### **ENERGY IN ILLINOIS IS EVOLVING: DON'T FALL BEHIND**

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Fall 2017

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# Fall 2017

#### **Mission Statement**

The object for which the Illinois Manufacturers' Association was formed is to strengthen the economic, social, environmental and governmental conditions for manufacturing and allied enterprises in the state of Illinois, resulting in an enlarged business base and increased employment.

> Chairman William M. Hickey, Jr. President Gregory W. Baise

Editor nastasia Lowentha

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For address changes and adjustments, write to *The Illinois Manufacturer*. Presort standard postage paid at Bloomington, IL. Postmaster: Send address changes to *The Illinois Manufacturer*, 220 East Adams Street, Springfield, IL 62701. Telephone: (217) 522-1240.

If you have any questions, please contact Anastasia Lowenthal, Editor and Manager of Publications at (217) 718-4207, or email alowenthal@imanet.org.

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### Bold Traditions, Strong Flavors at Nielsen-Massey Vanillas

Nielsen-Massey Vanillas use time-tested methods for making their vanilla extracts and flavors, valuing quality, purity of flavor, and a hands-on approach over automation and a quicker manufacturing process.

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#### President's Report GREGORY W. BAISE

### **Illinois Energy is Evolving**



The Shale Revolution has transformed the U.S. from the highcost producer of refined products, petrochemicals, and fertilizer, to the low-cost producer in less than seven years. S ince our state introduced the competitive energy market in 1998, Illinois manufacturers assumed a proactive role in addressing the day-to-day energy needs of their businesses. In that time, we have seen changes to regulatory and policy structures, political leadership on all levels of government and the commodity markets. More changes are likely coming given the results of the November 2016 election. In particular, we have seen major changes to the makeup of the Federal Energy Regulatory Commission (FERC). This has naturally generated questions about the future direction of the FERC, federal policy, and the impact on the Illinois energy market.

There are two trends in the energy world that appear unwavering. First, as policy changes take shape on the state and federal level and new regulatory systems materialize, energy markets continue to reveal the consequences of the modern-day Shale Revolution. The statistics are staggering. Since 2007, U.S. natural gas production has risen almost 50 precent, U.S. crude oil production is up almost 90 percent and production of natural gas liquids has increased almost 150 percent according to the U.S. Energy Information Administration. The Shale Revolution is and will likely remain transformational. It has driven down the price of natural gas from almost \$13 per MMBtu in 2008 to less than \$3 per MMbtu in 2016. It drove crude oil prices down from \$142 dollars per barrel in 2008 to \$26 dollars per barrel in 2016, and U.S. wholesale prices of power down from around \$150 per Megawatt hour to around \$30 per Megawatt hour over the same time period. This has created a massive economic competitive advantage to manufacturers along the way.

The U.S. is now the largest producer of natural gas in the world, poised to be the largest producer of crude oil in the world, and is the world's leading producer of natural gas liquids (propane, Iso-butane, normal-butane, and ethane). The U.S. has risen in a short period of time to become the world's leading exporter of refined petroleum products, and is the largest exporter of propane and natural gas liquids in the world. In two short years, the U.S. will likely become the largest exporter of natural gas in the world with one new liquefied natural gas (LNG) export terminal in operation and four more that will be operational by 2020.

According to the Manhattan Institute, \$1 trillion has been invested into underground pipelines, gathering systems, compression systems, storage, refining, and processing since 2007 to accommodate the burgeoning hydrocarbon production that is a result of the Shale Revolution. The Shale Revolution has transformed the U.S. from the high-cost producer of refined products, petrochemicals, and fertilizer, to the low-cost producer in less than seven years.

While the Shale Revolution unfolds, Illinois manufacturers must also be cognizant of a crucial second trend – specifically, technological advances in the power industry that appear to be at the face of wide-spread market readiness and adoption. On that front, the Illinois Commerce Commission announced its NextGrid proceeding to ensure the Illinois regulatory model embraces innovation, consumer generated data, and the modernizing grid.

NextGrid is intended to be a collaborative process. Stakeholders can develop a shared base of information and work to build consensus on critical issues related to the energy industry. NextGrid has already announced the formation of Working Groups on the following topics, all of which will have some impact on manufacturers: new technology deployment and grid integration; electricity markets; customer and community participation; regulatory, environmental and policy issues; metering, communications and data; reliability, resiliency, and cybersecurity; and ratemaking. NextGrid is similar to initiatives launched previously in New York, Maryland and California.

As a new regulatory paradigm takes shape in Illinois to account for technological advances and the Shale Revolution continues to unfold in the markets, our manufacturing community will remain an integral member of the energy industry.

We encourage you to work with our endorsed energy provider, Constellation, to take an active role in developing a customized energy management strategy. As we face the uncertainties of fast-changing technologies, Constellation can help you manage your energy needs and budgets to turn uncertainties into opportunities.



Gregory W. Baise is President and Chief Executive Officer of the Illinois Manufacturers' Association. He may be reached at (630) 368-5300, or via email at gbaise@ima-net.org.

# **IMA Members Talk Constellation Services**

"We have 320,000 square feet in our facility. We must watch what is happening with energy and gas because we use so much of it. With Constellation's webinars, energy updates, and our sales group meetings, we are constantly learning about any changes in the laws or regulations so that we can continue to make further decisions. Our bills have been lower based on how we have locked in our future rates."

#### -Joy Aceves, Director of Operations and Global Logistics, Peerless AV

"Constellation offers us a lot when it comes to resources. There's a level of sophistication that they have that other providers do not. They do a great job of offering up options and engaging with us and giving us their insights and views. We've certainly seen a dramatic reduction in the cost of energy. It's a solid relationship that we don't take for granted." -Dan Smolen, Procurement Director, Chicago Extruded Metals

"It's always very important for us as a manufacturer to look for ways to reduce our costs of operation, particularly to be globally competitive. Constellation provided us those opportunities to reduce our electrical energy costs and our gas costs." -Dave Bumbar, CEO, Aurora Metals

"From a user standpoint, I think they're head and shoulders above everybody else – they're the best energy provider in the business. They tell you everything you need to know about what's going on, and then they let you make the decision. I appreciate that approach. Another thing that I really love is that you can have a fixed price for gas without purchasing a specific quantity. Constellation looks at your historical usage and offers you a fixed price per dekatherm no matter how much volume you use or don't use. They gave us the best price out there, and we're locked into it for three years. It was literally a perfect fit for us."

#### -Brad Sutek, Plant Manager, American Zinc Recycling

### UNDERSTANDING ENERGY COSTS

#### YOUR GENERAL BILL INCLUDES THREE BASIC COMPONENTS:

**1. THE COST OF THE ELECTRICITY ITSELF:** This is what you pay per kilowatt hour for your usage. The most effective way to manage costs here is to be on a fixed-rate plan, in which you lock in a rate for the term of your contract.

2. CAPACITY COSTS: One of the biggest challenges of the electricity system generally is managing use against capacity, i.e. how much energy is available. If not enough electricity is available, the result can be brownouts or, worst case, blackouts. The way suppliers ensure that electricity is available at all times is to create a capacity market. This ensures that enough electricity is available on the hottest and coldest days of the year for everyone to use. There is a cost to maintaining this capacity and part of each month's electric bill goes toward maintaining the appropriate capacity for all users. We all pay a little to help the overall whole have adequate electricity. Consumers can sometimes lower their capacity costs by operating equipment during off-peak times, such as moving peak periods of production to times when electricity demand is lower Better yet, have Constellation look for ways to reduce your energy usage by identifying deficient areas within your operation.

**3. THE COST OF GETTING YOUR POWER TO YOU:** The last part of many electricity bills is the cost of getting the electricity delivered to your home or business. Transmission rates, as they're often called, cover the cost of the basic infrastructure involved with getting electricity to you. It's a little like being, say, on a municipal water or sewer system. You usually pay something toward the maintenance of that infrastructure. That's essentially the same concept behind electricity transmission costs. Rates are approved by the Federal Energy Regulatory Commission. Regional groups then bill local utilities, which in turn bill customers either directly or through the electricity supplier.

Constellation is one of the nation's leading competitive energy providers and has the expertise to execute customized strategies for your unique business needs, offering comprehensive energy solutions and a variety of pricing options for electric, natural gas and renewable energy products for companies of any size. Contact a Constellation energy specialist today to learn more about your energy needs, and what Constellation can do to help.

#### Legislative Report MARK DENZLER

### **Mission Accomplished? Not So Fast...**



Job creators cannot understand how lawmakers continue protecting wealthy trial lawyers and union bosses instead of nurturing the manufacturing sector that employs 570,000 workers... More than a decade ago, President George W. Bush famously landed in a fixed-wing jet airplane on the aircraft carrier USS Abraham Lincoln off the coast of San Diego. In the carefully-staged production, President Bush announced the end of major combat operations in the Iraq War. Everybody remembers the "Mission Accomplished" banner used as the photogenic backdrop that later became viewed as a public relations failure when the war raged on and more Americans lost their lives.

I'm reminded of this symbolism as many Democrats, and some Republicans, are crowing about passing a tax and budget over the veto of Governor Bruce Rauner. Elected officials are patting themselves on the back even though the state's economy continues to fall all around them.

The fact is that Illinois set a record for futility by going more than two years without a state budget. In the process, our elected officials racked up a backlog of bills totaling more than \$15 billion while the state's credit rating dropped precipitously to one level above junk status. Businesses and residents fled the state in record numbers, decimating our middle class economy.

Rather than addressing the root causes of Illinois' anemic growth, Illinois lawmakers doubled down on failed policies of the past by increasing taxes and costly government mandates on job creators. Increasing taxes by five billion dollars while passing additional regulations like paid family leave and a \$15 per hour minimum wage is a recipe for disaster.

I've spoken to many IMA member companies in the last few months and they are frustrated and downright angry at the General Assembly for their recent actions. Job creators cannot understand how lawmakers continue protecting wealthy trial lawyers and union bosses instead of nurturing the manufacturing sector that employs 570,000 workers in good, high-paying middle class jobs.

While state legislators are taking their victory lap at home, the IMA and independent rating agencies are taking notice and sending more stern warnings.

Moody's Investor Services reviewed the state budget and immediately opined that Illinois is still under review for another possible downgrade to junk status because it fails to address "Illinois' most pressing credit challenges: its severely underfunded pensions and backlog of unpaid bills, which has doubled during the past year."

Manufacturers are continuing to leave Illinois or invest elsewhere despite out state's innate advantages including its central location, top-notch colleges and universities, outstanding workforce, worldclass city, access to water, and a strong and comprehensive infrastructure featuring roads, rail, air, and waterways. Illinois should be an economic engine for the nation and yet our economy continues to sputter with stagnant growth that trails the rest of the United States.

Why? It's because our elected officials continually defend the status quo and the entrenched special interests of trial lawyers and labor bosses. Instead of encouraging economic development and job growth, Illinois legislators continue piling higher taxes and more regulations on the golden goose.

So, the next time a state legislator tells you that they have balanced the budget and restored Illinois, let them know that the Mission IS NOT Accomplished.



# **Bring Manufacturing Back to the United States**

**M** anufacturing is experiencing a resurgence in the U.S. According to a report by The Boston Consulting Group, manufacturers with at least \$1 billion in annual revenue plan to add more production capacity in the U.S. than they do in China. Over the past few years, there has been a notable trend of companies bringing U.S. manufacturing operations back from other formerly low-cost countries, or reshoring.

There are a number of reasons why a business would consider moving jobs and opportunities back to the U.S. While political pressure may play a role, many companies are reshoring due to considerations around cost, quality control, intellectual property protection, and tax benefits. Further, the recent expansion of the Panama Canal has opened new opportunities for U.S. manufacturers with the changing supply chain dynamics of international trade.

Here are four reasons why manufacturing companies should consider reshoring opportunities:

#### The New Cost Equation

Cost has traditionally been the primary consideration for offshoring. For years, China in particular has delivered significant cost savings compared to manufacturing in the U.S; however, labor costs in China have increased significantly over the last decade. In contrast, U.S. labor costs have remained stable for the past 20 years. According to the Oxford Economics research paper titled, "Made in China Not as Cheap as You Think," labor costs adjusted for productivity in China are only four percent cheaper than in the U.S. When manufacturers account for shipping, packaging, executive travel and freight costs, as well as significant U.S. tax incentives for manufacturing in the U.S., the savings of manufacturing in China and other countries diminishes.

