



Indiana Mineral Aggregates Association

The Source Report

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Presidential Overburden **Bill Silvers, IMAA President**

It is indeed an honor to be the President of the Indiana Mineral Aggregates Association for the coming year.

I want to say "Thank You" to all of our members and their employees who contacted their legislators and asked for their support on the Governors' Major Moves bill that recently passed our Indiana Legislature. This is a huge step forward for the various road programs in the State of Indiana. We, now hopefully, have what appears to be at least a 10-year funding program that all of us can count on instead of the year-to-year speculation of projects that we have seen in the past.

We, here in Indiana, are very fortunate to have an Association that has been recognized as one of the best and most effective in the nation. We must not rest on our successes, but continue to strive to maintain this distinction by continuing to work to support our various committees and Association activities.

Let's not make this just a good year, but instead a great year!

Bill Silvers, President

IMA Public Works Council Receives ICI Director's Trophy



The IMAA Public Works Council was honored with the ICI Director's Trophy at the recent ICI Convention in Naples, Florida. The aggregate industry has increased its Build Indiana Council financial contribution by over 500% and has maintained that level for the past two years. This tremendous increase has made a significant impact on educating the public about the highway transportation funding shortfall. The role of the Public Works Council is to work with associations and industry groups in formulating a promotional program to inform the citizens of Indiana about the importance of maintaining and growing our infrastructure. 2005 ICI President, Scott Siebolt presented IMAA Public Works Council Chairman, John Tiberi (left), and IMAA Executive Director, Robert Jones (right), with the ICI Director's Trophy. The overwhelming consensus of the ICI Board of Directors was to select the IMAA Public Works Council as this year's recipient for its outstanding efforts.

Membership Spotlight

Dave O'Mara Acquires Spray Sand & Gravel, Inc.

As of February 1, 2006, Spray Sand & Gravel in Seymour became part of the Dave O'Mara business enterprise. Spray Sand & Gravel has been a member of IMAA dating all the way back to 1934 and Charter Membership in the Association. They have been an integral part of the aggregate industry for many years.

Bill Spray has fond memories of being excused to stay home from grade school to help out when numerous aggregate orders were requested for the following day. Celebrating his 79th birthday several weeks ago, he grew up and worked his entire career in the industry. Mr. Spray has always been an ardent supporter of the Association, serving on the Board of Directors and its Membership

Committee. He was inducted into the IMAA "Hall of Fame" in 1996 in honor of his contributions, commitment, and life long dedication to the industry and the activities of the Association.

Bill's daughter, Peggy, and son-in-law, Rick Schleibaum, purchased the family business eighteen years ago. Rick not only became a member of the Spray family when they married, but also joined the family sand and gravel business becoming Plant Manager and later—President. Peggy kept the books for a number of years for Rick, taking over her mother's role and continuing as Secretary/Treasurer. Rick will remain as part of the Seymour operation for Dave O'Mara.

Helpful Website Information on Major Moves and INDOT projects.....

<http://www.ai.org/dot/projects/tenyear/>

We have recently updated our member links on our website. If you find that your link is not listed, please let us know and we will make sure to include yours.

www.indmaa.org



**SAVE THESE
DATES**

ICAR

April 23-26, 2006

IMAA LEGISLATIVE FLY-IN

June 7-10, 2006

IMAA JOINT SUMMER MEETING w/KENTUCKY CRUSHED STONE ASSOCIATION

July 27-29, 2006

Louisville Marriott Downtown, Louisville, KY

2006 IMAA TEACHERS' WORKSHOP

June 20-22, 2006

Sign up now!!

NSSGA Annual Meeting in Tampa

At the recent NSSGA annual meeting in Tampa, FL (March 8-12) there were over 700 registrants participating in the activities. Committee meetings on Government Affairs, Environmental, Marketing, Operations, Personnel, Audit & Finance, Young Leaders, Safety & Health, Communications & Community Relations, Transportation and Human Resources all met to update and redefine their activities. Educational sessions were also held on topics of Technology, Advocacy, Underground Mining, NSSGA awards programs and Occupational Health Programs. NSSGA's political PAC had a record year for ROCKPAC donations, with many donors coming away with very nice prizes. The Mercedes was not won by an Indiana member unfortunately. Also, at their Annual Awards Breakfast several IMAA member companies were winners for their Indiana plants. They are

About Face Program – Showplace Award

Versailles Quarry

Hanson Aggregates
Versailles, IN

Safety Achievement Award

First Place Medium (17 years)

Sieboldt Quarry
Rogers Group, Inc.
Springville, IN

Community Relations Award

Excellence in Community Relations Award

Bloomington Quarry

Rogers Group, Inc.
Bloomington, IN

Community Relations Award

Community Achievement Award

Morgan County Sand & Gravel

Rogers Group, Inc.
Martinsville, IN

BIG TIRES BIG SHORTAGES

Some comments taken from an article in *Mining Engineering* magazine
by Tim O'Neil.



