



Regional
NSW

WHS undertaking

Undertaking to the Secretary,
Regional NSW
given for the purposes of Part 11 of the *Work Health and Safety Act 2011*

by

Winder Controls Australia Pty Ltd

ACN 147 395 364

ABN 58 147 395 364



Purpose

The purpose of this WHS undertaking is to document the undertaking given to the **regulator**, the Secretary of Regional NSW, for the purposes of Part 11 of the *Work Health and Safety Act 2011 (WHS Act)* in connection with a matter relating to a contravention or alleged contravention by the person of the WHS Act.

Section A - general information

1. details of the company or individual proposing the undertaking

Name of company or individual	Winder Controls Australia Pty Ltd (WCA)		
Registered address	c/o Schweizer Kobras, L5, 23-25 O'Connell Street, Sydney NSW 2000		
Mailing address (if different from above)	PO BOX 320 Doonside NSW 2767		
Telephone	██████████	Mobile:	██████████
Email address	████████████████████████████████████████		
Legal structure	Australian proprietary company, limited by shares		
Type of business	Engineering company		
Commencement date of the entity	13/12/2010		
Workers	Full time: 14	Part time: 2	Other: 1
Products and services	Design, building and servicing mining equipment		
Comments	██████████		

2. the details of the alleged contravention

It is alleged that on 6 October 2020, WCA being a person conducting a business or undertaking at the Appin East Mine, part of the Appin Colliery, NSW (the **Mine**), failed to discharge its obligations under section 19(1) of the *Work Health and Safety Act 2011 (NSW)* (the **WHS Act**) to ensure, so far as is reasonably practicable, the health and safety of workers at the Mine while the workers were at work in the business or undertaking conducted by WCA.

3. details of the events surrounding the alleged contravention, e.g. incident details

WCA was engaged as a principal contractor by the Mine to undertake Drift Winder upgrade project. WCA was required to remove the rope from the Drift Winder and was using its own method of de-roping procedure, which required the use of Friction Winch and the rope reeved through the head sheave pulley. During the preparation for de-roping on the afternoon of 6 October 2020, WCA personnel reviewed the procedure and identified safety hazards and control measures. Controls included UHF radio communication and taping off a restricted access area to keep personnel out of the danger zone.

At around 4 pm on 6 October 2020, 6 WCA personnel and 1 Mine worker commenced de-roping of the Drift Winder. Not all of the workers had radios and due to a loud machinery noise on a background, many had difficulties using the radio. Shortly after commencement of the procedure, the Drift Winder stopped but the Friction Winch and Rope Reeler were still winding in rope, causing an increase in tension in the Winder rope. The tension increase resulted in a force on the head sheave pulley. At about 5 pm the crew heard a loud cracking sound and noticed the head sheave pulley wheel displaced from its support frame and fell to the ground. One worker was standing within the restricted access area which was taped off in accordance with the Mine's procedures, monitoring the rope going through the Friction Winch. After hearing the cracking noise, the worker immediately moved out of the danger area.

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Hereafter the above will be referred to as 'the **Incident**'.

4. an acknowledgement that the regulator alleged a contravention has occurred

It is acknowledged that the Resource Regulator has alleged that WCA contravened the WHS Act in respect of the incident.

5. the details of any injury that arose from the alleged contravention

No physical injuries resulted from the alleged contravention

6. the details of any enforcement notices issued that relate to the alleged contravention

Notices received:

Yes (provide details) No

Date issued	Notice type	Notice number	Contravention	Action taken to respond to notice
13 April 2021	Section 155	210413SB01	Notice to give Information and produce Documents to the NSW Resources Regulator	Information and documents provided to NSW Resources Regulator as requested
24 May 2021	Section 155	210524SB01	Notice to produce Documents to the NSW Resources Regulator	Documents provided to NSW Resources Regulator as requested
4 August 2021	Section 155	210804SB01	Notice to give Information and produce Documents to the NSW Resources Regulator	Information and documents provided to NSW Resources Regulator as requested
4 August 2021	Section 155	210804SB02	Notice to give Information and produce Documents to the NSW Resources Regulator	Information and documents provided to NSW Resources Regulator as requested

7. a statement of assurance about future work health and safety behaviour

WCA is committed to complying with all its obligations under Work Health and Safety Act 2011 and relevant regulations.

