

Muskrat Falls Corporation**Corporate Office**

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14 December 2015

LTR-CH0032001-0167

ANDRITZ HYDRO CANADA INC.

6100 Trans-Canada Hwy.
Pointe-Claire, Quebec
H9R 1B9 Canada

Attention: Mr. William Mavromatis, Project Manager

Agreement: CH0032-001 Supply and Install Powerhouse and Spillway Hydro-Mechanical Equipment

Subject: Contractor Alleged Changed Site Conditions and Schedule Impacts

Reference: Aconex Contractor Letters: 0139, 0143, 0147, 0154, 0160, 0176 & 0177

Dear Mr. Mavromatis,

In the above referenced letters, Contractor has asserted numerous allegations pertaining to work delays, differing Site conditions, impediments to progress, incomplete Work by 'others', "events" and "occurrences", all of which remain unsubstantiated or never occurred. Contractor has no substantive basis upon which to preface any time or cost impact for these alleged events as Contractor has 'inter alia' yet to provide a Contract baseline schedule against which to measure progress and quantify any delays.

For the most part Contractor's allegations attempt to hide Contractor's own acts and omissions in failing to progress the Work in a timely and productive manner. Following are some of the key factors in this regard:

1. Failure to provide sufficient craft on-Site to meet the available work fronts.
2. Failure to provide continuity of both staff and craft. Until recently Contractor's sub-contractor would leave the Site virtually unattended for 7 days at a time when the sub-contractor's entire crew base went on leave.
3. Insufficient and ineffective management team on-Site including failure to manage sub-contractor. Many of the Contractor's Site staff still maintain dual and sometimes triple management / supervisory roles despite numerous representations from Company for improvement and sufficient coverage in this regard.

4. Failure to mobilize materials and equipment in a timely manner to pursue available work-fronts. This particularly includes sufficient hydro-mobile units (some of which arrived missing crucial parts needed for erection) and pre-fabricated hoardings, virtually none of which are on-Site as of the date of this letter.
5. Pursuant to item 4 above, Contractor has failed to plan and execute the Works in a timely and productive manner and continues to flounder in this regard.
6. Pursuant to item 5 above, Contractor spent time and money to erect hydro-mobiles to the downstream Spillway bays only to squander the opportunity to complete the final alignment and secondary concrete works for no logical reason whatsoever. At the time the downstream completion Work fronts were available from the end of September 2015 to-date, Contractor failed to execute any of the balance of activities, instead choosing to focus on upstream Work fronts that failed to materialize any substantive progress through no fault of Company. Contractor is now in the process of moving the downstream erected hydro-mobiles to the upstream bays however these units will then have to be re-erected downstream again at some time in the future to complete activities that could have been finished months earlier without any impact on the upstream critical path Works. Such abortive Works are entirely to Contractor's account.
7. Pursuant to item 6 above, Contractor has adopted a negative Work approach based on the false and non-contractual premise that the spillway area would be completely "free and clear" of other Contractors. In this regard, Company has expended considerable time and energy to provide daily coordination meetings between Contractor and Company's Civil Work Contractor to facilitate constant open Work areas on the upstream side of the Spillway so Contractor has continuity of Work and in accordance with Contractor requirements. Notwithstanding Company and Civil Contractor's best efforts in this regard, Contractor continues to issue a stream of letters allegedly recording impacts to progress that have little to no substantive basis or effect, and are always of a minor nature. Contractor's letters are not only effectively groundless they are repetitive to the point of being spurious.
8. Pursuant to item 7 above, Contractor's approach on-Site appears to be focused on placing blame rather than seeking solutions. The above referenced Contractor letters provide a weight of evidence in this regard and the day-to-day lists of allegations of negligible impacts made by Contractor are easily rebutted through Company's daily reports and records. Furthermore, if Contractor utilized the energy expended upon the numerous baseless letters as issued over the last several weeks on planning, managing and executing the actual Works, the current status of Contractor's percentage complete would be much improved.
9. Contractor's assertions of delays allegedly caused by Company or third parties make no reference to or consideration of Contractor own delays and inability to progress the Works in a timely and expeditious manner. For example, Contractor is solely responsible for all delays related to the downstream Works, upstream hoardings and hydro-mobile erection. Company's assessment of Contractor's performance since mobilizing to Site in September 2015, is that Contractor is solely responsible for a minimum of 21 days of delay to the upstream Work.

