

From: johnmacisaac@nalcoreenergy.com
To: [Jim Keating](#)
Subject: Fwd: Summary of meeting with Vallard
Date: Tuesday, July 26, 2016 7:12:09 PM
Attachments: [.png](#)
[.png](#)
[LTR CT0327001-0304.pdf](#)
[LTR-CT0327001-0265.pdf](#)

See below in the body of Jason's note were he states " leading up to my having signed the letter in the Morning of July 22 " the same morning as our meeting with Vallard that started at Hydro Place at 9 , and Lance and Jason were at HP at 8.30 .

We met with Vallard first thing in the a.m. ,Friday the 22nd Jason signed it and issued it thru to document control Friday the 22nd as well .all seems tight in timeline , feels more than coincidence .

The sense on this end , smells of negating or undermining the value of the of a top to top meeting intended to take on the issues and move us forward .

Also now feels like Lance has left you with an impression that this letter was signed in the days leading up to / previous to the meeting and simply working it's way thru doc control , which is simply not factual . Signed the same day / same morning as the meeting .

Really Struggling with the behaviours here , more than a bit , being exhibited by these guys , seems there are transparency gaps with myself and now seems potentially mis informed you of the some key facts as well .

Insightful for sure , these are a couple of key people we are all counting on .

The concern I shared with Stan today , we have a big challenge ahead , one that I am committed to moving forward and accelerating delivery on , that becomes complicated when I have to be thinking about looking over my shoulder on an ongoing basis at the same time as well .

The leaves me wondering what we have , questionable transparency and seemingly prepared to twist facts / mis inform our exe leadership .

Take care .

Jm

Sent from my iPhone

Begin forwarded message:

From: "Jason Kean" <JasonKean@lowerchurchillproject.ca>
To: "John MacIsaac" <JohnMacIsaac@nalcoreenergy.com>
Subject: Re: Fwd: Summary of meeting with Vallard

John,

Thank you for the note. I am working the note capturing the outcomes of Friday's meeting with Quanta - Valard.

Having taken a little time to reflect on your comments given this morning regarding your perceptions of my lack of willingness to embrace new leadership and directional input, I must let you know how deeply troubled they have left me. I was particularly concerned of your comments and suggestions that perhaps I could not align with the new direction you are taking the organization in, thereby leaving me with the impression that there may not be a place for me in this evolving LCMC organization. This is surprising difficult for me to comprehend given the unwavering commitment I have shown to the Project over the past 9.5 years. Over this period I have made tireless contributions in order to provide the leadership required to establish and mature a performing team that is both accountability and capable. With respect to our relationship, up to this morning I felt that we were generally aligned and supportive of each other. Both prior to and since your appointment as EVP for Transmission, I have faithfully worked to provide you relevant and accurate briefing material of key background and current issues. I have done some very professionally and respectfully, with the desire of helping your readiness to assume your role with us. My intentions are to continue along this approach.

On the subject of what you consider as an "ill-timed" note sent last Friday, I am assuming you are referencing the attached

letter LTR-CT0327001-0304 issued in response to Valard letter LTR 265. As I indicated in our conversation, this letter was prepared in the days leading up to my signature on in the early AM of Friday, 22-July and was subsequently issued by our Document Control that afternoon, thus following any discussions and agreements that may of arisen in the meeting with Quanta - Valard. Our responses provided in this letter are factually based and consistent with the general issues surrounding Valard discussed during our 13-July briefing meeting. While I respect your statements that "my perception is my reality," my letter was not intended to undermine the discussions or commitments you made during last Thursday evening or Friday AM meeting with Quanta-Valard. As I stated on several occasions over the past couple of weeks, and noted in the CEO briefing deck, I fully support the notion of a reset and am willing to explore options, while building on the initiatives and actions taken to date, to achieve a win/win outcome with Valard, as Nalcor envisioned when we entered into the Agreement.