8. when an alleged contravention is associated with an injury or illness

8.1. the details of the type of workers compensation provided (if the injured person(s) is a worker of the person)

N/A

8.2. details of the support provided, and proposed to be provided, to the injured person(s) to overcome the injury/illness

The injured person is:

- an employee of the entity
- a self-employed person
- other (please specify)
- not applicable

Support provided to the injured person(s) or injured person(s) family:

Date	Description of support	Comment

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9. the details of any existing safety management systems at the workplace including the level of auditing currently undertaken

Whilst WCA has an existing Safety Management Plan and WCA's parent company has ISO 9001, WCA plans to obtain ISO9001 and ISO45001 for itself through a development program that WCA has obtained a quotation of the development, implementation and accreditation to the above mentioned standards.

10. the details of any consultation undertaken within the workplace regarding the proposal of a WHS undertaking (including workers and work health and safety representatives)

WCA has discussed with its workforce that WCA plans to submit a proposal for an Enforceable Undertaking and has received no objections. Also WCA has shared the details of the projects that WCA is proposing and WCA's workforce is supportive of the proposed projects.

11. a statement of regret that the incident occurred (i.e. not an admission of guilt)

WCA regrets that the incident occurred and the stress and anxiety it has caused not only for the WCA's workforce but also the stress and anxiety it has caused to its clients' workforces also.

12. any rectifications made as a result of the alleged contravention

A new project director was appointed by the shareholders and senior management to oversee all WCA projects.

WCA Senior Management purchased Monday.com as the WCA's new action tracker and all tasks / actions are entered into this platform to ensure this possible contributing factor does not occur again.

Additional engineering controls that WCA implemented to ensure the rope removal and subsequent rope installation was completed safely and completed configuration would be compliant to the relevant standards and regulations.

Additional consultants/contractors with extensive experience in rope handling were engaged.

Modifications to the drift winder and friction winch control system software to remove the need for a friction winch operator and therefore remove that person from the area.

Modifications to the drift winder and friction winder software ensuring excessive force could not be exerted throughout the reeved rope components and or machines.

Inline load cells on the low tension side of the friction winch and the high tension side of the friction winch with trip points set to appropriate levels to protect all components in the rope handling system.

A load cell positioned under the head sheave mounting plate set to trip below the force necessary to cause failure in the system.

Developed a new rope removal and installation procedure that allowed the operators of the drift winder, friction winch and rope reeler to all stand in the winder house away from any danger and well clear of any stored energy related to a tensioned steel wire rope.

The implementation of CCTVs instead of spotters in certain areas and a hard barrier in place creating a corridor from the drift winder to the head sheave that included the friction winch and rope reeler.

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All personnel that were in control of equipment or in spotters locations considered critical were provided with radios that were equipped with noise cancelling head phones, ensuring clear communications despite the background noise of various plant.

WCA ensured that the various plants were fitted with an HMI display that showed line pull in tonnes and all equipment were consistent.

Total amount spent on rectifications \$400,000

13. an acknowledgement that the WHS undertaking may be published and publicised

WCA acknowledges that the undertaking will be published on the regulator's website and may be referenced in NSW Resources Regulator material.

WCA acknowledges that the undertaking may be publicised in newspapers or other publications (where applicable, as specified in Section B).

14. a statement of ability to comply with the terms of the undertaking

WCA has the financial ability to comply with the terms of this WHS undertaking and have provided evidence with this undertaking to support this declaration.

15. statement regarding relationships with beneficiaries

There are no known current relationships with any of the beneficiaries outlined in the enforceable undertaking, other than current employees and contractors of WCA and the broader coal mining community.

16. intellectual property licence

WCA grants the Regulator a permanent, irrevocable, royalty-free, world-wide, non-exclusive licence to use, reproduce, publish, distribute, electronically transmit, electronically distribute, adapt and modify any safety presentation delivered as part of this WHS undertaking.

17. the company or individual may be required to provide information of any prior work health and safety convictions

The regulator requests a list outlining details of any prior work health and safety convictions or findings of guilt under work health and safety legislation² or work health and safety related legislation.

Does WCA have any such prior convictions or findings?

