

20-Oct-2015

LTR-CH0007001-0846

Muskrat Falls Corporation  
350 Torbay Road, Suite 2  
St. John's, NL Canada

Attention: Mr. Scott O'Brien

Subject: LCP Muskrat Falls Contract No. CH0007-001  
Construction of Intake Powerhouse, Spillway and Transition Dams  
Force Majeure Event

Reference: Letters 0714, 0716, 0717, 0718, 0719, 0722, 0723, 0727, 0738, 0740, 0744, 0827

Dear Mr. O' Brien:

Contractor acknowledges receipt of Company letter 0827 and expresses its surprise for Company's intent to cancel Contractor's entitlements on the basis of an alleged failure to provide a Change Request within 30 days from the notice in accordance with Article 14.8 of the Agreement.

Contractor respectfully disagrees with Company's approach on this subject and the entire content of the above mentioned letter; Contractor also disagrees with the arbitrary interpretation of the Agreement given by Company simply because Contractor did not issued the alleged notice under Art.14.8 of the Agreement and could not therefore be bound to the alleged 30 days period which is not, by the way, mentioned in the Agreement.

With reference to your aforementioned letter, Contractor hereinafter comments its content as follows:

a) **Paragraph one, alleging that Contractor is the potential root cause of blockade:** Contractor denies responsibility for the blockade. Contractor further states that the labour relations – related event that supposedly created the Force Majeure was handled in a professional manner and the Contractors Human Resources / Labour Relations personnel implemented all appropriate steps to remove all parties involved from the site. The Contractor cannot be held responsible neither for the events that allegedly caused the Force Majeure nor for the Force Majeure event itself, as all the actions relevant to both events were implemented by Contractor in accordance with the outcome with dedicated meetings and action plans developed together with Company in a joined effort for the most appropriate management of the events.

All trade union workforce upon termination left the site and they did not return. The reconigition of the third party's right to protest is in Contractor's opinion the root cause that created the blockade.

b) **Paragraph one, alleging that Contractor's letter 0714 of August 16 failed to provide specific details regarding how the Force Majeure was affecting or expected to affect:** at that point in time Contractor was not in a position to report detailed information on each activity affected; however, it was a common decision of Contractor and Company to mobilize resources to mitigate the impact, as recorded in Company's letter 0717 dated August 17<sup>th</sup>.

c) **Paragraph two, stating that Contractor is entitled pursuant to Art.29.4 of the Agreement to extension of time but not to the reimbursement of costs:** Contractor agrees with the above and hereby clarifies that Contractor is entitled to an extension of time under Art.29.4 and is entitled to reimbursement of costs under Art.29.6. In fact, all actions implemented during the site Force Majeurewere actually implemented by Contractor in agreement with Company as recorded on Company's letter 0717 dated

August 17<sup>th</sup>.

- d) **Paragraph two, making reference to Art.29.7 of the Agreement:** Art 29. 6 states that where Company and Contractor mutually agree to “ ..continue maintaining Contractor’s Items and Personnel at or near the Worksite “, in such case “Company will reimburse Contractor at the rates outlined in Exhibit 2 – Compensation..” . Art 29.7 is in our opinion crystal clear and simply states that any such payment shall not be included in the Contract Price.
- e) **Paragraph three stating that pursuant to Article 14.8 timelines associated with submittals of Change Requests are expired:** Such consideration is in Contractor’s opinion not applicable to the issue at subject, as Contractor notified a Force Majeure Event and not a Change Request.

In the light of the above and following the completion of Contractor’s evaluation in this regard, Contractor hereby confirms its entitlement to (i) additional costs pursuant to Article 29.6 of the Agreement and (ii) an extension of time pursuant to Art.29.2 of the Agreement. Such entitlements are substantiated by Contractor’s assessment of the time lost and and additional costs suffered as a consequence of the subject matter and annexed herewith.

Although the Force Majeure event ended, as per Company notification, at approximately 6:00 AM, August 18, 2015 the impacts associated with this event continued until planned/scheduled activities were effectively and efficiently addressed. The preliminary assessment of all costs incurred due to the site Force Majeure are hence submitted herewith for reimbursement, as set forth under Article 29.7, on a separate basis from and without any modification to the Contract Price or to the Target Cost of Labor.

We trust that you will take Contractor’s position in due consideration, taking into account, on top of the above reasoning, that Contractor’s efforts under this Force Majeure circumstances show Contractor’s utmost commitment, as usual, at minimizing the impacts of the event for the maximum benefits on the Project,.

Therefore Contractor hereby submits the associated costs for the delays during the Force Majeure.

We remain available if any further clarification is required,

Sincerely,  
Astaldi Canada Inc.