As you suggest and I acknowledge, it is critically important that we are aligned with the direction of your leadership and desires as it relates to philosophies such as contractor management. I suggest that it would be valuable if we, your direct reports (Darren, Greg and myself) and functional SCM reports (e.g. Lance and Pat), could have an audience with you (together or separately as you see fit) such that we hear your envisioned approach moving forward. This would save the risk of potential misalignment with your new direction for the organization; it better to flesh this out early.

Respectfully yours,

Jason

Jason R. Kean, P.Eng., MBA, PMP

Deputy General Project Manager (Consultant to LCMC)

PROJECT DELIVERY TEAM

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You owe it to yourself, and your family, to make it home safely every day. What have you done today so that nobody gets hurt?

From: John MacIsaac/NLHydro
To: Jason Kean/NLHydro@nlhydro
Date: 07/25/2016 10:14 AM
Subject: Fwd: Summary of meeting with Vallard

Jason ,

Building on previous note and in follow up to our exchange this morning ;

- let's get a note in place with Duke and Victor today that captures our alignment on priority items and the current thoughts on how we can take next steps together .

- the note sent Friday , was ill timed in its following the meeting and has had the effect of undermining our message on a reset , recommitting to the relationship and the work together for a strong finish .

- additionally in our sharing leadership together it is essential that our team is approachable and actively listens .

In closing leave you to reflect on a several personal cornerstone thoughts for team and teamwork , it's not about being it's about doing the right thing and let's not let perfection get in the way of our execution .

Regards .

Jm

Sent from my iPhone

Begin forwarded message:

From: "John MacIsaac" <JohnMacIsaac@nalcenergy.com>

Date: July 24, 2016 at 6:32:02 PM NDT

To: "Jason Kean" <JasonKean@lowerchurchillproject.ca>

Cc: "Lance Clarke" <LanceClarke@lowerchurchillproject.ca>

Subject: Summary of meeting with Vallard

Jason ,

Let's sit together and share notes ,capture essence of top three (theirs and ours) suggested / agreed approach plus action time lines .

In order / priority ;

- approach and timing addressing cash flow exposure , agreement for this week .
- foundation selection and approval and mitigating avoiding skipping .

Potential Linkage of the above two items .

Then prioritization of bridges and roads , field review .

Let's first get a note in place that captures & communicates , then follow that with initial positions .

Please let's review correspondence in advance prior to hitting send .

Thank you .

Jm

Sent from my iPhone



Labrador-Island Link General Partner Corporation

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St. John's, NL Canada A1B 0M1

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

22-July-2016

LTR CT0327001-0304

Valard Construction LP
33 Pippy Place, Suite 101
St. John's, NL
A1B 3X2

Attention: Mr. K. Williams, Contractor Representative

RE: Agreement No. CT0327
Construction of 350 kV HVdc Transmission Line
Foundation Selection and Installation Process (Ref. LTR-CT0327001-0265)

We acknowledge receipt of your correspondence (LTR-CT0327001-0265) dated 07-Jun-2016 regarding foundation selection and installation process. We want to take this opportunity to correct and clarify assertions made in that correspondence. For ease of reference titles used in this correspondence correspond to the titles used in your correspondence.

Background

You stated that construction delays, associated with the installation of grillage foundations, include:

a) *“additional time incurred performing out-of-scope Works required to achieve installations (outlined above)”*

As we stated in our correspondence (Ref. LTR-CT0327001-0118) dated 18-Jan-2016, site conditions, including encountering ground water and sites with fine-grained soils, were certainly not unforeseeable and should have been known by you. Construction practices should have been developed and ready for use when you encountered these site conditions.

b) *“site completion delays incurred due to Company’s untimely site instruction, site query processes”*

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Mr. K. Williams
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We have answered all site queries in a timely manner and also encouraged open communication between the Parties to address and resolve all Site Queries immediately. Generally, you receive same day responses to Site Queries, particularly when we are advised that they are time sensitive. On 08-Feb-2016 we initiated a (twice weekly) technical queries meeting to resolve any outstanding issues. This meeting was cancelled after 07-Apr-2016 due to your failure to participate. We also draw your attention to Section 11, (Subsection – Site Query (SQ)) of Exhibit 3 – Coordination Procedures, which states:

“Open SQs shall be reviewed at weekly Site meetings in order to resolve all matters relating to their resolution.”