Yes No

2 Subject to any local legal constraints such as spent conviction legislation.

The list is attached (if applicable)

Yes No

18. a commitment to participate constructively in all compliance monitoring activities of the undertaking

WCA acknowledges that responsibility for demonstrating compliance with this enforceable undertaking rests with the organisations who have given this enforceable undertaking. Evidence to demonstrate compliance with the terms will be provided to the regulator by the due date for the term.

WCA acknowledges that the regulator may undertake other compliance monitoring to verify the evidence that is provided and compliance with the relevant terms of this enforceable undertaking. The evidence provided to demonstrate compliance with the enforceable undertaking will be retained by the organisations who have given this enforceable undertaking until advised by the regulator that the enforceable undertaking has been completely discharged.

WCA acknowledges that the regulator may initiate additional compliance monitoring activities of compliance with the terms of the enforceable undertaking, such as inspections, as considered necessary at the regulator's expense.

19. a commitment that the behaviour that led to the alleged contravention has ceased and will not reoccur

WCA commits that the behaviour that led to the alleged contravention has ceased and that it will take all reasonably practicable steps to prevent recurrence of the Incident.

20. a commitment to the ongoing effective management of work health and safety risks

WCA is committed to the ongoing effective management of work health and safety risks in accordance with WHS Act 2011 and relevant regulations.

21. acknowledgment of WHS undertaking guidelines

I have read and understood:

Enforceable undertakings guidelines version PUB17/121/DOI dated August 2020.

Section B – enforceable terms

1. Publication of information about the undertaking

WCA must, within 30 days of receiving notification from the regulator of the acceptance of the WHS undertaking, cause a public notice to be published in Sydney Morning Herald and the Illawarra Mercury newspapers. The public notice will be drafted using a script provided by the Regulator.

2. A commitment to disseminate information about the undertaking to workers, and other relevant parties (which may include work health and safety representatives), and in the annual report (if applicable)

WCA must disseminate information by implementing the following:

- (a) display a summary of the WHS undertaking on all mine, mine office and contractor notice boards at the Mine for a period of at least 30 days commencing within 30 days of receiving notification from the regulator of the acceptance of the WHS undertaking;
- (b) communicate, as far as reasonably practicable, the WHS undertaking through toolbox talks to workers, including staff and contractors at the Mine, following acceptance; and
- (c) present the WHS undertaking to all the workforce during WCA's Annual Meeting.

Dissemination by each of the above methods must occur within 30 days of receiving notification from the regulator of the acceptance of the WHS undertaking and continue at regular intervals of no more than three months throughout the life of the undertaking.

3. Strategies that will deliver worker benefits

WCA plans to develop and implement the relevant systems and procedures that exist in ISO9001 and ISO45001 standards to ensure a framework and system is in the workplace.

The implementation of the action tracker Monday.com will assist all workers with regards task completion and their own time management and more importantly allowing senior management to observe when a critical task is not complete and therefore providing assistance or support to the relevant worker.

WCA propose the project shown in ATTACHMENT A : Mental Health Awareness Module will benefit workers.

4. Strategies that will deliver industry benefits

The projects that WCA has proposed would assist all future individuals that face the challenge of rope handling and the complexity of these engineering solutions with an easy to use checklist that allows

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those with limited experience in this field the confidence to either proceed with the task or stop the task and seek assistance and or support.

WCA propose to deliver a presentation at six of the NSW Resources Regulator's safety seminars spread over 2 years to ensure it reaches a greater number of individuals.

The presentation would be delivered in the Mine Managers, Mechanical Engineers and Electrical Engineers safety seminars one each in 2022 and one each in 2023.

At each of the presentations WCA Engineering Managers(Mechanical & Electrical) will be attending to assist with any possible technical questions from the audience.

The presentation would consist of an animation showing the incident(shown as the regulators costs), including what areas WCA feels needed improving and warnings of what hazards / risks to be aware of. An additional animation would then be shown displaying the method that was implemented to safely install the new rope onto the new drift winder drum, including all of the newly imposed engineering controls developed for the procedure.

The animation would be created by Coal Services in collaboration with WCA including the NSW Resources Regulator, also the WCA personnel involved with coal services during the development of the animation would be the key project personnel involved in the dangerous incident and the final installed rope utilizing the improved methodology.