  
\_\_\_\_\_  
Don Delarosbil  
Project Manager  
Lower Churchill Project – Muskrat Falls

cc: MFC – Mr. Mike Harris; Mr. Mel Melhem; Mr. David Burton,  
Astaldi –Mr. Georges Bader; Mr. Riccardo Rocci; Mr. Enrico Violato; Mr. Enrico Mongili, Mr. James Walsh;  
File



**Description of the event:** On August 13th during the afternoon, a protest by Representatives of the First Innu Nation created a Force Majeure, preventing anyone from entering site, personnel were allowed to exit the site.

From August 13<sup>th</sup> until August 18<sup>th</sup> the access to site has been blocked and production activities were consequently impacted due to the following reasons:

- Impossible to receive supplies from off site suppliers, including construction materials, fuel and vital supplies for the camp (i.e. food, water),
- Disruption of workforce rotation plans for staff and craft: returning from turnaround was delayed until the end of blockade period. Personnel leaving site were in some cases postponed in order to maintain an acceptable level of production. There were extra costs due to overtime hours on extended periods of work over the regular 14 days turnaround,
- In order to minimize the negative impact Astaldi was forced, during the aforementioned two weeks period, to fly personnel in and out with short notice. This caused extreme inefficiency over the usage of charter flights for which we request full reimbursement.
- Due to the partial closure of the site, several staff members were forced to stay and lodge in Goose Bay working offsite during the blockade. Astaldi is requesting full reimbursement for those staff offsite hours (already identified during the audit for August pay certificate) all additional costs incurred for meals and lodging off-site.

**EVALUATION OF EXTRA COSTS FOR SITE BLOCKADE OCCURRED IN AUGUST 2015**

Period of Observation

August 13th	Start of Site Blockade - Beginning of Impact
August 18th	End of Site Blockade
August 23rd	Date when Astaldi resources on-site were back to pre-blockade level
August 27th	Date when the site was completely reorganized and back to full production - End of Impact
TOTAL IMPACTED PERIOD	August 13th to August 27th      15 days inclusive

			<b>COSTS TO BE REIMBURSED</b>
<b>Expected production during Impacted Period</b>	<b>m3</b>	<b>12461</b>	
reference - 3 weeks look ahead issued on Saturday August 8th			
<b>Executed production during Impacted Period</b>	<b>m3</b>	<b>6691</b>	
<b>Loss of Production during Impacted Period</b>	<b>%</b>	<b>46.30%</b>	
<b>Actual Labor hours during impacted period</b>	<b>hrs</b>	<b>133159</b>	
Estimated Unproductive cost for labor (average 85 CAD/hour)			<b>\$ 5,240,860.30</b>
<b>Actual Staff hours during impacted period</b>	<b>hrs</b>	<b>20597</b>	
Estimated Unproductive cost for staff (average 80 CAD/hour)			<b>\$ 762,969.34</b>
<b>Cost for Staff forced to work off-site during blockade</b>	<b>hrs</b>	<b>1689</b>	<b>\$ 136,015.19</b>
<b>Lodging and meals for Staff working off-site (estimated at 300 \$ every 10 hrs work day)</b>	<b>work days</b>	<b>168.9</b>	<b>\$ 50,670.00</b>
<b>Cost for travels during impacted period over and above billable portion</b>	<b>LS</b>	<b>1</b>	<b>\$ 611,348.44</b>
<b>Unproductive Subcontractors labor/staff costs</b>			
AGF (average 1000 hrs/day at 88 CAD/hour)	<b>hrs</b>	<b>15000</b>	<b>\$ 611,205.23</b>
LRM (average cost of labor/staff 1,3 M CAD per month)	<b>LS</b>	<b>1,300,000</b>	<b>\$ 291,263.49</b>
Iskueteu (estimated labor/staff cost for August 1.5 mil \$)	<b>LS</b>	<b>1,500,000</b>	<b>\$ 336,073.26</b>
Supermetal (estimated labor/staff cost for August 1.2 mil \$)	<b>LS</b>	<b>1,200,000</b>	<b>\$ 268,858.61</b>
<b>Other Unproductive Incurred Costs</b>			
Monthly Rental Costs for August	<b>LS</b>	<b>698,403</b>	<b>\$ 156,476.31</b>
Monthly Leasing Costs for August	<b>LS</b>	<b>850,590</b>	<b>\$ 190,573.65</b>
Monthly Depreciation Costs for August	<b>LS</b>	<b>563,821</b>	<b>\$ 126,323.40</b>
Monthly Operating Costs for August	<b>LS</b>	<b>193,740</b>	<b>\$ 43,407.33</b>
Monthly Overhead Costs for August	<b>LS</b>	<b>363,606</b>	<b>\$ 81,465.47</b>
<b>TOTAL COSTS TO BE CLAIMED FOR SITE BLOCKADE</b>			<b>\$ 8,907,510.01</b>