The giant tire market has grown by 30 percent in the last two years. Tire producers didn't and wouldn't invest in greater production prior to the shortage due to the past cyclic history of the market and depressed prices. What are some of the causes of this giant tire shortage? Dramatic global economic growth. China accounts for 1/3 of the growth in world economy during the past 3 years. China's rapid growth has boosted demand for mining, quarry & construction vehicles....thus giant tires. At the same time, other Asian countries, including India, have also shown huge demand increases for minerals and energy products. The Eastern European economy continues to grow also. In the US, existing mines are expanding, closed mines are reopening and new mines are being developed. The bottom line means the equipment needed to generate this increased production is with loaders and haul trucks and this is where tire demand has dramatically increased. This situation is anticipated to continue through 2007 and perhaps into 2008, according to Michelin North America. There are no easy answers to this problem, however good tire maintenance and care programs can be of great benefit.

2006 IMAA Annual Meeting - Naples, FL



- Passing of the Gavel
- Election of 2006 Officers
- Service Recognition
- Committee Reports

Newly elected President
Bill Silvers
presents service awards.



Thank You Joe Mayfield



Thank You John Newman



Thank You Jim Plew



Thank You Mike Cassidy

ARE YOU A LOBBYIST?

ARE YOU SURE?

By
Thomas F. Bedsole, Attorney
Locke Reynolds LLP

The Indiana General Assembly recently passed a new law governing the conduct of business with the State of Indiana. In conjunction with new regulations that took effect January 1, 2006, contractors are now faced with a new set of restrictions they must meet when dealing with State agencies.

Newly enacted provisions of the Indiana Administrative Code broadly define an Executive Branch Lobbyist as "any individual who is employed and receives payment, or who contracts for financial consideration, exceeding one thousand dollars (\$1,000) in any ... year for the purpose of engaging in executive branch lobbying activity," which in turn is any "action or communication made to delay, oppose, promote or otherwise influence the outcome of an executive branch action." 25 IAC 6-1-1.

Under House Bill 1397 (the "Act"), the definition of "executive branch action" includes decisions of any agency regarding: (1) the expenditure of state funds with respect to the award of a contract, lease or other financial arrangement (defined as the purchase or acquisition of any property, interest in property, service or other asset of an agency valued in excess of \$10,000); or (2) the proposal, drafting, development, consideration, promulgation, amendment, repeal or rejection of a rule by an agency. 25 IAC 6-1-1; see Indiana Code § 4-22-2-3(b).

The Act specifically excludes certain individuals from the definition of an executive branch lobbyist. The definition excludes government officials or employees acting within the scope of their employment, attorneys representing clients in certain proceedings, anyone representing a religious organization for the purpose of protecting the organization's constitutional rights, news publications that directly or indirectly urge executive branch action in the course of regular business, one who communicates with an agency for the sole purpose of gathering information relating to a bid, procurement, or public work in compliance with statutory bidding requirements, and those acting on their own behalf or under Article 1, Section 31 of the Indiana Constitution. In addition, individuals convicted of a felony while an officer or employee of any agency or political subdivision, convicted of a felony relating to executive branch lobbying, or individuals in prison, on probation, or who have been in the last twelve months may not register as executive branch lobbyists.

The Act's specific mention of an exemption for certain "bid" activities will help contractors. But too much reliance cannot be placed on the exemption. A close examination of the Act and regulations shows that if you aren't careful, you could find yourself in big trouble.

Under the Act, executive branch lobbyists must file a signed initial registration statement with the Department of Administration within 15 days of making any contact with an agency regarding an executive branch action. 25 IAC 6-2-1. The initial registration statement must include:

1. The name, address, telephone number, e-mail address, and occupation of the executive branch lobbyist;
2. The name, address, telephone number, and e-mail address of the executive branch lobbyist's employer and other party on whose behalf the executive branch lobbyist is acting, if different from the employer;
3. A brief description of the subject matter to which the engagement(s) relates;
4. The identity of the agency to which the engagement relates; and
5. A verified statement certifying that in the course of engaging in any executive branch lobbying activity, the executive branch lobbyist will comply with state statutes governing ethics and conflicts of interest and "state statutes governing the office of the inspector general and rules promulgated thereunder."

