

Attention: Gerry Henderson
tie Limited
Verity House
19 Haymarket Yard
Edinburgh
EH12 5BH

Your reference

Our reference

FMM/SJ/310299/12/
9166673.1

24 March 2006

Dear Gerry

SDS COMMISSION

Jon Gaskell and I had a very useful meeting with Jim Cahill, Willie Fraser and Chris Reid last Thursday.

1. At the meeting, we went through the specific failures highlighted by Jim in his recent note. In broad terms, these fall under the following headings:
 - 1.1 Failure to produce an adequate updated programme timeously;
 - 1.2 Failure to complete the Requirements Definition Phase ("**RDP**");
 - 1.3 Failure to undertake surveys when required (also falling within the RDP);
 - 1.4 Failure to obtain Traffic Regulation Orders; and
 - 1.5 Inadequate resourcing and progress generally.
2. Moving forward, I am keen to gather together a body of evidence which supports **tie's** position and creates a picture of recurrent and persistent breach on the part of Parsons Brinckerhoff; this is with a view to serving a "Persistent Breach Notice" under Clause 24 Agreement as soon as possible. To this end, Jim is compiling a package of relevant documentation (for example, correspondence and minutes of meetings) in relation to each of the failures. Once we have received the documentation from Jim, we will review this in detail and provide an advice note addressing each failure, and outlining the contractual position in each case. Given the contractual significance of a Persistent Breach Notice, it is in my view important to be absolutely clear and specific in the notice with regard to the details of each breach.
3. As previously advised, the Persistent Breach Notice will essentially serve as a warning to Parsons Brinckerhoff, giving them the opportunity to improve their performance. It also allows **tie** to reserve its position in relation to determination of the Agreement, should a decision be taking at a later date to go down this route. The notice will also serve as a basis for **tie** claiming any quantifiable and direct losses which it may suffer as a result of these failures.

Regulated by the Law Society of Scotland.

A limited liability partnership registered in Scotland (number 300365) and part of DLA Piper Rudnick Gray Cary, a global organisation.

A list of members is open for inspection at its registered office and principal place of business, Rutland Square, Edinburgh, EH1 2AA and at the address at the top of this letter. Partner denotes member of a limited liability partnership.

UK switchboard
+44 (0)8700 111 111



4. I trust that the above is in order. I will of course revert to you with a detailed advice note after having received further information from Jim. In the meantime, should you wish to discuss any of the above, please do not hesitate to give either myself or Jon a call (direct lines [REDACTED] and [REDACTED] respectively). Please note that I will be away from the office from 27 March to 31 March inclusive.

Kind regards

Yours sincerely

FENELLA MASON
Partner
DLA PIPER RUDNICK GRAY CARY SCOTLAND LLP

fenella.mason@dlapiper.com

cc Ian Kendall, tie Limited
Jim Cahill, tie Limited
Andrew Fitchie, DLA Piper