggs mechanics students receive donated semi".



January 16, 2023 KNBN NewsCenter 1 TV: **Dean Stalheim, General Equipment & Supplies** featured in newstory titled "Association of General Contractors hold 2023 convention in Rapid City".



January 17, 2023- KNBN NewsCenter 1 TV: **Rob knight, Foothills Contracting** and **Mark Noteboom, Complete Contracting** featured in newstory titled "We face challenges every day fulfilling our labor needs": Contractors also battle against employee shortages."



January 17, 2023- KNBN NewsCenter 1 TV: **Dan Bland & Austin Hodges, TranSource Truck & Equipment** featured in newstory titled "Heavy equipment simulator



*brought to convention with hopes to spark a new interest in a construction career."*

February 1, 2023 BH Pioneer: **Ainsworth-Benning Construction**

pictured and featured in article titled "Ainsworth-Benning Construction donates \$500 to food pantry".



February 7, 2023 Moody County Enterprise: **Loiseau Construction** pictured

and featured in article titled "Loiseau Construction receives award".



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# UPCOMING EVENTS

**February 23, 2023** - SD Trans. Comm. Mtg. - Pierre  
**February 23, 2023** - RC Area MU Meeting - Rapid City  
**February 28, 2023** - Young Const. Social Event - Sioux Falls  
**March 1, 2023** - SDDOT EBS Letting  
**Mar. 2-3, 2023** - SD Trans. Construction Summit - Oacoma  
**March 7, 2023** - Associate Division Board Mtg. - Virtual  
**March 7, 2023** - Last Legislative Briefing - Virtual  
**March 9, 2023** - Pizza, Pop & Power Tools - Sioux Falls  
**March 9, 2023** - Last Day of Legislative Session - Pierre  
**March 22, 2023** - SDDOT EBS Letting  
**March 27, 2023** - Veto Day - Pierre  
**March 28, 2022** - AGC Member Meeting - Sioux Falls  
**March 30, 2023** - AGC Exec. Comm., Board & Member Mtgs. - RC  
**April 5, 2023** - SDDOT EBS Letting  
**April 7, 2023** - Good Friday Holiday - AGC Office Closed PM  
**April 19, 2023** - SDDOT EBS Letting  
**May 3, 2023** - SDDOT EBS Letting  
**May 3-4, 2023** - AGC/Corps of Eng. Annual Mtg. - Omaha, NE  
**May 17, 2023** - SDDOT EBS Letting  
**May 29, 2023** - Memorial Day Holiday - AGC Office Closed



## SAVE THE DATES

**June 22-23, 2023** - AGC Fishing Tournament - Pierre Area

**July 17, 2023** - Summer Social - Sioux Falls  
**July 18, 2023** - AGC Golf Tournament (Willow Run) - Sioux Falls  
**August 10, 2023** - Summer Social - Rapid City  
**August 11, 2023** - AGC Golf Tournament (Red Rock) - Rapid City  
**October 24, 2023** - AGC Fall Meeting - Rapid City  
**October 26, 2023** - AGC Exec. Comm., Board & Fall Mtgs. - SF  
**Nov. 2-3, 2023** - Young Const. Pheasant Hunt - Pierre Area  
**January 10-12, 2024** - AGC/LICA State Convention - Sioux Falls

# NEW MEMBERS



## **Dream Construction, Inc.**

Hani Shafai, Owner  
 18 E. Kansas City Street, Suite 3  
 (605) 348-0538  
[hani@dreamdesigninc.com](mailto:hani@dreamdesigninc.com)

## **Underground Construction, LLC**

Corey Osborn, President  
 22418 Dyess Ave.  
 Rapid City, SD 57701  
 (605) 842-6239  
<http://undergroundconstllc.com>  
[corey@undergroundconstllc.com](mailto:corey@undergroundconstllc.com)

## **Rinker Pipe**

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 4310 Pendleton Dr.  
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## **AGC Potential Member Recruitment**



The AGC is always looking for new members

to join our association and we need your help! If you know of a company that would benefit from joining the AGC, please get in contact with them and ask them to join! Help the HHU staff by actively recruiting new members and reach our 2023 recruitment goals!

## **GOAL!**



## **2023 RECRUITMENT GOALS:**

**5 CONTRACTORS & 10 ASSOCIATES/AFFILIATES**

# MEMBERSHIP NEWS & HAPPENINGS

## **AGC of SD Elects 2023 Officers & Directors**

Members of the AGC of SD HHU Chapter and the AGC of SD Associate Division recently elected Officers and Directors for 2023. The Officers and newly elected Directors are listed below.

