

April 27, 2016

VIA ELECTRONIC MAIL ONLY

Dale A. Ortmann, Esq.  
Hunt Ortmann Palffy  
Nieves Lubka Darling & Mah, Inc.  
301 North Lake Avenue, Seventh Floor  
Pasadena, California 91101-1807  
ortmann@huntortmann.com

Re: Inland Empire Brine Line Reach V Rehabilitation And Improvement Project – Phase 1  
Owner: Santa Ana Watershed Project Authority  
Contractor: Charles King Company  
Subcontractor: Spiniello Companies

Dear Dale:

This responds to your letter of April 14, 2016, in like-numbered paragraphs.

1. Charles King Company is in receipt of Santa Ana Watershed Project Authority's ("SAWPA") response to the March 3, 2016 claim. While you have repeatedly suggested the claim is without merit, SAWPA failed to provide any substantive analysis. Similarly, SAWPA has failed to produce any documentation of its designer's analysis of the application of CIPP in PVC before publishing the project for bid. Nonetheless, CKC has continued to perform work on the project, including completion of segments 1 through 10 and commencement of work in phase 2. CKC is committed to achieving a plan to complete segments 11 through 16. However, CKC's subcontractor, Spiniello Companies, and Spiniello's suppliers, Norditube and Applied Felts, will not furnish CIPP liner materials or perform work to install CIPP until SAWPA substantively addresses the issues raised in their February 26, 2016 claim and subsequent correspondence. Moreover, even if Norditube was willing to furnish CIPP for the project, which as of April 26, 2016 it is not, CKC has not been able to find a subcontractor to install the CIPP. Of the three qualified installers, two have refused to participate in the project. Notably, despite your statements, Michels has declined to participate in the CIPP work. Thus, at this time, CKC is prevented from proceeding with the CIPP lining operations. CKC remains committed to proceeding with the project but is at an impasse. We again request an all hands meeting.

2. The data contained within the ovality report speaks for itself. CKC is not required to paraphrase the data for SAWPA.

3. CKC has provided all documentation required for the acceptance of segments 1 through 10. CKC recently received a request for the following: (1) additional information related to the vericure submittal; and (2) a stamped report on the Norditube liner thickness. CKC is in the process of obtaining this information.


4. As detailed in 1, above, CKC is performing all work available in phases 1 and 2. However, without the cooperation of Spiniello, Norditube, and/or an alternative subcontractor (of which at this point there is none), the work on segments 11 through 16 cannot progress. Until SAWPA is willing to discuss

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reasonable solutions to the design issues or provides the identity of someone willing to proceed with the CIPP work, we have a serious dilemma. SAWPA's published specifications limit the CIPP scope to very few installers and suppliers, and from our research none of them believe the specification is adequate and none of them will work on the job. The design issue is the critical path.

Please contact us to schedule an all hands meeting. We expect such a meeting will include an explanation from SAWPA's expert concerning how he concluded the plans are adequate, and identify who SAWPA believes is qualified to perform the CIPP work.

Very truly yours,



P. Randolph Finch Jr.,  
Partner

PRF:nlh/39M6683

cc: Charles King Company (via email only)  
Attn: Mr. Charles "Butch" King  
Mr. Scott King  
Mr. Steve Radaich

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ATTORNEYS AT LAW

P. Randolph Finch Jr.  
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File 1494.007

June 10, 2016

VIA OVERNIGHT MAIL

Ms. Kelly Berry  
Clerk of the Board  
Santa Ana Watershed Project Authority  
11615 Sterling Avenue  
Riverside, California 92503

VIA OVERNIGHT MAIL

Dale A. Ortmann, Esq.  
Richard Mah, Esq.  
Hunt Ortmann Palffy  
Nieves Lubka Darling & Mah, Inc.  
301 North Lake Avenue, Seventh Floor  
Pasadena, California 91101-1807

Re: Claim Pursuant To Government Code Section 910 et seq.  
Project: Inland Empire Brine Line Reach V  
Rehabilitation And Improvement Project – Phase 1  
Owner: Santa Ana Watershed Project Authority  
Contractor: Charles King Company

Dear Ms. Berry and Messrs. Ortmann and Mah:

We represent Charles King Company (“CKC”) regarding the Inland Empire Brine Line Reach V Rehabilitation and Improvement Project – Phase 1 (“Project”). This is CKC’s claim for payment and action from the Santa Ana Watershed Project Authority (“SAWPA”) concerning the Project. The following information is provided pursuant to Government Code section 910, et seq.