You continually fail to comply with this requirement and do not raise concerns about open Site Queries at the weekly site meetings.

c) *“site completion delays incurred due to Company’s untimely returning of NCRs consequent to grillage settlement issues”*

We disagree with your position that out of tolerance foundations are caused by settlement issues. By way of illustration Structure S1-404 has H-pile foundations installed out of tolerance (MFDC-NCR-00573), and Structures S3-001 and S3-010 have rock foundations installed out of tolerance. Regarding turnaround time for NCR’s, in the interest of avoiding delays we agreed to consider NCR’s on a case by case basis and analyze structures with out of tolerance foundations.

Foundation Selection

It is very clear in the Agreement that you have responsibility for foundation selection (refer “Geotechnical Investigation” section below). Notwithstanding:

- a) You are absolutely correct in stating that we have the authority to overrule any of your foundation selections and recommendations. That is indicative of a fundamental right of any client dealing with any contractor. Any time we overrule your recommendations it is because they are made with your best interest in mind and generally compromise our best interest.
- b) We agree that you must receive our Acceptance for the appropriate foundation at each tower site. This is a process of applying a reasonable degree of due diligence; a process that you should embrace rather than continually challenge to meet your own needs rather than your obligations.

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Mr. K. Williams

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- c) With reference to items a) and b) it is clear that we both understand the rights of the client that are enshrined in the Agreement. We recommend that you redirect your energies to embracing and meeting your obligations under the Agreement rather than continually expending time and energy trying to shed your obligations.

Geotechnical Investigation

Regarding your obligation to perform geotechnical Work, we refer you to Section 2.4.9 of Exhibit 1 – Scope of Work (**bold** and underlined added for emphasis):

“Contractor is responsible, as per the Technical Specification - Part A, the Quality Plan, ITP and QA/QC forms, for:

- *Developing and performing foundation selection and installation process and program to determine the appropriate foundation type at each structure. This will include soil classification, and **all necessary geotechnical QA/QC work for foundation selection and installation**. All foundation selection shall be stamped by a professional geotechnical engineer registered with the Professional Engineers and Geoscientists of Newfoundland and Labrador (PEG-NL). Both the Contractor's proposed foundation selection and installation process and the Subcontractor providing the geotechnical services is subject to review and Acceptance by the Engineer;”*

“Other Measures” Required to Perform Installation

- a) You have an obligation under the Agreement to deliver foundation installations that meet all the requirements of the Technical Specification; including dealing with other measures required to ensure Acceptable installation of the foundation.
- b) “Other Measures” do not qualify for out of scope Work or basis to address changes to the schedule. Foundation installation is covered in the Agreement by “all-in” Unit Prices.
- c) The matter of “...must receive Engineer’s Acceptance to install the appropriate foundation at each tower site.” is addressed in “Foundation Selection” above.

Warranty and Project’s Long Term Requirements

- a) Your Warranty obligations are clearly outlined in Article 17 of the Agreement.
- b) The requirement to “...receive “Engineer’s Acceptance” is addressed in “Foundation Selection” above.

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Mr. K. Williams

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- c) Your supposition that *“cost has always been the overruling factor in Company and Engineer decision-making”* is nothing more than an attempt to misconstrue the decision making process. Our decision making process is always focussed on arriving at the optimal technically acceptable solution. The matter of cost always seems to become a hindrance when you prefer to install a foundation that is more cost effective for you, regardless of the technical integrity of that decision.
- d) Your supposition that our *“... acceptance and approval to use alternate foundation types is delayed weeks and sometimes months...”* does not address or consider your role in that decision making process. That process, when dealing with alternate foundation types, generally becomes protracted by your unwillingness to accept our decision. Our primary driver in that decision making process is technical acceptance whereas your primary driver is a cost effective solution for you.

Workmanship and Quality

- a) Your supposition that *“Based solely on commercial implications, there has been resistance from the Engineer and Company to accept Contractor’s recommendation to use alternate foundations types (i.e. H-pile, Micro-Pile, etc.)”* is a further attempt to misconstrue the decision making process. We have Approved the use of H-pile and micropile, where required. For further clarification on our position, we refer you to items b) and c) in Warranty and Project’s Long Term Requirements section above.

