

Muskat Falls Corporation

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09 May 2016

ANDRITZ HYDRO CANADA INC.
6100 Trans-Canada Hwy.
Pointe-Claire, Quebec
H9R 1B9

Attention: Mr. William Mavromatis

Subject: Agreement CH0032-001
Supply and Install Powerhouse and Spillway Hydro-Mechanical Equipment
Re: Notice of Dispute – CHO 010 – Invoice and Payment Certificate
Ref: LTR-CH0032001-0342

Dear Mr. Mavromatis,

Company acknowledges receipt of Contractor letter dated 20-Apr-2016 reference PM-163 and would respond as follows.

Formal Notice of Dispute pursuant to Article 39.1 of the Agreement is acknowledged as received by Company and it is noted that the Level 1 meeting will occur during week commencing 09-May-2016.

At no stage has Company stated that it did not intend to pay Contractor for the work performed under Change Order 010. The Change Order has been issued on a lump sum basis which is Company's prerogative, not Contractor's, and irrespective of whether Contractor agrees with the Lump Sum value or otherwise, the obligation to perform the Works as directed in the Change Order expressly rests in full with Contractor. The process and procedures to enable any payment to Contractor are expressed in the Agreement. It is unacceptable for Contractor to set aside the express provisions relating to payment and unilaterally introduce preferential provisions without any justification. There is no provision in the Agreement for Contractor to refer to in this instance.

Contractor is fully aware, through Company correspondence that CHO 010 is not issued on a cost reimbursable basis. Should Contractor seek to effect any payment, the process and procedures expressed in the Agreement should be followed. In the event that Contractor disagrees, or considers that additional entitlement exists over and above the basis of the

change order, then Contractor must follow and comply with the express provisions set forth in the Agreement.

Contractor is entitled to dispute Company's assessment of progress at 2.39% as indicated in Company letter dated 13-Apr-2016, reference LTR-0330, however, Contractor should take full cognizance of its submitted Progress Payment Certificate issued on 06-May-2016 which clearly states (and is accepted and agreed by Contractor) that overall progress to period ending 25-Apr-2016 is 3.35%. Obviously, this level of progress includes, inter alia, matters other than the accelerated portion of the Works; nevertheless, this represents a reasonable and accurate statement of achieved progress versus that of 2.39% as advised by Company to period ending 25-Feb-2016. Nothing has been provided by Contractor to counter or disprove this assessment of actual progress calculated by Company on behalf of Contractor.

Allegations of bad faith on the part of Company are particularly unjust and without any foundation whatsoever. The advised and stated progress is real and represents a fair, reasonable, accurate and realistic assessment of the performance and effort expended.

As stated previously, and for the avoidance of doubt, Change Order 010 is not issued on a reimbursable basis. The Agreement provides opportunities for Contractor to seek recourse in the event of disagreement and also in the event that Contractor considers an additional entitlement exists or is merited. There is no intent, perceived or otherwise, on the part of Company, to defer or decline payment of Change Order 010 to Contractor. For clarity, Contractor's allegations of expenditure in excess of CAD \$ 5.0M cannot be justified. Contractor, should, in the event that additional entitlement is to be considered, refer to and follow the procedures and recourse expressed in the Agreement. For further reference, Contractor should also take full cognizance of the following which were always 100% included in the base contract works of Contractor. Such items, include, but are not limited to;

- Unloading of materials and equipment.
- Distribution of materials and equipment.
- Snow clearing.
- Maintaining access.
- Erection of Hoardings and enclosed areas.

In addition, Contractor should also endeavor to comprehend why its Subcontractors permit ongoing and excessive overtime hours when no Notices of delays or claims for additional entitlement have been provided to support the overtime hours. Similarly, Contractor should investigate why its dedicated craft persons are periodically assigned routine general laboring tasks and duties, without a corresponding reduction in the craft rate when general tasks are being undertaken.

To reiterate, there is no bad faith intent or act on the part of Company. Contractor simply needs to ascertain, review and revise its and its Subcontractors methods and practices on an ongoing basis.

In addition, there is no willful abuse as stated by Contractor. In the event that Contractor considers additional entitlement exists, the process expressed in the Agreement must be followed. This is also the case in the event of a disagreement.

Contractor's comments and statements relating to Notice of Dispute are noted, however, it should be recorded that Company has met with Contractor and its Subcontractor on Site, 05-May-2016 to discuss Change Order 010 and it is further recorded that the Level 1 meeting relating to the Dispute will occur during week commencing 09-May-2016. In this regard, there is no lack of engagement on the part of Company, nor is there any evidence of bad faith and finally, the allegation of Breach of Contract is completely false and unfounded.

It is noted that Contractor fully intends to diligently pursue all acceleration efforts towards the River Diversion Date of 15-Jun-2016. Nothing more is expected other than for Contractor to comply with its contractual obligations and responsibilities, expressed or implied.

With reference to Appendix 1 of Contractor's letter – Particulars of Dispute, Company would provide its responses as follows.

1. CHO 010 is a properly issued Lump Sum Change Order. If Contractor disagrees with the lump sum of CAD \$ 3,370,314, the Agreement provides process and procedure for Contractor to seek additional payment subject to proof of entitlement for the same.
2. The River Diversion Date of 15-Jun-2016 is the date for completion of accelerated Works. It is not a new Milestone.
3. Contractor can only submit Invoices for payment upon receipt of submitted Payment Certificate, signed as agreed, by Company. There is no cost reimbursable agreement relating to Change Order 010. Payment process is as expressed in the Agreement.

Yours truly,

Scott O'Brien

Company Representative

Project Manager – Muskrat Falls Generation

Project Delivery Team

Lower Churchill Project