1. Name And Address Of Claimant  
  
Charles King Company  
2841 Gardena Avenue  
Signal Hill, California 90755
2. Address To Which Notices Should Be Sent  
  
P. Randolph Finch Jr.  
Finch, Thornton & Baird, LLP  
4747 Executive Drive, Suite 700  
San Diego, California 92121  
pfinch@ftblaw.com
3. Circumstances Giving Rise To And The Claim

On or around November 3, 2014, SAWPA and CKC entered into a written contract pursuant to which CKC agreed to construct the Project per the plans and specifications furnished by SAWPA in exchange for payment by SAWPA (the “Contract”). The Project scope of work included the lining of in-place PVC pipe with CIPP liner, among other things. The Contract also included Public Contract Code section 1104, which warrants that following SAWPA’s plans and specifications will result in an acceptable installation, etc. The Project has experienced issues falling into three general categories: (1)

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delays and increased costs incurred due to the replacement of incorrectly designated materials; (2) increased costs and delays associated with the installation of CIPP in existing PVC pipe; and (3) payment due to CKC for work performed on the Project.

A. Incorrectly Designated Materials Claims

During construction there were changes by SAWPA to the materials required for the maintenance access structure which resulted in increased material costs and delays. CKC submitted a request for a time extension related to replacement of the materials as the ordering of materials resulted in substantial delays to the Project. In Contract change order 2, SAWPA unilaterally agreed to a 19-day time extension but refused to compensate CKC for the costs of the delay. CKC protested the change order and seeks a time extension for 42 days of delay (instead of 19) resulting from the material changes as well as payment for its extended general conditions.

B. CIPP Liner Issues

CKC's CIPP lining subcontractor, Spiniello Companies ("Spiniello"), started the CIPP lining operations with a SAWPA approved liner manufacturer, Applied Felts. After installation in shots 11 through 16 of Reach 1, numerous issues were experienced, including liner tears. CKC and Spiniello incurred significant costs to investigate, repair, remove and replace certain segments of the PVC pipe that had been lined with Applied Felts' liner. Due to the problems experienced in pipes lined with the Applied Felts liner, CKC and its subcontractor obtained approval to complete the remaining lining operations on the Project with Nordiforce liner manufactured by SEKISUI Norditube, Inc. ("Norditube").

During installation of the Norditube liner, problems were again experienced. On February 25, 2016, Spiniello submitted a notice of claim asserting the Project design contained errors and deficiencies which resulted in liner problems on the Project. CKC submitted the claim to SAWPA and asked for direction. CKC subsequently submitted numerous RFIs starting with RFI number 52, providing additional detail concerning the claim. SAWPA failed to timely or completely respond to the RFIs.

Because there is no resolution of the asserted design issues, Spiniello will not return to the Project. In addition, by letter dated March 17, 2016, and again by letters dated April 21, 2016 and May 19, 2016 in more detail, Norditube asserted it will not furnish liner for the Project as it concludes the SAWPA plans and specifications are defective and will not result in a functional installation. CKC has contacted alternative subcontractors to obtain pricing to perform the CIPP work. All three eligible subcontractors have declined to participate in the Project and no subcontractor or supplier will offer a price to perform the CIPP work per the SAWPA plans and specifications. As a result, performance of the Contract has become commercially impracticable and/or impossible.

Due to the above, CKC and its subcontractor, Spiniello, have incurred significant costs due to the inspection, investigation, repair and replacement of liner. In addition, the Project has suffered significant delays and CKC and Spiniello have incurred costs related to extended field operating costs and general conditions, extra and prolonged work, and continued maintenance costs.

4. General Description Of Damages

Due to the circumstances listed above, CKC, and possibly Spiniello, are entitled to additional costs, a time extension, and extended field operation costs and general conditions. As the Project is still ongoing and an appropriate correction to the Project plans and specifications has not yet been determined,

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CKC's damages, and the damages incurred by CKC's subcontractors, are not yet fixed. However, those damages will include costs of delays, costs associated with the defective design of the Project and payment for funds withheld from payment to CKC by SAWPA, together with interest. CKC requests SAWPA suspend the Project and reconsider the plans and specifications in light of all the significant issues raised to date. If SAWPA terminates the remaining work on the Project, CKC will seek the profit it expected to make on that work, as well as payment for all materials already purchased for that work.