Furthermore, it is not clear why you would expect us to replace a solution, that is technically acceptable and cost effective for us, by a technically acceptable solution that results in much higher cost to us; albeit much more cost effective for you.

- b) You attempt to support your rationale with the statistic that approximately 80% of over 150 locations in Segment 1 were unsuitable for grillage foundation. You fail to consider that in Segment 1, over 680 structures (approximately 60%) are suitable for grillage foundations. Geotechnical investigation is required only in those situations where the bearing capacity cannot be confirmed by foundation selection.
- c) You state that *“Company and Engineer are jointly involved in the Project’s Quality Control/Quality Assurance objectives as well”*. What you fail to state or accept is that your obligation is to develop, implement, maintain and consistently deliver on Quality Control/Quality Assurance objectives. Our role is to oversee and accept the quality of your systems, processes and controls to achieve those objectives.

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In the execution of our role, on a number of occasions we have issued concerns to you regarding the inadequacy and/or non-existence of those systems, processes and controls. We recommend that you expend your time and energy in correcting those deficiencies rather than attempting to purport that in some way we have responsibility for your obligations.

Subsurface Conditions

- a) The information "Geotechnical Site Reconnaissance" was supplied to you for information only. If you refer back to that file you will see the qualification (**bold added for emphasis**), *"Anticipated Foundation types during LCP Geotechnical Site Reconnaissance was based on visual observations of the general surfacial site/soil conditions, previously available data, recent test pitting, any earthwork cuts made for access and for clearance of ROW. **Actual conditions at foundation depth and actual foundation type to be installed may be different than these anticipated.**"*

This information was based on analysis that we preformed and chose to share with you. We had absolutely no preconceived notion or expectation as to how you would use that information and how you ultimately used that information was solely within your own control.

- b) We refer your Preliminary Execution Plan (Appendix L of Exhibit 3 – Coordination Procedures) which contemplates the need for testing and soil classification of sand, fine-grained sand, till, bog, and bedrock, thereby confirming that a variety of subsurface soil conditions had been foreseen by you. Additionally, we refer you item a) of "Background", above.

We appreciate your stated commitment to the success of the Project, however we encourage you to turn your words into a tangible representation of that commitment by applying it daily in your Work planning, execution and progress and delivering quality results that meet your schedule obligations.

Regards,



Jason R. Kean, P. Eng., MBA, PMP
Company Representative



June 7, 2016

LTR-CT0327001-0265

Labrador-Island Link Limited Partnership
Re: Lower Churchill Project Operations Office
350 Torbay Road Plaza, Suite No. 2
St. John's NL, A1A 4E1

Attention: Jason R. Kean, Company Representative

**RE: Agreement No. CT0327-001
Construction of 350kV HVdc Transmission Line (MF to SP)**

LTR CT0327001-0118: Foundation Installation Process

Reference(s): A. Letter CT0327001-0118, Foundation Selection and Installation Process
B. Letter CT0327001-0102, Foundation Selection and Installation Process

Dear Mr. Kean:

Contractor is in receipt of the letter at Reference 'A' (dated 18-Jan-2016), regarding foundation selection and installation processes under Agreement CT0327001. Company's letter CT0327001-0118 is in response to Contractor's letter at Reference 'B' (dated 26-Nov-2015).

Background

In the letter at Reference 'B,' Contractor brought forward and presented a number of concerns that it felt were being overlooked or ignored by Company's senior representatives. Specifically, Contractor notified Company representatives again, that:

- a. Contractors field staff had encountered numerous sites where unexpected subsurface soil conditions had been observed;
- b. that further geotechnical investigation was necessary to prove the suitability of a grillage foundation at these sites, and;
- c. that Company representatives continue to intervene and direct the installation of an inappropriate foundation type – specifically grillage – at sites with high water table and fine-grain, primarily silty soil.

