



Oakland Touchdown

Location: 04-Ala-80-1.6/2.7

Client Name: CalTrans

Run date 16-Feb-13

Time 6:16 PM

Daily Diary Report by Bid Item

Contract No. 04-0120L4

Diary #: 113 Const Calendar Day 996 Date: 04-Sep-200 Friday

Inspector Name: Ghafghazi, Ben Title: Resident Engineer

Inspection Type:

Shift Hours: Break: Over Time:

Federal ID:

Location:

Reviewer: Ghafghazi, Ben Approved Date: 13-Oct-09 Status: Approved

Weather

Temperature	7 AM	12 PM	4PM
Precipitation			Condition Clear

Working Day If no, explain:

Diary:

Dispute

Office work

- The Bay Bridge freeway closure started last night at 8:00 p.m.
- Reviewed and approved time sheets and daily diaries.
- Updated mileage log.
- Received a message from Ernie that Mohammad Esfahani got tangled up in barbwire and cut his shin . He was sent to the emergency room. His injury was not determined serious but for precautionary measure he was sent to the emergency room for vaccination.
- Received an email from Amer regarding the 1% tax increase as it relates to contractors' NOPCs. The email read: Dispute Resolution Board ruling on 1% sales tax issue :As you know Assembly Bill No. 3 (AB 3) increased the State Sales and Use Tax by one percent (1%), effective April 1, 2009 through June 30, 2011. At the time of this change we had hundreds of contracts underway and there were no provisions provided to address ongoing fixed price contracts. We have concluded that we are unable to provide our contractors additional compensation on these projects, so some have filed potential claims that are working their way through the dispute resolution process provided by our contracts. A recent Dispute Resolution Board heard the issue and provided some findings and recommendations. We have been asked by a contractor, not involved with this contract, to share the results. Since this issue potentially impacts many construction contracts, I wanted to share the DRB's conclusions and recommendations with you for your use. It should be noted that one DRB member abstained from the following recommendations as that member did not feel qualified to address the issue.

The DRB concluded the following:

This issue is external to the contract.
 The contractor is required by the DRB process in the contract to bring the issue to the DRB to keep open its right to further pursue the claim, if desired.
 The DRB has the authority to hear this claim.
 A previous court case found that the state is not obligated to pay a public works contractor additional monies for increased state sales and use taxes.

The DRB Recommended:

The contractor is entitled to have a claim such as this one heard by the DRB to allow for further claim pursuit, if desired.
 The contractor's claim for additional compensation is denied.