10. Contractor has utterly failed to deliver crucial materials to Site to support the Work plan. Notwithstanding the delays to the supply and erection of the hydro-mobiles, following handover of the Spillway Upstream on 1 November 2015, to-date, Contractor has yet to erect any Work shelters and only has partial pre-fabricated materials for one bay. To further emphasize Contractor's lack of planning in this regard, Contractor recently delivered one additional set of shelters however these materials are designated for the downstream bays. Not only has Contractor failed to provide the shelters for the critical upstream Works, it is delivering downstream shelters that will not be required until the end of February 2016. Furthermore, Contractor is providing Company with revised delivery dates for shelter materials that continue to exhibit slippage on a week by week basis.
11. Contractor alleges that its Work is delayed due to the late mobilization to Site in September 2015 instead of the original planned date of February 2015. Company does not dispute the mobilization date was delayed, however, Contractor was not ready to start Work in February, and has acknowledged its own delays were concurrent with Company's delayed mobilization to Site. As demonstrated by Contractor's performance, since 15 September 2016, Contractor is still unprepared to execute the Work as required to meet the 15 June 2016 date for river diversion.
12. Change Order No. 10 dated 10 November 2015 instructed Contractor to accelerate specific sections of the Works to meet the river diversion date of 15 June 2016. The Change Order included compensation to cover the increased costs for man hours and equipment to achieve the accelerated completion date. To-date, Company has seen little to no evidence of any appreciable effort by Contractor to accelerate the Work. In fact, following the issue of Change Order No. 10, most of the Contractor's iron workers departed for turn-around leaving the Site practically absent of craft workers despite previous representations from Contractor that such absenteeism would not re-occur. Furthermore, Contractor has adopted the stance that until revised commercial terms for Change Order No. 10 are agreed, no acceleration activities will be undertaken. Contractor's position is contrary to the terms and conditions of the Contract, specifically Article Nos. 26.5, 26.6 and 26.11 to the Articles of the Agreement. Company will hold Contractor solely responsible for any time and cost impacts related to Contractor's failure to execute the Change Order in a timely and expeditious manner.
13. Pursuant to item 12 above, Company has attempted, in good faith, to negotiate with Contractor a Change Order for the acceleration Works since June 2015. Contractor has continued to fail to provide the information Company has requested in Company's letter 0148 to make an informed assessment of Contractor's claimed costs. On 4 December 2015, 25 days after the issue of Change Order No. 10, Contractor provided another cost proposal this was lacking even the limited supporting documentation provided in Contractor's initial proposal dated 13 August 2015. To-date, Contractor has still not produced a number of key contract deliverable documents such as an approved resource loaded baseline schedule and a fully detailed execution plan amongst others.
14. Contractor has failed to comply with a number of Contract regulatory requirements with particular regard to safety and general notifications. Contractor has incurred safety absolutes resulting in the discharge of at least three of its subcontractor's employees. In

addition, Contractor failed to notify Company of a transportation accident that damaged a number of upstream embedded parts until two weeks after the event occurred. Such omissions are systemic of Contractor's lack of Project focus and compliance with the Contract obligations and responsibilities.

15. Contractor has failed to properly manage its sub-contractor CANMEC. Company is of the opinion CANMEC is managing Contractor and not the other way around. Company's position in this regard is demonstrated in a number of ways inter alia CANMEC's direct refusal to commence Work on Site in September 2015, CANMEC's unilateral approach to the number and frequency of Work crews; CANMEC's unilateral implementation of unacceptable craft personnel rotations that have negatively impacted the schedule despite Company representations to rectify such actions, CANMEC's lack of resolve and good faith to facilitate an accelerated schedule, plus lack of overall due diligence in executing the Work in a timely, cooperative and well planned manner, instead looking for ways to issue notices of alleged delay and disruption (Refer to item 7 above).
16. There are a number of other Contractor shortcomings and omissions that have contributed to Contractor caused delays, however, for the sake of brevity, Company considers the above examples as listed 1 – 15 as being sufficiently representative of demonstrating the basis and foundation of Company rebuttal of Contractor's claims of delay and disruption to-date.

Company hereby dismisses Contractor's allegations that a 'changed site condition' exists and further dismisses Contractor's request for a Change Order in this regard. Contractor has failed to meet the burden of proof that such a condition exists, particularly as the Contractor's basis of claim rest on alleged interference with other Company Contractors. According to Contractor, all of your Work areas including access routes were to be given free and clear of any and all interfaces with others at all times until completion of CH0032. To the contrary, the Contract expressly describes that such occurrences may occur and that Contractor has a direct obligation and responsibility to manage and coordinate around these types of event, which to-date, Contractor has failed to do to the required standard of a prudent and experienced Contractor. Contractor continues to make excuses for delay and stand-by costs for minor coordination issues instead of seeking solution driven 'work around' alternatives.

Contractor's failure to perform on numerous fronts as noted above can however be rectified and the acceleration schedule achieved providing Contractor improves its overall approach to planning and executing the Work and takes positive control of its sub-contractor CANMEC. The daily coordination meetings established by Company to ensure open Work fronts at all times must be capitalized upon by Contractor, not only when called for by Company, but at Contractor's own initiative as and when needed to immediately provide resolution of interface events. Contractor's failure to proceed accordingly will only exacerbate the recognition of lack of Contractor's due diligence in executing the Works and foster Company claims against Contractor as being the sole cause of related Project delays.

As always, Company is proceeding on a fair and reasonable basis to manage CH0032 for the overall benefit of the Project as a whole. Contractor has express Contract obligations to do the same, including executing all issued Change Orders, even if commercial terms have not been agreed. Accordingly, Company looks forward to jointly achieving the goals established in Change Order # 10 in an amicable and favorable way.

Yours truly



Scott O'Brien
Project Manager – Muskrat Falls Generation
Project Delivery Team
Lower Churchill Project