### **President:**

**Rob Knight** - Foothills Contracting, Webster

### **Senior Vice President:**

**Andy Johnson** - A-G-E Corp., Ft. Pierre

### **Vice President:**

**Elroy Buren** - Complete Contracting, Rapid City

### **Secretary/Treasurer:**

**Chad Hartman** - Myrl & Roy's Paving, Sioux Falls

### **New Director:**

**Eric Priesz** - BX-CC, Dell Rapids

## **AGC of SD Associate Division:**

### **President:**

**Andrew Heitzler** - BPAS, Sioux Falls

### **Vice President:**

**Toby Royer** - Butler Machinery, Aberdeen

### **Secretary/Treasurer:**

**Scott Norman** - Pete Lien & Sons, Rapid City

### **New Associate Division Director:**

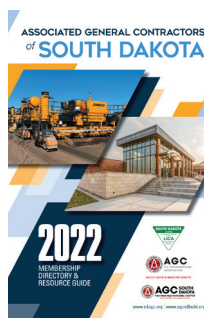
**Eric Prunty** - Brosz Engineering, Mitchell

A complete list of Officers & Board of Directors is shown on page 2 of this bulletin.

## **2023 AGC of SD Directories Coming Soon!**

The new directories will be mailed out mid-April! As a contractor you will receive three complimentary copies and as an associate member you will receive one complimentary copy. AGC will be sending out a proof of the book via email within the next two weeks for you to review and approve.

Make sure you check your email for information on reviewing the PDF proof. Additional copies will be available for you to purchase for \$15 each once the book is printed. The directory is also available in an electronic version on our website which is accessible on your desktop, laptop, cell phones and tablets!



## **Meet AGC's New Safety Trainer Mike Kane!**



Mike Kane is the newest addition to the AGC of South Dakota team. Mike is a South Dakota native and currently lives in Sioux Falls, SD. Mike has degrees in Business Management from Colorado Tech University and Organizational Leadership and Development from Rasmussen University. Mike is an approved outreach trainer for OSHA and MSHA.

Mike is a safety training specialist with over 20 years of experience in providing comprehensive safety training courses to a variety of industries. He is committed to helping you create a safe and secure work environment for your employees. He specializes in workplace safety topics such as fall protection, machine guarding, and hazard communication. Mike is available to discuss your safety training needs and provide tailored solutions to meet your company's unique safety training requirements. Please don't hesitate to reach out to him if you have any questions or need further assistance. He can be reached at [mike@sdagc.org](mailto:mike@sdagc.org) or 605-261-6505. Please join us in welcoming Mike to the AGC of SD team!

## **AGC Cares in Action!**

AGC Cares is still doing good things and making a difference in communities throughout South Dakota! Most recently, AGC Cares made four (4) \$500 donations to each of our Build South Dakota project winners.

Charities receiving a donation are Meal on Wheels – Western South Dakota from Tru-Form Construction, Make-A-Wish of South Dakota from SFC Civil Constructors, The Banquet in Sioux Falls from Prairie State Trucking and The Boys & Girls Club of Rosebud from Loiseau Construction. If you know of a project or a person needing some "AGC Cares" please email [lindsay@sdagc.org](mailto:lindsay@sdagc.org) or call the office at 605-274-8689! There is no project too BIG or small and all submissions will be considered.





# MEMBERSHIP NEWS CONT...

## **Work Zone Awareness Participation!**

National Work Zone Awareness Week (NWZAW) is an Annual spring campaign held to encourage safe driving through highway work zones and construction sites. The key message is for drivers to use extra caution in work zones. The AGC will once again participate by hosting our annual WZAW 4th grade coloring contest to display on billboards. We need contractor participation NOW to get billboards lined-up so they can be up during the busy construction working months. Don't miss this great opportunity to get involved in WZAW 2023, please see the enclosed insert for full details!

## **AGC's Spring Membership Meetings**

Make plans to attend AGC's Spring Membership Meetings. These events provide members the perfect opportunity to network with other members. The first meeting will be held on Tuesday, March 28th at ROAM Kitchen + Bar in Sioux Falls. The second meeting will take place on Thursday, March 30th at Arrowhead in Rapid City. More details will be available on our website soon!



## **Corps of Engineers Annual Meeting**

A Joint meeting with the Omaha District Corps of Engineers has been scheduled at the DoubleTree Hotel, 1616 Dodge Street, Omaha, Nebraska on May 3-4, 2023. Any items you would like discussed at the meeting should be sent to [toby@sdagc.org](mailto:toby@sdagc.org) by April 12, 2023 for inclusion in the meeting agenda. Registration for the meeting is \$300 and covers costs of this function for those in attendance at the meeting. If you or someone from your company would like to register for this meeting, please email [kaylee@sdagc.org](mailto:kaylee@sdagc.org).

