



STATE OF WASHINGTON

DEPARTMENT OF LABOR AND INDUSTRIES
PREVAILING WAGE OFFICE, POST OFFICE BOX 44540

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August 5, 1999

Ben Volk, Professional Engineer
Kennewick Irrigation District
214 West First Avenue
Kennewick, Washington 99336

Dear Mr. Volk:

Thank you for your voice message outlining your interpretation of my June 30 letter. Your interpretation seems reasonable given the advice I provided. Regretfully I am writing this letter to point out the inaccuracies of my advice.

It was my intention to provide a prevailing wage determination that would enable the parties to resolve and retire this case. I would still like to see this matter resolved. It was not my intention however, to apply Landscape Construction wages to the bulk of the work in dispute. I have not lost sight of the plain fact that these contracts are for construction of a water supply system. They are not contracts to perform landscaping.

In preparing a response to your voice message, it was pointed out to me that the Utilities Construction scope of work description clearly applies those (utility) wage rates to the restoration of the disturbed right-of-way, including landscaping. Therefore, even the landscaping portion of these contracts are required to be paid at the Utilities Construction prevailing wages.

While I enjoy a broad authority on prevailing wage matters under the statute (RCW 39.12.015) as well as a good deal of latitude and deference by the courts, my letter surely cannot overcome a brute fact. In this case, the enclosed scope of work description precludes the use of Landscape Construction prevailing wages on water system construction contracts.

I believe the enclosed Utility Construction scope description is accurate. A fairly large volume of public work involves construction of water, sewer and storm drain systems, and I know this work is indeed paid at Utilities Construction wages, according to industry practice. Prevailing wage law exists to prevent government contracts from having the effect of eroding these established local wage standards.

Ben Volk, P.E.
August 5, 1999
Page 2

Even if we were to conclude that the work in dispute is similar to a commercial or agricultural sprinkler system, those systems are specifically excluded from the Landscape Construction scope description. They certainly are not similar to the lawn or landscape irrigation systems for which the Landscape Construction wages are intended.

Again, it has been my hope to facilitate resolution of this case in a way that achieves the consent of the parties involved. I now cannot see an opportunity to apply wages other than the Utilities Construction prevailing wage, and I sincerely apologize for the poor advice I provided earlier.

Please do not hesitate to contact me for any reason, and particularly if you see an opportunity to achieve resolution. My phone number is (360) 902-5330. My fax number is (360) 902-5300 and my e-mail address is chrj235@lni.wa.gov.

Sincerely,



Jim P. Christensen
Industrial Statistician

cc: Chuck Garner
Carlos Reyes

enclosures