- 14.6 In the event the Parties fail to reach agreement on the pricing and impacts on resources and schedule with respect to a Change, Contractor shall perform the work specified in the Change Order as issued by Company and either Party may give a Notice of the Dispute which will be handled in accordance with Article 31 but in no case shall the price of any Change exceed an amount determined in accordance with Article 14.10.
- 14.7 If Contractor considers that a Change is necessary or desirable, Contractor may request a Change Order by submitting a Change Request in writing to Engineer in accordance with the procedure set out in Exhibit 3 – Coordination Procedures.
- 14.8 If Contractor considers or ought to have known, acting reasonably, that an occurrence has taken place which constitutes a Change, then Contractor shall, within ten (10) Business Days of the occurrence, or of Contractor becoming aware of the occurrence, as the case may be, give notice in writing of such occurrence to Engineer. Within twenty (20) Business Days of such notice in writing to Engineer, Contractor shall request a Change Order, by submitting a Change Request to Engineer in accordance with the procedure set out in Exhibit 3 – Coordination Procedures. If Company:
- (a) agrees, acting reasonably, that the occurrence constitutes a Change, then Company shall issue a Change Order in respect of the Change;
  - (b) disagrees, acting reasonably, that the occurrence constitutes a Change, Contractor shall proceed with the Work without delay and such continuation of the Work shall be without prejudice to Contractor's rights to advance a Dispute under Article 31.

If Contractor fails to comply with the conditions of this Article 14.8, it will relinquish its right to request a Change Order and waives any claim it may have for additional compensation and for an extension of time to complete a Milestone arising from the occurrence.

- 14.9 Changes shall be invoiced and paid for in accordance with Article 12, Exhibit 2 – Compensation and Exhibit 3 – Coordination Procedures. Cost of the work carried out under a Change Order will reflect any discounts, rebates, refunds or free material credits earned with purchase of material or other goods and services charged under a Change.
- 14.10 The adjustment in the Contract Price for a Change carried out prior to agreement by Contractor and Company on the price for the Change shall be determined on the basis of the cost of expenditures and savings to perform the work attributable to the Change as determined in accordance with Articles 14.11 and 14.12(a) plus overhead and profit as follows:
- (a) to the extent rates and prices in Exhibit 2 – Compensation apply, there shall be no allowance for overhead and profit;
  - (b) to the extent rates and prices in Exhibit 2 – Compensation do not apply:
    - (i) if a Change results in a net increase in the Contract Price, an allowance of seven percent (7%) for overhead and profit will be included;

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reasonably have been foreseen and which materially affects a substantial or essential portion of the Work;

- (e) maritime and aviation disasters;
- (f) blockade or embargo of any port upon which provision of the Work depends;
- (g) nuclear, radioactive, ionizing radiation, chemical or biological contamination;
- (h) pressure waves caused by objects travelling at supersonic speeds.

29.2 Neither Contractor nor Company shall be responsible for any failure to fulfil any term or condition of this Agreement if and to the extent that such fulfilment has been delayed or rendered impossible by a Force Majeure occurrence of which the other Party has been notified in accordance with this Article 29 and which is beyond the control and without the fault or negligence of the Party affected, and which by the exercise of reasonable diligence the said Party is unable to provide against.

29.3 A Party may not rely upon the provisions of Article 29.2:

- (a) unless it shall immediately upon being made aware of the Force Majeure occurrence notify the other Party of such Force Majeure and of the obligations expected to be affected thereby;
- (b) unless it shall immediately take all such steps as may be commercially reasonable in the circumstances to minimize the effect of, the Force Majeure occurrence and resume performance of the obligation affected by the Force Majeure as soon as reasonably possible; and
- (c) to the extent that and for so long as there would be concurrent delay to Work resulting from pre-existing matters within the responsibility or obligation of the Contractor under this Agreement.

29.4 Where Company claims Force Majeure and is entitled to rely upon the provisions of Article 29.2, then no compensation in respect of the Contract Price shall be payable to Contractor during the period that the Force Majeure occurrence continues to prevent performance by Company. Where Contractor claims Force Majeure and is entitled to rely on the provisions of Article 29.2, then Contractor shall be entitled to an extension to the Milestone Dates affected equal to the duration of the Force Majeure occurrence but no compensation in respect of the Contract Price shall be payable to Contractor during the period that the Force Majeure occurrence continues to prevent performance by Contractor.