## **2023 Advertising Opportunities**

Reach your target audience by advertising in a HHU Chapter publication! Opportunities include the AGC website [www.sdagc.org](http://www.sdagc.org), this quarterly bulletin and ads in Monday's Weekly News e-newsletter! Ads are sold at a discounted rate for members and can be placed on a one-time only basis or in every publication for a year. Please email [lindsay@sdagc.org](mailto:lindsay@sdagc.org) with any questions!



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Agency**

## AGC/SDDOT Fall Meeting Success!

The fall meeting with SDDOT Area & Region Engineers, Operations Central Office and other key SDDOT staff was held in early December in Ft. Pierre. Over 90 participants attended this valuable meeting. There was a lot of progress made with the workgroups and valuable discussions had by all!



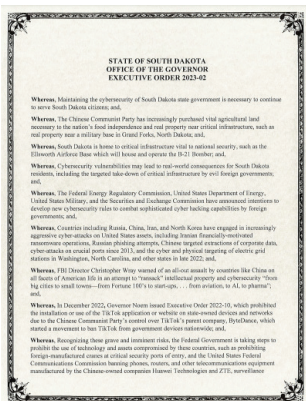
## 2023 AGC/SDDOT SD Transportation Construction Industry Summit - Register Today! March 2 & 3 - Cedar Shores - Oacoma, SD



The next meeting with AGC Contractors and Key SDDOT personnel has been scheduled for March 2 & 3 at Cedar Shores in Oacoma, SD! Contractor participation is needed

as we continue our work on issues, suggestions & changes between the SDDOT and industry! View the agenda included as an insert and register today at [www.sdagc.org](http://www.sdagc.org)!

## ATTENTION: Additional Contractor Certification Required for SDDOT Projects



All parties entering into contracts with SDDOT on or after January 25th are subject to the requirements in Gov. Noem's Executive Order 2023-02. EO 2023-02 requires bidders to certify (per Section 4 of the EO) that they are not a prohibited entity (defined in Section 1 of the EO). This certification will be required

to award and execute construction contracts that were part of the 01/11/2023 Bid Opening and all lettings going forward. Full details are available on our website!

## 2023-26 STIP Quantities / Region Data to AGC

SDDOT has recently provided AGC with the breakdown

of the 2023-2026 STIP by region and work type. The data (as of November 23, 2022) for Asphalt, PCC, Grading and Shoulder Widening, Structure Replacement and Structure Maintenance.

The STIP Dashboard (spreadsheet) is broken into tabs for the different categories. The information and breakdown is now available on our website at [www.sdagc.org/2023-26-stip-quantities](http://www.sdagc.org/2023-26-stip-quantities).

## DEPARTMENT OF TRANSPORTATION



## Spring Load Limit Restrictions Announced

SDDOT recently released their 2023 Proposed Spring Load Limit Restrictions Map. Spring Load Restrictions in South Dakota can be placed



on state and county highways and roads between February 15 - April 30, 2023. It is the Department's position to not implement Spring Load Restrictions any earlier than necessary. The Department monitors the daily high/low temperatures at numerous locations throughout the state. The Department still relies heavily on the existing highway conditions and past experience of its field personnel when making the final decision of when to implement and remove load restrictions. To view the latest restrictions visit [www.sdtruckinfo.sd.gov](http://www.sdtruckinfo.sd.gov).

## FOLLOW AGC of SD ON SOCIAL MEDIA



twitter: @AGCOFSD  
[WWW.FACEBOOK.COM/SDAGC](http://WWW.FACEBOOK.COM/SDAGC)



# 2023 State Convention Recap

The Annual State Convention was held at The Monument, January 16-18, 2023 in Rapid City. Over 300 attendees enjoyed exhibitors, top-notch speakers, informative meetings and FUN social events. The Rapid City Chapter of AGC's Young Constructors hosted a night out event at The Park which featured "the Dueling Duo"! The Awards Ceremony was held on Monday Night - Congratulations to the following individuals and companies on their successes!

