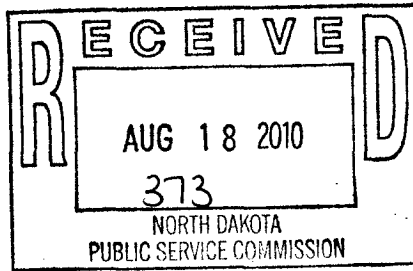


From:



08/17/2010 12:53

#520 P.001/003



Liberty Mutual Surety

Gene Sawyer
WESTERN REGION SURETY CLAIMS
P.O. Box 34670 Seattle, WA 98124
Phone (206) 473-3348

FAX COVER SHEET

Date: August 17, 2010

Attn.: James R. Deutsch

Company Name: North Dakota Public Service Commission

Fax Number: 701-328-2410

Number of pages, including cover sheet: 3

Sent by: Connie Boudreau for Gene Sawyer

Fax Number: (866) 548-7321

Message: Please find attached a copy of our acknowledgement letter in regards to bond # 6662386. I have sent the original via regular U.S. mail. Thank you.

The information contained in this facsimile is confidential, may be privileged, and is intended for the use of the individual or entity named above. If you, the reader of this message, are not the intended recipient, the agent, or employee responsible for delivering this transmission to the intended recipient, you are expressly prohibited from copying, disseminating, distributing, or in any other way using any of the information contained in this facsimile message.

Member of Liberty Mutual Group

**Liberty Mutual Surety**

Gene Sawyer
Senior Surety Claims Specialist

August 17, 2010

James R. Deutsch
North Dakota Public Service Commission
600 E. Boulevard, Dept 408
Bismarck, North Dakota 58505

P.O. Box 34670
Seattle, WA 98124-1670
Phone: 206.473.3348
Fax: 866.548.7321

Re: Principal: Smith Contracting, Inc.
 Obligee: North Dakota Public Service Commission
 Bond No.: 66623860000
 Project: 2010 Buechler/Velva Phase 1 Abandoned Mine Lands Site In Ward County
 Claimant: North Dakota Public Service Commission
 Claim No.: 67s000136.0
 Surety: First National Insurance Company of America

Dear Mr. Deutsch:

This will acknowledge receipt of your correspondence dated August 10, 2010, which was received on August 13, 2010. By its letter, we understand The Public Service Commission, State of North Dakota ("PSC") is placing us on notice of certain potential problems on the project. Responsibility for this matter was assigned to me and I request that you address all future communications to the surety to my attention.

At this time, we understand PSC is attempting to resolve this matter directly with Smith Contracting and the following documentation is not needed at this time. As such, there is no immediate expectation to receive the following. If it becomes necessary, the following will assist us in investigating the matter:

1. A copy of the contract between PSC and Smith Contracting, Inc., including copies of any executed change orders. Please include copies of all contract documents, including plans, specifications and drawings related to Smith Contracting's scope of work;
2. Fully signed copies of Performance and Payment bonds 6662386;
3. A complete accounting of the contract between PSC and Smith Contracting, Inc., including the original contract sum, net change orders, the adjusted contract amount, the amount paid, retention and the remaining contract balance, if any;
4. A complete set of all payment applications submitted by Smith Contracting to PSC together with all check stubs or other evidence of payment to Smith Contracting;
5. Copies of all letters, memorandum, emails, Requests for Information and responses thereto, phone notes, records of conversation and any other correspondence or communications between PSC (including its architect and other agents) and Smith Contracting;
6. Copies of all letters, memorandum, emails, Requests for Information and responses thereto, phone notes, records of conversation and any other correspondence or communications between PSC (including its architect and other agents) and any other party on this project;
7. Copies of any daily reports, diaries or logs prepared by PSC (including its architect and other agents);

Member of Liberty Mutual Group

North Dakota Public Service Commission
August 17, 2010
Page 2 of 3

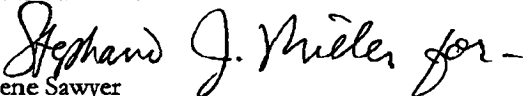
8. Copies of any unapproved change order requests together with PSC written position on the status of each (e.g. whether they are denied or pending approval);
9. Copies of all projects schedules, time extensions, and requests for time extensions;
10. All inspection reports, certificates of occupancy (permanent or temporary), notices of completion (substantial or full), letters of acceptance or the like;
11. All documents and information PSC believes supports any liquidated damages claim it is asserting or may assert;
12. Any punchlist(s);
13. Any documents identifying contract work PSC believes is defective or not yet complete. For each item of allegedly defective or incomplete work, please provide the following information:
 - a). identification of the contract specification or other contract provision with which PSC contends Smith Contracting failed to comply;
 - b). copies of all correspondence between PSC and Smith Contracting concerning the item;
 - c). the dollar value of the item;
 - d). how PSC calculated the dollar value of the item;
 - e). any documents or other information such as invoices, reports, contracts, purchase orders, and the like that PSC believes supports its valuation of the item;
14. Copies of any liens or stop notices together with all correspondence you have from any party concerning each such lien or stop notice;
15. Any other documentation or information you believe may be of assistance to us.

Once we receive and review the foregoing, we may require additional information, and we will make an additional request if needed. In addition, we remind PSC that it has an obligation to mitigate its damages.

Please be advised that this letter should not be construed as an admission of liability under our bond, or as a waiver of any rights or defenses of First National Insurance Company or its principal, at law, equity, or under the terms and provisions of the bond and contract documents, all of which are expressly reserved. In addition, it is your responsibility to ensure that you comply with all proper claims procedures and time limitations under applicable law.

Sincerely,

FIRST NATIONAL INSURANCE COMPANY OF AMERICA


Gene Sawyer
Senior Surety Claims Specialist
GS/cb

Enclosure

cc: - Smith Contracting, Inc.

Liberty Mutual Surety