

# THE FIRST WORD

July, 2013

## Chuck Mitchell Installed as ACEC OKLAHOMA Chairman of the Board

Chuck Mitchell, Executive Vice President and Director of Infrastructure, Crafton Tull, Tulsa, was installed as the new Chairman of the Board for ACEC OKLAHOMA at the Annual Meeting in St. Thomas, USVI.

Mitchell joined Crafton Tull in 2004 to head up the Tulsa office. He is a graduate of the University of Arkansas, holding a bachelors in Civil Engineering and a Masters in Environment Engineering. He is also a graduate of Leadership Tulsa, Leadership Owasso, and Leadership Benton County (Arkansas).

In addition to serving as Chairman of ACEC OKLAHOMA, Mitchell serves on the Board of the Owasso Chamber of Commerce and Tulsa Air & Space Museum. He is a member of ASCE, AGC, the Oklahoma Municipal League, and Tulsa Chamber.

Others elected to serve on the 2013-14 ACEC OKLAHOMA Board of Directors include:

- Chairman-Elect Joe Davis**, Triad Design Group, Oklahoma City
- Vice Chairman - Membership Brent Schniers**, Garver, Tulsa
- Treasurer Marty Hepp**, Cobb Engineering, Oklahoma City
- Vice Chairman - Business Practice Brandon Claborn**, Meshek & Associates, Tulsa
- Vice Chairman - Education/P.R.: Keith Angier**, MacArthur Associated Consultants, Oklahoma City.

**Steve Ford**, Zahl-Ford, Oklahoma City remains on the Board as the ACEC National Director, and **Alan Soltani** will continue as the Immediate Past Chairman.

During the Annual Meeting, in addition to the Election of Officers, the 2013-14 Annual Budget was approved, which as previously reported, included a modest dues increase for the fiscal year.

Also, ACEC Chairman of the Board Gregs Thomopoulos (center below) and ACEC President David Raymond (l) presented a report on the recent activities of ACEC and an update on congressional activities in Washington.



Newly installed Chairman Chuck Mitchell (r) presents Past Chairman's Plaque to outgoing Chair Alan Soltani.



Annual Meeting



Closing Banquet



Chairman Soltani seems to be really excited to be part of the "show" Thursday evening

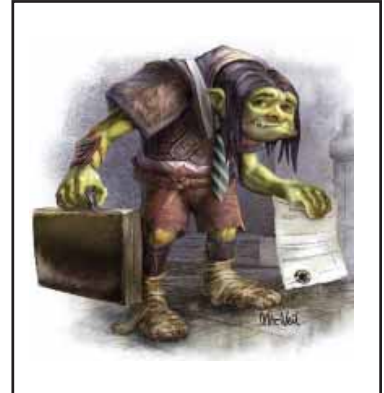
## Patent Troll Update From ACEC

A few weeks ago, ACEC OKLAHOMA provided members with a warning from the ACEC Risk Management Committee and ACEC General Counsel Charles Kim regarding "Patent Trolling" which is becoming a trend nationwide. We have received a report from one ACEC OKLAHOMA member firm which has received the "demand" letter referenced in the previous report.

Another update has been sent by the ACEC Risk Management Committee (text below).

If your firm has received one of these "demand" letters, please do two things:

- \* Let ACEC OKLAHOMA know as that we can pass the information to ACEC.
- \* Contact your legal counsel and insurance underwriter to determine the best course of action for your firm.



\* \* \* \* \*

### **PATENT ABUSE: UNDERSTANDING THE PROBLEM - UPDATE I** **ACEC RISK MANAGEMENT COMMITTEE – SUBCOMMITTEE ON PATENT ABUSE**

We have just been informed that a number of member firms that were targeted by patent assertion entities have now received a letter from those entities stating that no further action will be taken against them until further notice. The letter goes on to state that Canon customers may consider the matter closed.