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- 29.5 If Contractor is prevented from or delayed in performing any of its obligations as a result of an event of Force Majeure for a cumulative period of more than one hundred twenty (120) days over a period of twenty-four (24) consecutive months or a consecutive period of more than ninety (90) days during the Term, Company shall have the right thereafter to immediately terminate this Agreement upon giving Notice thereof to Contractor and Company shall have no further liability whatsoever to Contractor (except payment of the amounts contemplated in Article 24.19).
- 29.6 During any period in which the performance of the Work is prevented because of Force Majeure, Contractor and Company shall mutually agree either (1) to continue maintaining Contractor's Items and Personnel at or near the Worksite, in which case Company will reimburse Contractor at the rates outlined in Exhibit 2 - Compensation which is intended to cover only those expenses incurred by Contractor as a direct result of such prevention of performance, or (2) to demobilize Contractor's Items and Personnel at Company's expense until this Agreement is terminated in accordance with Article 24.
- 29.7 Notwithstanding any payment pursuant to Article 29.6, Force Majeure occurrence shall in no circumstances entitle Contractor to an increase in the Contract Price or to the Target Cost of Labour. For greater certainty, any payment by Company to Contractor pursuant to Article 29.6 shall not be considered or deemed to be part of or included in the Contract Price or Target Cost of Labour.

### ARTICLE 30 LIMITATION OF LIABILITY

- 30.1 Notwithstanding anything contained in this Agreement:
- (a) other than liquidated damages payable pursuant to Article 26, neither Party shall have any responsibility and shall not be liable under this Agreement to the other Party for any indirect or consequential damages or losses, including and whether or not the following are determined in any proceeding to be direct damages, any Claim in respect of loss of profit, loss of revenue, business interruption, loss of use, loss of opportunity, loss of goodwill, cost of capital, cost of replacement power, whether foreseeable or not, resulting from, arising out of or in connection with the performance or non-performance of any obligation pursuant to this Agreement howsoever caused, provided however, for clarity, that such limitation shall not apply in respect of Claims by third parties (outside of the Company Group or the Contractor Group); and
  - (b) the maximum aggregate liability of the Contractor toward the Company for all Claims arising out of or connected with the Work or performance or breach of this Agreement shall be limited to the sum of fifty percent (50%) of the Contract Price and actual insurance proceeds received from insurance to be maintained under this Agreement, provided however that such limitation shall not apply in cases of:
    - (i) Claims for personal injury (including death) suffered by third parties;
    - (ii) Claims for property damage or loss suffered by third parties;



LTR-CH0007001-0714

LOWER CHURCHILL PROJECT – MUSKRAT FALLS  
CH0007: CONSTRUCTION OF INTAKE AND HOUSE,  
SPILLWAY AND TRANSITION DAMS.

16-August-2015

ACI-MFC-0389

Muskrat Falls Corporation,  
500 Columbus Drive,  
P. O. Box 15000, Station A,  
St John's, NL Canada A1B 0M4

**Attention: Scott O'Brien**

**Subject: Agreement Number: CH0007-001**

**Title: Construction of Intake, Power House, Spillway and Transition Dams  
Force Majeure**

**Reference: Information Memo - Protest Activity at Muskrat Falls (August 14, 2015)**

Dear Mr. O'Brien:

Contractor, hereby notifies Company, as per Civil Works Agreement, Article 29, Force Majeure; Sub article 29.1, item (a) that the following event has occurred:


“civil disturbance (including blockades to and from the Site)”

Although, Contractor work activities are still being performed, there are significant impacts to the performance of the work from both cost and schedule perspectives, due to issues/concerns regarding manpower, equipment and materials, all associated with the blockade. Contractor is taking all steps, as may be commercially reasonable in the circumstances, to minimize the effect of the Force Majeure occurrence. It requires to be noted, that Contractor's primary focus is on the safety and health of Contractor employees and Subcontractor employees and is working diligently to ensure that each activity/task is approached with a safety first approach.

Contractor is tracking all cost and schedule impacts associated with this event and will notify Company as soon as the results are known.

In closing, Contractor refers Company to Sub articles 29.2, 29.3, 29.4, 29.6 and 29.7. If there are any questions, please contact the undersigned.