WCA proposes to nominate an internal project team to assist in developing the content for all of the projects and to ensure that not only various engineering disciplines are covered but also the age and roles of the individuals during both tasks will assist in providing the best possible result.

WCA propose the projects shown in ATTACHMENT A will also benefit industry.

5. Strategies that will deliver community benefits

WCA will donate \$10,000 to the Black Dog Institute Australia to help assist those in need now and in the future.

We also believe the Mental Health Awareness Module we proposed in B – 3 has an indirect benefit to the community and the families of workers.

6. A commitment regarding linking the strategy and promotion of benefits to the WHS undertaking

WCA is committed to delivering projects which in WCA's view gives back to the workers, industry and community, through our global footprint yet local presence with a team having unique skills and experience WCA can develop projects within this proposal that could have a positive effect of not only workers but also their families.

7. Reimbursement of the regulator's agreed costs associated with, and any monitoring of, the enforceable undertaking

WCA must pay the Regulator's recoverable costs associated with the undertaking as itemised below, and acknowledges that payment is due **30 days** after receipt of the regulator's invoice:

<input type="checkbox"/> investigative, legal and administrative costs	\$28626
<input type="checkbox"/> compliance monitoring costs	\$10000
<input type="checkbox"/> Development costs (Animation of Incident)	\$15000

Total amount **\$53626**

Insert case, if any, for why the regulator would not seek to recover costs.

8. Minimum spend

WCA must spend a minimum of \$263,626, excluding GST, in carrying out its obligations as set out in this WHS undertaking, inclusive of the regulator's recoverable costs.

WCA acknowledges the minimum spend comprises of:

Activities to deliver	Total estimated cost
Benefits to workers	\$65,000 (excl GST)
Benefits to industry	\$125,000 (excl GST)
Benefits to community	\$10,000 (excl GST)
Regulator recoverable costs	\$53,626
Estimated total value of the undertaking	\$253,626 (excl GST)

9. Project of undertaking

Where a project or projects are proposed to deliver benefits to workers, industry and the community, WCA offers and will carry out the projects set out in Attachment A to this undertaking.

10. Timeframe for delivery

The strategies set out in this WHS undertaking must be completed by WCA on or before 24 months following acceptance of this enforceable undertaking by the Regulator.

Section C - Offer of undertaking

BY AN INDIVIDUAL

I offer this undertaking and commit to the terms herein.

Signed:

[Person]

Name:

[Print name]

Position:

Dated at this

.....day of, 20.....

BY A CORPORATION

As a duly appointed and authorised officer or agent of
Winder Controls Australia Pty Ltd

I offer this undertaking and commit
Winder Controls Australia Pty Ltd
to the terms herein.

Bernd Portugall
Signed:
Digitally signed by Bernd Portugall
Date: 2022.01.19 12:35:18 +11'00'

Name: Bernd Portugall

Position: Managing Director

Dated at this

.....day of, 20.....

Gary Schembri
Signed:
Digitally signed by Gary Schembri
DN: cn=Gary Schembri, c=AU, o=Winder Controls Australia Pty Ltd,
email=gary.schembri@winder-controls.au
Reason: I am approving this document
Location: Kenthurst
Date: 2022.01.19.12:23:39 +11'00'

Name: Gary Schembri

Position: Projects and Sales Director

Dated at Sydney..... this

.....19th...day of ...January....., 2022

Section D – Regulator’s acceptance of undertaking

I accept this undertaking as an enforceable undertaking under section 216 of the *Work Health and Safety Act 2011*.

Peter Day
Signed:
Digitally signed by Peter Day
Date: 2022.02.10 16:51:59 +11'00'

Position: delegate of the Secretary, Regional NSW

Dated atthisday of, 20.....

ATTACHMENT A

(This attachment is incorporated in and considered part of the WHS undertaking given by Winder Controls Australia Pty Ltd for the purposes stated herein, and are enforceable terms given under section B of the undertaking by Winder Controls Australia Pty Ltd

Winder Controls Australia Pty Ltd will undertake the following:

Project Proposals

Project 1 : Rope Handling Informative

Project 2 : Rope Handling and Incident dissemination

Project 3 : Mental Health Awareness Module + Donation to Black Dog Institute Aust

Project 4 : Opal Mining industry safety presentations

Project Overview

Project 1 & 2

WCA has proposed to develop projects that will improve the industry knowledge related to rope handling and hopefully prevent any possible future similar incidence from occurring, WCA believe that we can do this by equipping the personnel responsible with the appropriate tools to allow them the confidence to either proceed with the task/project or stop the task/project knowing that too many questions went unanswered and therefore support their decision.