Also, beginning in 2007, executive branch lobbyists will be required to file an annual report, which includes:

1. The name, address, telephone number, e-mail address, and occupation of the executive branch lobbyist;
2. The name, address, telephone number, and e-mail address of the executive branch lobbyist's employer;
3. The name, address, and e-mail address of "each real party in interest represented by the executive branch lobbyist that has a continuing engagement described in the initial registration statement;"
4. "The total amount of payments received for each engagement during the past year;"
5. A brief description of the subject matter for the executive branch lobbying activities involving the executive branch lobbyist in the past year; and
6. The identity of the agency to which executive branch lobbying activities were directed.

25 IAC 6-2-2.

An executive branch lobbyist is also required to file an amended registration statement within fifteen days after any material change occurs in the information contained in a registration statement. 25 IAC 6-2-3. Additionally, a "notice of termination" must be filed with the Indiana Department of Administration within fifteen days after an engagement ends (although termination does not relieve the executive branch lobbyist of any reporting requirements). 25 IAC 6-2-3.

By themselves, these requirements are an administrative headache. In addition, the Act creates substantial penalties applicable to executive branch lobbyists. See HB 1397.2.16.1 & 1397.2.17. The Commissioner of the Department of Administration is charged with responsibility "for notifying [executive branch lobbyists] of deficiencies, inadequacies and delinquencies in registration statements, reports, and other documents filed or to be filed with the department" regarding executive branch lobbying activity. 25 IAC 6-3-1(d). Where the Department of Administration finds that a required statement or report "was materially incorrect" and "the person filing the statement or report was requested to file a corrected statement or report; and ... a corrected statement or report has not been filed," the Department has two available options—conduct a hearing itself (under I.C. § 4-21.5-3-1, *et seq.*) or refer the matter to the Inspector General. See HB 1397.2.16. Where the Department itself holds a hearing, it has the power to revoke the registration of the person who has failed to file a corrected statement or report and, for a finding made after June 30, 2007, assess a civil penalty not exceeding \$500. Id.

Where the Department of Administration instead refers the matter to the Inspector General, the Inspector General is authorized to file a Complaint with the State Ethics Commission. See HB 1397.2.3. The State Ethics Commission is then empowered to assess substantial penalties against the offending executive branch lobbyist, including:

- Impose a civil penalty upon a respondent not to exceed three times the value of any benefit received from the violation.
- Cancel a contract.
- Bar a person from entering into a contract with an agency or a state officer for a period specified by the commission.
- Order restitution or disgorgement.
- Reprimand, suspend, or terminate an employee or a special state appointee.
- Reprimand or recommend the impeachment of a state officer.
- Bar a person from future state employment as an employee or future appointment of a special state appointee.
- Revoke a license or permit issued by an agency.
- Bar a person from obtaining a license or permit issued by an agency.
- Revoke the registration of a person registered as a lobbyist under I.C. 4-2-8.
- Bar a person from future lobbying activity with a state officer or agency.

Given these possible penalties, it is important to make certain that you comply with the new rules on executive branch lobbying. A failure to do so could be a headache, or a catastrophe. As always, it's better to be safe than sorry when such high stakes are on the table.

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Executive Branch Lobbyist Registration

To fully address the questions raised regarding online registration of Executive Branch Lobbyists (“EBLs”), we contacted Jeff Gill, who has recently been appointed as the head of Executive Branch Lobbying. Given the recent passage of this legislation and Jeff’s recent appointment, the online registration form is a “bare bones” version of what Jeff indicates it will eventually be. Jeff is currently working with Access Indiana to create a more comprehensive online registration form that will assign each individual lobbyist a registration number the first time they register. EBLs will then be able to sign on to a password protected registration form to enter new clients and otherwise edit their registration information. Unfortunately, this service will not be available until approximately June 7, 2006.

At the present time, the online registration form only permits individuals to enter one client for whom they are lobbying at <http://www.in.gov/apps/idoa/lobbyist/registration/>. Jeff has instructed that lobbyists should register only once even though they may have more than one client for whom they lobby. However, Jeff indicates that they should also keep written records of their other clients so that they may register them once the final online registration is complete in June. Those who register with their e-mail addresses will then be notified when the final online registration form is complete.

The proposed registration fees will not be assessed until after the rule is promulgated in 2008. After the fee schedule is in place, there will only be a one-time \$50 fee per individual registration. Thus, individuals who register more than one client will only be charged \$50 the first time they enter their registration information. There will also be a filing fee associated with the Annual Report. Individuals who register before the fee schedule is in place in 2008 will not have to pay a registration fee and will only be assessed the filing fee associated with the Annual Report.