Sincerely,  
**Astaldi Canada Inc.**

  
\_\_\_\_\_  
**Don DeLarosbil**  
**Project Manager**  
Lower Churchill Project – Muskrat Falls

cc: MFC – Mr. Mike Harris; Mr. Alphonsus Kelly; Mr. Mel Melhem; Mr. David Burton  
Astaldi – Mr. Giacomo Orsatti; Mr. Georges Bader; Mr. Ricarrdo Rocci; Mr. Enrico Veccia; Mr. Enrico Mongili, Mr. James Walsh; File



**Muskrat Falls Corporation**

Corporate Office  
500 Columbus Drive  
P. O. Box 15000, Stn. A  
St. John's, NL Canada A1B 0M4

Lower Churchill Project Operations Office  
350 Torbay Road, Suite 2  
St. John's, NL Canada A1A 4E1

16 August 2015

LTR-CH0007001-0716

**ASTALDI Canada Inc.**

358 Hamilton River Road  
Happy Valley-Goose Bay, NL  
AOP 1C0 Canada

**Attention:** Don Delarosbil, Project Manager

**Agreement:** CH0007- 001 Construction of Intake and Powerhouse, Spillway and Transition Dams

**Subject:** Resources

Dear Mr. Delarosbil:

Contractor is attempting to continue construction activities in spite of the protest and blockade of the site. Since August 13, 2015 Company has repeatedly requested Contractor to supply the resources required to support these operations. A significant number of key construction management, safety and quality personnel are not on site. Contractor has been unwilling or unable to provide the resources required to safely proceed with construction activities. Accordingly effective 14:30 on Sunday, August 16, 2015 Contractor is to cease all construction activities on site. Contractor is to continue any services required to maintain the site in a safe condition, and prior to ceasing operations ensure the work, equipment and materials are properly secured.

If you have any questions please do not hesitate to contact the undersigned.

Sincerely,



Scott O'Brien  
Company Representative  
Muskrat Falls Corporation

**Muskrat Falls Corporation**

Corporate Office  
500 Columbus Drive  
P. O. Box 15000, Stn. A  
St. John's, NL Canada A1B 0M4

Lower Churchill Project Operations Office  
350 Torbay Road, Suite 2  
St. John's, NL Canada A1A 4E1

17 August 2015

LTR-CH0007001-0717

**ASTALDI Canada Inc.**

358 Hamilton River Road  
Happy Valley-Goose Bay, NL  
AOP 1CO Canada

**Attention:** Don Delarosbil, Project Manager

**Agreement:** CH0007- 001 Construction of Intake and Powerhouse, Spillway and Transition Dams

**Subject:** Site Resources

Dear Mr. Delarosbil:

Company acknowledges that on Sunday, August 16, 2015, Contractor's mobilized resources to the site and continued in the performance of its work. Company appreciates Contractor's efforts to continue the work and mitigate the impacts of the current blockade of the site.

Sincerely,



Scott O'Brien  
Company Representative  
Muskrat Falls Corporation

cc: G. Bennett  
A. Meade

**Muskrat Falls Corporation**

Corporate Office  
500 Columbus Drive  
P.O. Box 15000 Stn. A  
St. John's, NL Canada A1B 0M4

Lower Churchill Project Operations Office  
356 Torbay Road, Suite 2  
St. John's, NL Canada A1A 0E1

②  
REPLY TO 1

17 August 2015

LTR-CH0007001-0718

**ASTALDI Canada Inc.**

358 Hamilton River Road  
Happy Valley-Goose Bay, NL  
AOP 1C0 Canada

**Attention:** Don Delarosbil, Project Manager

**Agreement:** CH0007- 001 Construction of Intake and Powerhouse, Spillway and Transition Dams

**Subject:** Site Protest and Blockade

**References:** Contractor Letter ACI-MFC-0389 August 16, 2015

Dear Mr. Delarosbil:

Company acknowledges receipt of Contractor's letter No. ACI-MFC-0389 and notwithstanding Company's position the labour dispute and blockade of the site are a Contractor caused event, accepts that the protest and site blockade constitute a Force Majeure under Article 29.1 (a) of the Articles to the Agreement. However, as the Force Majeure event was caused by Contractor's fault and/or negligence which could have been avoided by reasonable diligence, including by failing to maintain labour peace in accordance Article 32, pursuant to Article 29.2 Contractor is not relieved from any of its obligations under the Agreement. Contractor will not be entitled to any additional compensation or extension of time as a result of this event.

Company reserves its right to apply or enforce any provision or remedy available in the Agreement or at law.

If you have any questions please do not hesitate to contact the undersigned.

Sincerely,

Scott O'Brien  
Company Representative  
Muskrat Falls Corporation

cc: G. Bennett  
A. Meade

**Muskrat Falls Corporation**

Corporate Office  
 500 Columbus Drive  
 P.O. Box 15000 Stn. A  
 St. John's, NL Canada A1B 0M4

3

Lower Churchill Project Operations Office  
 330 Torbay Road, Suite 2  
 St. John's, NL Canada A1A 4E1

17 August 2015

LTR-CH0007001-0719

**ASTALDI Canada Inc.**

358 Hamilton River Road  
 Happy Valley-Goose Bay, NL  
 A0P 1C0 Canada

**Attention:** Don Delarosbil, Project Manager

**Agreement:** CH0007-001 Construction of Intake and Powerhouse, Spillway and Transition Dams

**Subject:** Company Notice of Force Majeure

Dear Mr. Delarosbil:

On August 12, 2015 protestors commenced acts of civil disturbance at the entrance to the Muskrat Falls site; on August 13, 2015 the protestors blockaded access to the Muskrat Falls site at the entrance off Route 510. The protests and blockade are continuing. Accordingly the Company declares the protests and blockade of the Muskrat Falls site a Force Majeure event pursuant to Article 29.1 (a) of the Articles to the Agreement.

