



North American Society for Trenchless Technology
2007 No-Dig Conference & Exhibition



San Diego, California
April 15-20, 2007

Paper D-4-04

DOCUMENTING AND PRESENTING COSTS IN UNDERGROUND CONSTRUCTION CLAIMS

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ABSTRACT: By its nature underground construction has to address many unknowns and variables. Many contracts anticipate potential claims for differing site conditions and other variables. As an underground contractor, the question is not will I ever have to file a claim but, will I be prepared when a claim has to be filed. Therefore it is imperative to understand how to prepare for, document and present an underground construction claim.

Each claim is unique, yet the need to capture labor, equipment, material and subcontractor costs is always essential. Claims also need to recover field overhead, home office overhead, profit, and project delay costs. Finally, claims need to identify scheduling, escalation, acceleration and inefficiency costs. A claim can also cause contractors to lose of focus on business fundamentals and therefore create losses on other projects and in other areas of the business. These losses must be avoided.

Underground construction claims are unique yet have some similarities to all construction claims. Critical stages are involved in the underground construction claims process: 1st Contract Terms. 2nd Pre Claim Preparation and Training, 3rd Notification, 4th Use of Experts, 5th Preparation, Presentation & Mitigating Damages and 6th Negotiation/Dispute Resolution. Each stage includes items critical to successful resolution of claims.

Underground construction claims take time, effort and persistence. Our purpose is to examine what is needed to properly document, present and negotiate “win-win” underground construction claims.