#### Focus on Quality

Quality standards in traditionally lowcost countries have improved, but they can still be inconsistent. While manual labor positions will likely remain in foreign countries for the near future, U.S. companies are considering reshoring skilled labor.

Intellectual property (IP) protection is another important factor for manufacturers in highly-skilled industries. The U.S. maintains a gold standard in protecting IP, and manufacturers doing business in the U.S. can worry less about patents being illegally replicated than they do when manufacturing offshore.

#### Changes in Supply Chain Dynamics

The expansion of the Panama Canal in June 2016 is bringing new opportunities to manufacturers, as it more than doubles ships' cargo capacity. The new third lane can accommodate ships carrying up to 14,000 containers compared to the previous 5,000 containers. This opens a lot of exciting opportunities for manufacturers, including increasing capacity to allow U.S. manufacturers to reach customers in international markets by shipping finished goods from the U.S.

In addition to the Panama Canal, there are other new transportation technology and infrastructure investments being made that are making it faster and easier for U.S. companies to get raw materials and ship finished goods. For example, the rise of "smart" cities – with large sensor networks, delivery drones, and driverless cars – can further improve connections to customers and suppliers.

#### Boosting Profits While Reducing Risk

According to the bank's research, 61 percent of companies report they will have some foreign market involvement, with 48 percent buying from foreign markets, 41 percent selling to foreign markets and 21 percent having operations outside the U.S. When delivering products to international markets, manufacturers should streamline payments and receipts to boost profits while reducing risk. Shifting low-value, high-volume payments to a credit card program can increase efficiency and earn rebates. In addition, requiring a letter of credit from overseas customers can protect against non-payment and help ensure timely payments while extending payment terms.

Bringing manufacturing back to the U.S. allows companies to tap into a vibrant financial market and raise the necessary capital for production. This is further reinforced with historically low interest rates and inflation. With changing cost dynamics, focus on consistent quality, and new supply chain opportunities, the U.S. is becoming an attractive base that manufacturers should be sure to take advantage of.



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### Member Profile ANASTASIA LOWENTHAL

# **Innovating Old Ideas with New Tech at PHIL**

S ometimes, all it takes is a small idea to make huge advancements in an industry. And every day at Philippi-Hagenbuch, Inc. (PHIL) in Peoria, Illinois, a small idea turns into an enormous reality.

"Here at Philippi-Hagenbuch, we get to play with full-size Tonka trucks every day," said Josh Swank, Vice President of Sales and Marketing. "The equipment we build is for trucks that have tires twice my height!"

LeRoy Hagenbuch, the Director and Chief Engineer at Philippi-Hagenbuch and a board member of the IMA, teamed up with his father-in-law L.B. Philippi 48 years ago to make tailgates for off-highway trucks.

"All off-highway trucks at the time were completely open-ended, and so material could spill out easily," LeRoy explained. "My father-in-law had seen a need for this product for years, but couldn't find a manufacturer that was interested in making it." So, naturally, L.B. and LeRoy decided to do it for themselves. Within a few months of LeRoy's return from the U.S. army, he and L.B. incorporated Philippi-Hagenbuch and began their work out of LeRoy's basement. Together, they sold five tailgates in their first year, and set their goal to become the custom shop of off-highway trucks.

"We don't just take an existing design 'off the shelf' and build that," said Josh. "We try to understand what the client needs, what they operate with, and then we find the best way to meet those needs. The products we offer aren't Band-Aids to a solution – we try to engineer the best solution for the client."

"We are not a 'me-too' company," LeRoy asserted. "We don't try to do what everyone else is doing."

And the numbers prove it. In the last year, Philippi-Hagenbuch has completed over 150 custom jobs around the world. "The passion has always been 'Is there a better way to do it?" LeRoy said.

It is his constant search for finding the 'better way' that allows LeRoy and his team to think outside of the box and find creative solutions, even for their own problems.

"We are probably the only company that created movable cutting tables. These allow us to use forklifts for handling the material, and then we can roll the table into place. If you have a stationary table you'll have to use overhead cranes. We had a need, and we created a solution to fill that need."

Over the years, many of the patents Philippi-Hagenbuch created to fill the needs of off-highway trucks have become commonly used all over the industry.

"We were the first company to put an onboard computer on off-highway trucks for monitoring their performance. Today, these same computers exist everywhere in our industry, even in on- highway trucks where

These days, the products made at Philippi-Hagenbuch start off with a 3D printed prototype.

The cutters spin individually, which minimizes friction, prevents breakage, and keeps them cool.

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they have electronic logs. We've even patented some of the things in the car you drive!"

In 2013 LeRoy's daughter, Danette Swank, took over as President of Philippi-Hagenbuch. The job is one she has spent her whole life preparing for.

"When I was in grade school, I remember how my father would work. In the evenings he would work; on the weekends he worked. So we would come out to see him, and he would pay me to sharpen pencils. I would sharpen every pencil at everybody's desk. Then, in 1997, I started in the finance area, moved into HR, and helped with marketing," said Danette. "The family business is always something that has been in my life, and I am very proud of our associates as well as the products we produce, and I want to carry that on."

Though Danette is in charge of making the decisions, she always considers her father's opinion.

"I've had the ability to grow up with LeRoy as a business person and see how he thinks about things. So I find that as I make my decisions, I try to think of how he would handle it and then make the decision based on what I feel is best for our future." LeRoy doesn't seem to mind stepping down and letting his daughter take over the business for him. Now, he gets to take a step back and do what he loves most – innovate.

"What has changed for me is that my efforts can go back to things that I did in the '60s, '70s, and '80s. I had an idea back in 1967 that we've just patented and tested for our earthen material cutter," LeRoy said excitedly as he pulled out a plastic model. "These cutters are unique in that they don't generate heat, they take less power to operate, and you can trench through solid limestone and even reinforced concrete!"

Though LeRoy was more than thrilled to discuss his earthen material cutter and even did a demonstration, he was even more eager to talk about his process for prototyping the part. With the introduction of a 3D printer in 2015, the team at Philippi-Hagenbuch has completely changed the way they test their products.

"Previously, you'd have to make the whole product, which was several hundred pounds, thousands of dollars, and sometimes weeks or months to build," said Le-Roy. "3D printing has been phenomenal for us. We can prototype a small-scale version and have it printed in a day. We don't have to build or weld anything – we can take a 3D model to a customer and say to them 'this is what you'll be getting.' It's a tremendous instructive tool, and I think that any manufacturer that's creating product and doing design is hurting themselves if they don't have one."

LeRoy, Danette, and Josh are always considering the future, which is why they believe the next step in their business is to continue to enhance job training and apprenticeship programs.

"There are a lot of good jobs in manufacturing and great things that can be done in the industry that I feel the next generation needs to be exposed to," said Danette. "Our longest employee started as a high school co-op, and he's been here for 41 years. Another one of our employees who started as a high school co-op has been here for 26 years. LeRoy has always encouraged these kinds of programs, and they've worked well for us; it's definitely something we want to continue."

Please join the IMA in congratulating Philippi-Hagenbuch on 42 years of membership and 48 years of "doing the things everyone believes are impossible."

ull-size barrel is sure to work as expected, thanks to the 3D-printed and prototypes. Pictured: Josh Swank (left) and LeRoy Hagenbuch (right).

The earthen material cutter easily cut through 10 inches of concrete in a matter of a few minutes.





#### Tax & Accounting Issues CROWE HORWATH LLP

# **Reap the Benefits of DPAD**

M any companies affected by the economic downturn that began in 2007 were unable to benefit from the domestic production activities deduction (DPAD) introduced by the American Jobs Creation Act of 2004.

In recent years, however, DPAD has become more relevant as companies return to profitability. This article provides an overview of the additional guidance that was issued in August 2015 as well as information about a recent court case that may affect a manufacturer's DPAD calculation.

On Oct. 22, 2004, President George W. Bush signed the American Jobs Creation Act of 2004 into law. The DPAD, under Internal Revenue Code Section 199, is perhaps the most significant provision of the act, providing for a phased-in deduction related to qualifying production activities income (QPAI). The act was designed to give companies an incentive to maintain or expand manufacturing within the United States versus moving manufacturing jobs to other low-cost countries. The deduction is based on net profits from certain domestic production activities and was phased in at a rate of 3 percent in 2005 and 2006, 6 percent from 2007 through 2009, and 9 percent in 2010 and thereafter for manufacturers. The Section 199 deduction is available to all corporations, partnerships, sole proprietorships, cooperatives, estates, and trusts.

Generally, a taxpayer reviews gross receipts related to property manufactured, produced, grown, or extracted (MPGE) within the United States to determine what activities qualify. The taxpayer then allocates cost - such as cost of goods sold and general, selling, and administrative expenses - to either qualifying or non-qualifying activities. For the current year, the taxpayer is entitled to a permanent deduction equal to 9 percent of the lesser of taxable income or QPAI derived from the lease, rental, license, sale, exchange, or disposition of qualified production property (QPP). However, the amount of the deduction is limited to 50 percent of W-2 wages related to the QPAI, and the deduction usually will not benefit taxpayers that lose money from their production activities or that have an overall loss from all activities. The Section 199 deduction applies when calculating both regular and alternative minimum taxes.

In the years since the act was passed in

2004 and the original regulations were issued in 2006, questions have arisen regarding the W-2 wage limitation imposed on DPAD, the taxpayer entitled to claim the deduction, and the activities that would qualify for the deduction. It should be noted that temporary regulations lapse if they are not finalized within three years from being published and proposed regulations cannot be relied upon or enforced until they are i temporary or final form.

#### Wage Limitation

The Section 199 deduction is limited to 50 percent of the W-2 wages paid to employees of the taxpayer that are related to qualifying production activities. The temporary regulations published by the Treasury Department in August of 2015 correct an issue that left some taxpayers with no DPAD due to the W-2 wage limitation if they had a change in tax year or a short tax year due to the acquisition or disposition of a trade or business. If not finalized within three years from the date they were published, these temporary regulations will revert back to the original "prior" regulations. Under the prior regulations, if a taxpayer had a tax year of less than 12 months that did not include Dec. 31, it was not considered to have W-2 wages related to its domestic production activities, which eliminated a company's ability to claim a deduction. The temporary regulations (Section 1.199-2T(c)) clarify that when a taxpayer has a short tax year due to an acquisition or disposition of a trade or business, the wages are allocated between each taxpayer based on the period that the employees of the acquired or disposed of trade or business were employed by the specific taxpayer. In addition, taxpayers that have a short tax year that does not include Dec. 31 can use the wages that were paid to employees during that short tax year to determine the wage limitation.

Under the temporary regulations, wages claimed by one taxpayer cannot be claimed by another taxpayer, and wages claimed in one short period cannot be claimed again for another short period. This rule eliminates the duplication of claiming wages by multiple taxpayers or for multiple tax years. These regulations are effective for tax years beginning on or after Aug. 27, 2015. A taxpayer may apply the temporary regulations to tax years where the time for assessment has not expired.

**Observation:** Organizations that did not claim DPAD due to a short tax year should re-evaluate claiming the deduction based on the change in determining the W-2 wage limitation where a taxpayer had a short taxable year that did not include Dec. 31.

#### **Contract Manufacturing**

The regulations under Section 199 limit the DPAD to the taxpayer that has the benefits and burdens of ownership of the QPP while the manufacturing process is being performed. Over the years that Section 199 has been in existence, the IRS has tried to clarify which taxpayer has the right to claim the deduction. In prior guidance, the IRS issued several directives to outline the factors to be used in making the determination of which taxpayer has the benefits and burdens of ownership. Under the most recent IRS directive, taxpayers that are parties to a contract manufacturing arrangement may enter into an agreement with the other party to assign which party will claim the deductions.

