

Write it down



BY LARRY CAUDLE

Precise documentation of the facts is critical

There's nothing more frustrating to a contractor's legal team and upper management than being tasked with drafting or presenting a claim and having no reliable project documentation upon which they can rely to provide the necessary facts. In some instances, the legal team or management becomes involved in a claim issue early enough

I often tell field personnel that they should assume they are the eyes and ears of the project scheduler.

to discover bad reporting and to instruct field personnel on the proper methods to document the facts being experienced. In other

instances, it is too late and everyone must scramble to re-create an accurate record of construction. Rarely is this effort successful.

Anyone who has prepared a claim—big or small—knows that its success or failure will depend largely on the contractor's ability to convince the public entity that (1) events occurred that were not the contractor's responsibility under the contract; and (2) the contractor incurred additional costs or the time for constructing the project increased as a result. Documenting precisely the events giving rise to the claim and demonstrating the cause-and-effect relationship between such events and adverse impacts experienced by the contractor is of paramount importance.

More than just a paycheck

Too often, effective field reporting is viewed by project foremen and superintendents solely as a means of documenting equipment and labor hours so that hourly personnel receive their paychecks the following week. Contractors must reverse this by ensuring that complete and accurate reporting is as much a part of foremen's and superintendents' job responsibilities as productivity. Next, they must provide the proper instruction on sound reporting practices so that providing detailed information on daily reports and in diaries becomes a habit.

Training in field documentation should impress upon employees the need to report the "what, when, where and how" of unforeseen events in field reports. The "what" should describe in detail the unforeseen event.

The "when" adequately states the time of day of the precipitating event and, more importantly, describes the


timing of the impacts from the event. Often, the aftereffects of an unforeseen event go on for hours, shifts, weeks and even months following such event. Subsequent reports should continue to describe the impacts experienced on a daily basis until they conclude.

The "where" is perhaps the most often overlooked aspect of effective reporting. "Where" describes the precise location on the project where the event and its consequences took place. In the case of grading-related events or other road-

side development work, the "where" should include the precise station or station range. If a major structure is involved, the report should identify the abutment, pier, shaft, etc., that is involved or, alternatively, if a pour schedule has been prepared, the pour number should be identified.

Lastly, the "how" must provide the critical link between the event and the effect and thus should explain how the event resulted in a particular effect. To illustrate, if an unforeseen subsurface obstruction has substantially slowed utility production, the report should describe in detail how the obstruction resulted in decreased production.

I often tell field personnel that they should assume they are the eyes and ears of the project scheduler and, accordingly, the information in their reports should be sufficient for the scheduler to accurately maintain the project schedule without having to visit the project. Indeed, in many claim scenarios, as-built schedules must be verified as to their accuracy. Reporting from crews performing the work is the only reliable means of verifying such schedules.

Lastly, contractors must understand that the training described above will be futile unless contractors have developed the necessary daily report forms or diaries to enable field personnel to properly carry out their reporting functions. 

Caudle is a principal in Kraftson Caudle LLC, a law firm in McLean, Va., specializing in heavy-highway and transportation construction. Caudle can be contacted via e-mail at lcaudle@kraftsoncaudle.com.