Contractor notified Company that the installation of grillage foundations at sites with high water table and fine-grain, primarily silty soil, had resulted in Contractor being exposed to additional costs. For clarity, these costs are associated with, but not limited to:

- additional survey works required
- test pitting and other out-of-scope site investigation



- excessive dewatering
- excessive drainage provisions
- site rework/reinstallation
- site abandonment
- extra foundation material transport
- unexpected additional material costs (e.g. Culverts, class A, B, and 6'' minus rock)
- additional crew and heavy equipment mobilization
- extended, unplanned use of camps and other support infrastructure
- additional excavation works
- other associated direct and indirect costs

Contractor also notified Company that construction schedule delays had been associated with the installation of grillage foundations at sites with high water table and fine-grain, primarily silty soils. These construction delays are associated with, but not limited to:

- additional time incurred performing out-of-scope Works required to achieve installations (outlined above)
- site completion delays incurred due to Company's untimely site instruction, site query processes
- site completion delays incurred due to Company's untimely returning of NCRs consequent to grillage settlement issues

It is Contractor's position that the suitability and long-term performance of Type 1, Type 1A, and 'Modified' grillage foundations will be adversely influenced by these unforeseen subsurface conditions. Thus, Contractor advised that it cannot be held responsible to provide warranty related to grillage installations in these wet, soft soils.

In the letter at Reference 'A,' Company outlined its position, stating in general, that:

- a. It is evident that Contractor is entirely responsible for foundation selection and a prudent level of geotechnical investigation;
- b. Contractor must prepare for "other measures" that are required to ensure the installation of the foundation; and,
- c. this strategy (the above two bullet points) was designed to empower Contractor to select and warranty the installation of a foundation that met the Project's long term requirements.

Company also stated:

- d. that the majority of foundation challenges are attributable to poor workmanship further compounded by the lack of quality control; and;
- e. that the (subsurface) "conditions" are not unexpected, and that Contractor cannot assert that conditions have changed or are/were unexpected

Contractor's response

Foundation selection

Company has been involved in foundation selection since the Project commenced. As Company correctly pointed out in the letter at Reference 'A,' Contractor must receive Engineer's Acceptance for the "appropriate" foundation at each tower site. In that respect Contractor is not "entirely responsible" for



foundation selection. Furthermore, Company – or Engineer – has the authority to overrule any of Contractor’s foundation selections or recommendations.

Geotechnical investigation

Regarding geotechnical investigation, Company advised that it had initiated the mobilization of two (2) separate geotechnical contractors “in order to support [Contractor] in achieving its obligations under the Agreement.” Contractor provides the following clarity related to Company’s misleading comment in that regard.

Contractor is only responsible to perform a high-level geotechnical investigation during a one-time excavation at the time of installation, which is reimbursable as per the intent of the Agreement. Additional geotechnical investigation costs were also not priced under the Agreement (For reference, see Exhibit 2, Appendix ‘A,’ Schedule of Price Breakdown – Optional Pricing). As such, additional geotechnical investigation works represent a *change* to Contractor’s Scope of Work as outlined in the Agreement. See CHO-327-0008 where Company issued a Change Order for Contractor to perform additional out-of-scope geotechnical investigation works as evidence that Company agrees additional geotechnical investigation represents a *change* to Contractor’s scope of work. In that regard, for Company to express that Company mobilized two separate geotechnical contractors in order to support Contractor in achieving “its obligation under the Agreement” is a complete misrepresentation.

“Other Measures” Required to Perform Installation

Contractor generally agrees that it is responsible for “other measures” required to ensure the installation of the foundation, however, as noted previously, it does not control the fact that it must receive Engineer’s Acceptance to install the “appropriate” foundation at each tower site. Furthermore, “other measures” are required if unexpected subsurface conditions are encountered, or these situations where modifications to the labour, equipment, materials are required to perform the foundation installation varies from what was collectively agreed to during open book unit price negotiations. For clarity, “other measures” qualify as out-of-scope work, which is reimbursable. Contractor’s performance of out-of-scope work also impacts construction activities, and therefore has an effect on schedule.