The proposed regulations published by the Treasury Department in August and September of 2015 take a different approach, eliminating the benefits and burdens test currently in the regulations to determine



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the appropriate taxpayer to claim the deduction, and replacing it with a rule that states that the taxpayer that performs the manufacturing activities is entitled to claim the deduction (Section 1.199-3(g) (4)). In certain contract manufacturing arrangements, the taxpayer that performs the manufacturing process may not take title to the raw materials of the goods produced and so does not have a sale or exchange of goods produced. These factors could result in no taxpayer being able to claim the DPAD related to the production activities. In other cases, the amount of gross profit derived from the contract manufacturer's activities might be minimal, which can severely limit the benefit related to DPAD.

**Observation:** If the proposed regulations are finalized in their present form, taxpayers will need to re-evaluate their contract manufacturing arrangements in order to determine which taxpayer will be entitled to claim the deduction.

#### **MPGE** Qualifying Activities

Treasury Regulation Section 1.199-3(e) provides that MPGE includes "manufacturing, producing, growing, extracting, installing, developing, improving, and creating QPP; making QPP out of scrap, salvage, or junk material as well as from new or raw material by processing, manipulating, refining, or changing the form of an article, or by combining or assembling two or more articles; cultivating soil, raising livestock, fishing, and mining minerals." With this broad spectrum of activities that would qualify for DPAD, questions have surfaced regarding how taxpayers may have been interpreting certain examples in the regulation. In some instances, taxpayers had taken the position that the testing of products alone would be viewed as MPGE even if the taxpayer did not make or create the QPP. The Treasury has clarified that issue in the proposed regulations by updating example 5 in Section 1.199-3(e)(5) to say that if the taxpayer does not manufacture, produce, grow, or extract the qualified production property, activities such as testing of component parts are not MPGE activities.

The proposed regulations also update another example to illustrate the government's view of what constitutes MPGE of QPP. The current regulations provide that if a taxpayer packages, repackages, labels, or performs minor assembly of QPP and the taxpayer engages in no other activities, the taxpayer's packaging, repackaging, labeling, or minor assembly does not qualify as MPGE with respect to that QPP. The proposed regulations added an example (example 9 in Section 1.199-3 (e) (2)) that outlines



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**Observation:** If the proposed regulations are finalized with the examples as currently drafted, taxpayers may need to re-evaluate their activities to determine if all of their activities are qualifying or not.

#### DPAD Court Case:

Precision Dose, Inc.

In Precision Dose, Inc. v. United States (Case No. 12 C 50180 (N.D. Ill. Sept. 24, 2015)), the taxpayer produced and sold "unit doses" of medications to medical facilities. The taxpayer in the case bought the drugs in bulk form and created a set of premeasured single-dose packages that can be provided to patients. The government's position was that the taxpayer only repackaged the drugs and its activities did not rise to the level of MPGE of the QPP. In evaluating the case, the court reviewed the taxpayer's process of producing the unit doses. The taxpayer's process included evaluating which drugs to purchase for the unit doses, testing the suitability and marketability of the unit doses. and preparing specifications and documentation for the materials to be used and standard operating procedures for all processes and equipment to be used in the production process. The taxpayer also developed the cups, syringes, and related molds used to produce the containers for the unit doses. In addition, it conducted fill operation, in-process testing, post-fill processing, and release testing.

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The court viewed the taxpayer's activities as taking the component item drugs, cups, and syringes and producing a unit dose. The court cited *Dean* in concluding that Precision Dose was creating an entirely new product and not simply repacking QPP of someone else. In *Dean*, the taxpayer purchased baskets, inserts, and individual food items and assembled them into gift baskets sold to customers. In both cases, the courts focused on the fact that the individual components were transformed into a new and unique product.

**Observation**: Though the government disagrees with the conclusion in *Dean*, tax-payers should review their activities closely to make certain that they are maximizing QPAI and DPAD in light of the decision in *Precision Dose*.

#### Computing DPAD in the Future

The regulations and court case outlined here present both issues and opportunities for taxpayers in computing DPAD. The proposed regulations are not effective until they are finalized, so there is hope yet that the government may rethink its positions related to which activities qualify for DPAD and which taxpayers are entitled to the deductions. Taxpayers will need to wait and see what the government does in finalizing the 199 regulations.

### **Natural Gas and Your Business: Constellation Energy**

#### Nomination, Usage, Balancing: Tips for Strategic Natural Gas Shopping

hen it comes to natural gas, the word "nomination" has nothing to do with political campaigns that culminate in conventions, confetti and a presidential candidate. In the context of energy, "nomination" refers to the process companies use to estimate how much natural gas they expect to use in the coming month. Then, they go to market to buy that amount.

This may sound like a standard shopping excursion: Make a list, purchase the items on the list and use what you need. If you bought too much, you store the extra for later. If you didn't buy enough, you go back to the store to buy more.

But shopping for natural gas is fundamentally different than buying groceries or office supplies, or pretty much anything else you can think of. To benefit your bottom line, you must understand this unique market.

Here's what businesses should know — and do — to come out ahead.

#### Three "Branch" System

OK, enough with the government analogy. There are no branches involved in buying natural gas — but there are three phases: *nomination, usage, and balancing.* 

• **Nomination:** As already mentioned, this is the customer's estimate of need for the next month and the resulting purchase.

• Usage: This is how much natural gas the customer uses in the month for which the nomination purchase was made.

• **Balancing:** This is where natural gas is different from other goods you may buy. At the end of every month, companies must reconcile estimated usage (their nomination) with actual usage. Bought too little? The customer must now pay for the extra usage above their nomination. Bought more than needed? Because there may be no ability to store the extra gas, the company must sell the overage back into the market.

Wine, Anyone?

Here's a useful analogy that illustrates how natural gas purchasing works: You're about to throw a party, and you intend to provide wine for your guests. You're a diligent host, so you sit down well in advance of the event to estimate how much wine you'll need and scan the market for good deals.

Let's say 20 people have said they will attend the party, and you assume each person is probably going to drink about two glasses of wine, so you need 40 glasses total. Given that you can pour five glasses per bottle, you go shopping for eight bottles. But you don't just go anywhere — you head to the wine store that's running a special and will allow you to purchase your wine at a discount.

If your estimate proves to be accurate on the evening of your party, you've hit the jackpot by meeting demand at the best price available. However, if your party is a big hit and guests stay an hour longer than expected — and drink more than you estimated you'll have to rush to the nearest store to meet demand. And at that point, there's no time to compare prices. You're at the mercy of the market.

On the other hand, if several of your guests are no-shows or simply drink less than expected, you may end up with unopened bottles the day after the party. In the real world, that's fine. You'll drink it or bring it to your next get together. With natural gas, it's a bit different: You will likely have to sell it back. The problem is you can't always guarantee that your natural gas provider will buy it back for the price you paid. For example, if your company used less natural gas than expected in a month because the weather was unusually warm, there are probably many other companies in the same position. Multiple sellers drive the price down.

In the end, buying more or less than what you ultimately use is likely to be more expensive than getting it just right. So what can companies do to achieve better outcomes in the natural gas market?

#### Jump Into the Pool

Companies that have managed natural gas accounts are frequently placed in a pool with other customers. The companies' natural gas provider can then "buy in bulk" to get better prices based on their respective estimates of consumption.

In addition, when it comes time for the balancing, the overage of some customers in the pool can be applied to the under-usage of others, reducing the need to return to the open market.

This strategic approach delivers increased long-term budget certainty, even in the face of unplanned or unanticipated changes in usage.

For companies of all types and in all industries, natural gas tends to be a big spend. Are you doing all that you can to get the most out of that line item?

Learn more about our SmartPortfolio program, or contact us directly if you have any questions.

Constellation is the preferred energy provider for IMA members. For more information, visit www.constellation.com/IMA. Or, you may contact Rich Cialabrini at richard.cialabrini@constellation.com or (312) 394-4157.

### Has Tips and Insights for Natural Gas Buyers

#### The Four Major Factors Driving Natural Gas Demand

emand for natural gas is on the rise, driven by four major developments in the U.S. and international markets:

**1.** Increasing exports of natural gas to Mexico

**2.** Increasing exports of liquefied natural gas (LNG) to Asia, Europe, Central America and South America

**3.** Increasing demand among domestic industrial users

**4.** The continuing shift from coal to natural gas to generate electricity

Let's take a deeper look into these four factors and how the shift in demand may affect your business.

#### Exports of Natural Gas to Mexico

In early 2014, the Mexican people amended their constitution to allow foreign investment in oil and natural gas exploration and production for the first time since the 1930s. This change in the law prompted a boom in U.S. exports of natural gas to Mexico and the construction of pipelines and other necessary infrastructure to deliver that gas.

In 2009, U.S. exports of natural gas to Mexico stood at less than one billion cubic feet (Bcf) per day (roughly 1.4 percent of total U.S. natural gas production at the time). By 2021, forecasters predict exports will amount to between six and eight Bcf per day (anywhere from 8.4 percent to 11.3 percent of total production).

That's a big jump in a very short period of time — the type of shift that can create price volatility.

#### Exports of LNG to International Markets

When methane (aka natural gas) is refrigerated to minus 261 degrees Fahrenheit, it converts to liquid and its volume shrinks to 1/600th of its gaseous state, making it suitable for shipping in insulated vessels.

Until 2016, the United States had never exported LNG out of the lower 48 states. There were simply no LNG export facilities.

Now, we have a one facility in operation (Sabine Pass in the Houston shipping channel) and another four in development. By 2020-2021, the lower 48 states will have export capacity of approximately nine to 10 Bcf per day (about 15 percent of total U.S. natural gas production). In fact, the United States is expected to emerge as one of the world's leaders in LNG exports by that time.

This is another large spike in demand within a short time frame, and that kind of drastic change can affect supply and demand, as well as prices.

#### **Rising Industrial Demand**

Since 2009, demand for natural gas among U.S. industrial users has surged 33 percent, driven by the refining, petrochemical, special chemical and fertilizer industries. These industries are expected to continue thriving, so it's likely that this consumption will stay constant, if not increase. And that rising industrial demand keeps prices from dropping, and may even provide upward price pressure for U.S. natural gas going forward.

#### Electric Generation Plugging Into Natural Gas

Since 2010, the U.S. has retired nearly 200 coal-fired power plants. That's about 38 percent of the country's total coal-fired power generation. The vast majority of these facilities have been replaced by natural gas-fired electric generating plants.

What has that meant for demand?

In 2010, the United States used approximately 15 Bcf of natural gas per day to make electricity. By 2016, the amount approached 29 Bcf per day, meaning nearly 41 percent of total U.S. gas production went to electricity generation. In the coming years, natural gas will likely continue to gain market share from older coal facilities.

### What Does This Mean for Your Business?

The "Shale Revolution," which began in earnest in 2007, brought about a newfound abundance in natural gas supply in the U.S. market. With so much natural gas available, you might expect prices to go down. And between 2008 and 2016, they did.

Now, things are changing. The Shale Revolution led to the development of these four major factors that are now driving demand. As a result, natural gas prices are becoming more volatile. Last year alone, natural gas prices fluctuated 147 percent. When natural gas prices swing, so do power prices.

What does that mean for your business? When you can't predict fluctuations in natural gas pricing, you're at the mercy of the market — and that price uncertainty makes it difficult to manage your budget.

If you want to protect your business from typical price volatility, it may be time to change the way you purchase your natural gas. By diversifying your purchasing strategy and making smaller purchases over time, you can minimize risk and increase your budget certainty.

Learn how Constellation can help you take advantage of this kind of diversified purchasing strategy through our SmartPortfolio program, or contact us directly if you have any questions.

### Making 3D Printing Eco-Friendly: A Potential Opportunity for Patent Protection

Though 3D printing represents a relatively small fraction of the tooling market today, many expect it to grow significantly in the near future. By 2025, several analysts predict that the overall economic impact created by 3D printing will reach \$100 to 250 billion. As 3D printing becomes more prevalent, some have begun to question whether it is any more environmentally friendly than the conventional manufacturing processes it seeks to replace.

Broadly defined, 3D printing is any form of additive manufacturing that builds a 3D object by extruding material onto a platform in progressive layers. 3D printers and printing technologies have been around for about 30 years, but only recently has their adoption become widespread.

A variety of factors have contributed to

the rise of 3D printing – including superior machines, improved printing material, and lower costs. Another key factor has been the expiration of several patents covering core 3D printing technologies. This has eliminated a barrier to market entry – others can now make, sell, or use certain basic 3D printing technologies without having to compensate or obtain a license from a patent owner.

