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May 10, 2012

Received
on

VIA EMAIL - j.jenkins@kcc.ks.gov

Judy Jenkins, Litigation Counsel
Kansas Corporation Commission
1500 SW Arrowhead Rd
Topeka, KS 66604

MAY 10 2012

by
State Corporation Commission
of Kansas

Re: Docket No. 12-DPAX-730-SHO - Bob Bergkamp Const. Co., Inc.

Dear Judy:

Pursuant to our recent telephone conferences, please be advised that I represent Bob Bergkamp Construction Co., Inc. in connection with the above reference matter. My client has provided to me the Staff's Motion to Show Cause and the subsequent Errata to Motion to Show Cause which were both filed before the Kansas Corporation Commission in mid-April 2012. My client has requested that I communicate with you in connection with the Show Cause Motion in an effort to resolve this matter prior to any hearings in this matter which are currently scheduled to commence on June 14, 2012. The Kansas Corporation Commission and its staff have requested that we attempt to resolve this matter through a Stipulated Settlement Agreement which would be subject to commission approval on or before May 25, 2012. The purpose of this letter is to follow up on our recent telephone conference in an effort to accommodate the Commission's request and resolve this matter voluntarily prior to the June 14, 2012 hearing.

I've represented the company for nearly thirty (30) years and this is the first time that I am aware of that the company has had to address a show cause proceeding as is present in the instant case. Based upon our recent telephone conference and the filed show cause pleadings, it appears as though this matter is based upon a failure to exercise reasonable care under the circumstances. I've communicated with management at Bob Bergkamp Construction Co., Inc. with regard to the procedures which it will utilize in the future in order to avoid and prevent situations as that which occurred in this case. They have advised me of the following:

1. The company will continue to call one locates as it has always performed in the past (and was done in this case).
2. The company will continue to hold what they call "daily toolbox safety briefings", which are held every morning prior to the commencement of any construction activities at the job site. The briefings are conducted by the superintendent of the project and attended by all company employees involved in any construction

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Judy Jenkins
May 10, 2012
Page 2

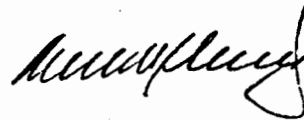
activities at the subject site. The agenda at those meetings include among other items, any possible utility conflicts that might be encountered by the company throughout that specific work day. Those utility conflicts clearly include taking the appropriate cautionary steps during any excavation phase of the project as to avoid hitting or damaging any pipelines at the project site.

3. The company will, prior to commencing excavation activities in or near the area marked for excavation, test the depth within the marked area utilizing a shovel for the express purpose of confirming or determining the precise depth of the pipeline as well as its location. This task will be specifically addressed at the morning daily briefings, performance assigned to a specific company employee and confirmation made that the task had been performed with the foreman on site prior to the commencement of any excavation work. This task and the performance thereof will be documented in the company's safety records prepared from the daily briefings.

These steps, in the company's opinion, will prevent the unfortunate events which are the subject of the Staff's Motion to Show Cause from occurring in the future. The company treats these situations quite serious and will do everything within its power to avoid these matters from occurring in the future. The company has an outstanding track record with regard to safety and will do everything in its power in the future to maintain and enhance its safety record.

The staff is recommending a fine of \$5,000.00 for the violation in this matter. Based upon the matters set forth above and the company's prior outstanding safety record, the company is respectfully requesting a reduction (perhaps by one-half) in the recommended fine for the violation of the KUUDPA. After you've have an opportunity to review the matters above set forth, please give me a call should you have any questions or further inquiries with respect to this matter. Thank you.

Very truly yours,



Milo M. Unruh, Jr., of
Arn, Mullins, Unruh, Kuhn & Wilson, LLP

cc: James K. Snook, CEO