- **Build South Dakota Category I: Tru-Form Construction** for Outstanding Highway-Heavy-Utility Construction Performed on the Modified Intersection and Lighting Project - Highway 79 and Spring Creek Road south of Rapid City, SD.
- **Build South Dakota Category II: SFC Civil Constructors** for Outstanding Highway-Heavy-Utility Construction Performed on the Collector Well 72 located in Renner, SD for the City of Sioux Falls, SD.
- **Build South Dakota Category II: Prairie States Trucking** for Outstanding Highway-Heavy-Utility Construction Performed on SD Highway 81 South of Highway 14 in Kingsbury & Brookings Counties, SD.
- **Build South Dakota Category III: Loiseau Construction** for Outstanding Highway-Heavy-Utility Construction Performed on BIA Route 7 to US Highway 83 Improvement Project, Phase 1 in Rosebud, SD.
- **"Mark Knight Leadership" Award:** Evan Waltermann, RCS Construction, Rapid City, SD
- **AGC 40 Year Continuous Membership Awards:** Forby Contracting, Fisher Sand & Gravel Co., & Jebro, Inc.



**Visit AGC's Flickr Page for ALL Event Photos!**

**Go to: [www.flickr.com](https://www.flickr.com/photos/agc-southdakota/) and Search: "AGCSDHHU"**



# Ice Fishing Tournament Recap

## *Ice Fishing Tournament SUCCESS - January 25-26, 2023*

Over 60 members attended the 5th Annual John Shoemaker Ice Fishing Tournament "Nothin But a Good Time Raising Money for Education" held at Pickeral Lake Lodge in Grenville, SD. The event included a social, dinner & calcutta. Over \$10,000 was raised for the John Shoemaker Memorial Scholarship. The Shoemaker's have decided to raise the yearly scholarship award amount to \$5,000 starting in 2023! Thank you sponsors & companies who donated door prizes!

### *Congratulations to the Winners:*

- **1st place:** Webster Scale - Dawson Mathison, Tommy Knutson & Zach Williams
- **2nd place:** Journey Group - Kyle Brockmueller, Hunter Deckert, Cody Latusek & Matt Ondricek
- **3rd place:** Webster Scale - Tanner Popham & Andrew Jorgenson
- **4th place:** LG/Prairie/DeBoer - Monte Kerzman, Darby Parsons, Mark Hayes & Pierce Koch
- **Largest Walleye:** Hoogendoorn Construction - 2.27 lbs
- **Largest Non-Walleye:** Toby Royer, Butler Machinery - White Bass 2.65 lbs



## 2023 Legislative Lunch Serving

### *2023 Legislative Lunch Serving Success!*

AGC hosted and served lunch to all of South Dakota's Legislators on Thursday, February 9th in the Capitol Rotunda. Over 120 lunches were served and it was a great way to get face-to-face with our elected leaders to discuss issues and concerns facing the construction industry. Thank you members for attending!





# WORKFORCE DEVELOPMENT NEWS

## **Scholarships Open - \$40,000 Available!**

The AGC of SD is deeply committed to a highly educated and trained workforce. Because of this we're proud to pledge \$40,000 annually for students pursuing an education in a career field directly related to the construction industry. Applicants must achieve an above average academic achievement and be committed to working in South Dakota following graduation. Scholarship deadline is May 1, 2023 and can be completed online at [buildsouthdakota.com/scholarships](https://buildsouthdakota.com/scholarships). See full details in the insert enclosed!



rewarding opportunities available in the booming and exciting construction industry. AGC will be hosting a Pizza, Pop & Powertools event on March 9th in Sioux Falls. If you want to be a part of this great event, please email [toby@sdagc.org](mailto:toby@sdagc.org).

## **Get Involved! South Dakota Week of Work**



The South Dakota Week of Work April 3-7, 2023 will introduce 10th and 11th graders to career opportunities in their own communities and across the state through job shadows, industry tours, and other business-

classroom connections. It's a week of exploration, with the aim of guiding students, engaging local businesses, and introducing employers to their future workforce. Think of it as a long-term investment in South Dakota's future. Visit <https://weekofwork.sd.gov> for more information on how you can get involved!

## **Upcoming Pizza, Pop & Powertools Event**

Giving the next generation a positive and immersive experience into the construction industry is what AGC'S Pizza, Pop & Powertools events for girls are all about. These camps encourage young women to consider construction as a career and introduces them to the diverse and

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# AGC's UPCOMING EVENTS SUMMER 2023

**JUNE 22/23** AGC Fishing Tourney - Pierre

Summer Social @  
Great Shots - Sioux Falls

**JULY 17**

**JULY 18** East River Golf Tourney  
Willow Run - Sioux Falls

Summer Social @  
Murphy's - Rapid City

**AUG 10**

**AUG 11** West River Golf Tourney  
Red Rock - Rapid City

Full event details will be available soon at:  
[www.sdagc.org](http://www.sdagc.org)



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# SAFETY & TRAINING NEWS

## **2022 Safety & Training Calendar Now Available!**

The Safety staff has been busy preparing the safety & training calendar for the upcoming 2023 Training Season. We are happy to announce that the calendar is now available at [www.sdagc.org](http://www.sdagc.org)! For questions or to set up trainings please email us: Mike Kane at [mike@sdagc.org](mailto:mike@sdagc.org) or Jim Heaphy at [jim@sdagc.org](mailto:jim@sdagc.org).