However, expiring 3D printing patents typically describe technologies that were developed 20 or more years ago. As a result, these patents may not describe the most recent advancements in 3D printing or address modern day manufacturing challenges. Opportunities therefore likely exist to carve out protection for improvements to the basic 3D printing technologies described by the expiring patents. Indeed, thousands of patents have been filed over the past 20 years with that exact goal in mind.

One area that appears fertile for pursuing patent protection are technologies for reducing the environmental impact of 3D printing. In some respects, 3D printing is already eco-friendly. 3D printing facilitates the production of components with less material without sacrificing strength, for example. Other aspects of 3D printing, however, are considered problematic from an environmental perspective. Experts have warned that 3D printing may consume more energy than conventional production techniques in certain cases. Also, many 3D printing processes produce plastic by-products which are not reusable and/or emit toxic fumes. If 3D printing is to achieve widespread adoption like many advocates predict, it seems





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likely that a variety of innovations will be needed to improve the eco-friendliness of existing 3D printing techniques.

This challenge presents an opportunity for innovators to leverage the patent system to secure exclusive protection for their inventive solutions. When confronted with such a technical problem, some companies will commission a patent landscape study to gather intelligence on how others have attempted to address the problem in the past, if at all. Most U.S. and foreign patent applications publish 18 months after filing and therefore can provide valuable insights on new products under development by competitors and which otherwise might not be publicly known. A requirement to obtain a patent is that it must include a technical description of how to make and use the invention. Consequently, issued patents and published pending patent applications can provide a wealth of technical know-how relevant to a particular technology. Understanding what others have done in the past can spark ideas on how to improve or tweak existing products and methods, as well as provide guideposts to the "white space" where there may be opportunities to obtain exclusivity via the patent system.

#### How To Protect 3D Printing Innovations with a U.S. Utility Patent

A U.S. utility patent is "a grant to the patentee...of the right to exclude others from making, using, offering for sale, or selling throughout the United States, or importing the invention into the United States." This right to exclude is for a period of 20 years from the date the application for patent was filed, provided maintenance fees are paid.

To obtain a U.S. utility patent, each patent claim in a U.S. utility application must include patent eligible subject matter. Patent-eligible subject matter includes a process, machine, manufacture, or a composition of matter. For 3D printing innovations, such subject matter may include improvements to the 3D printer itself, including any methods of operating the 3D printer and systems within the 3D printer, as well as materials used within the 3D printer. Other subject matter may include the software used to direct the 3D printer to print the object and the 3D printed objects themselves.

In addition, each patent claim must also be useful, novel, and not obvious. For example, a third-party patent disclosing the same improved 3D printing material or tool and invented before the proposed invention may prevent the claim from being novel. Also, the differences between the claimed invention and one or more prior art patents, for example, must not be obvious to a person having ordinary skill in the art to which the claimed invention pertains.

One claiming strategy may include having claims in a single utility patent application directed to at least one of an improved 3D printing process, a 3D printing system, software used to direct the 3D printer, and the 3D printed object, as relevant. In some circumstances, it may be helpful to conduct a patentability search to understand any third-party patents and publications related to the proposed invention before filing. The patentability search results may help both the inventor understand the potential scope of the patent protection available before proceeding and the patent drafter craft a claim strategy tailored to the same.

The subject matter of just some of the more recently-issued utility patents relating to 3D printing improvements include support platens, printhead modules, brace structures, and deposition nozzles for additive manufacturing, for example. Various other patents relating to 3D printing include methods of producing orthopedic implants, methods of making cemented carbide powder, 3D printed shoes and splints, and 3D printed expandable spinal fusion cages, to name a few.

As a result, there appear to be opportunities for patent protection for both technologies reducing the environmental impact of 3D printing and 3D printing related technologies in many other sectors as well. Likewise, even if manufacturers do not consider obtaining utility patent protection for their 3D printing innovations, it may be prudent to search and review unexpired patents relating to their innovations to reduce any risks of infringing such patents before proceeding.



### **Bold Traditions, Strong Flavors at Nielsen-Massey Vanillas**

In a sea of competition, how do you make your business stand out? For Nielsen-Massey Vanillas, having the family actively managing the company, using the highest-quality materials, and utilizing unique manufacturing processes are what sets them apart from the rest.

Owned, managed, and operated by third-generation siblings Craig, Matt, and Beth Nielsen, Nielsen-Massey Vanillas produces high-end vanilla extracts, pastes, powders, sugars, and a limited line of flavors. Quality and purity of flavor are at the top of their priority list.

"The key for us is making sure that our products are the highest quality," said Matt Nielsen, Vice President of Operations. "We're not looking to be a flavor house that has thousands of flavors."

But this wasn't always the case for the company, which began with a much different vision 110 years ago, when it was founded by Richard Massey and Dr. Otis Klein.

"We started as a company that produced aromas for cleaning products," Matt said. "In 1917 my grandfather, Chatfield Nielsen Sr., joined the company, and became a partner in the 1920s. Once he entered the partnership, they quickly moved into food flavorings."

It would take many years before the Nielsens would hone their flavorings to the selections that are available today.

"We did artificial flavors, artificial vanillas, natural flavors, and natural vanillas up until the late '70s," Matt said. "My father made the decision to discontinue doing anything artificial around 1978. Pure vanilla was certainly what we were known for and it's what we built our brand around, so he decided to stick to that."

While the Nielsens have pared down their products list to include only the purest, highest-quality flavors, their production process remains the same. Although many flavor companies use a heat extraction process, the Nielsens do not.

"We utilize what we call a 'cold extraction' process," Matt explained. "That means we do everything at room temperature. There are over 250 flavor compounds that make up the flavor of vanilla as we know it. Though the heat extraction process can produce a batch of vanilla in two to three days, many of those sensitive flavor compounds are burned off or volatized in the process." Conversely, a batch of Nielsen-Massey vanilla extract takes three to five weeks to make – but it's well worth the wait. The result is a much more rich, flavorful, and robust extract. And each extract has a distinct flavor, as well as origin.

"We were the first ones, particularly in vanilla, to start using what people call 'country of origin' labeling," Matt stated. "This is because vanilla beans from Mexico, Madagascar, Tahiti – they all have different flavor profiles, and we recognized that difference early on. There are so many things that go into what makes vanilla what it is, and the origin is an important piece of that."

Nielsen-Massey has also been at the forefront of new vanilla products, such as their Vanilla Bean Paste, Vanilla Powder, and Vanilla Sugar. The Vanilla Bean Paste, which is a combination of vanilla extract and vanilla bean, is now the second-most sold product behind their Madagascar Vanilla Extract. In 2005, they turned their attention back to some of their old formulas, and decided to come out with a line of all-natural flavors. Today, Nielsen-Massey produces eight flavors: Almond Extract, Chocolate Extract, Coffee Extract, Lemon Extract, Orange Extract, Peppermint Extract, Orange Blossom Water and Rose Water.

Even though Nielsen-Massey's presence continues to grow and the business is constantly expanding, the Nielsen family keeps everything personal.

"If somebody calls into the office, they'll be able to get a Nielsen on the phone. A Nielsen is always there to check the quality of the vanilla beans when they come in," Matt said. "The nice thing about our business is that we work with small to mid-sized companies, like us. These are the people that really care about what they're buying and who they're buying it from."

And no order is too small.

"We have an ice cream manufacturer that buys an entire truckload of vanilla every month, and then a barbeque place that buys a single gallon every three months. We work with everybody," Matt said.

Of all the things that have changed at Nielsen-Massey, their traditions and processes have always remained the same. No matter how large the company grows, everyone is always treated like family. Nielsen-Massey offers its employees full-coverage healthcare at no extra expense, and would sooner in-



Though the cold extraction process take



Nielsen-Massey recently perfected thei



The newly-built commercial kitcher vanillas and flavors in all kind



es longer, the results are worth the wait.



old recipes for eight all-natural flavors



n is perfect for testing Nielsen-Massey s of recipes – savory and sweet!

vest in a new employee than equipment for automation.

"We are not looking to automate in any way," Matt said. "The quality of what we do needs personal interaction – it's a 'touch' product. Every step along the way is controlled and acknowledged by a human being."

While sticking to traditions and favoring the tried-and-true 'human element' over modern fully-automated machinery, Nielsen-Massey has been taking steps towards connecting with customers and consumers.

"We built a commercial kitchen here, which we use for teaching classes. We will bring in schools and either have an instructor come down and teach, or we will bring in a chef," Matt said.

Students are able to use the commercial kitchen to test out new recipes, learn from their instructors, and can take a tour of the facility to see how the products they're cooking with are made.

What does the future have in store for Nielsen-Massey? For now, the only plan is to grow, with hopes that the upcoming generation will follow in the footsteps of their parents.

"We have big aspirations as a company,"

Matt said. "Mine, my brother, and my sister's focus on growing the business is about perpetuating the family ownership. We hope that there will be interest in the business from the fourth generation, and that they'll be qualified for it. They will have to be able to contribute value to the business and make sure they can continue to grow it."

The Nielsens are already making strides towards accelerating their growth – the Board of Directors named Kirk Trofholz as Chief Executive Officer in early 2017. Mr. Trofholz joined the Company from Dawn Food Products, where he served as President of the US Bakery Products division. The Nielsen family, Board of Directors and senior leadership team are thrilled to have someone with Kirk's deep food industry experience join the company.

Whether filling orders for high-end gelato manufacturers or selling a single bottle of extract to a passionate home cook, the experience with Nielsen-Massey is always the same: consistent, high-quality, professionally-made products with the care and experience of generations backing it up.

Join the IMA in congratulating Nielsen-Massey on 110 years of business and 64 years of membership!



Matt Nielsen (pictured) and his siblings are third-generation owners.

# **Reduce Risk through Sustainability**

Imate change poses a meaningful risk to supply chains and production across all industries. As we have all witnessed in this year's hurricane season, unprecedented storm events can interrupt transportation to and from our facilities, or even take out a major supplier for a period of time during storm recovery.

Being prepared for the volatility that climate change will cause to supply chains is important and can be approached from multiple angles:

- 1. Fortify Infrastructure
- **2.** Localize Resources
- **3.** Change the Future

The first concept is easy enough. Build facilities that will withstand the storm or geologic events that are most likely to occur in that region. This means that the old method of construction – building a prototype facility and then just building more of the same as the business expands – is out. Each new facility needs to be designed with regional forces in mind. A facility that sits on a major fault line will need to withstand different events than a facility that is built in Tornado Alley, and both of those are different than facilities built in hurricane zones.

Construction should have an eye towards self-sufficiency. If the power lines to and from your local utility are out of service, that matters much less if you have an on-site power generation system, like solar panels or windmills. Building a sustainable structure shouldn't just be about giving ourselves gold or silver stars, but rather, we should look to practical applications of the technology that is available so that our buildings can survive the more and more likely – and more and more severe – effects of climate change.

Second, localizing your resources to the furthest extent reduces the ripple effect of a single event and decreases overall operational cost through the minimization of transportation costs. You can't get any more local than your own location, so an initial consideration should be to review your own operations and opportunities for efficiencies. Can more of what you throw away be recycled and sent back through production rather than buying more raw material? Reducing waste and using more of what you buy means you get more out of each shipment of material.

Next, consider your neighbors. Frequently your facility will be located in a complex with other manufacturers, or at least in a regional hub for production. Reaching out to your neighbors can be beneficial. Your waste byproducts may be used as a raw material or energy source at your neighbor's facility, or vice versa. This not only reduces cost for management of waste, but can also generate a complimentary revenue stream.

Finally, for any materials that need to



come to your facility as raw product, the closer you are to the source, the less likely that a storm or geological event will interrupt service between you and your supplier. According to Fortune 500, Toyota had global supply chain disruptions twice in 2016 due to earthquakes, despite a major effort in supply chain stabilization following the 2011 tsunami.

The third approach is much more ambitious: we can reduce the risk to our supply chain and production by changing the future. Participation in climate change response initiatives should be seen as a business-protecting activity. If climate change can be mitigated by actions your company takes today, risk of disruption of your industry by climate change in the future can be eliminated, and the future of your business secured.