Pursuant to Article 29.3 (a) the Company hereby provides notice that the Company provided services, including but not limited to those set forth below, are, or may be, adversely affected. Company is monitoring all impacts to the Project and will provide Contractor with additional details in this regard at such time as they can be fully ascertained.

1. Access to the Muskrat Falls Site;
2. Fuel supply;
3. Bussing service;
4. Sewage waste;
5. Water delivery;
6. The accommodations complex;
7. Garbage collection;
8. Power supply; and,
9. Telecommunications and internet services.

Pursuant to Company's letter of August 17, 2015 (Aconex No. LTR-CH0007001-0718) in response to Contractor's letter No. ACI-MFC-0389 (Aconex No. LTR-CH0007001-0714) the labour dispute and blockade of the site are due to Contractor's fault and/or negligence which could have been avoided by reasonable diligence, including by failing to maintain labour peace in accordance Article 32.

*rec'd 19.08.15 AB*

**Muskrat Falls Corporation**  
Corporate Office  
500 Columbus Drive  
P. O. Box 15000, Stn. A  
St. John's, NL Canada A1B 0M4



**Lower Churchill Project Operations Office**  
350 Torbay Road, Suite 2  
St. John's, NL Canada A1A 4E1

LTR-CH0007001-0722

18 August 2015

*Replied 23.08.15  
LTR# 0740*

**ASTALDI Canada Inc.**  
358 Hamilton River Road  
Happy Valley-Goose Bay, NL  
AOP 1C0 Canada

**Attention:** Don Delarosbil, Project Manager  
**Agreement:** CH0007- 001 Construction of Intake and Powerhouse, Spillway and Transition Dams  
**Subject:** Site Protest and Blockade – Force Majeure Resolution  
**References:** Contractor Letter 0714, Company Letters 0718, 0719

Dear Mr. Delarosbil:

At approximately 6.00 AM, 18 August 2015, the protest and blockade of the Muskrat Falls site ended and access to the site was fully restored. This action ends the Force Majeure period.

Contractor should immediately proceed to restore site and construction resources, activities and production levels back to normal as quickly as possible and as deemed reasonable pursuant to the events of the last few days.

Company is making similar efforts with regard to restoring the provision of any Company provided services affected during the Force Majeure period.

Company proposes a joint daily meeting be held commencing Wednesday, 19 August 2015 at 1.00 PM to review, monitor and up-date daily project progress towards the restoration of all contract activities back to their status prior to the onset of the Force Majeure event of 13 August 2015.

Sincerely,

**Scott O'Brien**  
Company Representative  
Muskrat Falls Corporation



LOWER CHURCHILL PROJECT - MUSKRAT FALLS

CH0007: CONSTRUCTION OF INTAKE AND POWER HOUSE, SPILLWAY AND TRANSITION DAMS

Muskrat Falls Corporation  
350 Torbay Road, Suite 2  
St. John's, NL Canada

19-Aug-2015

ACI- MFC-0391  
LTR-CH0007001-0723

Attention: Mr. Scott O'Brien

Subject: LCP Muskrat Falls Contract No. CH0007  
Construction of Intake Powerhouse, Spillway and Transition Dams  
Force Majeure

Reference: Letter LTR-CH0007001-0714  
Letter LTR-CH0007001-0718  
Letter LTR-CH0007001-0719

Dear Mr. O' Brien:

Contractor acknowledges receipt of referenced Company letters:

- 1) LTR-CH0007001-0718; Site Protest and Blockade
- 2) LTR-CH0007001-0719; Company Notice of Force Majeure

#### LTR-CH0007001-0718; Site Protest and Blockade

Contractor is in total disagreement with the Company position stated in LTR-CH0007001-0718. Contractor specifies the following statements made by Company that are deemed to be incorrect and/or non-factual:

- 1) *"notwithstanding Company's position the labour dispute and blockade of the site are a Contractor caused event"*
  - Contractor notification of Force Majeure was as follows: "civil disturbance (including blockades to and from site). Contractor did not report a labour dispute and does not agree with this classification that has been utilized by Company. Further, if Company position is to classify this as a labour dispute, Contractor demands that Company provide documented evidence supporting this statement.
- 2) *"the Force Majeure event was caused by Contractor's fault and/or negligence which could have been avoided by reasonable diligence, including by failing to maintain labour peace in accordance Article 32"*
  - This statement is patently groundless and unjustified. It is the position of Contractor, that all reasonable actions were performed in dealing with a previous workplace item, including, but not limited to; Suspension of worker during the initial occurrence of the workplace item, verbal and documented discussion with the suspended employee when suspended and upon return to work & Construction Management supervision of this item.