According to the letter, this suspension of activities is based on two developments:

- Canon has stepped in on behalf of its customers who use “Canon scanning capable devices in networked systems,” and reached an agreement with the owner of the patents being asserted, resulting in a covenant not to sue.
- The patent assertion entity is presently reviewing petitions that have been filed with the U.S. Patent and Trademark Office (PTO) regarding two of the patents. As reported in the information sheet preceding this update, least two of the patents that form the basis for the demand letters are under legal challenge. Xerox and Ricoh corporations have jointly filed a petition with the PTO to invalidate Patent 7,986,426 (“Distributed computer architecture and process for document management”), and HP has likewise petitioned to invalidate Patent 6,771,381 (“Distributed computer architecture and process for virtual copying”). If these patents are invalidated, they cannot be used as the basis for future demand letters (or, at the very least, the target will be armed with the knowledge that those patents are no longer valid).

Before deciding how to respond to a demand letter, member firms may wish to consult with their legal counsel and insurance underwriter as to the best course of action for their particular circumstances. While ACEC cannot provide legal advice to member firms, it is our hope that this information will increase the member firms’ understanding of this issue.

For further information, contact ACEC General Counsel Charles Kim at [ckim@acec.org](mailto:ckim@acec.org).

## Welcome New Members

ACEC OKLAHOMA is excited to welcome two new member firms to the Council.

**THUNDERHEAD TESTING, LLC** is a 5-person firm based in Bixby. Cynthia Lynn and Todd Lynn head up firm which provides construction materials testing, structural pavement evaluation and design, pavement distress surveys, and pavement forensic evaluations.

**HINDERLITER GEOTECHNICAL ENGINEERING, LLC** is led by Mark Hinderliter. The 4-person Oklahoma City firm provides Geotechnical consulting, Laboratory Analysis of soil & rock, Subsurface and Pavement Investigations.

We welcome **THUNDERHEAD TESTING** and **HINDERLITER GEOTECHNICAL ENGINEERING**, and look forward to having both firms as active members of ACEC OKLAHOMA.

## Tim Gatz, Casey Shell Promoted To Top ODOT Positions

Oklahoma Department of Transportation Director Mike Patterson announced the promotion of two longtime employees to fill the agency's top leadership positions. Tim Gatz, of El Reno, was named Deputy Director and will oversee all of the department's project management, administrative, financial, legislative and public information activities. Casey Shell, of Stillwater, was named Chief Engineer and will lead ODOT's preconstruction, construction and maintenance efforts statewide.



Gatz has more than two decades of service with ODOT, beginning his career with the agency as a Drafting Technician in 1990. In 1992, he became the Enhancements Program Coordinator, and then moved up to Special Projects Manager in 1997. In 2000, he became Division Manager of the Project Management Division, where he was instrumental in the development of ODOT's Eight-year Construction Work Plan. He was promoted to Director of Capital Programs and Information Management in 2006 and led the department's coordination with county governments to develop and deliver the County Improvements for Roads and Bridges program, which provides dedicated state funds for high-priority county transportation projects statewide. Gatz was named Deputy Director in May and succeeds Patterson, who was appointed as the agency's director in April.

Patterson was pleased to make the announcement. "Tim Gatz has helped implement and manage some of the department's most successful programs and will help ensure that ODOT continues to be one of the best-run agencies in the state," Patterson said.

Gatz earned a bachelor's degree in landscape architecture from Oklahoma State University in 1989 and is a registered professional landscape architect. He has received several honors including the Oklahoma Good Roads & Transportation Association's Bill Skeith Stewardship Award, the Governor's Public Service Award and the Association of County Commissioners of Oklahoma's Connecting Transportation Partners acknowledgment. He is a member of the American Association of State Highway and Transportation Officials and the American Society of Landscape Architects. He and his wife, Sandy, live in El Reno and have two sons, Dillon and Trace.



Shell joined ODOT in 1986, and has served as Director of Operations since October 2009. Prior to that, he served as Division Engineer for the Division 4, which covers nine counties in north-central Oklahoma, including much of the Oklahoma City metro area. He will officially begin in his new role as Chief Engineer in July and will succeed Gary Evans, who is retiring.