Industrial processes are the primary users of environmental resources like water, minerals, and energy, by a wide margin. According to the EPA, we are also the largest contributors of greenhouse gases (GHG) through on-site energy production, energy consumption, and transportation of goods through bringing supplies to our facilities and sending end products to our consumers. As such, industry can have the greatest effect on climate change right now, without waiting on useful government regulation. Compliance regulations are frequently years behind current trends, meaning that "compliant" does not necessarily mean "prepared."

Being prepared for the effects of climate change on your business translates to longevity of your business. Taking meaningful sustainability measures in your business can slow or even reverse climate change, which stabilizes access to your supply chain and reduces risk for your business. You can begin today by working with your EHS professionals to identify your facility's long-term goals, and establish a baseline of data to gauge where the facility stands with respect to those goals. There may be some low-hanging fruit that has gone unnoticed until now. Providing the context for employees – that participating in sustainability measures will preserve the industry in which they work and secure their jobs for the future - is critical to implementation. By focusing on being present and relevant in the future, the changes will be worth the effort.

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### **Energy-Saving Strategies for Manufacturers**

M ore than 30 percent of all energy in the U.S. is consumed by the industrial sector. With manufacturing operations among the most energy-intensive businesses, there is great potential for improving energy efficiency. In fact, it's estimated the average facility can reduce its energy use by as much as 27–30 percent through energy efficiency projects. By making equipment improvements and upgrades, your facility can take control of its energy costs and manufacture savings.

Electricity use at manufacturing facilities, many of which operate around the clock, remains relatively constant throughout the day or year. On the upside, this means there are numerous substantial opportunities for increasing energy efficiency in your operation. By improving the efficiency of your systems and equipment, your organization will lower its energy costs, maximize equipment life, and boost its bottom line — and continue to enjoy the energy savings year after year!

Hundreds of thousands of dollars in energy savings can be achieved when you implement the following project ideas:

#### **Improve Motor Efficiency**

As much as 65 percent of the electricity used in manufacturing goes to powering various motors. Typical motors have two settings — on and off. When motors run at a constant speed, they waste energy and wear your equipment out faster. By installing variable frequency drives (VFDs) on your motors, motor output is adjusted based on actual demand, saving energy during less demanding times. By decreasing motor speed by only 25 percent, your facility can potentially save up to 50 percent in energy costs.

#### Install Demand-Controlled Ventilation

Proper heating, ventilation, and air conditioning (HVAC) are key to maintaining a comfortable and productive work environment. Collectively, these systems account for up to 40 percent of energy used in businesses. A demand controlled ventilation (DCV) system regulates air flow in your facility's spaces based on occupancy. By reducing the amount of air that needs to be heated or cooled, DCV can yield big energy savings for your facility — up to \$1.00 per square foot each year!

#### Fix Compressed Air Leaks

Compressed air is often viewed as an essentially free resource; however, it's anything but free. In fact, compressed air can be one of the most expensive sources of energy in a plant due to its poor efficiency — often as low as 10 percent. Air leaks are a significant source of wasted energy and can also lead to system issues including fluctuating system pressure, excess compressor capacity, and decreased service life. Taking a continual, proactive approach to leak detection and repair can reduce compressed air leaks by 50–75 percent (or more), saving your business thousands of dollars each year.

#### **Install Lighting Controls**

Lighting accounts for nearly 20–50 percent of the average business' energy consumption. Upgrading to LED lighting is one way to reduce lighting costs, but pairing LEDs with controls can save your facility an even more significant amount of energy. With the use of controls, lights can be turned on or off or adjusted based on actual need, such as real-time occupancy or ambient light levels. By utilizing a networked lighting system, your facility can save up to 70 percent in lighting electric costs.

Additional energy savings can be realized by completing natural gas efficiency projects in your facility. Natural gas project ideas include:

- Steam trap repair and replacement
- Pipe insulation
- Heat recovery systems
- Economizers

#### Resources Available for Energy Efficiency Projects

The Ameren Illinois Energy Efficiency Business Program has a number of valuable resources designed to help you complete more energy efficiency projects. The program offers free energy consultations, which can help identify potential projects in your facility and detail how to secure cash incentives to offset project costs. Even better, your facility may also be eligible for an additional incentive bonus — up to 15 percent — when you complete your project early in 2018.

To schedule a free energy consultation or to get more information on our program, please call us at 1.866.800.0747 or visit AmerenIllinoisSavings.com/IMA.

#### About the Ameren Illinois Energy Efficiency Program

Since 2008, the award-winning Ameren Illinois Energy Efficiency Program has helped Illinois businesses save over \$350 million in energy costs. Utilizing more than \$85 million in cash incentives, business customers have been able to cut project costs, decrease payback periods, and move energy efficiency projects forward.



#### Constellation - 24/7 access to billing and energy usage data

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### **Next for Illinois Energy Markets: NextGrid**

"There's a way to do it better – find it." -Thomas Edison

A cknowledging that there is a better way to do things is easy. The tough part is acting upon Mr. Edison's instruction to "find it." In the energy world, virtually everyone agrees that rapidly-advancing technology and developing markets require a better way to do things. But how can we work together to find that better way?

The Illinois Commerce Commission ("ICC") has taken the lead, creating a laboratory for evaluating, debating, and developing a better way for the Illinois energy markets to operate. The ICC has initiated an ambitious project entitled "NextGrid," designed to explore technological advancements in the energy industry and study potential revisions to the existing state utility and energy regulatory models. The announcement earlier this year by the ICC - the state's principal regulator of public utilities and other energy market participants - set in motion an 18-month collaborative process that provides an opportunity for stakeholders to help shape a "21st Century regulatory model" that will support innovation, empower customers and communities, and drive economic development in the state.

Some have referred to NextGrid as a study of the "utility of the future." However, NextGrid is perhaps more accurately characterized as an effort to shape the "energy markets of the future," since the impacts of this process likely will be felt by all energy market participants for years to come.

NextGrid provides the Illinois manufacturing community an opportunity to advocate for policies that empower energy customers, advance customer choice, and develop additional pro-competitive mechanisms. However, NextGrid also presents risks of costly changes to the existing energy market structure, making it essential that companies both monitor and advocate within the NextGrid process, in order to ensure appropriate and beneficial outcomes for commercial and industrial customers.

#### NextGrid Background

The ICC's Resolution establishing the NextGrid process earlier this year prominently noted Illinois' extraordinary leadership in energy policy and innovation, and the success of the Illinois competitive energy market, which has saved Illinois electricity consumers tens of billions of dollars. The Resolution also recognized the historic use of "facilitated collaborative efforts to confront evolving regulatory issues that bring stakeholders from a wide range of perspectives together."

Indeed, most of the notable successes of the Illinois retail energy markets have resulted from negotiated "win-win" outcomes, when interested stakeholders craft results that simultaneously deliver substantial "wins" for the competitive market, the utilities, the government, NGOs, and, most importantly, energy consumers.

Given that background, the ICC presented NextGrid as a collaborative, statewide study to identify new technologies that will modernize the state's electric grid and identify regulatory and legislative actions that can be taken to transform the way utilities, regulatory bodies, and consumers interact with the electric utility system in order to maximize benefits for the Illinois economy and the state's citizens.

The NextGrid initiative follows on the heels of the December 2016 enactment of the Future Energy Jobs Act ("FEJA"), arguably the most significant Illinois energy legislation since the 1997 legislation that restructured the state's electricity market to enable customer choice. FEJA likewise redefines major aspects of Illinois energy markets, from renewable energy incentives, to energy efficiency program management and financing changes, to significant subsidies for certain nuclear generation plants. Through the NextGrid initiative, the ICC indicated an intention to identify and explore technological advancements, utility and regulatory models, and issues or challenges related to the new energy market landscape created by FEJA.

The NextGrid process is being jointly managed by the ICC and an independent third-party facilitator, whose work is being funded by Illinois electric utilities' ratepayers. The process envisions issuance of an interim report in early 2018 outlining issues, challenges, and opportunities, and a final report by the end of 2018.

Initial NextGrid Comments

When it initiated NextGrid, the ICC called for interested parties to submit initial comments responding to the ICC NextGrid Resolution. More than 40 groups and individuals submitted comments, including manufacturers and industrial energy users, governmental entities, smart grid businesses and developer organizations, utilities, environmental and renewables organizations, residential customer groups, and individuals.

#### Manufacturers & Industrial Energy Users

Manufacturing and industrial entities requested the NextGrid process consider the use and benefits of on-site generation and energy storage as well as the perspective of commercial and industrial energy customers on issues of: (i) utility rate design; (ii) the need for accurate cost allocation in rate design; (iii) study methodologies to achieve accurate rate design; (iv) peak load contribution; (v) weather normalization; (vi) line losses; and (vii) appropriate financial recognition of the value pro-active large customers provide to the overall utility system. The comments underscored the success of the competitive retail electric market in Illinois and advocated for the use and expansion of fair, open, and transparent markets.

#### **Governmental Entities**

Local municipalities and state-level officials addressed issues related to: (i) affordability for low-income households; (ii) local interests such as right-of-way authority, undergrounding infrastructure, and franchise fees; (iii) the ability of smart grid technology to defer or displace utility investment; and (iv) the need for reliable data and information.

#### Utilities

Utilities requested that the NextGrid process consider: (i) achieving grid modernization by integrating technological advancements and utilizing data associated with resources such as storage, renewable generation, electric vehicles, and distributed energy resources ("DER"); (ii) making easily understood data and educational materials available to customers, to facilitate more

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effective participation in the evolving markets; (iii) modular, replicable approaches to modernization; and (iv) targeted workforce training to support these efforts.

Issues regarding utility compensation and incentives also were raised for consideration, including: (i) regulation that fairly compensates utilities for their infrastructure deployment strategies that provide cost-effective environmental benefits; (iii) evolving the options for rate base items; and (iv) allowing performance-based rate making.

#### Environmental & Renewables Organizations

Environmental groups requested: (i) consideration of a dynamic grid with increased reliability achieved through competition and integration of new technology; (ii) data availability, advanced metering, distributed generation, electrified transportation, efficiency, and storage; and (iii) distributed resource planning, performance-based regulation, and distribution system optimization.

#### **Residential Customer Perspective**

Residential customer representatives stressed that the ICC should avoid mandatory residential demand charges. The comments recommended the ICC not use subsidies for generation that is not needed for reliability, and refrain from applying threeyear capacity market surcharges to downstate customers.

#### NextGrid Facilitator Named

In August, the ICC announced that the lead NextGrid facilitator would be a group of professors from the University of Illinois. The facilitator group is part of the Power and Energy System Area of the Electrical and Computer Engineering Department at the University of Illinois at Urbana-Champaign, which has been involved with a variety of national energy research projects funded by federal government agencies and industry groups.

The U of I team includes six professors with particular expertise in engineering and other technical aspects of power system design, emerging technologies, and grid operations. Their proposal indicated an intention to:

• Create a representative Advisory Board, "whose membership includes industry, government and public interest groups, to guide the activities of the facilitation/coordination process."

• Hold "workshops, training sessions and focused events to encourage the submission and discussion of Illinois-specific ideas and issues."

• Engage "appropriate experts for the training sessions and public forums."

#### NextGrid Working Groups

In September 2017, in conjunction with the establishment of a new NextGrid website, the ICC announced that the NextGrid process would include seven "Working Groups":

- Electricity Markets
- New Technology Deployment & Grid Integration
- Customer & Community Participation
   Regulatory, Environmental & Policy
   Issues
  - sues
- Metering, Communications & Data
- Reliability, Resiliency & Cyber Security Ratemaking

The ICC announced that the Working Groups will meet regularly to develop a shared base of information and build consensus on critical issues. Thus, the real work for most stakeholders will take place in the context of those NextGrid Working Groups.

#### ICC NextGrid Kick-off Event

In late September, the ICC held a Next-Grid kick-off event – an all-day conference at the University of Illinois-Chicago, just blocks away from the site of the first-ever nuclear chain reaction under the bleachers at Stagg Field. The event was hosted by the ICC Chairman, Brien Sheahan, with three of the four other ICC Commissioners moderating panel discussions.

