



C.C. MYERS, INC.

An Equal Opportunity / Affirmative Action Employer

3286 FITZGERALD ROAD
RANCHO CORDOVA, CA 95742
916-635-9370
FAX 916-635-1527

LETTER OF TRANSMITTAL

Document No: 215-STT.00484
Dated Nov 17 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: Notice Of Potential Claim No. 13

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 |

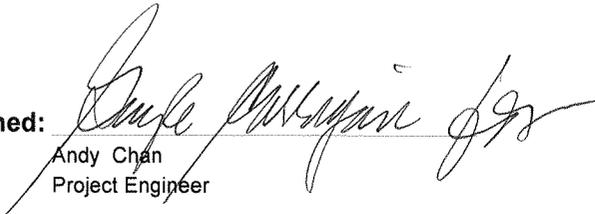
Copies	Item	Date	Description
1	01	Nov 17 2005	Notice Of Potential Claim No. 13

These are transmitted as checked below:

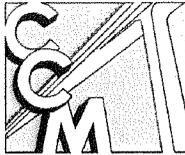
- | | | |
|--|---|--|
| <input type="checkbox"/> For Approval | <input type="checkbox"/> For Review/comment | <input type="checkbox"/> Return For Correction |
| <input checked="" type="checkbox"/> For Your Use | <input type="checkbox"/> As Requested | <input type="checkbox"/> For Information |

Remarks:

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

Signed: 
Andy Chan
Project Engineer





C.C. MYERS INC.

51 Macalla Road
(415) 399-0175

San Francisco, CA 94130
Fax (415) 399-0587

November 16, 2005

Document No.: 215-LET.00287

Dispute Review Board
511 Kortum Canyon Road
Calistoga, CA 94515

Temporary Bypass Structure
Contract No. 04-0120R4
CCM Job # 215

Attn: Mr. William Baker

Re: Notice of Potential Claim #13

Dear Mr. Baker,

We have submitted a Notice of Potential Claim to the State regarding the State's denial of 100% compensation of flagging cost. Attached please find a compilation of all the correspondence generated to date regarding this matter

We hereby refer this matter to the Disputes Review Board in accordance with Section 5-1.12 of the project's Special Provisions.

This letter is to inform you that C.C. Myers, Inc. has agreed with the State to postpone the presentation of this NOPC to the DRB. We will inform you when we will be ready to hold this meeting.

Very Truly Yours,
C. C. Myers, Inc.

Andy Chan
Project Engineer

Attachment: 05.03.01-000452	6/3/05	215-STT.00382	9/16/05
215-STL.00183	8/26/05	215-STT.00400	9/29/05
05.03.01-000565	9/12/05	05.03.01-000591	10/4/05

cc: Matthew B. McGowan
Frederick Graebe
RW.C
Lourdes David
MO

File: 215-101, 215-9913

DEPARTMENT OF TRANSPORTATION - District 4 Toll Bridge Program

333 Burma Rd.
Oakland, CA 94607
(510) 622-5660, (510) 286-0300



RECEIVED

JUN 03 2005

June 03, 2005

CC Myers
51 Macalla Road
San Francisco, CA 94130

CC MYERS, INC.
JOB 215 TEMP. BYPASS STRUCTURE

Contract No. 04-0120R4
04-SF-80-12.6, 13.2
South - South Detour

Attn: Mr. Bob Coupe

IC-01976
215-103

Letter No. 05.03.01-000452

Ref:

RC

Subject: Flagging

Dear Mr. Coupe,

The Department has determined that in the past, all flagging costs have been paid by the State. This should not be the case, as CCMyers, and not the Engineer have directed the flagging. Flagging has been implemented due to safety concerns. The road leading down to the CCMyers office and staging yard is narrow, windy, and steep. Section 7-1.09, "Public Safety" of the Standard Specifications states *...The contractor shall also furnish such flaggers as are necessary to give adequate warning to traffic or to the public of any dangerous conditions to be encountered, and payment therefor will be made as provided in Section 12-2.02 "Flagging Costs"*

Section 12-2.02 "Flagging Costs" states that the cost of flagging shall be borne equally by the State and the Contractor.