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ROAD FUNDING UPDATE

Major Moves Summary

As you know, Major Moves (HB 1008) passed and it provides long-term, dedicated and stable funding for highway projects all across Indiana. But how, exactly does it do this? To learn the details, you could read the entire 107 page bill. However, since that’s not practical for most of us, we’re providing this summary, written by one of BIC’s lobbying team members, Laurie Maudlin of Ice Miller.

HB 1008, known as Major Moves, has two primary components to fund the state's highway needs over the next ten years.

The first component is exclusive to the Indiana Toll Road in Northern Indiana. HB 1008 provides the Indiana Finance Authority (IFA), a quasi-governmental agency who currently owns the Toll Road, the ability to lease the operation of the road for 75 years if the agreement is signed by August 1, 2006. The concessionaire, or leasee, in return keeps the toll revenue and other concessions along the route.

Once the operating contract is signed by the concessionaire, the offer of \$3.85 B is deposited into the Toll Road Fund in the State Treasury. Of that amount, the Toll Road bond retirement, administrative costs associated with the lease, and the Next Generation Fund amounts are taken off the top. The Next Generation Fund is established with \$500 M, and accrues interest in the Fund. Every five years, that interest is moved over to the Major Moves Construction Fund, but the \$500 M is always to remain as the Trust corpus.

Along with the interest from the Next Generation Fund, the amount of lease proceeds remaining after the off-the-top distributions is moved to the Major Moves Construction Fund, also held in the State Treasury. Thirty-four percent of that amount is to be spent in the counties, cities, and towns along the Toll Road, as committed by the Governor upon introduction of his plan.

Both within the 34% guarantee and outside of it, the Major Moves Construction Fund is established to pay for a variety of transportation projects, the majority going to the INDOT 10-year plan and its \$2.8 B funding gap. Other expenditures include:

- \$150 M to counties, cities and towns for highway projects (half distributed by or on October 15, 2006, and half distributed on October 15, 2007);

- \$20 M (lump sum) the first year to the Northwest Indiana RDA and \$20 M (lump sum) the first year for the Gary Chicago Airport and then \$10 M a year for the following eight years to the Northwest Indiana RDA;

- \$15 M to Lake County, \$25 M to Porter County, and \$40 M each to LaPorte, St. Joseph, Elkhart, La-Grange and Steuben Counties (each county's amount is distributed among the county, and the cities and towns within that county).

These funds are provided in one lump sum by September 15, 2006 for highway and economic development projects, and do not revert back to the state if not spent immediately;

- amounts to cover reductions in passenger car toll rates through 2016 (reduction amount to be determined later); and

- amounts needed to provide early retirement for eligible Toll Road employees.

Other eligible distributions of the Major Moves Construction Fund are for administrative costs, lease payments, and payments to the State Highway Fund.

The legislation also establishes the process for entering into a Public Private Agreement (PPA) on I-69 from Indianapolis to Evansville, and specifically prohibits the State from entering into such an agreement for any other road or project without further legislative approval. While similar in scope to the authorization for the Toll Road lease, there are a number of significant differences in the process for procuring an I-69 agreement.

The most significant difference concerns the State authority. The I-69 PPA will be administered by INDOT, instead of the IFA. A second difference is the increased amount of legislative oversight given to the I-69 project.

Before INDOT can issue an RFP or an RFQ for the development, financing or operation of the project (if the project will be tolled), they must first initiate a study on the financial feasibility of tolling. Once this study is complete, INDOT must hold a hearing and submit it for legislative Budget Committee review. Once these items occur, INDOT may continue with the RFP or RFQ process after the Budget Committee reviews the RFP. In order to make sure tolling is not the only option considered during the development of a project, during the RFP process, any respondent may propose an alternative proposal to tolls in their submittal.

The Budget Committee has further review of the process once a concessionaire has been selected. The full legislature has additional review powers specific to I-69 as well. Without legislative action allowing it, INDOT is expressly prohibited from constructing I-69 in Perry Township on Indianapolis' south side and is prohibited from imposing tolls on I-69 between Martinsville and Indianapolis.

However, beyond these differences, much remains similar in the I-69 and the Toll Road PPA's:

- 75 year lease term

- Construction and operating standards compliant with INDOT's procedures

- Financing may be provided by the State including IFA issued bonds

- Property tax exemptions on project

- Prohibition on political contributions from interest holders in concessionaire

Once entering an agreement, the revenues from the project can be deposited into the Major Moves Construction Fund, into the State Highway Fund, or applied to debt reduction.

In support of the new funding made available for highway construction, the legislation also mandates that the Dept. of Labor set aside \$2 M per year, until 2012, for pre-apprenticeship and apprenticeship training and counseling assistance relating to the construction trades.