In his opening remarks Chairman Sheahan noted Chicago's leading role in creation of the modern electrical system, but emphasized the impact of innovation and technology in the energy world, as well as the nearly century-old "cumbersome" regulatory structure for utility operations. He suggested that robust regulatory structures and innovation are not mutually exclusive, and emphasized that NextGrid should include "diverse voices" both within the Working Groups and in other Technical Advisory Groups that will advise the ICC.

Chairman Sheahan's remarks were followed by presentations from two members of the University of Illinois facilitator group, Professors Peter Sauer and George Gross. Professor Gross emphasized the "customer focus" of NextGrid, and the need to identify critical issues, challenges, and opportunities for "increased customer participation and empowerment."

The kickoff featured a keynote speech from Federal Energy Regulatory Commission Commissioner Robert F. Powelson, who noted that the grid of the future will be decentralized, with smaller-scale generation, a focus on encouraging innovation, and enhanced customer choice. Executives of the two largest utilities in Illinois, Commonwealth Edison and Ameren, noted that the regulatory system is outdated and in need of reform. Several speakers at the event noted the need for the utility industry to embrace the "platform business model" (which enables and supports direct consumer involvement) as opposed to a traditional product pipeline model (where it is the utilities' role to develop and deliver the value to consumers).

One utility leader noted the effectiveness of coalition building and emphasized that since 1997 the Illinois competitive energy markets have saved Illinois consumers about \$50 billion dollars. This was an important statement from an executive of a utility company that used to provide vertically-integrated monopoly service to customers.

For the manufacturing and business community, there were a couple of key takeaways from the NextGrid kick-off event:

1. The stakes are high. Speakers repeatedly framed the NextGrid process in the same light as previous significant pieces of Illinois energy legislation that have either saved consumers billions of dollars or resulted in billions of dollars of additional costs. There even was a suggestion that the fundamental assumptions that are the basis for the Illinois Public Utilities Act should be re-examined within the NextGrid process.

2. There is an opportunity to advance a pro-competitive agenda that will benefit commercial and industrial consumers in Illinois. It is clear that there will be opportunities for a customer-focused, pro-competitive market perspective to be heard. The Next-Grid facilitator stated that "NextGrid is very much customer focused" and that a main goal is "increased customer participation/ empowerment." However, as ads for the Illinois Lottery used to admonish, "You've gotta play to win." It will be important for companies to find ways to be involved with the NextGrid process as it evolves.

#### How to "Find It" and Make the Most of NextGrid

In line with Thomas Edison's nearly century-old mantra, NextGrid offers a vehicle to "find it" – a better approach to regulation, market enhancement, and customer choice, all driven by technological innovation and market dynamics. NextGrid clearly is poised to impact the regulatory and economic landscape of the Illinois energy world. The magnitude of that effect remains to be determined. At a minimum, manufacturers and pro-competitive market participants need to pay close attention to NextGrid. Active engagement will be necessary to protect and expand the competitive market and further empower consumers. ■

#### Energy & Environment HUSCH BLACKWELL LLP

# **Solar Project Subsidies Available with Energy Act**

n December 2016, Illinois Governor Bruce Rauner signed into law the Illinois Future Energy Jobs Act (Energy Act). One principal purpose of the Energy Act was to add a new Zero Emissions Credit to Illinois' existing Renewable Portfolio Standard (RPS). The Zero Emissions Credit received a lot of media coverage because it is designed to provide additional compensation to Illinois' operating nuclear power plants. Because the costs for the Zero Emissions Credit will be paid for as a passthrough charge via a tariff by Illinois' electric utilities, Illinois manufacturers will undoubtedly see their costs for procuring electricity increase.

Other significant components of the Energy Act that have received less media attention, however, may provide a brighter or "sunnier" outlook for Illinois manufacturers. The Energy Act implements major reforms for Illinois' Renewable Portfolio Standard, consolidating funds in the budget of the Illinois Power Agency (IPA) and affording the IPA greater flexibility in deploying those funds. The Energy Act also directs the IPA to host additional procurements for wind and solar projects.

In addition to creating Zero Emissions Credit and RPS reform, the Energy Act creates new solar programs. Of particular interest to some Illinois manufacturers is the new Adjustable Block program. Under the Adjustable Block program, the IPA is required to procure renewable energy credits (RECs) from new solar photovoltaic projects that are distributed renewable generation systems and from new solar photovoltaic community renewable generation projects. The IPA's new Adjustable Block program presents an opportunity for Illinois manufacturers to offset some of the higher costs associated with the Zero Emissions Credit program by investing in their own electricity supply.

On September 29, 2017, the IPA released a proposed Long-Term Renewable Resources Procurement Plan that includes a proposed approach for the new Adjustable Block program. The Adjustable Block program, in contrast to other competitive procurements the IPA has hosted, features administratively set prices for RECs, and, if approved by the Illinois Commerce Commission, would permit applications on an open, rolling basis as compared to set competitive procurement events.

Under the proposed plan, eligible manufacturing participants could submit applications for on-site solar photovoltaic projects of up to 2 megawatts. The projects would be eligible for 15-year contracts at pre-set prices for RECs generated by the solar projects. The 15-year contracts would also be eligible for upfront payments over the first five years of the contracts: 20 percent paid out at the time of project interconnection and energization, with the balance paid over the succeeding four years. The host manufacturing facility could either use the energy produced by the solar project itself to offset its regular electric demand or sell the energy generated by the project to respective market in which the manufacturing facility is located.

A new feature of the IPA's proposed Adjustable Block program is that, unlike with previous IPA programs, manufacturing facilities that are located in the territories of municipal utilities and rural electric cooperatives would be eligible to participate in the solar Adjustable Block program. Although the counter-parties to the 15-year contracts will likely be one (or all) of the three regulated incumbent electric utilities in Illinois, the IPA has proposed that projects located in the jurisdictions of municipal utilities or rural electric cooperatives be eligible to participate nonetheless.

The creation of the solar Adjustable Block program in the Energy Jobs Act creates a potential unprecedented and unique opportunity for Illinois manufacturers to obtain substantial subsidies to support the development of on-site solar projects. Combining the subsidies provided under the Adjustable Block program with the 30 percent federal Investment Tax Credit available to owners of solar generation facilities could make an investment in on-site generation make sense, either to offset the higher costs of electricity that will result from the pass through of costs from the Zero Emissions Credit program, or as a price hedge against potentially higher future wholesale energy prices. In any case, interested manufacturers should look into the opportunity now, as some of the incentives will be reduced for projects that begin after 2019.



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# Natural Disasters, Insurance, and Your Business

A lthough "Hurricane Season" technically does not end until November 30, the 2017 season is on pace to carry the unfortunate distinction of the most economically damaging hurricane season in history for the United States and its territories.

While it is still too early to determine the overall damage and subsequent financial impact left behind in the wake of Hurricanes Harvey, Irma, and Maria, and Nate, preliminary estimates published by AccuWeather indicate that the economic cost of Harvey and Irma alone could exceed \$290 billion with CNBC reporting that the unprecedented impact from hurricanes that hit the mainland U.S. could have completely wiped out job growth in the month of September. And the financial toll of these storms is by no means limited to areas that were physically impacted as there has been tremendous disruption in the global supply chain as a result of the 2017 Atlantic hurricane activity as well.

#### Direct Damages vs Indirect Damages

In the days, weeks, and months following any natural disaster it is easy to focus attention on the direct physical destruction associated with the event: damaged homes and businesses, flooded streets, downed trees and power lines, and damaged vehicles and boats tend to serve as the focal point for news and media outlets. However, often overlooked in the aftermath of any disaster are the indirect losses incurred on a local, regional, and national basis. While the physical toll a storm has on a region can be devastating - both socially and economically - the unfortunate reality is that, often, the indirect costs associated with a storm can cause more economic damage for individuals and businesses impacted.

When a destructive storm occurs, revenue comes to a halt as communities' take stock of the damage inflicted on their homes and businesses. Expenses, however, do not stop. Mortgage payments, property taxes, employee wages, healthcare expenses, car payments, insurance costs...the list of expenses that perpetuate goes on and on.

According to the Federal Emergency Management Agency [FEMA], nearly 40 percent of small businesses never reopen their doors after a disaster and only 29 percent of businesses that do reopen are still operating two years later.

These statistics are particularly troubling because we cannot prevent natural disasters from occurring and, while people can debate the cause of the recent increase in storm activity and severity, the harsh reality is that natural catastrophes take a substantial financial toll on individuals and businesses alike. Whether you own property, lease a storefront, work off-site using portable equipment, or run a business from your home, just about every small business will be affected by a storm, fire, or other natural disaster at some point in time – directly or indirectly.

Our local, Illinois-based insurance brokerage works with a diverse clientele whose operations and facilities span the globe. Since Hurricane Harvey first made landfall in Houston, our claims professionals have assisted clients with losses ranging from flooded production facilities in Houston to business owners in Florida who escaped physical property damage but have lost revenue because of the devastation experienced in their community. We've also assisted local manufacturers here in Illinois who've suffered financial loss as a result of damage to their key vendor's facility in the Gulf Coast region, as well as Illinois residents whose winter homes were severely damaged in the Florida Keys.

It is important to note that many of our clients who have experienced losses did not have locations in the directly affected areas; however, each is experiencing their own form of financial loss as a result of the economic disruption caused by Hurricanes Harvey, Irma, Maria, and Nate.

#### Understanding Your Risk Exposure

In 2016, a client contacted our office when they realized that they had industrial equipment stored in a warehouse in Oroville, CA that was directly beneath the failing Oroville Dam. The client was extremely fortunate that the dam did not break because they had elected to decline Flood Insurance on the basis that their primary operations were not in a flood zone. Had the dam broken, the client would have been exposed to an uninsured loss in excess of \$250,000.

This year, as previously mentioned, hurricanes Harvey and Irma caused evacuations that resulted in a loss of revenue for clients whose vendors and clients were located in the path of the storms. Each client's policy included coverage for Contingent Business Interruption which provides reimbursement for lost profits and extra expenses resulting from an interruption of business at the premises of a customer or supplier. Without this coverage, these businesses would have incurred reductions in profit in excess of \$1,000,000 collectively.

There are a myriad of additional claim examples that would highlight the importance of understanding how your home or business is insured and where gaps may exist – e.g. separate wind/hail deductibles; like kind vs similar kind repair or replacement language; coverage triggers for flood insurance compared with water back up. But, ultimately, the message is simple: take the time to fully understand your personal or business exposure to risk and develop mitigation strategies to limit the impact of a catastrophic event.

#### Disaster Preparedness is Key

Whether you are in a disaster-prone area or not, it's worth conducting a risk assessment of your home or business environment:

• What events are most likely to impact your business and/or livelihood in your current location? How can you limit the damage?

• If you're a business, are your employees in risk-prone areas? What happens if they are unable to work?

• Are you at risk of losing all of your stock or inventory in a catastrophic event because you keep it all in one place? Can you rent secondary storage in a less risk-prone area?

• Do your insurance policies provide sufficient property coverage limits?

• Do you back up and securely store business documents and data off-site in case you cannot access your office premises?

• How would you run your business if your office was damaged or inaccessible?

• How long could you cover ongoing expenses if your business lost its primary source(s) of revenue?

Now is the time to assess your exposure to risk and review any and all insurance programs you have in place to ensure that your home and business are adequately protected.

The IMA and MIS 360 have resources available to assist in the review of your existing insurance policies. To learn how you can take advantage of a free coverage review and risk assessment,

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# **A Family that Works Together Flourishes Together**

I t is rare to find a business that's run by an entire family – and even rarer for a family to exponentially grow their business over the generations. But with the Wiegel family of Wiegel Tool Works, doing things the previous generation never would have dreamed of is not just a goal, but a necessity.

Wiegel Tool Works (WTW) is a metal stamping company located in Wood Dale, Illinois. Every tool is built either in-house or with WTW's strategic suppliers to ensure the most precise, efficient solution to engineering their customers' metal stamping products. Serving the aerospace, automotive, electrical, military, telecom, solar industries, and more, it's hard to find a market where Wiegel's tools and stamping presses aren't at work.

Together Aaron, Erica, and Ryan Wiegel make up the three-headed monster of metal stamping – a nickname lovingly given to them by their colleagues. The three work tirelessly to grow their grandfather's business, solving existing problems and creating new solutions along the way.