From this date forward, all flagging costs will be borne equally by the State and CCMyers in accordance with Caltrans Standard Specifications.

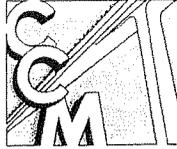
If you have any documentation to the contrary, please provide it. If you have any questions or would like to discuss this further, please feel free to contact me.

Sincerely,

Resident Engineer
Lourdes David

- cc: C. Moreno
- A. Yan
- A. Bata
- D. Wong

file: 05.03.01



C.C. MYERS INC.

51 Macalla Road
(415) 399-0175
August 26, 2005

San Francisco, CA 94130

Fax (415) 399-0587

Document No.: 215-STL.00183

State of California
Department of Transportation
333 Burma Road
Oakland, CA 94607

Temporary Bypass Structure
Contract No. 04-0120R4
CCM Job # 215

Attn: Mr. Lourdes David, Resident Engineer

Re: Flagging on Macalla Road

Dear Mr. David,

This letter is in response to your letter 05.03.01-000452 and our numerous meetings and discussions regarding the above noted matter.

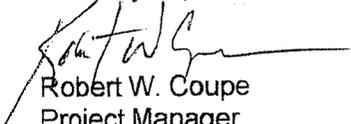
In your letter, and during our various discussions both during meetings and in the field, you state that the flagging on Macalla Road has been directed by us and not the State. We do not agree with this statement. At the beginning of the project, we were verbally requested to perform this flagging by your 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 your letter. If we were to have originally initiated this flagging, then we should be allowed to discontinue it. However, whenever we suggest this, you refuse to allow the flagging to cease.

In your letter, you reference 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.

Based on the discussion contained herein, and our previous conversations, we request that you reevaluate the matter and provide compensation for the entire cost of the flagging on Macalla Road.

Very Truly Yours,
C.C. Myers, Inc.


Robert W. Coupe
Project Manager

cc: AC, DHobbs, CMW, MO, JCG

File: 215-101

DEPARTMENT OF TRANSPORTATION - District 4 Toll Bridge Program

333 Burma Rd.
Oakland, CA 94607
(510) 622-5660, (510) 286-0550 fax



RECEIVED

September 12, 2005

CC Myers
51 Macalla Road
San Francisco, CA 94130

SEP 12 2005

Contract No. 04-0120R4
04-SF-80-12.6, 13.2
South - South Detour

Attn: Mr. Bob Coupe

CC MYERS, INC
JOB 215 TEMP. BYPASS STRUCTURE

Letter No. 05.03.01-000565

Ref: 215-STL.00183

IC 02429
215-103
RC

Subject: Flagging on Macalla Road

Dear Mr. Coupe,

In response to your letter 215-STL.00183, we are requiring that you comply with sections 7-1.08, Public Convenience, and 7-1.09, Public Safety, of the standard specifications. With that being the case, you should evaluate your operations to ensure that flagging is used when required by the referenced specifications. Consequently, flagging will be paid for in accordance with section 12-2.02, flagging costs, of the standard specifications at a rate of 50%. If you have any further questions, please feel free to contact me.

Sincerely,

Resident Engineer
Lourdes David

cc: C. Moreno
A. Yan
A. Bata

file: 05.03.01



C.C. MYERS, INC.

An Equal Opportunity / Affirmative Action Employer

3286 FITZGERALD ROAD
RANCHO CORDOVA, CA 95742
916-635-9370
FAX 916-635-1527

LETTER OF TRANSMITTAL

Document No: 215-STT.00382
Dated Sep 16 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: Notice of Potential Claim #13

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 |

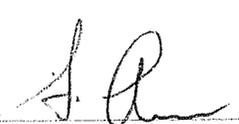
Copies	Item	Date	Description
1	01	Sep 16 2005	Notice of Potential Claim #13

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: 
Andy Chan
Project Engineer



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

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

To Lourdes David (resident engineer)	CONTRACT NUMBER 04-0120R4	DATE September 16, 2005	IDENTIFICATION NUMBER 13
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This is an Initial 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 as follows:

In State letter 05.03.01000452, 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 the above referenced letter, 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.

