

Liberty Mutual Surety

R. Jeffrey Olson
Home Office Counsel

October 1, 2010

North Dakota Public Service Commission
600 East Boulevard Avenue, Dept 408
Bismarck, North Dakota 58505

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Attention: Mr. Jim Deutsch

Re: Principal: Smith Contracting, Inc.
Obligee: North Dakota Public Service Commission
Bond No.: 67S000136
Project: 2010 BUECHLER/VELVA PHASE 1 ABANDONED MINE LANDS SITE IN
WARD COUNTY
Surety: FIRST NATIONAL INSURANCE COMPANY OF AMERICA

Dear Mr. Deutsch:

Please allow this letter serve to acknowledge receipt of your letter dated September 30, 2010 addressed to Smith Contracting, Inc. Please address all further correspondence or communications regarding this matter to the undersigned.

In order to initiate our investigation of this matter, we request that you supplement your correspondence with additional information and documentation. This should include the following:

1. A current accounting of the contract fund setting forth the following:
 - a. Original contract price
 - b. Net change orders
 - c. Adjusted contract price
 - d. Amount paid to date
 - e. Contract balance
 - f. Earned but unpaid progress payments
 - g. Retainage
 - h. Unearned contract balance
2. Contract documents, including the plans and specifications, as well as the general conditions and special conditions and all addendums and exhibits;
3. Approved and pending change orders and back charges or credits;
4. Job minutes, progress reports, current punch lists, and inspection reports;
5. Pay applications including schedules of value certifications for payment and copies of canceled checks;
6. Job schedules (both original and revised) and the notice to proceed;


7. All Correspondence between the Obligee and the Principal relating to the condition of the soil on the project;
8. A list of known deficiencies;

If you have any other information of which you feel surety should be made aware, please supply it. We reserve the right to request additional information as our investigation proceeds. As you assemble the information requested above we will forward your letter to Smith Contracting, Inc. for their input.

Please note that this letter is sent to you for investigatory purposes only. It should not be construed by you or your company as an admission of liability or a promise to perform or pay your company's claim in whole or in part. Our activities are undertaken with a full reservation of all rights and defenses which Liberty Mutual Insurance Company and/or Smith Contracting, Inc., has or may have at law, equity or under the terms and provisions of the bond and contract documents. This reservation of rights shall remain in full force and effect unless expressly revoked by surety in writing.

Please do not hesitate to contact me if you have any questions.

Sincerely,



R. Jeffrey Olson
Home Office Counsel

RJO/rjo

cc: Smith Contracting, Inc.
John Kampschorr - LMS Underwriter
John Sebastian