"I've always said that this is a hobby that we just happened to get paid for," said Aaron Wiegel, President and CEO at WTW. "There's three of us, and we're hungry, and we want to grow and change. We're dedicating our lives to it."



WTW is now a global business thanks to the hard work of the third generation. Pictured: Aaron and Erica Wiegel.

"With this type of atmosphere, you're creating and building the things that are going to be the future," said Vice President Erica Wiegel. "I get so much satisfaction standing outside and watching the cars pass, knowing that it's my design in that car."

Wiegel Tool Works was founded by Otto Wiegel on December 6, 1941 – the day before Pearl Harbor. A practical, hard-working man, Otto solely ran the business locally, making tooling for manufacturers and business owners in Chicago and the surrounding area.

Aaron, Erica, and Ryan's father, Martin, was unexpectedly thrust into the business in 1968.

"My father went to Purdue and got his degree in Industrial Engineering, and the day he graduated he went off to the naval academy and served three tours in Vietnam. He was about to serve his fourth tour when he got a notice that his father, Otto, had had a stroke," said Aaron. "He went to work for the business as soon as that happened."

Although Martin was the President of WTW as soon as he walked through the doors, it wasn't until around 1984 that he



assumed the official role and took over the business. Prior to that, WTW had been run by the management staff Otto left behind.

Martin introduced Aaron, Erica, and Ryan to the family business at a young age, jumpstarting their passion for hard work and engineering solutions while they were still in grade school.

"We grew up in the shop all of our lives, so on the weekends or after school we used to come here," Erica said. "It was so much fun just to be around dad and the shop and to see new things."

"I recall a time where I wanted to take a girl out to the movie theater, and I asked my dad for some money. He gave me \$20 to go, but he told me that the next time I would have to earn it," Aaron said. "There were no shortcuts with him – we had to work. And it was that work that got me to figure out what I wanted to do and why I wanted to get into the family business."

"My dad has always been an honest person to his customers, his employees, but also to us as well. He never kept us out of anything," Erica said. "We knew about the financials and what was going on with the company at a very young age, so we grew with the business the whole way."

Though their father didn't expect them to take on the business, he planned for Aaron, Erica, and Ryan's futures. Unbeknownst to them, Martin started planning his three children's financial start up before the age of 15. "My father was very good with money," Aaron said. "He decided to do a 'skip-generation' with the family's wealth. It was a strategic move on his part, because he was able to minimize his taxes and focus on making sure his kids, the company, and the employees were taken care of."

While there was never any pressure from their father to take over the family business, the three siblings did so without hesitation.

"It was a no-brainer for me," said Aaron. "And when it came time that Erica and I and my brother took over the business in 2010, we were able to avoid so many problems because there were very little tax implications. So now, we are constantly feeding money back into the business."

Since their takeover, the three siblings have purchased new equipment, expanded their facility, acquired a new 25,000 squarefoot building for warehouse storage, and bumped up their employee count from 39 to 175 employees. They even found a way to turn the 2009 recession into a profit.

"A lot of businesses shut down during the recession, but we were able to push through even though we were down by 69 percent in the first quarter," Aaron said. "Though the other businesses were gone, the products they made still needed to be produced. So, we went on a big sales push to try to win all of those jobs. At that point, we were producing parts for about seven million cars in America. Today, we're doing around 17.3 million."

While Aaron, Erica, and Ryan have full control over the business, their father still comes in almost every day.

"He's still there to give us advice, which is something he was never able to get when he started. But he always allows us to make decisions whether he feels they're right or wrong so that we can learn from it," Aaron said.

Now that they've taken over North America, their next big challenge is to move on to the rest of the world.

"We decided to do a joint venture with an international business," Aaron explained. "The world demands our parts because of our reputation and our quality, but these businesses are expanding to multiple countries and continents, and we're not moving with them. With a stroke of a pen, we now have international presence. We are going to be able to grow beyond our own facility in North America. And whether it's a fourth generation that takes over or we get into a deeper merger, time will tell."

While the future remains open for the Wiegel family and Wiegel Tool Works, one thing is certain: this family loves what they do.

"Everything that I enjoy doing is what this company is all about," Erica said. "We are always innovating – we're never stagnant. We're always reaching for a new goal."



t Wiegel Tool Works are made in-house customized for orders.

Some employees have seen all three generations run the business Wiegel Tool Works truly is a family affair!

#### Energy & Environment ICE MILLER LLP

### **Improvements in U.S. EPA's Superfund Program**

midst the debate and rancor over the U.S. Environmental Protection Agency's (EPA) reversals on climate change programs and the "waters of the United States" rule under the new administration, the EPA rather quietly announced the recommendations of a task force for improvements to the Superfund program. Superfund is the federal program enacted by statute in 1980 that addresses the country's most seriously contaminated industrial, mining, and waste disposal sites. The lack of fanfare for the recommendations is not entirely surprising. Except at a few of its largest sites, Superfund has received relatively little publicity during the past two administrations. The new task force recommendations could herald significant changes in the program that are worth notice in the manufacturing community that funds much of the Superfund activities through litigated or negotiated resolutions of liability with the EPA. In July 2017, the EPA Administrator Scott Pruitt emphasized the importance of the task force report by directing the immediate implementation of several recommendations.

The task force was composed of senior Superfund personnel and received suggestions from a variety of stakeholders. It made 42 recommendations focused on achieving five goals. The goals are to: 1) expedite remediation of sites, 2) re-invigorate cleanups funded by potentially responsible parties (PRPs), 3) incentivize voluntary private-party cleanups, 4) encourage site redevelopment and community revitalization, and 5) engage stakeholders to achieve the goals.

Some of the recommendations are addressed to internal EPA processes and policies, and others are specifically directed at federal facilities (e.g., closed military bases). These will have less direct impact on the manufacturing community. Still, many of the recommendations could directly impact the pace and cost of remediating sites and thus impact manufacturers.

Several recommendations target the slow pace of remediation by promoting the use of adaptive management (AM) and the use of interim and early response actions. Traditionally, Superfund sites plod through the program in a step-by-step progression. Starting with site identification, the process also includes scoring for inclusion on the National Priorities List (NPL), remedial investigation, study of feasible alternatives, remedy selection, remedial design, and, at long last, remediation. At many sites, the process does not take years – it takes decades. AM is an approach applied at a few Superfund mega-sites (complex sites where cleanup is expected to exceed \$50 million).

The Superfund program has always allowed states to be the lead agency designated for a particular site, but historically, the EPA has been in the lead at most NPL sites. The success of this recommendaiton [to use federal and state remedial authorities] could vary greatly as many states lack the manpower, funding, or the technical expertise to be effective leads at many sites.

AM requires the early development of a comprehensive site strategy and goals, an approach to dealing with uncertainties and the early identification and implementation of interim or early actions to address obvious risks. A wider application of AM and interim action approaches could accelerate cleanup at some sites, which will likewise accelerate the financial impact on the PRPs that fund the work. While avoiding undue delay is surely positive, sometimes the EPA has pushed sites into interim actions before adequate investigation has been conducted to identify whether a risk to public health or the environment even exists. The manufacturing community, along with other PRPs, will need to be alert to circumstances in which the EPA is too aggressive in pushing presumptive remedies or other interim actions without adequate scientific support or analysis.

Two additional recommendations seek to address the slow pace of remediation by designating a Top 10 list of slow-moving NPL sites and a Top 20 list of NPL sites with the greatest reuse potential. Of course, these recommendations may improve and speedup the outcomes at the sites that make the lists. The EPA will undoubtedly trumpet those successes as evidence of the effectiveness of the program changes. The impact on sites that do not make the lists, especially if the proposed 25-33 percent cuts to the EPA's budget are passed into law, is less clear and probably not so promising.

Another recommendation has the clear potential to improve decision-making and reduce costs. Addressing contaminated groundwater has long been a staple of the Superfund program, especially when the impacted groundwater is used as a drinking water source. But, at many sites, the groundwater resource has not been used for drinkable purposes in the past and is not expected to be in the future. The task force recommended drafting a new policy and updating others to clarify the flexibility allowed in groundwater remediation decisions, particularly where groundwater is not used as a drinking source. This recommendation is consistent with the risk-based corrective action approaches developed in many states that allow remediation to be considered complete without active remediation of groundwater that is not used as a drinkable resource.

The task force also made welcome suggestions regarding EPA oversight costs and financial assurance requirements. Superfund requires the EPA to oversee a PRP-led remediation and then allows the EPA to recover its oversight costs. In addition to staff time and other costs allocated to a specific site, most courts have said the agency can also recover indirect costs like overhead. The EPA's indirect costs typically range from one-half to two-thirds of direct costs and are almost impossible to challenge.

#### Constellation - Providing tools to create a customized energy strategy for your company

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The task force directed each EPA regional office to report on its practices in regards to what counts as an indirect cost. That is long overdue as the EPA's explanation of its indirect cost rates has lacked any shred of transparency. The task force also suggested developing a plan to provide increased oversight cost forgiveness, particularly for indirect costs, to PRPs that timely perform quality work at Superfund sites. Financial assurance refers to the EPA requirements that PRPs post a bond or other security to ensure completion of the work at a site. The task force recommended more realistic financial assurance requirements by possibly allowing parties to provide assurance incrementally or by adjusting the discount rate used to calculate the assurance obligation.

Not surprisingly, the task force recommended greater evaluation and use of federal and state remedial authorities other than Superfund and greater use of states as the lead agency. These suggestions are consistent with Administrator Pruitt's desire to shift the federal-state balance on environmental issues towards the states. The Superfund program has always allowed states to be the lead agency designated for a particular site, but historically, the EPA has been in the lead at most NPL sites. The success of this recommendation could vary greatly as many states lack the manpower, funding, or the technical expertise to be effective leads at many sites. The task force also recommended developing a pilot program to use independent third parties to oversee some aspects of PRP-led response actions. This appears to be a federal equivalent to the use of licensed environmental professionals (LEPs) under many state cleanup programs for review and approval of PRP work in lieu of direct government oversight. Illinois' voluntary site remediation program allows the use of LEPs (referred to as licensed professional engineers or licensed professional geologists), but the approach has never been applied to NPL sites. Whether this recommendation can be fully implemented without statutory or regulatory amendments is not clear because the statute requires either the EPA or a state to be designated as the lead agency.

A potentially troubling recommendation is that remedial decisions should fully incorporate future re-use of sites, including encouraging PRPs to perform "enhanced cleanup or betterment" work. Consideration of site re-use has always been an element of the Superfund process, but this recommendation seems to go a bit further. "Enhanced cleanup" and "betterment" are the EPA code for work that is not strictly required by Superfund, but that will make the site more attractive for re-use. This sounds great for



### WHAT USED TO BE A SMART IDEA IS COSTING YOU MONEY

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those who benefit from the site re-use, but that is rarely the PRPs who perform and/ or fund the work. The task force vaguely suggested utilizing "financial credits" to incentivize such actions. What that means in practice is not explained. For this approach to work, the EPA will have to follow other recommendations of the task force that allow for incentives to private non-PRP investors and for oversight cost forgiveness, and possibly other incentives, for the PRPs.

For manufacturers interested in creating new jobs by putting a Superfund site back into use, the task force made a number of important suggestions. Those include re-invigoration of the use of prospective purchase agreements to enhance the statutory protection for bona fide prospective purchasers (BFPPs). The use of such agreements was deemed unnecessary following the addition of the BFPP defense in 2002, but in practice, maintaining the BFPP defense has been problematic. The task force also recommended revising guidance on what is required to maintain the BFPP defense and developing model agreements to provide liability protection to non-PRP private parties who volunteer to conduct remedial action.

As with any set of recommendations affecting a program as massive and procedurally-grounded as Superfund, there is much left to do to fill in the details and fulfill the promise of the task force. Still, after years of largely running on auto-pilot, this first step to improve the Superfund program holds promise and bears watching.

#### CAMPBELL NAMED TO THE DOW JONES SUSTAINABILITY INDICES FOR NINTH CONSECUTIVE YEAR



Campbell Soup Company has been named to the Dow Jones Sustainability North America Index for the ninth consecutive vear and the Dow Jones Sustainability World Index for the eighth consecutive year. These independent rankings recognize Campbell's leadership in supporting long-term shareholder value while creating a more sustainable environment and making a measurable difference in local communities. "Campbell is honored to be included on the Dow Jones Sustainability Indices," said Dave Stangis, Campbell's Vice President - Corporate Responsibility and Chief Sustainability Officer. "Strategic sustainability unlocks value in Campbell's business objectives and is aligned with our Purpose - Real food that matters for life's moments - across all areas of our company. Integrating sustainability into our operations is good for the planet, our consumers and our business."