**Muskrat Falls Corporation**

Corporate Office  
500 Columbus Drive  
P. O. Box 15000, Stn. A  
St. John's, NL Canada A1B 0M4

19 August 2015

**ASTALDI Canada Inc.**  
358 Hamilton River Road  
Happy Valley-Goose Bay, NL  
A0P 1C0 Canada

**Attention:** Don Delarosbil, Project Manager

**Agreement No.:** CH0007- 001

**Title:** Construction of Intake and Powerhouse, Spillway and Transition Dams

**Re:** Force Majeure

**Ref:** LTR: 0714, 0718, 0719 and 0723

6  
Reply to  
0723/15

Lower Churchill Project Operations Office  
350 Torbay Road, Suite 2  
St. John's, NL Canada A1A 4E1

Replied 23-08-15  
LTR# 0738

Dear Mr. Delarosbil

Company acknowledges receipt of Contractor letter 0723 and respectfully disagrees with Contractor's position that statements made in Company letters 0718 and 0719 are "incorrect and/or non-factual."

Company stands by the content of our letters 0718 and 0719 in their entirety.

However in the event Contractor submits any cost or schedule impacts pursuant to your letter 0714 and 0723, Company will give fair and reasoned consideration to any such applications pursuant to Company response to the Force Majeure event as noted above, and with regard to any additional supporting contractual, legal or factual information Contractor may provide.

Company is pleased to note and to support that during the event Contractor's primary focus was on the safety and health of Contractor and Subcontractor employees in the continued performance of work activities that could be reasonably executed.

Regards,

**Muskrat Falls Corporation**



**Scott O'Brien**  
Company Representative  
Muskrat Falls Generation



Muskrat Falls Corporation  
350 Torbay Road, Suite 2  
St. John's, NL Canada

23-Aug-2015

ACI- MFC-0403

**Attention: Mr. Scott O'Brien**

**Subject: LCP Muskrat Falls Contract No. CH0007**  
**Construction of Intake Powerhouse, Spillway and Transition Dams**  
**Force Majeure**

**Reference: LTR-CH0007-001-0727**

Dear Mr. O' Brien:

Contractor acknowledges receipt of the referenced letter and stand by the content of Contractor letter 0723.

Contractor are accumulating all cost and schedule impacts and will provide to Company as soon as the results are known.

In closing, Contractor appreciate Company recognition in regards to the safety during this event.

Sincerely,  
**Astaldi Canada Inc.**

---

Don Delarosbil  
**Project Manager**  
Lower Churchill Project – Muskrat Falls

cc: MFC – Mr. Mike Harris; Mr. Alphonsus Kelly; Mr. Mel Melhem; Mr. David Burton,  
Astaldi – Mr. Giacomo Orsatti; Mr. Georges Bader; Mr. Riccardo Rocci; Mr. Enrico  
Veccia; Mr. Enrico Mongili, Mr. James Walsh; File





LOWER CHURCHILL PROJECT MUSKRAT FALLS

CH0007: CONSTRUCTION OF INTAKE AND POWER HOUSE, SPILLWAY AND TRANSITION DAMS

Muskrat Falls Corporation  
350 Torbay Road, Suite 2  
St. John's, NL Canada

23-Aug-2015

ACI- MFC-0404

Attention: Mr. Scott O'Brien

A handwritten number '8' enclosed in a hand-drawn circle, likely a reference or tracking number.

**Subject: LCP Muskrat Falls Contract No. CH0007  
Construction of Intake Powerhouse, Spillway and Transition Dams  
Site Protest and Blockade - Force Majeure Resolution**

Reference: LTR-CH0007-001-0722

Dear Mr. O' Brien:

Contractor acknowledges receipt of the referenced letter. Contractor did proceed to restore site and construction resources, activities and production levels back to normal as quickly as possible and as deemed reasonable in regards to the Force Majeure event.

Contractor did meet with Company on Wednesday, August 19, 2015 at 1:00 PM as requested.

In closing, it requires to be noted, that although the Force Majeure event ended, as per Company notification at approximately 6:00 AM, August 18, 2015 the impacts associated with this event continued until planned/scheduled activities were effectively and efficiently addressed. Contractor mitigated as much as reasonably possible, and kept Company informed and advised.