## **Upcoming Safety Training!**

Feb. 15th, 16th: Traffic Control Sup. Training – Rapid City  
Feb. 20th: Forklift – Telehandler - Aberdeen  
Feb. 21st: Trench & Exc. – Competent Person – Aberdeen  
Feb. 21st: Confined Space - Competent Person - Aberdeen  
Feb. 21st: Trench & Excavation – Competent Person – Pierre  
Feb. 21st: Confined Space - Competent Person - Pierre  
Feb. 22nd: Fall Protection – Competent Person - Aberdeen  
Feb. 22nd: Fall Protection – Competent Person - Pierre  
Feb. 22nd: Scaffolding – Competent Person - Aberdeen  
Feb. 22nd: Scaffolding – Competent Person - Pierre  
Feb. 23rd, 24th: OSHA 10 Hour – Construction – Pierre  
Feb. 28th, Mar.1st : OSHA 10 Hour – Const. – Aberdeen  
Mar. 3rd, 10th: OSHA 10 Hour – Construction – Rapid City  
Mar. 3rd, 10th, 17th, 24th: OSHA 30 Hour – Const. - Rapid City  
Mar. 7th, 8th: OSHA 10 Hour – Construction – Sioux Falls  
Mar. 14th: Trench & Exc. – Competent Person – Sioux Falls  
Mar. 21st, 22nd: OSHA 10 Hour – Construction – Mitchell  
Mar. 22nd: Forklift – Telehandler - Mitchell  
Mar. 28th: Trench & Exc. – Competent Person – Sioux Falls  
Mar. 28th : Trench & Exc. – Competent Person - Rapid City  
Mar. 29th : Confined Space - Competent Person - Sioux Falls  
Mar. 29th : Confined Space - Competent Person - Rapid City  
Mar. 30th : Fall Protection – Competent Person - Sioux Falls  
Mar. 30th : Fall Protection – Competent Person – Rapid City  
Mar. 31st : Scaffolding - Competent Person - Sioux Falls  
Mar. 31st : Scaffolding - Competent Person - Rapid City  
Apr. 4th: Mobile Elevated Work Platform Operator – Rapid City  
Apr. 4th : Mobile Elevated Work Platform Operator – Sioux Falls  
Apr. 6th : Forklift – Telehandler – Sioux Falls  
Apr. 6th : Forklift – Telehandler – Rapid City  
Apr. 11th: First Aid/CPR - Rapid City  
Apr. 12th : Flagger Certification – Sioux Falls  
Apr. 12th : Flagger Certification - Rapid City

## **Safety Committee Update**

Sixteen members of the safety committee enjoyed a breakfast meeting during the AGC State Convention in Rapid City. AGC Safety Staff discussed the 2023 Training calendar along with new and exciting training offerings coming from AGC of America.

Discussion was centered on a Silica presentation by SDSU Engineering Extension OSHA Consultation staff. Additional topics of discussion included National AGC Safety Awards (NASA), and upcoming OSHA Outreach Training Education Center offerings. Watch AGC publications for future offerings.

## **MSHA & MSHA Alliance Update**



The MSHA Alliance met during the State Convention in Rapid City. A dozen members attended in person, with two joining

via Zoom. MSHA Educational Field and Small Mine Services (EFSMS) Alan Roberts of the Rapid City Office was the invited speaker who spoke on Contractor Training requirements. MSHA Alliance Leadership succession planning wrapped up the MSHA Alliance meeting.



**Know what's below.  
Call before you dig.**

## Commercial Driver License (CDL) Entry Level Driver Training (ELDT) UPCOMING CLASSES!

Is your company in need of additional employees with a CDL? Well the AGC can assist your company with the required Entry Level Driver Training (ELDT) that has been required since February, 7, 2022. Here are the classes that are scheduled for the remainder of 2023.

