



Don Larson, Commonwealth Engineers, Inc.:

Steve, lets drill down into this a little bit. Who is affected by this program, some information?

Former Attorney General Steve Carter:

*Let me mention three (3) elements, first of all the Attorney General is bringing a lawsuit on behalf of local governments and State Government Units within Indiana. He is bringing the suit against three (3) major manufacturers and marketers of Ductile Iron Pipe Fittings. That is McWane, Star Pipe, and SIGMA Corporation. These entities control the vast majority of the market several years ago. They all worked together and colluded to raise prices or keep prices higher than they should have been, so Indiana communities that had these projects paid more money than they should have.*

Don:

So this would be water and wastewater projects?

Steve:

*That's right, that's right.*

Don:

What time period are we talking about?

Steve:

*Actual the pricing occurred between January 2008 and about January 2012. That's a good question, because sometimes if there is a State Revolving Loan Fund that was approved in the latter part of 2007, those dollars may not have actually have been spent on DIPF until the end of 2008, so those purchases would qualify. The same if there was a State Revolving Loan Fund approved in January 2012. The expenditure may not have actually occurred until after that, but if the pricing that the Contractor used for his DIPF came in 2012 or earlier, than that would qualify. The other thing that we know is that many of these documents may not be held by the local unit of government, they may actually be with the Contractor. So people are going to have to work with their Engineer and their Contractor. Some of these items then were not purchased directly from the three (3) defendants but maybe purchased from suppliers including suppliers that buy from subsidiaries of the three (3) Manufacturers. So one the one thing that the unit of government has to do is that they just can't look at their vendor list and say, well we didn't buy anything from those three (3) companies, because there is a good chance that they did and a good chance that they did the contract then the Contractor made the purchase. The Contractor may have actually made the purchase with a supplier as opposed to the Manufacturer. So there is a little bit of a paper trail that we have to work back through.*

Don:

So this is not just Cities and Towns, but this would also include other units of government and utility based municipally owned corporations or companies?

Steve:

*That's right, that's right, it would include if a City owns a utility, which we have that, we have variations, sometimes we actually have Not-for-Profit Corporations set-up like governmental units in Indiana that may be a regional utility. I know that there are many different forms; ultimately what counts is whether it is an entity that is controlled by a governmental unit.*



Don:

So ideally the information that you are seeking is actual Bills of Sale that would have specific information to Ductile Iron Pipe Fittings and the time period that fits within the time period that the Anti-Trust suit covers?

Steve:

*That's right. The time period is for the pricing of that product. That's when these manufacturers engaged in activity that kept the prices higher than they should have been.*

Don:

That was January of 2008 thru?

Steve:

*January of 2012. Any pricing of the DIPF that occurred within that time period we are arguing the case that it was too high, people paid a higher price, and when you think about it, the Attorney General is bringing an action on behalf of what we call "indirect purchasers". The City or the Town or the Regional Utility probably didn't buy it directly from these defendants, they bought it from somebody else or they essentially paid a Contractor for the product and the Contractor bought it from someone else so every time there was another step, the Manufacturer sold it to their subsidiary who sold it to their suppliers/distributors who then sold it to a Contractor. Every time there is some degree of mark-up so by the time you get to the end of the line, the user in our community paid quite a bit more for the product than they should have. That is what we are trying to recapture.*

Don:

What if a municipality or utility stockpiles material, it's not actually in the ground, it is stockpiled in a pipe yard?

Steve:

*Right, right.*

Don:

Is that...?

Steve:

*Yes, the key thing is whether there was a purchase made when the pricing occurred during that four (4) year period from January 2008 thru January 2012. Was there a purchase of DIPF, it really doesn't matter, we often talk about these being in projects, but if it was kept for inventory, a project that hasn't been completed yet but will be but the purchase already occurred and they have the product, that qualifies too.*

Don:

I think that we have a link to a form that you have put together that will help organize the information that you need to have?



Steve:

*Yes, right away we need information on the contact, a little bit about the project, the time period, the location of the project, or if it was for general repairs and maintenance that's fine. We just ask for a little bit of information. The key is the contact or if there are others involved in that matter, again if it was a specific project and there was a Contractor or an Engineer that did work on that, we need that right away.*

Don:

Ok, when you say right away, a couple of weeks?

Steve:

*Well we would like to have as much as we can this week and what we can't get in this week would like to have within the next couple of weeks. Following that, we will be getting back with each of those contacts and working through the document trail ultimately finding documents, that's the key to making the case, that showed the DIPF was actually purchased. Now that may be a combination of showing that there were specs put out, maybe created by the Engineer then the Contractor complied with the specs and said that "yes I am going to give you DIPF in this project" then we link back to when were public monies paid to the Contractor and then when did the Contractor pay the supplier for the DIPF so we can show that yes the product ultimately came from one of these three (3) Companies on the one end and that there were public dollars used on the other end to purchase.*

Don:

I'm sure that more questions that are going to come up through this process and....

Steve:

*One, I'm going to jump in, I am an attorney but I do want to mention that there are no attorney costs to the claimants in this case. What they will have to do is to spend some time working on producing some of the records. I understand that it will take a little bit of time, but if we can get that in over the next few weeks, I think at the end of the day if we are successful, again there is no guarantees with litigation but we are spending our time on this because we think that it will be successful, at the end of the day I think that people will look back and see that the recovery was well worth the time that they spent on gathering those records.*

Don:

Do we have any idea what kind of recovery could be expected as a percentage of costs?

Steve:

*We really don't because it depends on a wastewater or water project, that percentage is going to be higher. There is more DIPF used on a building project, a library, a community hospital, I'm thinking that where there is pipe used there are often fittings used. This covers the fittings obviously used around hydrants, where there are meters, where there are directional changes that can modify how the water flows.*

Don:

Sure. Well the cost of those fittings is much higher than the cost of the pipe.



Steve:

*Right, right. These are the expensive items, so again this is going to depend on the size of the project but the key projects are going to be the wastewater projects and community water projects. We know not every City and Town has done these over the past few years but we know many have. Sometimes in our smaller communities, as a local challenge for financing. We had storms last night and some communities are going to bear costs that they hadn't anticipated. This is a chance for them to recover some revenue that they hadn't anticipated.*

Don:

Great opportunity. I'm sure, like I said, more questions are going to come up as we go through this and we'll do our best to keep information available on our website and certainly linking back to you.

Steve:

*Yes and I can be contacted either by e-mail or by phone. My e-mail address is: [stevecarter219@yahoo.com](mailto:stevecarter219@yahoo.com) or my phone number is: 317-997-7987 and I know that Commonwealth will have additional information available too.*

Don:

We will have contact information as well as on our website.

Steve:

*Great.*

Don:

We'll get it done.

Steve:

*Ok.*

Don:

Thanks Steve.

Steve:

*Thank you.*