Sincerely,  
Astaldi Canada Inc.

A handwritten signature in blue ink, appearing to read 'Don Delarosbil', written over a horizontal line.

Don Delarosbil  
**Project Manager**  
Lower Churchill Project – Muskrat Falls

cc: MFC – Mr. Mike Harris; Mr. Alphonsus Kelly; Mr. Mel Melhem; Mr. David Burton,  
Astaldi – Mr. Giacomo Orsatti; Mr. Georges Bader; Mr. Riccardo Rocci; Mr. Enrico  
Veccia; Mr. Enrico Mongili, Mr. James Walsh; File

✓ LTR-CH0007001-0744

**Muskrat Falls Corporation**

Corporate Office  
500 Columbus Drive  
P. O. Box 15000, Stn. A  
St. John's, NL Canada A1B 0M4

Lower Churchill Project Operations Office  
350 Torbay Road, Suite 2  
St. John's, NL Canada A1A 4E1

21 August 2015

⑨

**ASTALDI Canada Inc.**  
358 Hamilton River Road  
Happy Valley-Goose Bay, NL  
AOP 1C0 Canada

**Attention:** Don Delarosbil, Project Manager

**Agreement No.:** CH0007- 001

**Title:** Construction of Intake and Powerhouse, Spillway and Transition Dams

**Re:** Post Force Majeure – Contractor Site Progress

**Ref:** LTR: 0722

Dear Mr. Delarosbil

Following the end of the recent Force Majeure event on site, and in accordance with the joint Company / Contractor meeting on Wednesday, 19 August at 1.00 PM to review Contractor's site status, Company notes the following as observed on Friday, 21 August 2015:

Post Protest/Blockade, the site function is at or near full capacity :

1. For day shift (as of 7am August 20/15) and night shift (as of 7pm August 20/15)
2. As observed by Company Construction Monitors
3. As reported during Contractor 6am Production meetings
4. As forecast by Contractor at the meeting with Company on August 19, 2015
5. Camp occupancy is back to pre-protest/Blockade levels
6. Company senior management discussions with Contractor Construction Managers

Regards,

**Muskrat Falls Corporation**



**Scott O'Brien**  
Company Representative  
Muskrat Falls Generation



a Nalcor Energy company

**Muskrat Falls Corporation**

Corporate Office  
500 Columbus Drive  
P. O. Box 15000, Stn. A  
St. John's, NL Canada A1B 0M4

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Lower Churchill Project Operations Office  
350 Torbay Road, Suite 2  
St. John's, NL Canada A1A 4E1

RECEIVED  
14.10.15  
ab

13 October 2015

**ASTALDI Canada Inc.**

358 Hamilton River Road  
Happy Valley-Goose Bay, NL  
A0P 1C0 Canada

**Attention:** Don Delarosbil, Project Manager

**Agreement:** CH0007- 001 Construction of Intake and Powerhouse, Spillway and Transition Dams

**Subject:** Force Majeure Event

**References:** LTR's: 0714, 0718), 0719, 0722, 0723, 0727, 0738, 0740, 0744

Dear Mr. Delarosbil:

On August 16, 2015 Astaldi notified Company (ACI-MFC-0386) that a Force Majeure condition existed at the Muskrat Falls Site and was disrupting the work. On August 17, 2015 Company confirmed the Force Majeure condition, further stating Company's position that Contractor's actions or inactions were a contributory, if not the root cause of the onset of the condition. Without waiving its position regarding responsibility for the Force Majeure event, Contractor's letter of August 16, 2015 admitted that while work was still being performed there were impacts to the work related to manpower, equipment and personnel. Contractor's notice however failed to provide Company with any specific details the Force Majeure event was affecting or were expected to be affected.

Pursuant to Article 29.4, Contractor may be entitled to a time extension but no costs. This clause is further qualified as per 29.6 as applicable pertaining to the impact of the event. Furthermore Article 29.7 states that any payment pursuant to 29.6 will not change the Target Cost of Labour or the Contract price.

Notwithstanding the above and pursuant to Article 14.8 of the Contract Agreement, within thirty (30) business days following the notice of the Force Majeure event Contractor should have submitted a change request to Company in accordance with the procedures set forth in Exhibit 3, setting forth the lost time being claimed as a result of the Force Majeure. The change request as a minimum for contract compliance should include details of any delay being claimed supported with a schedule analysis, cause and effect, and all supporting documentation including timesheets and daily reports. As of the date of this letter Contractor has still not provided Company with the requisite Change Request and the required supporting documents. Accordingly Contractor has relinquished its right to request a Change Order for time and waives any claim it may have for an extension of time to complete a Milestone arising from the occurrence.

a Nalcor Energy company