### February:

- **February 9th** - CDL Permit Training (In Person) Sioux Falls @ SDDOT 7:30am – 11:30am
- **February 9th** - Train the Trainer (TTT) Sioux Falls @ SDDOT 12:30pm – 5:30pm
- **February 22nd** - ZOOM CLP Exam Prep 9:00am-1:00pm Central

### March:

- **March 1-3rd** - CDL Class A & B Theory Training – Sioux Falls @ SDDOT 8am - 4:30pm **\*\*ADDITIONAL OFFERING\*\***
- **March 13-15th** - CDL Class A & B Theory Training Pierre/TBD 8am - 4:30pm
- **March 16th** - CDL Permit Training (In Person) Pierre/ TBD
- **March 16th** - Train the Trainer (TTT) Pierre/ TBD 12:30pm – 5:30pm
- **March 29th** - ZOOM CLP Exam Prep 9:00am – 1:00pm Central

### April:

- **April 3-5th** - CDL Class A & B Theory Training Rapid City @ SDDOT 8am - 4:30pm
- **April 6th** - CDL Permit Training (In Person) Rapid City @ SDDOT 7:30am – 11:30am
- **April 6th** - Train the Trainer (TTT) Rapid City @ SDDOT 12:30pm – 5:30pm
- **April 10-12th** - CDL Class A & B Theory Training Aberdeen/TBD 8am - 4:30pm
- **April 13th** - CDL Permit Training (In Person) Aberdeen/TBD 7:30am – 11:30am
- **April 13th** - Train the Trainer (TTT) Aberdeen/TBD 12:30 -5:30pm
- **April 19th** - ZOOM CLP Exam Prep 9:00am - 1:00pm

### May:

- **May 1st – 3rd** - CDL Class A & B Theory Training Sioux Falls @ SDDOT 8am - 4:30pm
- **May 4th** - CDL Permit Training (In Person) Sioux Falls @ SDDOT 7:30am – 11:30am
- **May 4th** - Train the Trainer (TTT) Sioux Falls @ SDDOT 12:30pm – 5:30pm
- **May 17th** - ZOOM CLP Exam Prep 9:00am – 1:00pm

## AGC Virtual Training Opportunities! Discover AGC Edge - A New Virtual Learning Experience

Looking for new training opportunities in 2023? With AGC's live, instructor-led courses, it's never been easier to build your skill set and access the training you need. Whether you're looking to build your knowledge in BIM, Lean, Project Management or Supervisor Training, these virtual programs provide the same learning experience and expert instruction as in-person programs. Here are the upcoming

### MARCH COURSES:



March 6 @ 12:00 pm - March 31 @ 5:00 pm EST

### Project Manager Development Program

Classes are held on Mondays and Fridays from March 6th to March 31st from 12 PM-5 PM ET | 9 AM - 2 PM PT.



March 7 @ 12:30 pm - April 6 @ 4:30 pm EST

### Lean Construction Education Program, second edition

Classes are held on Tuesdays and Thursdays from March 7th to April 6th from 12:30 PM - 4:30 PM ET | 9:30 AM - 1:30 PM PT.



March 8 @ 11:00 am - March 30 @ 3:00 pm EST

### Building Information Modeling Education Program

Class are held on Wednesdays and Thursdays from March 8th to March 30th from 11 AM - 3 PM ET | 8 AM - 12 PM PT.



March 21 @ 12:00 pm - April 4 @ 8:30 pm EDT

### Construction Supervision Fundamentals

Classes are held on Tuesdays from March 21st to April 4th, from 12 PM to 8:30 PM ET | 9 AM - 5:30 PM PT.

Full class details and registration links can be found at: <https://www.agc.org/learn/education-training/virtual-learning>.

## Need Safety Training?

Contact AGC's Safety Team Today!

Mike Kane or Jim Heaphy

[mike@sdagc.org](mailto:mike@sdagc.org) \* [jim@sdagc.org](mailto:jim@sdagc.org)

# LEGISLATIVE NEWS

## Midpoint Session Report

The halfway mark of the 2023 Legislative Session is near, and AGC has a dozen bills of interest on their bill tracker. Here is a synopsis of those bills by topics:

### Protecting Highway Funding

Senate Bill 215 proposes to take money from the highway fund to develop water pipelines. AGC is working with the bill sponsor to see if she can rework the bill.

### Restraints on Business

AGC helped to defeat a bill that would have bogged down work comp system by requiring unneeded communications; turned back a proposal for a wage scale on all government funded projects, and defeated a proposed salary and benefit posting/reporting requirement.

### A Rare Tax Break

Due to the health of the Reemployment Trust Fund, the state was able to offer a third tax table with the lowest reemployment tax premiums to date. AGC and others businesses supported passage of this bill.

