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"4 - Infraco Default" (d): Track Monitoring Action Plan, WPP and Form 'C' Delays and "5 - Other Examples (ii)" Construction Phase Plan

1.1 Track Monitoring

1.1.1 Track monitoring systems help maintain the safety of railroad tracks by monitoring settlement and twist. The systems are installed when nearby construction activities, such as tunnelling or excavation, may affect the safety of the tracks.

1.1.2 Given the proximity of certain workfaces within of the Tram works to the live railway link the Infraco is required (in some instances) to satisfy the terms and conditions of the Asset Protection Agreement set out in Schedule Part 27 of the Infraco Contract with respect to Track Monitoring.

1.1.3 The Asset Protection Agreement defines / outlines the protective measures / management systems and working practises expected / required of the Infraco by Network Rail when working on or in close proximity to a Network Rail Asset. Amongst other things the Asset Protection Agreement makes reference to the following:-

- 1) The Contractor's requirement to hold a Principal Contractors Licence
- 2) Subject to this requirement to hold a Principal Contractors Licence the works are duly defined as Third Party Works.
- 3) The Contractor's interface with the Network Rail Approvals Process.
- 4) Standards with respect to the Contractor's working methods.
- 5) Confirmation that the Asset Protection Agreement covers construction works only.

1.1.4 In circumstances where the Infraco works impact / interface with existing Network Rail Assets the Infraco must demonstrate its understanding of the process / standards / constraints governing its management of works in relation to Ground Movement Precautions.

1.1.5 The requisite standards / constraints in that respect flow from the requirements of the undernoted:-

- 1) NR/SP/MTC/088 Management of Changed Assets
- 2) Design of Temporary Works
- 3) 044 Preparation of Work Package Plans
- 4) NR/PRC/MPI/C10058 Controlling the Risk of Earthworks Instability during Earth Works
- 5) Civil Engineering Operations adjacent to a Live railway

1.1.6 In accordance with the requirements of the NR/SP/MTC/088 Management of Changed Assets it is incumbent upon the Infraco to formalise its proposals for Network Rail approval in the form of the undernoted submissions:-

- 1) Asset Management Plan (High level)
- 2) Track Monitoring Action Plan (Delivery Level)

1.1.7 By way of explanation it is relevant to understand that the degree / extent of the Track Monitoring regime imposed upon the Infraco can be variable. Network Rail approval is inextricably linked / dependent on its view of the perceived risk / risks attaching to the proposed works in proximity to the (specific) Network Rail asset. In this instance, the Infraco has thus far refused to accept that the track monitoring regime has to be more onerous for the Haymarket railway corridor than other areas of the tram project.

1.1.8 Absent Network Rail approval, commencement of any works, in close proximity to the live rail link are forbidden.

1.1.9 The Infraco submitted its Track Monitoring Action Plan on the 30/08/2010 for the Haymarket Station to Edinburgh Park section of the Tram works. On 13/10/2010 (INF CORR 6432 – **Doc01**) tie confirmed to the Infraco that in effect its submission was non-compliant with Network Rail's requirements (specifically in relation to Section 5A Roseburn to Balgreen Road) and detailed the specific NR which required close-out. tie wrote to the Infraco again on 03/12/2010 (INF CORR 6814 – **Doc02**) reiterating its concerns regarding the above. Infraco acknowledged receipt of same within its letter dated 16/12/2010 (ref. 25.1.201/BCW/7717 – **Doc03**) and requested a meeting to discuss same.

1.1.10 We understand that this meeting has taken place but that as at 23/02/2011, NR approval for same remains outstanding following its rejection of the Infraco's proposals. This continued absence of NR approval stems from the lack of a revised compliant submission by the Infraco.

1.2 Construction Phase Plan

1.2.1 We are advised that until such times as the Infraco provides a revised (compliant) Construction Phase Plan acceptable to Network Rail, Section 5A Construction Works in proximity to the Murrayfield Railway Corridor cannot commence.

1.2.2 In its letter dated 17/12/10¹ (**Doc1**) tie confirmed that absent Infraco notification and subsequent Network Rail approval concerning (recent) personnel changes to the Infraco's management / organisation structure, the Infraco's current Construction Phase Plan was in direct contravention of

¹ tie letter ref INF CORR 6927/WB

"4 - Infraco Default" (d): Track Monitoring Action Plan, WPP and Form 'C' Delays and "5 - Other Examples (ii)" Construction Phase Plan

the Asset Protection Agreement sections of Schedule Part 27 of the INFRACO Contact². In this regard, tie confirmed the following:-

For clarity Network Rail have instructed that no Heavy Civils works can commence on or adjacent to their assets along the rail corridor due to BSCs non notification of changes or having gained the required approvals from Network Rail to BSCs existing approved Network Rail Construction Phase Plan in compliance with the Asset Protection Agreement sections noted above. Please provide details of the re submission timescales for the Construction Phase Health & Safety Plan so this can be notified to Network Rail

1.2.3 tie has further confirmed to the Infraco that until the Infraco submits a revised compliant Construction Phase Plan, tie in its capacity as the Third Party Representative (TPR) would be prevented from signing off WPPs.

