



U.S. Department  
of Transportation

**Federal Highway  
Administration**

400 Seventh Street, S. W.  
Washington, D. C. 20590

**August 9, 2004**

Mr. Timothy J. Helm  
Office of Enforcement Policy, Government Contracts Team  
Employment Standards Administration, Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue NW, Room S3018  
Washington, DC 20210

Dear Mr. Helm:

This is in reference to your July 23, 2004 letter, which asked for our review of an issue related to the applicability of Davis-Bacon and Related Acts provisions to work on the Parkersburg Corridor D project in West Virginia. Specifically, you identified this work with utility relocation work on Federal-aid Projects Numbers APD-0282(131)C and APD-0282(111)C R/W. Our FHWA Division Office has confirmed that this work was done by R&R Pipeline from Parkersburg, West Virginia under contract to Dominion Hope Gas, Inc.

Our policy regarding the Davis-Bacon and Related Act applicability to utility-let contracts and railroad-let contracts was established by our Chief Counsel's May 15, 1985 memorandum (see enclosure). In short, if a utility or railroad is letting Federally-funded contracts for the relocation of their facilities, then Davis-Bacon and Related Act provisions are not applicable. However, if a Federally-funded highway construction contractor lets a subcontract to relocate railroad or utility facilities as part of the highway construction contract, then Davis-Bacon and Related Act provisions apply.

The subject work was done under a contract with a utility, and therefore, it is not subject to Davis-Bacon and Related Act coverage. We trust that this responds to your concerns. If you have any questions regarding this matter, you may contact Mr. Gerald Yakowenko at 202 366-1562, in my office.

Sincerely yours,

Dwight A. Horne  
Director, Office of Program Administration

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cc: JBalis EOkonkwo GYakawenko