### More Tax Breaks

There are three proposals working their way through the process that would lower the state tax rate from 4.5 cents to 4 cents; repeal the state sales tax on groceries and eliminate the first \$100,000 in valuation from levies for single-family, owner-occupied homes. AGC knows that tax breaks sometimes result in tax shifts, so we are watching these bills closely.

### More on Medical Marijuana

Impairment ratings for marijuana users remain elusive, but AGC is working with legislators to find a solution.

### Eminent Domain/Pipelines

The proposed carbon capture pipeline has caused an uproar among landowners and there are many bills trying to keep private pipelines from being considered common carriers and from using the power of eminent domain. AGC is watching these bills so construction's use of eminent domain is not infringed.

For full details, check out the HHU Legislative Tracker at [www.sdagc.org](http://www.sdagc.org).

## 2024 Election Cycle is Just Around the Corner – CONPAC is ready!

During the 2023 AGC/SDLICA State Convention, CONPAC had a booth set-up for members to make pledges. Joan Lund from D&G Concrete manned the booth during the three-day event, thank you Joan! The total amount pledged during the three day event was \$26,000! That's a great start for the next election cycle, which we will begin discussing early in 2024.



Why does CONPAC exist? Simply put, to protect and promote the construction industry. CONPAC builds relationships with candidates, works hard to elect business friendly candidates, then further develops those relationships during legislative session while working on bills of interest to the industry.

During the 2022 election cycle, CONPAC contributed more than \$48,000.00 to 48 state legislative candidates and also to Governor Noem and Attorney General Marty Jackley. Make sure you are part of CONPAC as we look toward a successful election cycle. Join today by making on contribution via the enclosed insert!





# AGC LEGAL MINUTE

JASON SMILEY, AGC LEGAL COUNSEL



A recent decision from the South Dakota Supreme court adds some clarity to two issues that come up frequently during construction law disputes. In *Suvada v. Muller*, 2022 S.D. 75, a contractor who was hired to renovate a cabin commenced action against the cabin's owners

for breach of contract and to foreclose a mechanic's lien for alleged unpaid labor and materials.

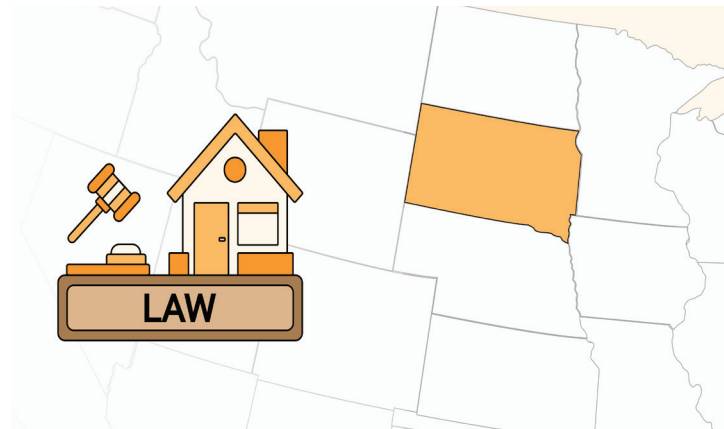
One issue the Court considered involved alleged changes to the work. The contractor claimed that the owners changed the siding that was to be installed after the contract was signed. The contractor claimed that the parties verbally modified the agreement to allow the contractor to charge an hourly rate for hours worked over and above the number of hours he estimated it would take to install the siding. The written contract, however, required changes to be made in writing. The contractor argued that under SDCL 53-8-7, an executed verbal agreement can modify a written contract. The Court found the evidence in the record insufficient to overcome the written agreement. There was a lack of evidence that both parties completed the requirements for an oral modification. The contractor admitted that not all the work was completed. Further, the fact that the owner had not paid the contractor for the alleged extra hours was significant. This is true even though there was evidence that the owners had paid the contractor for some extras.

A second issue considered by the Court concerns South Dakota's mechanic's lien laws. A mechanic's lien is an equitable remedy, which typically means the parties do not have a right to a jury trial. In this case, however, it appeared that the parties consented to the jury's consideration of the issue by failing to object to it. The Court found that the

trial court could use a jury in an advisory capacity

in any event and the lack of objection resulted in no error. Further on the subject of mechanic's liens, the Court was asked to consider the question of attorney's fees. South Dakota's mechanic's lien statutes allow for the recovery of attorney's fees to the lien claimant. The jury returned a verdict for the contractor on his mechanic's lien; however, the jury returned an even larger verdict for the owners on their counterclaims. The trial court refused to award the attorney's fees to the contractor. According to the Court, it was not in error for the trial court to refuse an award of attorney's fees where the contractor was not the only party that prevailed on its claims.