This information will be prepared in power point format including animations for visual impact and delivered at the Resources Regulators Safety Seminars, also a rope removal / installation checklist will be prepared and made available on the Resources Regulators Website.

Project 3

WCA's proposal for the Mental Health awareness module is due to having worked for over 3 decades in the mining and manufacturing industry yet WCA is not aware of an induction that discusses or educates about mental health, as distinct from being physically fit for work. The mining industry is a tough industry with sometimes high pressure environments that can induce stress and or depression impacting on the mental health of workers, and their loved ones.

Also, the industry has a reputation for "work hard and play hard" which can lead to heavy drinking to alleviate the symptoms of stress, WCA feels this should be addressed and people be equipped with the knowledge that will allow them to either see the signs themselves or their loved ones to see the signs before it is too late.

Donation to Black Dog Institute Australia.

Project 4

WCA is willing and able to assist in a collaborative approach with the N.S.W Resources Regulator to better understand and implement the regulator's objectives. WCA propose low cost solutions that will allow the average opal mining to work in a safer manner.

For example by modifying the ladders that access the opal mine shafts with horizontal plates at certain intervals and ensuring the opal miners use a harness and at least a lanyard clipped on will help prevent a serious fall from height.

Low cost Pentice (Overhead Protection in a mine shaft) for example or excavate cuddy's or a side cut.

Project 1 Rope Handling Informative : Cost \$60,000

1. Create an animation of the incident showing how the incident occurred. *(cost shown in publications , Regulators costs) due for completion 3 months after signing Enforceable Undertaking*

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2. Create an animation of how WCA completed the works safely including all engineering controls, soft barriers and hard barriers. *(\$25,000 cost estimate due for completion 6 months after signing Enforceable Undertaking.)(\$15,000 animation + \$10,000 preparation, review and sign off)*
3. Prepare a power point presentation incorporating the following topics and discussion on how each of these items could have contributed to the incident. *(\$30,000 cost estimate due for completion 9 months after signing the Enforceable Undertaking)*
 - Engineering controls.
 - Limiting maximum line pull and how to check throughout the rope up process.
 - Exclusion Zones.
 - Deflection sheaves if they are needed and the risks to consider.
 - Structural considerations of any headframes or structures.
 - The use of CCTVs instead of spotters to ensure no worker is in line of fire or even close.
 - The fleet angle needed to ensure your rope tracks correctly and what can be done if you must assist with tracking.
 - Documentation required that includes but not limited to the following RA's both design and operation , ITP'S , technical procedures, SWMS,etc.
 - Labour force consideration of the workforce planned or intended to complete the rope removal and installation of the new rope (age, fitness, qualification, experience, etc).
 - Communication means (hand held radios, noise cancelling headphones, number of radios, radio protocols and the location of personnel with radios).
 - Why the guidelines & standards request the 50% of the total tension and the related issues if this is not achieved.
 - Mine layout and how that could impact what method could be adopted considering often the older mines do not have adequate real estate to allow the correct fleet angle for the appropriate equipment.
 - Fleet angle importance and safe measures that can be adopted if the fleet angle is not suitable to allow the rope to reeve correctly onto the drum.
 - Checklist template to assist all future Engineers that face the challenge of rope handling with the latest changes in the TRG.
4. Prepare a fact sheet for the NSW Resources Regulator to have on its website to be used as a guideline or checklist for all future companies , contractors or mine engineers to follow to ensure all possible aspects are considered when performing rope removal or rope installation on mine winders or winches. *(\$5000 cost estimate due for completion 10 months after signing the Enforceable Undertaking)*

Project 2

Rope Handling and Incident dissemination : Cost \$30,000

- Deliver the Animation and power point presentation to the NSW Resources Regulators safety seminars for Mechanical Engineers, Electrical Engineers and Mine Managers in 2022 and 2023(3 each year), approximately 1 hour in duration and to be delivered by [REDACTED] for all 6 seminars, also providing technical support during the presentation and question time WCA will have the Engineering Managers for Mechanical and Electrical attending all 6 safety seminars. *(\$5000 / seminar x 3 completed 2022 & 3 completed 2023 , dependant on the dates set by the resources regulator for the each safety seminar each year)(\$15,000 in 2022 & \$15,000 in 2023)*

Project 3

Mental Awareness Generic Induction Module : Cost \$75,000

Proposed location for the Pilot : Coal Services , Woonona Branch.

