

C.C. MYERS, INC.

An Equal Opportunity / Affirmative Action Employer

51 MACALLA ROAD
SAN FRANCISCO, CA 94130
415-399-0175
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LETTER OF TRANSMITTAL

Document No: 215-STT.00400
Dated Sep 29 2005 Job No.: 215
Attention: Mr. Lourdes David
Re: 04-0120R4
Temporary Bypass Structure

To: State of California
Department of Transportation
333 Burma Road
Oakland CA 94607

Subject: Supplemental Notice of Potential Claim No. 13-B

We are sending you:

Attached Via Fax

- | | | |
|---------------------------------------|---|---|
| <input type="checkbox"/> Drawing | <input type="checkbox"/> Plans | <input type="checkbox"/> Prog. Pmt |
| <input type="checkbox"/> Samples | <input type="checkbox"/> Certificates of compliance | <input type="checkbox"/> Calculations |
| <input type="checkbox"/> Payroll | <input type="checkbox"/> Specs | <input type="checkbox"/> Copy of Letter |
| <input type="checkbox"/> Change Order | <input type="checkbox"/> Schedule | <input type="checkbox"/> Invoice |

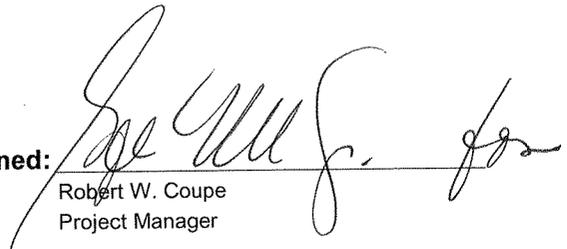
Copies	Item	Date	Description
1	01	Sep 29 2005	Supplemental Notice of Potential Claim No. 13-B

These are transmitted as checked below:

- | | | |
|--|---|--|
| <input type="checkbox"/> For Approval | <input type="checkbox"/> For Review/comment | <input type="checkbox"/> Return For Correction |
| <input checked="" type="checkbox"/> For Your Use | <input type="checkbox"/> As Requested | <input type="checkbox"/> For Information |

Remarks:

Copy To: Robert Coupe, Main Office
File: 215-101, 215-9913

Signed: 
Robert W. Coupe
Project Manager



**STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
 SUPPLEMENTAL NOTICE OF POTENTIAL CLAIM
 CEM-6201B (NEW 9/2002)**

FOR STATE USE ONLY		
Received by:		Date:
	(For Resident Engineer)	

To Lourdes David (resident engineer)	CONTRACT NUMBER 04-0120R4	DATE September 28, 2005	IDENTIFICATION NUMBER 13 Page 1 of 2
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This is a Supplemental Notice of Potential Claim for additional compensation submitted as required under the provisions of Section 9-1.04 "Notice of Potential Claim" of the Standard Specifications. The act of the Engineer, or his/her failure to act, or the event, thing, occurrence, or other cause giving rise to the potential claim occurred on:

September 13, 2005

The particular nature and circumstances of this potential claim are described in detail as follows:

In State letter 05.03.01-000452, and during our various discussions both during meetings and in the field, Caltrans contends that the flagging on Macalla Road has been directed by us and not the State. We do not agree with this statement. At the beginning of the project, we were verbally requested to perform this flagging by the State's field representatives. It was agreed at that time that this work is not flagging that was required by the contract; therefore, the State would provide compensation for 100% of the cost, rather than 50% as described in Section 12-2.02 of the Standard Specifications. This in fact, is what has actually taken place, for nearly one year, prior to said letter. If we were to have originally initiated this flagging, then we should be allowed to discontinue it. However, whenever we suggest this, the State refuses to allow the flagging to cease.

In our letter 215-STL.00183, we requested that the State reevaluate their position on the matter. In their letter 05.03.01-000565, they continue to state that they will only pay for 50% of the requested flagging. It is for this reason that we submit this Notice of Potential Claim.

The basis of this potential claim including all relevant contract provisions are listed as follows:

In State letter 05.03.01-000452, reference is made to Section 7-1.09 of the Standard Specifications as justification for the need for this flagging. However, the section of roadway that the flagging is being directed to occur on is not within the project work area. As such, this specification should not apply.

This very same situation existed on the W2 project that was still underway at the beginning of our project. Compensation was provided for the entire cost of the flagging on that project. We are not aware that their Specifications were any different than ours. For the Substation project, that was also underway at the beginning of our project, they provided no flagging whatsoever for the truck traffic that they caused to occur on Macalla Road.

In a conversation with the Resident Engineer on September 20, 2005, it was explained by him that their last letter, 05.03.01-000565 was intended to mean that the flagging was only needed as we felt it was required by the specifications. We have stated from the beginning that this flagging is not required by the specifications. This is evidenced by the agreement that existed for the first year of the project in which the State paid for 100% of the flagging cost. Based on this conversation, we have discontinued the flagging operations on Macalla Road.

There are still discussions taking place between the State and the United States Coast Guard regarding the need for this flagging.

The estimated dollar cost of the potential claim including a description of how the estimate was derived and an itemized breakdown of the individual costs are attached hereto.

The cost incurred to date is approximately \$10,500. This considers that the State has already provided payment for 50% as described in Section 12-2.02 of the Standard Specifications and at 100% during the first year of the project.

A time impact analysis of the disputed disruption has been performed and is attached hereto. The affect on the scheduled project completion date is as follows:

There has been no affect on the project schedule to date.

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
SUPPLEMENTAL NOTICE OF POTENTIAL CLAIM
CEM-6201B (NEW 9/2002)

FOR STATE USE ONLY		
Received by:	(For Resident Engineer)	Date:

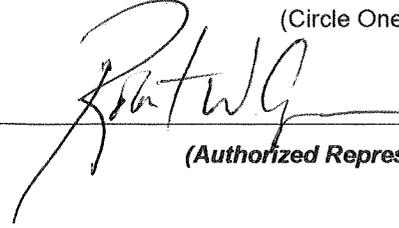
To	CONTRACT NUMBER	DATE	IDENTIFICATION NUMBER
Lourdes David (resident engineer)	04-0120R4	September 28, 2005	13 Page 2 of 2

The undersigned originator (Contractor or Subcontractor as appropriate) certifies that the above statements and attached documents are made in full cognizance of the California False Claims Act, Government Code Sections 12650-12655. The undersigned further understands and agrees that this potential claim to be further considered, unless resolved, must fully conform to the requirements in Section 9-1.04 of the Standard Specifications and must be restated as a claim in the Contractors written statement of claims in conformance with Section 9-1.07B of the Standard Specifications.

C. C. Myers, Inc.

SUBCONTRACTOR or CONTRACTOR

(Circle One)



(Authorized Representative)

For subcontractor notice of potential claim

This notice of potential claim is acknowledged, certified and forwarded by

PRIME CONTRACTOR

(Authorized Representative)

ADA Notice

For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814