This case is significant for at least two reasons. First, it stresses the importance of modifying written contracts using an appropriate change order. This is not the only way to modify a contract, but it can be very challenging to prove a change without doing so in writing. Second, the issue of attorney's fees is a big issue in mechanic's lien foreclosure proceedings. Prior case law suggested that attorney's fees may be appropriate regardless of the size of the award to the contractor. The Court's most recent case suggests there may be a limit when there is an award under a counterclaim.



# AGC OF AMERICA NEWS

## ***New FHWA Buy America Guidance***

On February 1, the Federal Highway Administration issued a new “questions and answers” guidance document addressing expanded Buy America requirements under the Build America, Buy America Act (BABAA). The most important question answered is that cement and asphalt are exempt from BABAA requirements when created or combined with other exempt construction materials (cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives).

However, combining any of the BABAA-exempt materials with any BABAA-covered materials (non-ferrous metals, glass, plastics, etc.) would result in a manufactured product subject to BABAA compliance. So, for example, if titanium shavings were added to a cement mix to add strength, the mix would now have to be BABAA compliant as a manufactured product.

It should be noted that FHWA’s 1983 final Buy America regulations waive the application of Buy America to manufactured products that do not include steel and iron components (consequently, the waiver extends to this previous example). That stated, Buy America requirements apply to any steel or iron component of a manufactured product regardless of the overall composition of the manufactured product (e.g. Buy America applies to the steel wire mesh or steel reinforcing components of a precast reinforced concrete pipe).

FHWA does note, however, that it plans to publish a notice in the Federal Register soon requesting comments on whether it should rescind or keep its manufactured products waiver.

A critical question that remains unanswered is the status of concrete under BABAA—whether it is a BABAA-exempt or BABAA-covered construction material. AGC contends that Congress intended to exempt concrete, as it did with cement.

## ***AGC Testifies Before Congress***

On February 1, Jeff Firth, Vice-President of Hamilton Construction based in Oregon and Vice-Chair of AGC’s Highway and Transportation Division, testified on behalf of AGC of America before the

House Committee on Transportation and Infrastructure. Firth highlighted the importance of Congress’s passage of increased infrastructure investment levels under the Infrastructure Investment and Jobs Act (IIJA) and the ongoing challenges that inflation and supply chain constraints pose to the success of IIJA. He stressed that project costs continue to climb as material prices rise and many in the industry continue to face shortages and allocations.

In addition, he covered the uncertainty that the industry is facing as expanded Buy America requirements, included in IIJA, are being implemented and the significant confusion among federal, state, and local agencies on the specific requirements of the law. He also expressed concerns about the waiver process for materials as they now have to be approved not by a federal agency, but by the White House.

House Transportation and Infrastructure Committee members asked a variety of questions following the opening testimony. Firth had the opportunity to address challenges he and his company—like many other AGC members—have faced due to the federal environmental permitting process and stressed the need for a reform of the system in order to build and repair infrastructure in a timely and efficient manner.

## ***Building a Better Congress***

AGC PAC is the nonpartisan political action committee (PAC) sponsored by AGC of America. It is registered with the U.S. Federal Election Commission (FEC) and allows eligible employees of AGC member companies to pool personal, voluntary financial contributions. The contributions are used to support candidates running for elective office who, regardless of party affiliation, understand the construction industry and the specific needs, interests and concerns of AGC member companies and their employees. For more information on how to get involved contact David Ashinoff, Director of AGC PAC & Political Advocacy at [ashinoffd@agc.org](mailto:ashinoffd@agc.org) or (202) 547-5013.





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## AGC of America SAVE THE DATES!!

**Mar. 13-16, 2023**  
**AGC of America**  
**Annual Convention**  
**Las Vegas, NV**

**Sept. 17-19, 2023**  
**AGC Nat. & Chapter**  
**Leaders Mtg.**  
**Washington, DC**

**May 15-17, 2023**  
**TCC Fly-in**  
**Washington, DC**

**Oct. 18-20, 2023**  
**AGC's CLC**  
**Development Mtg.**  
**Vancouver, WA**

**June 12-14, 2023**  
**AGC Federal**  
**Contractors Conf.**  
**Washington, DC**

**Mar. 20-22, 2024**  
**AGC's Annual**  
**Convention**  
**San Diego, CA**

**July 25-27, 2023**  
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