Proposed Duration of the Pilot : 12 weeks approx.

- Mental health awareness module would be developed by a suitably trained and qualified industry expert and delivered in both the surface generic and underground generic inductions for a

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duration of 30 minutes. (*\$8000 due for completion 18 months after signing Enforceable Undertaking*)

- Small pocket booklet to be handed out to all participants to allow them to take it home and hopefully share it with their partner, family member or friends with the hope that these additional people now have the pocket booklet to recognize the signs and triggers of when their loved ones or family member start down a path that could lead to them to drug/alcohol dependency due to stress, anxiety and or depression and in the more severe cases wanting to take their own life. (*\$7500 due for completion 18 months after signing Enforceable Undertaking*)
- The pocket booklet contents (example only) (*\$15/booklet A5 size \$7500 total = 500 booklets*)
 - Stress, how to recognize stress including signs and some forms of how to manage your stress.
 - Anxiety (as above)
 - Depression (as above)
 - Useful websites to gain more knowledge about the topic
 - Useful websites including contact details of companies and government departments or agencies that can assist.
 - Useful hot line numbers when things are getting really tough.
 - WCA proposes the participants would fill in the personal details and when asked by the lecturer to write down 3 names that instantly come to mind if they needed help or want to talk to someone about losing their job or struggling with money and bills, losing a partner. WCA believes when we are in a good place those 3 names would come easily, however if we are truly battling depression, stress or anxiety then finding 3 names may appear like a huge challenge.
 - Often we hear about loneliness and feelings of isolation when people talk about depression or anxiety, who are the first 3 names these people would write down if they had a problem of any kind and maybe when they feel lonely or isolated they see these three names including the phone numbers and that prompts them to call rather than do something drastic as they feel they have no other option.
 - The overall course content will be further developed if approved within this proposal.

If the N.S.W Resources Regulator is satisfied that this was a worthwhile pilot project and felt it has a long term benefit then it could be introduced as mandatory course content for all generic surface and underground inductions, also including refreshers.

- 3 days per week for 12 week pilot with a maximum class of 14 people, ($\$3000/\text{week} \times 12 = \36000) (*\$36,000 Completed 24 months after signing the Enforceable Undertaking*) (*Final Report \$6000 Completed 24 months after signing the Enforceable Undertaking*)
- At the conclusion of the pilot, it is anticipated that Coal Services will continue delivering the course module and incorporate the costs into the course fees.

Donation to Black Dog Institute Australia : \$10,000 (*24 months after signing Enforceable Undertaking*)

Project 4 : Opal Mining Region Safety Seminars : Cost : \$35,000 (18 months after signing Enforceable Undertaking)

Prepare and deliver 2 safety seminars related to safe access for mine shafts. (*\$10,000 per visit = \$20,000*)

3 information gathering meetings in the NSW Resources Regulators office in Maitland with [REDACTED] and [REDACTED] (WCA Engineering Manager – Mechanical) (*\$3000/visit for 2 people x 3 visits = \$9,000*)

(*This topic needs more discussion between WCA and the N.S.W Resources Regulator.)

WCA's Project Director and the WCA Mechanical Engineering manager would prepare the safety presentation and deliver it in 2 regions nominated by the N.S.W Resources Regulator and take questions and assist locals where possible.

Document preparation and research (*\$6,000*)

Project Cost Summary

- Project 1 = \$60,000
- Project 2 = \$30,000
- Project 3 = \$65,000 + \$10,000 donation = \$75,000
- Project 4 = \$35,000
- RR Cost = \$53,626

Total Cost = \$253,626

[REDACTED]

Total Spent 1st 12 Months(1st year) = \$128,626

[REDACTED]

[REDACTED]

Total Spent 2nd 12 Months (2nd Year) = \$125,000

Total Spent over 2 years = \$253,626