5. Names Of Public Employees Causing The Damage

CKC is not aware of all of the SAWPA employees that caused its damages. However, CKC is informed and believes the following SAWPA employees, representatives, and/or agents have knowledge of the components of CKC's claim: Michael Yepiz, Ed Durazo, Michael Metts, Justin Scheidel, David Ruhl, and Richard Haller.

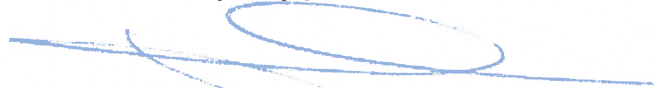
6. Amount Claimed

The amount claimed is such that jurisdiction of this claim would not qualify as a limited jurisdiction case.

7. Conclusion

Pursuant to Contract section 10.1, CKC requests SAWPA participate in mediation of this claim. Please respond to this claim within the time required by Government Code section 910, et seq., i.e., within 45 days of the date of this letter.

Very truly yours,



P. Randolph Finch Jr.,  
Partner

PRF:kam/39J4189

cc: Charles King Company (via email only)  
Attn: Mr. Charles "Butch" King  
Mr. Scott King  
Mr. Steve Radaich  
Ms. Debbie King

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July 29, 2016

Dale Ortmann          ortmann@huntortmann.com  
Hunt Ortmann et al.  
301 North Lake Avenue, 7<sup>th</sup> Floor  
Pasadena, CA 91101-5118

RE:    Principal:    Charles King Company, Inc.  
      Project:      Inland Empire Brine Line Reach V Rehabilitation & Improvement project,  
                      Phase 1  
      Obligee:     Santa Ana Watershed Project Authority  
      Surety:      Ohio Casualty Insurance Company  
      Bond No.:    024057457  
      BMS File:    51795.1

Dear Mr. Ortmann:

This letter is in response to your letter dated July 15, 2016 on behalf of the Project Owner.

List of Bidders: We were able to obtain the list of bidders from other sources.

Subcontractor Bond issued by F&D: Ohio Casualty requested an assignment of the District's rights on that subcontractor bond because when it was issued, the wrong obligee was named. The correct obligee should have been Charles King Company. To the extent Spinello has exposure on this project, Ohio Casualty and or Charles King would like to pursue the bond for such recovery. If the District assigns its rights to Ohio Casualty or Charles King then we can pursue F&D. If the District declines to make the assignment, then we will demand that the District pursue F&D. We do not believe the District intends to involve a subcontractor's surety in additional litigation and upon that basis we request the District assign its rights to Ohio Casualty. Let me know if this is acceptable and I will prepare the necessary assignment document.

Contractor to complete the Project: We understand the District believes Charles King can finish the project. Our investigation indicates that both Charles King and Spinello, along with many others do not believe the Project can be completed under the current contract documents. For our purposes, does any one associated with the District, or your office, believe

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there is a contractor who will enter into a contract to finish the Project under the current contract documents? If yes, please send me the name of that contractor. If no, please so indicate.

Demand upon Bond: We acknowledge your requirement that Ohio Casualty respond to the District's arbitrary response date of July 31, 2016. Be advised that as part of Ohio Casualty's independent investigation, it has retained experts and we are waiting on a report. Also, the documents SAWPA provided by link include 2,002.2 MB of data, in unsearchable pdf format. We are not complete with a review of those documents. Therefore, Ohio Casualty will respond to the performance bond claim within a reasonable amount of time, however, we do not believe that response will be by Sunday, July 31. As soon as our expert's report is received, we should be able to finalize Ohio Casualty's response to the performance bond claim.

Stop Notices: We have not received any stop notices from you and therefore conclude there are no stop notices.

May we suggest an "all hands" informal meeting under EC 1152 to discuss how to proceed and complete this Project? I would hope a meeting with all concerned and their experts could resolve this case before expensive litigation ensues. Please advise if the District and its expert are interested in such a meeting.

This correspondence and all prior or subsequent communication is made with the express reservation of all rights including those under CC 2856, which are expressly not waived, and defenses, known or unknown, whether mentioned herein or not, which Surety or its principal may have at law, equity, or under the terms and provisions of the bond and contract documents.

We look forward to working with you and the Authority to resolve this matter. Please feel free to call or email at anytime.

