



Public Service Commission

State of North Dakota

COMMISSIONERS

Tony Clark
Brian P. Kalk
Kevin Cramer

Executive Secretary
Darrell Nitschke

600 East Boulevard, Dept. 408
Bismarck, North Dakota 58505-0480
Web: www.psc.nd.gov
E-mail: ndpsc@nd.gov
Phone: 701-328-2400
ND Toll Free: 1-877-245-6685
Fax: 701-328-2410
TDD: 800-366-6888 or 711

May 25, 2011

Mr. John Sebastian
Hinshaw & Culbertson, LLP
222 North LaSalle Street, Suite 300
Chicago, IL 60601

RE: Buechler/Velva Abandoned Mine Lands (AML) Project
Invoice No. 1 from Kern & Tabery, Inc.

Dear Mr. Sebastian:

Enclosed is a copy of the first invoice the AML Division has received from Kern & Tabery, Inc. for work that they have completed at the 2010 Buechler/Velva AML project and staff's spreadsheet that is used to track contractor invoices and payments. The total amount of Kern & Tabery's first invoice is \$53,036.00. Most of this amount is for mobilization and a small amount of dirt work (spoil grading). AML staff has reviewed the invoice and approves payment of this amount in accordance with Covenant No. 3 of the Tender Agreement. We understand that First National Insurance Company of America will be making payment to Kern & Tabery within seven days of your receipt of this letter.

Also, we expect to forward you several more invoices as project work is completed until the entire amount of the contract shortfall, \$272,491.40, is paid by the surety.

If you have any questions, please contact Jim Deutsch or Bill Dodd with the AML Division.

Sincerely,

Darrell Nitschke
Executive Secretary

Attachments

Minedata/AML/2010/Buechler-Velva/KernTabery2011takeover/.doc

CONTRACTOR PRODUCTION FIGURES

Project: Buechler/Velva AML Project NDO04

Contractor: Kern & Tabery Inc. 222 SE 1st Street, Suite 3, Wadena, MN 56482

Submittal Number: 1

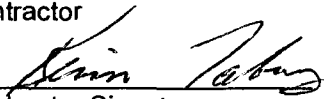
From: 5/18/2011 through 5/21/2011

<u>Items</u>	<u>Equipment Description</u>	<u>Operating Hrs.</u>	<u>Avg. Cycle Time</u>	<u>Avg. Load Capacity</u>	<u>Job Eff. Factor</u>	<u>Est. Volumes Moved</u>	<u>Total</u>
(1) Mobilization	\$75,432.00 total x 50%						\$37,716.00
(2) Water Management	\$9,000.00 total @ 20%						\$ 1,800.00
(3A) Topsoil Salvage	D8N Dozer	10 hr.	3.0 minutes	8 CY	80%	1600 CY @ \$1.85	\$ 2,960.00
(4) Dirt Work	D9G Dozer	35 hr.	3.0 minutes	10 CY	90%	7000 CY @ \$0.96	\$ 6,720.00
	D8N Dozer	25 hr.	3.0 minutes	8 CY	90%	4000 CY @ \$0.96	\$ 3,840.00
Volume Total						12,600 CY	
TOTAL DOLLARS THIS PAY REQUEST							<u>\$53,036.00</u>

The Contractors signature certifies the accuracy and completeness of these estimated production figures.

KERN & TABERY, INC.

Contractor



Contractor Signature Kevin Tabery, Pres.-Treasurer

5-21-2011
Date

FIGURE 3

INVOICE: 001
 Project: BUECHLER/VELVA COMPLETION PROJECT
 Project No.: 10168
 Contractor: Kern & Tabery Inc.
 222 SE 1st Street, Suite 3
 Wadena, MN 56482

Contract No.: AM-588-10
 Date of Invoice: 05/23/11
 Dates Service Rendered: 5/18/11 to 5/21/11

Spec No.	Description	Orig. Quantity	Unit	Unit Price	Bid Amount	Previous Invoices		Current Invoice		Total To Date		
						Quantity	Amount	Quantity	Amount	Quantity	Amount	
(1)	Mobilization	1	L. Sum	\$75,432.00	\$75,432.00		\$0.00	0.5	\$37,716.00	0.5	\$37,716.00	
(2)	Water Management	1	L. Sum	\$9,000.00	\$9,000.00		\$0.00	0.2	\$1,800.00	0.2	\$1,800.00	
(3A)	Topsoil Salvage	1	Cu. Yds.	\$1.85	\$1.85		\$0.00	1600	\$2,960.00	1600	\$2,960.00	
(3B)	Topsoil Salvage-Respread	20048	Cu. Yds.	\$1.25	\$25,060.00		\$0.00		\$0.00	0	\$0.00	
(4)	Dirt Work	824586	Cu. Yds.	\$0.96	\$791,602.56		\$0.00	11000	\$10,560.00	11000	\$10,560.00	
(5)	Culvert	240	Ft.	\$85.00	\$20,400.00		\$0.00		\$0.00	0	\$0.00	
(6)	Fert. Seed & Mulching	150	Acres	\$420.00	\$63,000.00		\$0.00		\$0.00	0	\$0.00	
(7)	Wattles	12000	Ft.	\$2.67	\$32,040.00		\$0.00		\$0.00	0	\$0.00	
(8)	Force Account	1	L. Sum	\$80,000.00	\$80,000.00		\$0.00		\$0.00	0	\$0.00	
(9)	Clean-up	1	L. Sum	\$3,360.00	\$3,360.00		\$0.00		\$0.00	0	\$0.00	
					Original Contract	\$1,099,896.41		\$0.00	\$53,036.00		\$53,036.00	
					Change Orders (+)	\$0.00	Change Order(s)	\$0.00	Change order(s)	\$0.00	Total CO.	\$0.00
					Change Orders (-)	\$0.00						
					Grand Total	\$1,099,896.41						
					Contract Balance	\$1,046,860.41						
							Amount Paid	\$0.00	AMOUNT DUE	\$53,036.00	Total Amt.	\$53,036.00

Project Manager:
 AML Director:

M.E.K. OK W/D 5/24/11

AMOUNT DUE = \$53,036.00
 Please note: Surety (Liberty) to pay first \$272,491.39