Shell was born in California and graduated from the University of Arkansas with a bachelor's degree in Civil Engineering in 1986, joining ODOT soon after as an Engineer-in-Training. In 1987, he became a Project Engineer at Stillwater, moving up to area Maintenance Engineer in 1992. He was named Resident Engineer in Perry in 1996, and in 2000, was promoted to Assistant Division Engineer for Construction and Maintenance, a post he held until being named Division Engineer in August 2002.

"Casey has been involved in some of ODOT's largest undertakings, including construction of the I-40 Crosstown, the ongoing effort to repair or replace all of our structurally deficient highway bridges and recent storm cleanup," Patterson said. "He will continue to prove himself to be a capable leader who is committed to ODOT's mission."•

Shell has been a registered Professional Engineer since 1991. He is an honorary member of Chi Epsilon, an OSU engineering honor society. He is an assistant scout master with Boy Scout Troop 828 and a member of the Sunnybrook Church. He and his wife, Beth, who is a school teacher, live in Stillwater. They have a son, Parker, and a daughter, Darby.

ACEC OKLAHOMA congratulations Tim and Casey on their promotions! We have worked closely with both for many years and know that they will both to a great job in their new positions.

Also, ACEC OKLAHOMA congratulates retiring Chief Engineer Gary Evans for a great career with ODOT. It's been a pleasure working with him, and wish him the best in this future endeavors.

# President's Report

July, 2013

David Raymond, ACEC President

Heading toward the 4<sup>th</sup> of July holiday, the Senate is poised to pass an immigration bill that includes increased H-1b visa numbers which will be beneficial for our industry. Last week we also participated in a meeting with 21 U.S. Senators and an equal number of top business leaders to support increased infrastructure funding. We launched a grass roots effort to protect tax-exempt status of municipal bonds which are a key infrastructure financing tool. ACEC/Arizona achieved a big win with the passage of an indemnity reform bill, supported by the Minuteman Fund. And the forward planning for our Fall Conference is coming together nicely with a business program focused on private client markets, kicked off by former Governor Mitch Daniels. I wish everyone a happy Independence Day!

## General

- Participated in Capitol Hill forum with 21 U.S. Senators and a similar number of major U.S. CEOs on infrastructure financing, urging lawmakers to expand funding, P3s and other leveraged private financing.
- Secured full funding for MAP-21 highway and transit programs in both House and Senate versions of the transportation spending bill for 2014.
- ACEC/Arizona successfully enacted, with Minuteman Fund assistance, a major liability reform law that bars public agencies from indemnification by A/E firms for damages they didn't cause.
- A Minuteman Fund grant was awarded to ACEC/Pennsylvania to help defray the cost of a public campaign to enact long-term and comprehensive transportation funding legislation.
- ACEC/South Carolina became the fourth state to meet its PAC fundraising goal for 2013 after Wisconsin, Indiana and Hawaii.

## Government Advocacy

- Supported Senate immigration reform bill which includes a substantial increase in H-1b visas for engineers and other high-skilled professionals.

## Government Advocacy (cont)

- Urged Secretary of State John Kerry to move forward with an approval of the Keystone XL pipeline.
- Secured House version of the *National Defense Authorization Act* including amendment to enhance small firm participation in federal contracts and improve data collection of small firm subcontracting at all tiers.
- Launched grass roots effort to protect the tax-exempt status of municipal bonds.
- Joined industry allies to oppose recent Department of Labor ruling that survey crews must be covered by the Davis-Bacon Act's prevailing wage requirements.
- Briefed House Judiciary Committee staff on the problems experienced by engineering firms from so-called "patent trolls"; sent ACEC state organizations an "advisory" information sheet on the issue, and highlighted it in *Last Word*.
- Hosted fundraising events for Sen. David Vitter (R-LA), ranking member on Senate Environment and Public Works Committee, Rep. John Duncan (R-TN), a senior member of the House Transportation and Infrastructure Committee, Rep. Sean Patrick Maloney (D-NY), new member of the Committee, and Rep. Virginia Foxx (R-NC), Vice Chair of the House Rules Committee and a member of the House Education and the Workforce Committee.