Very truly yours,

*David L. Hughes*

DAVID L. HUGHES

cc: Jason Stonefeld, Liberty Mutual  
Gary Shevik, Liberty Mutual  
Greg Smith BM&S  
Randy Finch

1           6.       Tapping Installed In CIPP For Saddles And Sleeves

2           It is industry standard that pressure CIPP should not be punctured. At the end of a run,  
3           the liner should be discontinued at each end where a side connection or fitting is required. The  
4           liner is typically stopped and sealed with a spool piece for the side connection. Specification  
5           15100, 2.10 specifically called for the installation of tapping saddles at points of connection.  
6           In order to install the saddle, CKC was required to drill through the CIPP liner. The  
7           specification in 2.10.B.1 provides the “tapping saddles and sleeve shall be installed according  
8           to the Manufacturer’s written instructions and recommendations.” However, there is no  
9           recommended practice for tapping when installing a saddle or sleeve in a CIPP pressure liner.  
10          CKC was told the practice is typically not done in pressure pipelines.

11          When CKC performed saddle installation per the plans, the liner tore in more than one  
12          instance. As a result, CKC suggested SAWPA revise the plans and specifications to avoid  
13          puncturing the liner. SAWPA refused, stating the way the hole was drilled caused the tear.  
14          SAWPA has no proof that there was any error in CKC’s drilling practices and neither the  
15          saddle manufacturer nor the CIPP manufacturers have recommendations on drilling  
16          methodology in this situation. Rather, industry experts suggest the liner will likely fail any  
17          time it is drilled through; this is especially true where the host pipe is smooth PVC as discussed  
18          above.

19          Norditube also confirmed the liner should not be drilled. When the Norditube submittal  
20          was turned in, it specifically stated the liner should not be drilled. However, the Project  
21          engineer disregarded the manufacturer’s recommendation and directed CKC to continue to  
22          drill through the liner for saddle installation.

23               7.       Performance Of The Contract Is Impossible/Impractical

24               CKC consulted with numerous subcontractors and material suppliers regarding the  
25               CIPP design provided by SAWPA and sought their agreement to perform the remaining work  
26               on the project in accordance with the specification. The two major material suppliers for CIPP,  
27               Norditube and Insituform, refused to furnish materials to the project based on the existing  
28               specification. In addition, all three qualified subcontractors for CIPP installation would not



1 perform installation service on the project due to what they concluded were specification flaws  
2 and unavailability of materials. As a result, it was impossible, or at least commercially  
3 impractical, for CKC to proceed with the work, as directed by SAWPA.

4 CKC informed SAWPA of the unavailability of suppliers and installers on numerous  
5 occasions. However, rather than provide a buildable solution, SAWPA's only effort to  
6 progress the project was to call the suppliers directly in an effort to convince them to perform  
7 the work per the existing specification. That too was unsuccessful. The overwhelming  
8 sentiment of the industry was, and is, that SAWPA's specification is defective. As a result, no  
9 one would do the work regardless of SAWPA's efforts to convince them otherwise.

10 Investigation and discovery are ongoing and CKC reserves its rights to amend or  
11 supplement this response.

12 SPECIAL INTERROGATORY NO. 14:

13 IDENTIFY all persons whom YOU believe have knowledge of the facts set forth in  
14 YOUR response to Special Interrogatory No. 13.

15 RESPONSE TO SPECIAL INTERROGATORY NO. 14:

16 CKC objects to this request on the grounds it is vague and ambiguous, calls for a legal  
17 conclusion, calls for the disclosure of premature expert opinion, and seeks information  
18 protected from disclosure by the attorney-client and/or attorney work product doctrines.

19 Subject to and without waiving the foregoing objections, CKC responds as follows:  
20 Charles King, Debbie King, Scott King, Steve Radaich; Stephen Petrillo, Luis Best; Larry  
21 McKenney, Celeste Cantu, David Ruhl, Richard Haller; Michael Yepiz, Ed Durazo; Mike  
22 Metts; Representatives of Applied Felts and Norditube.

23 Investigation and discovery are ongoing and CKC reserves its rights to amend or  
24 supplement this response.

25 SPECIAL INTERROGATORY NO. 15:

26 IDENTIFY all DOCUMENTS and other tangible things that support YOUR response  
27 to Special Interrogatory No. 13.

28 / / / /