The Dow Jones Sustainability Indices (DJSI) and its publisher, RobecoSAM, recognized Campbell's progress in several areas including:

Impact Measurement & Valuation, Codes of Business Conduct, Operational Eco-Efficiency and Raw Material Sourcing. Campbell's key achievements in these areas include:

• Providing U.S. consumers with more than 15 billion servings of vegetables through our food and beverages, with healthy products accounting for nearly \$3 billion in annual sales globally.

• Publishing expanded Responsible Sourcing standards.

• Expanding renewable energy projects at the company's World Headquarters in Camden, N.J., and Pepperidge Farm plant in Bloomfield, Conn.

• Continuing to reduce water use, energy use and greenhouse gas emissions while recycling 86 percent of waste generated.

• Eliminating 2.2 million pounds of raw material used for packaging, for a cumulative reduction of more than 139 million pounds since 2009.

This exceeds Campbell's goal to eliminate 100 million pounds of packaging by 2020. • Providing more than \$65 million in

charitable investments and in-kind giving.

#### INTEROCEAN ADDS SENIOR CON-STRUCTION MATERIALS & SERVICES ADVISOR TO FACILITATE ACQUISITION SEARCH



InterOcean Advisors LLC is pleased to announce the addition of Bob Stabo as Senior Advisor in its Construction Materials & Services group. Bob's immediate role will be to assist InterOcean in advising a foreign client seeking targets in North America that are primarily aggregates-based, but that may also offer other downstream products—such as hot-mix asphalt or ready-mix concrete and construction services, with revenues of up to \$250 million.

Bob has extensive senior management experience in both operations and corporate development activities within the heavy construction materials and mining industries. During his career, Bob has led and collaborated on more than 70 acquisitions of aggregates, ready-mix concrete and hotmix asphalt operations to support strategic growth. As a result, Bob has extensive experience in all aspects of the transaction process and post-acquisition integration activities.

Bob began his career in underground metals mining with AMAX Lead Co. in various operations and engineering positions. Subsequently, he worked for both private and public companies within the construction materials industry, including The Riverstone Group, Santa Fe Pacific Minerals and Aggregate Industries Inc.

As the principal of CMR Advisors, an independent consulting firm, Bob continues to provide advice and support to construction materials clients focused on strategic growth and refinement of operational performance.

Bob earned a bachelor of science (B.S.) degree in mining engineering from the University of Missouri – Rolla and a master's degree in business administration (M.B.A.) from the University of Colorado.

#### GOOGLE CONTINUES TO PUSH DIVERSITY IN TECH – NOW WITH THE 4-H CLUB



Google has long invested in projects to get kids interested in technology. Now, Google. org is giving the 4-H club a \$1.5 million grant to help teach its 6 million members across the country about computer science.

"We're helping bring awareness that [coding is] not just this image they have from TV -- a bunch of guys working alone in a room," said Jacqueline Fuller, president of Google. org, the company's philanthropic wing.

The partnership, announced alongside the governor of Illinois at the state fair on Friday, has been in the works for over a year. But it is a timely example of Google contributing funds and resources to diversify the technology field.

The company found itself at the center of a fierce debate over diversity and sexism in technology. A Google employee was fired after writing a widely circulated memo claiming women are not biologically pre-dispositioned to work in technology. He claimed some of Google's efforts to increase diversity, such as programs available only to women and minorities, were discriminatory.

The tech industry can use all the people it can get. There will be an estimated 1.4 million computer science jobs by 2020, but only 400,000 people will have the degrees to fill them, according to the U.S. Bureau of Labor Statistics.

"We at Google have been thinking more and more about the future of work, the jobs are available now, and increasingly, the skills that are going to help kids and adults get those jobs," said Fuller.

Google.org chose 4-H due to its extensive reach and varied membership. The 114-yearold organization has an outdated reputation as a group for rural kids interested in agriculture. More than half of 4-H members are female and 35% are minorities. Participating kids now live in cities and suburbs as much as in rural areas or on farms.

Fuller said Google also recognizes it's important to meet kids in the clubs and programs they're already a part of.

"Our country needs computer scientists and 4-H has always been a part of developing leadership for the country," said Jennifer Sirangelo, president of the national 4-H council. "Computer science and tech is not just transforming coastal cities; it's also really important in rural communities and in the agriculture and food sector."

In addition to the 4-H grant, Google has helped create a custom computer science playbook for the club. It's also providing the organization with educational resources like Chromebooks and volunteers from Google (some of whom are 4-H alumni). In the first year, 4-H expects to bring the program to 100,000 kids in 22 states, before expanding across the country.

The lessons are designed show kids how computer science relates to the topics and real world issues they're already interested in, whether its weather modeling for agriculture projects or using an e-textile application in 4-H sewing clubs. 4-H had already added other STEM programs, like teaching kids to build robots, collect data with drones, and experiment with alternative energy.

Fuller hopes the collaboration can help break some of the stereotypes about who should be interested in coding.

"You're [not] only going to use this if you're a coder in San Francisco. These are core analytic skills that are going to help you with your passion," said Fuller.

#### MACON RESOURCES INC. NAMED NON-PROFIT OF THE YEAR



Each year, the Greater Decatur Chamber

of Commerce holds an awards luncheon to celebrate local organizations making a positive impact in our community. This year, MRI was named Non-Profit of the Year. MRI's Executive Director Amy Bliefnick and MRI Day Training participant Karina Hayes accepted the award on behalf of all staff and individuals served.

September 21st was a great day for MRI, and more specifically for everyone who makes this organization what it is. On that day, MRI was recognized by the Decatur Chamber of Commerce as the Non-Profit Organization of the Year.

MRI did not happen overnight. Years of strong leadership from former Executive Directors Kay Scrogin and Dreux Lewandowski, as well as many past and present Board members, have been the driving force behind the agency's growth and excellence. The staff – which is over 250 strong – takes each day as an opportunity to show compassion and inspire others to do the same.

#### BOEING RENEWS APPROACH TO COMPANY'S PHILANTHROPIC ACTIVITIES AND CHARITABLE INVESTMENTS



Boeing announced in August an organizational realignment, strategy update and branding refresh of the company's philanthropic giving organization.

The new organization, Boeing Global Engagement, aims to bring greater value to Boeing, its employees and stakeholders through a renewed approach to global community investments and employee engagement activities. The restructured Global Engagement organization, which replaces Global Corporate Citizenship, will remain part of Boeing's Government Operations function.

"Thousands of companies give financial support to causes but at Boeing we also give time and talent," said John Blazey, vice president of Boeing Global Engagement. "Today, Boeing is aligning its giving more closely to our company's core competencies and the Boeing brand. Together with our company's charitable investments and our employee's desire to share their time, skills, and financial resources, we will be working hard with our partners to ensure our new charitable giving strategy inspires change in the communities in which we operate our businesses and where our employees live and work."

Underpinned by local and regional employee engagement activities, Boeing Global Engagement will direct its charitable dollars to three focus areas moving forward.

#### RAHCO RUBBER CELEBRATES DIVERSITY AND LONGEVITY



From our beginning in 1972 with three employees, four machines, in less than a 5,000 sqft work space to today with over 100 employees, nearly 50 presses, compounding machines, fully equipped Research & Development and Quality Control labs, secondary automation cells and offices in a 60,000 sqft location; we know that it is the people on the front lines that make it happen. "Our great asset and a core reason for our success is our extended family, our employees," said Steve Anton, President.

"Everyone's voice is heard when it comes to enhancing established work instructions or best practices," said Vince Williamson, Director of Quality.

"We are extremely fortunate to have a culturally diverse work place and tenured employees. Our team's experience, work ethics and knowledgebase can be directly correlated to our customer's goals and expectations," said Jack Anton, Vice President of Sales & Marketing.

The roles of women and our Hispanic family members have made and continue to make a big difference in our company; sharing their perspectives is tremendously important.

The Illinois Manufacturer is underwritten by Constellation - an Exelon Company

### **New IMA Members**

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### **Calendar of Events**

#### **2017 IMA ANNUAL LUNCHEON**

December 8, 2017 at the J.W. Marriott – 151 W. Adams St., Chicago, IL 60603 Schedule of Events 9:00 – 11:30am – Registration 9:30 – 10:30am – Breakout Sessions 10:30 – Noon – Networking Reception & Exhibits Noon – 2:00pm – Luncheon Program Keynote Speaker: Juan R. Luciano Chairman of the Board of Directors, President & CEO of Archer Daniels Midland Company Breakout sessions will be held from 9:30-10:30am. They are: A. Growing Your Business Through Expanded Trade Finance: LCs and Foreign

panded Trade Finance: LCs and Foreign Currency presented by Wells Fargo

B. Cyber Security in the 21st Century presented by Ice Miller, LLP

C. Succession Planning presented by Bank of America Merrill Lynch and US Trust

D. Help Wanted! Helping Manufacturers Find Talent and Skilled Workers in Today's Society

presented by the IMA Education Foundation **LIBMAN CO.** Arcola, IL

SIERRA INTERNATIONAL Litchfield, IL

KASKASKIA COLLEGE Centralia, IL

ACCURATE PERFORATING CO., INC. Chicago, IL

**GEBCO MACHINE INC.** Granite City, IL

WAGNER MACHINE CO. Champaign, IL JESSUP MANUFACTURING COMPANY McHenry, IL

II-VI EPIWORKS Champaign, IL

**CITY OF MCHENRY** McHenry, IL

KIMCO USA INC. Marshall, IL

CROWN CONCEPTS CORPORATION Morris, IL

#### Intunition

Sponsorship Opportunities Event Sponsor — \$15,000 (includes two tables, premier seating) Program Sponsor — \$10,000 (includes two tables) Lunch Sponsor — \$7,500 (includes one table) Networking Reception Sponsor — \$5,000 (includes one table) Gold Sponsor — \$2,500 (includes one table) Table Sponsor — \$1,250 (table of 10) Sponsorship commitments must be received by November 20, 2017 to be included in the program materials.

#### 2017 ENERGY MARKET OUTLOOK - WEBINAR FOR ENERGY BUYERS

Join Constellation Energy their bi-monthly energy market intel webinar series on December 13, 2017 at 1:00 PM CDT. Register at http://energy.constellation.com/december 2017 webinar registration.

#### **IMA'S TRADE SYMPOSIUM**

January 18, 2018 from 8:00 AM to 10:30 AM CDT at the Naperville Marriott Hotel, 1801 N. Naper Blvd. Naperville, IL 60563 Join us for the IMA's inaugural Trade Symposium.

Get your questions answered on the following topics:

-Latest News on the NAFTA Renegotiations

-Brexit & the Impact on U.S.

Manufacturers

-The Continued Attractiveness of

Doing Business in the EU

-Successfully Exporting to Asia

-Tax Planning Using Interest Charge-Domestic International Sales

Corps (IC-DISC)

Featured Speakers & Panelists: Richard Paullin, Executive Director, International Trade Association of Greater Chicago

**Kirk Samson,** Owner, Samson Atlantic John Crouch, Director, Global Trade & Supply Chain Solutions, Bank of America N.A.

Helen Kim, Business Banking Senior Relationship Manager, Bank of America N.A. Andrew D. Klemens, Partner, BKD LLP

Visit http://www.ima-net.org/calendar-of-events for information, pricing, registration, etc., related to all IMA events. For more information, contact Kimberly McNamara at kmacnamara@ima-net.org, (800) 875-4462, ext. 9371.

# **Critical Cleaning in Hydraulic Pump Repair**

Activity: Industry: Widgets: Soils: Method: Material: Product:

Critical Cleaning - Rebuild Industrial Machinery & Equipment Repair Hydraulic Pumps & Cylinders Grease, Oil, Dirt & Grime **Combination Cleaning** Mild & Carbon Steel, Cast Iron Mirachem M2750 Key Features: Safety, Performance

200





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