From: Graeme Bissett [graeme.bissett@[redacted]
Sent: 08 May 2009 12:55
To: Richard Jeffrey
Subject: RE: BB 2008 Accounts

Their revenues are sterling, as are a large part of their costs which will provide a natural hedge. I don't know whether they did hedge their net sterling cash flows into €, but I would be surprised if they did not. We've talked about this in the past as a reason why their margins could be under pressure but I don't believe we know for sure as the hedging decision would be taken in Germany where I would expect the execution would also be arranged with group banks.

Regards
Graeme

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Graeme Bissett
m : +44 [redacted]

From: Richard Jeffrey [mailto:Richard.Jeffrey@tie.ltd.uk]
Sent: 07 May 2009 17:13
To: Graeme Bissett (external contact)
Subject: RE: BB 2008 Accounts

Graeme, thanks, this is really useful background stuff. Do we know if they have currency exposure on this project?

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From: Graeme Bissett [mailto:graeme.bissett@[redacted]
Sent: 07 May 2009 10:09
To: Richard Jeffrey
Subject: FW: BB 2008 Accounts

3 of 3

Regards
Graeme

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Graeme Bissett
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From: Graeme Bissett [mailto:graeme.bissett@[redacted]]
Sent: 17 March 2009 22:25
To: 'david_mackay@[redacted] 'Steven Bell'; 'Stewart McGarrity'; 'Colin McLauchlan'; 'Jim McEwan'; 'Susan Clark'; 'Dave Anderson'; 'Donald McGougan'; 'Marshall Poulton'; 'Brian Cox'; 'Kenneth.Hogg@scotland.gsi.gov.uk'; Andrew

Fitchie (andrew.fitchie@dlapiper.com)
Subject: BB 2008 Accounts

Colleagues, the BB AG Annual Report for 2008 was published today. The results were in line with the preliminary announcement I commented on in a previous email. Further information provided in the 2008 Report with significance for the tram project is set out in the box, mostly the same themes as noted previously (my underlining):

- **Our stated goal is to achieve significantly higher earnings in our *Civil* business segment. In the future therefore, we will only work on projects in our core regions that are of great strategic significance or projects with particularly good earnings prospects combined with a controllable risk profile. <u>With intensified risk management</u> and more efficient organization, we have created the right conditions for growing financial success.**
- **Our capacities are fully utilized. We have a selective approach to tendering and concentrate on projects with good margins. We have intensified our risk management and have carefully extended our criteria for the acceptance of new projects.**
- **Great Britain and Northern Ireland are also major markets for Bilfinger Berger's Civil business segment. In Scotland, the city of Edinburgh awarded the contract to build a new urban tram to Bilfinger Berger and Siemens. The consortium under our leadership will be responsible for the turnkey construction of the main section of the system with a length of 18.5 kilometers. This contract is worth €350 million and our share amounts to €190 million. <u>The double-tracked tram line, which is due to go into operation in the middle of 2011</u>, will connect the airport and the northern suburbs of Edinburgh with the inner city.**
- **[In the Risk Management section] : <u>Projects above a certain volume or with a high degree of complexity are additionally monitored by a central unit with clearly defined regulations in each phase of the business, so that any required measures can be taken in good time.</u>**
- **<u>We strive to avoid legal disputes wherever possible.</u> This goal cannot always be achieved, however, with the result that our German and international companies are sometimes involved in litigation or arbitration. It is naturally impossible to predict the outcome of such cases with certainty. <u>Nonetheless, following careful examinations, we can assume that sufficient provisions have been recognized in the balance sheet for all such disputes.</u>**
- **Bilfinger Berger's business has developed according to plan in 2009. <u>No events of special significance have occurred.</u> In our next interim report, which we will publish on the date of our Annual General Meeting on May 7, 2009, we will provide a detailed overview of the first quarter of the year.**

The 2008 Preliminary Statement published in February identified a one-time write-off relating to the Norwegian E18 project of €65m (in addition to €25m taken in 2007). The description in the full Annual Report is tantalizingly different :

a one-time charge of €45 million from a more careful evaluation of projects, particularly those in early stages of completion.

Since the EBIT number which reflects these charges is identical in both documents, the obvious logic would be that the two charges were one and the same, except that €20m has somehow disappeared into other captions. The significance of this is that, on the assumption that the two charges are the same, there is no evidence of booking any new provision on any other contracts (eg tram) where losses to complete were now estimated. This would be consistent with the last bullet in the main box which indicates nothing new and adverse has happened since the year-end.

If the disclosures were being deliberately manipulated, a different reading would be that a €45m provision for new exposures had been booked (potentially for the tram) and the loss in Norway reclassified to somewhere else in the P/L.

My instinct is that this confusion is not accidental, although the changes are somewhat ham-fisted. They had nothing to lose by maintaining the disclosure about Norway as it was explained in early February. It would be easy to conclude that they would not be sufficiently cute to present an apparent provision to help their argument with tie. But the tram numbers are material to their group and Civils Division results and it must be on the group radar screen, so you never know.

In summary, their full audited Annual Report confuses the Civils results disclosure, but it seems most likely that they have not provided for any loss on the tram project and they note that no material adverse events have occurred since the year-end. Since these aspects would need to be specifically audited (and the dispute between tie and BB was known by the time of publication of the Annual Report), the real perception of risk exposure in Germany (supported by their auditors) must be considerably more limited than the now infamous attempted gouge of £50m-£80m, if any exposure exists at all.

Not a winning argument, but grist to the mill.

Regards
Graeme

Graeme Bissett
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