Warranty and Project’s Long Term Requirements

Contractor will also provide explanation regarding Company’s position that the Agreement was designed to empower Contractor to select and therefore warranty the installation of a foundation that met the Project’s long term requirements.

Contractor must receive Engineer’s Acceptance for the “appropriate” foundation at each tower site, and Company has the ability to overrule Contractor’s foundation recommendations. Furthermore, cost has always been the overruling factor in Company and Engineer decision-making. In that respect, Company’s acceptance and approval to use grillage foundations is always timely, whereas acceptance and approval to use alternate foundation types is delayed weeks and sometimes months, impeding forward construction progress. It is also common for Contractor’s recommendations – and requests to use alternative foundation types – to be resisted by Company.

Workmanship and Quality

Based solely on commercial implications, there has been resistance from Engineer and Company to accept Contractor’s recommendation to use alternate foundation types (i.e. H-Pile, Micro-Pile, etc.). Despite Company assertions that “grillage foundation settlement (issues) are attributable to poor workmanship further compounded by a lack of quality control,” Company’s geotechnical investigation of over one hundred and fifty (150) sites in Segment 1 of the Project (Central Labrador) identified approximately 80% of sites as unsuitable for the Project’s grillage foundation design.



It is important to note that Company representatives are observing Contractor's installation processes on a daily basis, and that Company representatives are genuinely involved in foundation type selection "acceptance." Company and Engineer are jointly involved in the Project's Quality Control/Quality Assurance objectives as well.

Subsurface Soil Conditions

Company's claim that the subsurface soil conditions have not been unforeseen, and that Contractor cannot assert that conditions were unexpected, is outright false.

See Aconex transmittal LCP-CM-EMAIL-028714 for reference, where Contractor was provided with Company's Geotechnical Site Reconnaissance for likely foundations to be installed from S1-1 to S1-300 (known herein as "Company's Geotechnical Desktop Study").

In this transmittal, Company's Area Manager (at the time) noted that:

"...if we (Company) could get some field feedback on the likely foundations required in the areas that are cleared...we could try and adjust the current manufacturing of the foundations to better match what is required."

Company's Geotechnical Engineer noted that this exercise:

"proofed (sic) to be working well based on our (Company's) same exercises with HVac TL (CT0319001)."

Consequently, Company's Geotechnical Desktop Study was utilized on the HVdc TL (CT0327001) by Company's Geotechnical Engineer, with the objective to use the information to assist Company's Area Manager with foundation material procurement.

Upon Company's completion, Company's Geotechnical Desktop Study was provided to Contractor. The document outlines anticipated foundation type for Segment 1, structures 1 to 300, representing approximately twenty-five (25%) of the foundation sites on the Project in Labrador. The data includes AMEC and Company professional opinions regarding anticipated foundation types, based on:

"...visual observations of the general surfacial site/soil conditions, previously available data, recent test pitting, any earthwork cuts made for access and for clearance of ROW."

Contractor's analysis of Company's Geotechnical Desktop Study concludes that AMEC Professional Geotechnical Engineers were correct in estimating expected foundation type approximately 25% of the time, and that Company's Professional Geotechnical Engineers were correct approximately 40% of the time.

Therefore, Company's claim that the subsurface soil conditions were not unforeseen, is completely untrue. There is absolutely no doubt that unforeseen subsurface conditions caused such a large variance between what both AMEC and Company Geotechnical Engineers expected foundation type to be, versus the actual type eventually installed.



Summary

Contractor encourages Company to be proactive in taking a solution-focused approach to these issues, and encourages a more holistic and less cost-centric approach to decision-making moving forward. That approach will result in a 'win-win' for all stakeholders.

Contractor remains fully committed to the success of the Project. Please do not hesitate to contact the undersigned if additional clarification regarding this matter is required.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Michael Power', written over a horizontal line.

Michael Power, P.Eng, CET, CD
Project Director
Valard Construction LP

Attachment(s): Nil.

Cc:/ V. Budzinski
A. Budzinski
BJ Ducey (Quanta Services)
S. Sousa
J. Stevenson
N. Mistry
S. Jeffery
K. Williams