

P-8/TP

January 9, 1998

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Ref: State Project No.97160-3311/3318
W.P.I. No. 1157811

driving piling at that site. However, Cone never requested clarification of the note and, indeed, the Department advised Cone that work could proceed without all utilities being moved.

The contract Supplemental Specification, A455-8 Pile Installation Plan, begins:

At the preconstruction conference or no later than 30 days prior to driving the first pile, the Contractor shall submit a pile installation plan for approval by the Engineer.

The specification then goes on to detail the required information to be included in the pile installation plan. Following the 12 items to include in the plan is the concluding paragraph which states:

were delaying the pile installation. Cone's approved baseline schedule indicates that Clearing and Grubbing in the area of the bridge was scheduled for an early start of December 12, 1996, and an early finish of December 18, 1996, with one day of float, a near critical item.

The approved baseline schedule submitted by Cone **does not tie the relocation of all utilities** at the North end bent of the US 92 bridge to the installation of test piles in that area. Instead, it provides for test piling to be driven after **PILE INSTALLATION PLAN REVIEW & APPROVAL** and **TEMP RELOCATE OH PWR US 92 LT 397-415**. **US 92 E/B BR - DRIVE TEST PILE** is shown to begin December 6, 1996, and continue through December 11, 1996. **TFCO - INSTALL UGE US 92 LT 397-415** does not commence until January 20, 1997. and

adjustments or temporary relocation work, nor for the conditions resulting therefrom, where such adjustments are (1) not necessitated by the construction of the project, (2) done solely for the benefit or convenience of the utility owner or its contractor, or the highway contractor where his construction procedures are considered to be other than normal, or (3) not shown on the approved plans for the utilities relocation or the construction.

Cone has stated that it considered the conditions as unsafe to proceed driving the test piling without the lines being completely removed and has sighted a "Letter of Interpretation" issued by the United States Department of Labor Occupational Safety and Health Administration in 1994, to St. Paul Fire and Marine Insurance Company which states:

"This exchange of information is for the contractor to go forward with his schedule and incorporate the utility involvement. ...

... And then we reach Item 6, the Contractor's Preliminary Schedule and Approach to the Project. And would you mind proceeding.

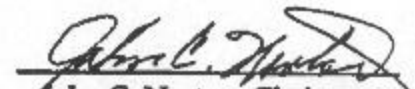
MR. KERKER: No, not at all. Thanks. If you look at this, I can give you a pretty good indication where we are going. John, right now I do not have a schedule. I'll have that at the precon. But I can give you a basic description on where we're going to proceed and what areas we're going to start first, if that's suitable....

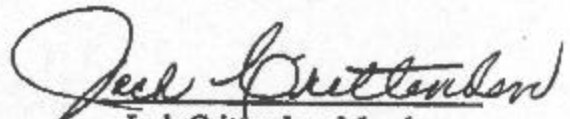
MR. KERKER: As far as our bridge operations, I would imagine that's going to be mainly what the utility

MR. BREZNAY: So any covering, if you're going to be within ten feet, just, I'll give you a card, give - a call. If you can, 48 hours notice would be great, we'll have it covered up for you, taken care of.

MR. KERKER: Good point, and I'll tell you, honestly, what we do is we, when we drive a pile, I don't care if you all say we don't have any utility in there, we notify somebody anyway. It's just a rule of thumb, because even though, you know, say MCI says they don't have anything in there, we notify everybody that we're driving piles. That way, if someone needs to be there or if someone has a concern or whatever, we can take care of it. That's normally the way we do it. We have a general letter that we send out to every utility contractor.

MR. BREZNAY: That will give us plenty of time to cover it if we need to. That's all I had, John."


John C. Norton, Chairman


Jack Crittenden, Member