1.3 WPP's and Form 'C' Delays

To follow

² Asset Protection Agreement sections 7.2.2.2, 7.2.2.4 & 9.4 which is contained in Schedule Part 27 of the INFRACO Contact

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FOISA exempt



For The Attention of Martin Foerder
Project Director
Bilfinger Berger Siemens CAF Consortium
9 Lochside Avenue
Edinburgh Park
Edinburgh EH12 9DJ

Our Ref: INF CORR 6432/WB

Date: 13th October 2010

Dear Sirs,

**Edinburgh Tram Network – Infraco
Infraco Contact – Track Monitoring Action Plan**

Following BSC submission of the Track Monitoring Action plan, review comments received from Network Rail and subsequent e-mail to BSC Rail Manager on the 17th September 2010. Please confirm how BSC intend to demonstrate compliance with the Asset Protection Agreement primarily Clause 3 Ground Movement Precautions.

Detailed below are Network Rails specific concerns;

- Competency of the individuals to undertake the track monitoring.
- Competency of the individuals reviewing information from site to assess the outputs from the monitoring and the individual's ability to apply a speed restriction.
- BSC procurement strategy for the provision of competent staff to comply with the appropriate Network Rail Standard.
- Network Rail have confirmed that their Maintenance staff will undertake a rapid response role. Network Rail Maintenance will not rectify any defects arising so the Consortium require to demonstrate how the consortium will undertake the rectification of any track defects arising. Network Rail also require to understand what competence BSC hold to deliver this.

Delay in close out of the above in line with the Asset Management Plan Clause 3 Ground Movement Precautions will delay commencement of works on a number of sites in the section from Roseburn to Balgreen Road.

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Any delay caused by the non compliance with the Asset Protection Agreement by will be the responsibility of BSC.


Yours faithfully,


Steven Bell
Project Director – Edinburgh Tram

NETWORK RAIL

FORM C: CERTIFICATE OF DESIGN AND CHECKING OF TEMPORARY WORKS

(Page 6 of 6)

Title of Scheme or Maintenance Works: Edinburgh Tram Network Russell Road Structure S20 Temporary Soil Nailing			
Location: Russell Road, Edinburgh			
ELR: EGM2 / ECN2 / ZZB3	Mileage: 45m 60Ch / 1m 60Ch / N/A	OS grid ref. NT 232 729	Structure No. N/A

Part 5: Endorsement by the Civil Engineer

I have considered the Temporary Works identified in Part 1 of this certificate, to be checked as Design Check category III as required by Network Rail Company Specification RT/CE/S/003, and my comments on the submission are as shown below.

Provided these comments are adequately addressed I hereby endorse the Acceptance that has been signed by the Designated Project Engineer in Part 4 of this certificate.

(Notes:

1. The organisation submitting Form C should leave reasonable space here for comments.
2. The Civil Engineer's comments may be given on a separate sheet of paper or in a covering letter if more convenient, and in such cases must be identified clearly with the Temporary Works Design and the Form C to which the comments relate and signed.)

Signed [Redacted]	Title R.G.T.
Name (Print) J. Brown	Date 24/10/10.
To be signed by the Civil Engineer.	

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For the attention of Martin Foerder
Project Director
Bilfinger Berger Siemens CAF Consortium
Edinburgh Park
9 Lochside Park
EDINBURGH EH12 9DT

Our Ref: INF CORR
6814/WB

Date: 3rd December 2010

Dear Sirs

**Edinburgh Tram Network – Infraco
Infraco Contact – Delay in agreement of Track Monitoring Action Plan**

We refer to our letter of 13th October reference INF CORR 6432WB

Please confirm how BSC are going to demonstrate compliance with the Asset Protection Agreement primarily clause 3 Ground Movement Precautions.

Below details Network Rail specific concerns

- Competency of the individuals to undertake the track monitoring
- A follow on from the above the competency of the individuals above site level to assess the outputs from the monitoring and their ability to apply a speed restriction
- How the consortium is undertaking the monitoring i.e. is it a labour only supply or a contract to deliver the whole package from monitoring through assessment to the application of speed if required
- The competency of the organisation undertaking the monitoring i.e. are they link up approved or do they hold a PCL and how this interfaces with Siemens PCL
- NWR confirmed that maintenance would undertake a rapid response role but they would not be able to rectify any defects arising and what competence does the consortium hold to deliver this NWR will seek to recover all costs from BSC

Delay in close out of the above in line with the Asset Management Plan clause 3 Ground Movement Precautions will mean no works can commence on a number of sites in the section from Roseburn to Balgreen Rd, as NWR will only sign off qualified WPPs which state that no works can commence until the Track Monitoring Action Plan has been agreed with Network Rail as is the case with Baird Drive Slope Stability.

