

**DEPARTMENT OF TRANSPORTATION - District 4 Toll Bridge Program**

345 Burma Rd.  
Oakland, CA 94607  
(510) 286-0352, (510) 622-5165 fax



MCM CONSTRUCTION, INC.  
6413 32ND STREET  
NORTH HIGHLANDS, CA 95660

March 14, 2008

Contract No. 04-0120L4  
04-Ala-80-1.6/2.7  
Oakland Touchdown  
SFOBB-ESSSP

Attn: Mr. Greg Allen  
Project Manager

Letter No. 05.03.01-000575

**Subject: Supplemental Notice of Potential Claim #4**

Dear Mr. Allen,

The Department is in receipt of MCM-LTR-000327 dated February 29, 2008 regarding your supplemental notice of potential claim. The Department maintains its position that this claim is without merit.

Your excavation operations at cofferdams were suspended due to lack of implementation of appropriate Best Management Practices (BMPs) to manage the storage of excavated material on the jobsite and noncompliance with the requirements of your "Inside Cofferdam Excavation Plan", contract special provisions, and the permit.

Per Section 9-1.04, failure of the Contractor to conform to specified dispute procedures shall constitute a failure to pursue diligently and exhaust the administrative procedures in the contract, and is deemed as the Contractor's waiver of the potential claim and a waiver of the right to a corresponding claim for the disputed work in the administrative claim process in conformance with Section 9-1.07B, "Final Payment of Claims," and shall operate as a bar to arbitration pursuant to Section 10240.2 of the California Public Contract Code.

Sincerely,

A handwritten signature in black ink that reads "Ben Ghafghazi".

for Ben Ghafghazi  
Resident Engineer

cc:

file: 05.03.01  
18.02, 18.09, 19.02, 62.00