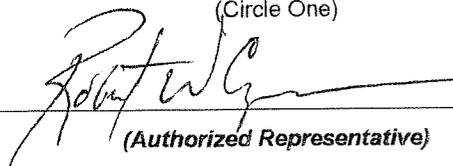
In our letter 215-STL.00183, we requested that the State reevaluate their position on the matter. In their letter 05.03.01-000565, they continue to state that they will only pay for 50% of the requested flagging. It is for this reason that we submit this Notice of Potential Claim.

The 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 CONTRACTOR

(Circle One)


 (Authorized Representative)

For subcontractor notice of potential claim

This notice of potential claim is knowledgeable 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



C.C. MYERS, INC.

An Equal Opportunity / Affirmative Action Employer

51 MACALLA ROAD
SAN FRANCISCO, CA 94130
415-399-0175
FAX 415-399-0587

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 |

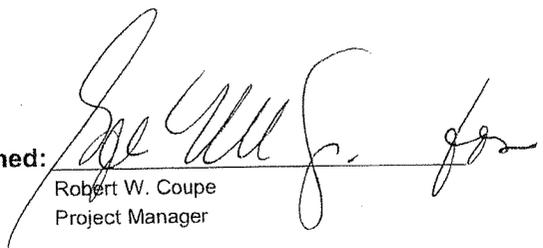
Copies	Item	Date	Description
1	01	Sep 29 2005	Supplemental Notice of Potential Claim No. 13-B

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:	(For Resident Engineer)	Date:

To	CONTRACT NUMBER	DATE	IDENTIFICATION NUMBER
Lourdes David (resident engineer)	04-0120R4	September 28, 2005	13 Page 1 of 2

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:

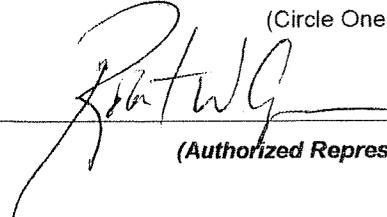
To Lourdes David (resident engineer)	CONTRACT NUMBER 04-0120R4	DATE September 28, 2005	IDENTIFICATION NUMBER 13 Page 2 of 2
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The undersigned originator (Contractor or Subcontractor as appropriate) certifies that the above statements and attached documents 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)

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DEPARTMENT OF TRANSPORTATION

333 Burma Rd.
Oakland, CA 94607
PHONE (510) 622-5660
FAX (510) 286-0550



*Flex your power!
Be energy efficient!*

October 4, 2005

05.03.01-000591

Robert Coupe
CC Myers
51 Macalla Road
San Francisco, CA 94130

Dear Mr. Coupe:

Subject: NOPC 13 "Part B"; 215-STT.00400

We are in receipt of your Notice of Potential Claim No. 13 Part B (215-STT.00400). This office has reviewed your potential claim and finds no merit in it.

Your attention is directed to section 10-1.29, "Maintaining Traffic" of the Special Provisions which states, "The Contractor shall provide access and maintain local streets, Macalla Rd., USCG Access Rd., and Torpedo Factory Rd., which are the primary access to United States Coast Guard (USCG), United States Navy facilities, University of California-Berkeley (UCB) Seismographic Stations, and various project sites on Yerba Buena Island, in the vicinity of the contract, open to local and other Contractor's traffic at all times."

Therefore, traffic control measures and/or flagging must be used when the possibility of any construction vehicles related to this project may hinder traffic in the opposite direction at any time. This includes vehicles needing large turning movements and requiring vehicles to be stopped at any time.

Full compensation for providing and maintaining the above access shall be considered as included in the contract price paid for various items of work involved and no additional compensation will be allowed therefor.

If you have any questions, please call me at 510 622 5660.

Sincerely,

Lourdes David
Resident Engineer

cc: A. Bata
T. Refaat, D. Wong, B. Halali, Y. Bezuwork, A. Yan, G. Lai

05.03.01, 62.02.13