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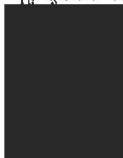
Registered in Scotland No: 230949 at City Chambers, High Street, Edinburgh, EH1 1YJ, Edinburgh Trams is an operating name of tie ltd.

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Any delay caused by the non compliance of the Asset Protection Agreement by will be the responsibility of BSC.

Yours faithfully



Steven Bell
Project Director – Edinburgh Tram

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Our ref: ^{DM} 25.1.201/BCW/7717
Your ref: INF CORR 6432/WB, INF CORR 6717/WB
& INF CORR 6814/WB

16 December 2010

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Bilfinger Berger Civil E/21			
Form	16 DEC 2010	3%	
Number			
Date			
Description			

Bilfinger Berger–Siemens– CAF
Consortium

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Fax: +44 (0) 131 452 2990

For the attention of Steven Bell – Project Tram Director

Dear Sirs,

**Edinburgh Tram Network Infraco
Site Wide – Track Monitoring Action Plan**

With reference to tie letter references INF CORR 6432/WB, INF CORR 6717/WB and INF CORR 6814/WB dated 13 October 2010, 17 November 2010 and 03 December 2010 respectively.

Having studied the content at length and considered tie's comments regarding demonstrating compliance to our proposed Track Monitoring Action Plan, we ask tie to confirm their availability to attend a meeting with BSC representatives to discuss and clarify fully any concerns they have.

We look forward to receiving your proposed commitment to meet us and in the meantime, would ask if further clarification is required prior to our meeting to contact our Mr Brian Walker.

Yours faithfully,

[REDACTED]
M Foerder
Project Director
Bilfinger Berger Siemens CAF Consortium

cc: DGo, JDo, GAn



For the attention of Martin Foerder
Project Director
Bilfinger Berger Siemens CAF Consortium
Edinburgh Park
9 Lochside Park
EDINBURGH EH12 9DT

Our Ref: INF CORR
6927/WB

Date: 17th December 2010

Dear Sirs

**Edinburgh Tram Network – Infraco
Infraco Contract – Network Rail Construction Phase Plan & Changes to BSC
Organisation**

We refer to the Network Rail/BSC/~~tie~~ Progress meeting of the 16th November 2010 and an e-mail from W. Biggins to B. Walker & Joe Richardson on the 10th October 2010 requesting the Network Rail Construction Phase Plan be revised and re issued due to BSC Re Organisation along the Railway Corridor.

As BSC has not formally notified the changes to its existing approved, Network Rail Construction Plan Ver 3 (Document Nr BSC/25.1.201/NWR/03) and gained the required approvals of Network Rail, BSC are in contravention of the Asset Protection Agreement sections 7.2.2.2, 7.2.2.4 & 9.4 which is contained in Schedule Part 24 of the INFRACO Contact.

For clarity Network Rail have instructed that no Heavy Civils works can commence on or adjacent to their assets along the rail corridor due to BSCs non notification of changes or having gained the required approvals from Network Rail to BSCs existing approved Network Rail Construction Phase Plan in compliance with the Asset Protection Agreement sections noted above. Please provide details of the re submission timescales for the Construction Phase Health & Safety Plan so this can be notified to Network Rail

To assist you in this matter listed below are the areas of concern, based upon BSC Construction Phase Plan Network Rail Ver. 3.

- 2.1 Project Organisation & Responsibilities, Organogram – Please advise if the post of Rail Manager has been removed, if this is the case please re submit the Construction Phase Plan to ~~tie~~ & Network Rail & ~~tie~~ for review & approval.

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- 2.1 Key Project Team Members – Please amend the contact details of BSCs Rimini/Possession Planning Manager/Rail Manager; if a new individual is proposed please provide his CV for approval.
- 2.1 Responsibilities of Contractor Responsible Engineer – Previously the day to day delivery of the CRE responsibilities was managed locally by the DCRE (BSCs Project Rail Manager) as the CRE is based remotely please clarify how this will now be managed by BSC
- 2.1 Deputy Contractors Responsible Engineer – Please advise who will now fulfil the role of checking & reviewing A1, A2 & A3 WPPs
- 2.4 Identification of CRE – Please remove Martin Burke and clarify the role of Jim Rice as we understand he is no longer part of the project also update the contact information notifying tie & NWR as to any new DCRE and if required submit their CV for approval
- 2.10.1 Key Personnel – Please update the key personnel connected with the project in a safety related capacity

Any delay in commencement of the Heavy Civils works along the Rail Corridor on NWR assets caused by the re-submission and approval of the Network Rail Construction Phase Health and Safety Plan will be the responsibility of BSC.

Yours faithfully



Steven Bell

Project Director – Edinburgh Tram

Cc: Mak Kader & Bill Lynas