

**JURISDICTIONAL ASSIGNMENT PLAN**  
*of the*  
**ALBERTA CONSTRUCTION INDUSTRY**  
**(J.A. Plan)**

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**RECONSIDERATION – FILE #0003**

**OF**

**DECISION OF THE UMPIRE – File 9915**

**Review of Contractor's Intended Work Assignment**

**Removal/Replacement of Control Valve Position Transmitters**

**PROJECT**  
**Joffre Co-Gen**

**CONTRACTOR**

**Spantec Constructors Ltd.**  
**(Spantec)**

**PROTESTING PARTY**

**International Brotherhood of Electrical Workers, Local Union 424, Edmonton**  
**(IBEW)**

**RESPONDENT**

**United Association of Journeymen and Apprentices of the Plumbing and Pipefitting**  
**Industry, Local Union 488, Edmonton**  
**(UA)**

**Decision Published**  
**April 28, 2000**

**Reconsideration of Umpire Weir’s November 28, 1999 Decision – File #9915  
Removal/Replacement of Control Valve Position Transmitters  
Project  
Joffre Co-Gen**

**1. SPANTEC’S ASSIGNMENT**

Spantec’s November 02, 1999 letter by Ron Galey, Western Regional General Superintendent states:

“The Jurisdictional Disagreement on site with regards to the above mentioned removal and replacement of Fisher Control Valve position Transmitters is hereby assigned to the United Association of Plumbers and Pipe Fitters. This award is based on the January 5, 1984 I.B.E.W. Memorandum of Understanding. The Monitoring Switch (Position Transmitter) is mounted to a tapping on the valve and is activated by a mechanical device. This award is consistent with item b. in the above mentioned Memorandum of Understanding (copy attached). This Award is also consistent with the Transmitter clarifications dated March 26-27, 1973, New York City, New York. The transmitter is part of the valve and is delivered to site as such, - (Page EW-37) – copy attached.

This Award is made with out prejudice and is for this project only. The affected parties are reminded of the process to deal with jurisdictional disputes if they disagree with this award.”

**2. J.A. PLAN FILE #9915 UMPIRE'S DECISION**

The IBEW have requested Reconsideration of Umpire Weir’s Decision, which stated;

- Spantec's assignment is upheld.
- The Umpire's costs shall be paid by the IBEW.

**3. RECONSIDERATION REQUEST**

The request for Reconsideration was brought by the IBEW in their December 06, 1999 Reconsideration Application. An oral hearing was requested.

The basis for Reconsideration was stated as:

“It is the opinion of Local 424 IBEW that the Umpire did not fully appreciate, nor take into consideration when arriving at this decision, what is involved with the installation of the control valve position transmitters.”

**4. AUTHORITY**

The authority of the Umpire is based on the Jurisdictional Assignment Plan of the Alberta Construction Industry, the Application submission by IBEW and responses submitted by UA and Spantec by way of oral evidence.

## **5. ORAL HEARING**

An oral hearing was held on Wednesday, April 05, 2000, 1350 to 1520 in the Alberta Arbitration and Mediation Society meeting room, Decore Centre, University of Alberta, Edmonton, AB.

Present:

- Rob Galey, Western Regional General Superintendent, Spantec Construction Ltd.
- Robert (Bob) Lynn, Business Manager, International Brotherhood of Electrical Workers, Local Union 424.
- George Chatschaturian, Assistant Business Manager, International Brotherhood of Electrical Workers, Local Union 424.
- Rob Kinsey, Business Manager/Financial Secretary, Plumbers & Pipe Fitters, U.A. Local Union 488
- Fred Boenig, Retired Member, Plumbers & Pipe Fitters, U.A. Local Union 488.
- W.A. Weir, J.A. Plan, Umpire

The parties are to be complimented for staying on topic and the professional manner in which they presented their Oral Evidence.

The transcript of the Oral Evidence is documented in Attachment A.

## **6. SUBMISSIONS**

### **6.1 IBEW Submission**

At the Oral Hearing the IBEW submitted documentation which was accepted and entered as Exhibits 1, 2, 3, 4, 5, 6 A,B,C,D, & E and 7

Reference Attachment B for a description of this evidence.

### **6.2 J.A. Plan Administration**

- December 06, 1999 facsimile transmission advising of IBEW application for Reconsideration of J.A. Plan #9915.
- February 4, 2000 and later facsimiles for purpose of arranging oral hearing.

### **6.3 Disposition of Submissions**

With this Decision all documentation has been returned to the J.A. Plan Administration located at the Alberta Arbitration and Mediation Society Office, Decore Centre, Law Faculty, University of Alberta, Edmonton.

In accordance with the IBEW request to have the five colour prints returned to them (Exhibit 6 A,B,C,D & E), black and white photocopies have been placed in the file documentation and the Administrator is requested to return the colour prints to the IBEW.

## **7. EVIDENCE**

All documentation both written and oral was accepted as Evidence and has been reviewed.

### **7.1 Oral Evidence**

Refer to Attachment A

### **7.2 Written Evidence**

Refer to Attachment B

## **8. J.A. PLAN ARTICLE VI: PROCEDURES TO BE USED BY THE UMPIRE**

*In making my decision I have followed this procedure.*

## **9. FINDINGS**

From the Evidence submitted I find:

- I do not agree with the IBEW's analysis of the integrity issue.
- The February 14, 1972 Alberta Labour Department document has relevance, is fundamental and applies to this matter.

If not what is the significance of decisions recorded in the Green Book going back to 1920 or earlier and referred to as "Agreements of Record" in the J.A. Plan?

- There was not agreement that the instrument in question at Hinton, Alberta was the same to the ones in question.

The commonality is both are electric.

- The UA's witness, Mr. Boenig, gave credible testimony commenting on his thirty years in the area of instrumentation and indicated in at least 95% of the cases the valves come complete as ordered and if not the UA installed the switches and the IBEW always did the wiring.

His evidence was not challenged.

I'm sure in thirty years Mr. Boenig has witnessed many technological changes in instrumentation components.

- I accept the IBEW's comments with respect to the evolution of change to electrical and electronics.

These changes in technology will increase at a progressively faster rate resulting in previous decisions not being applicable to the new products.

In the future J.A. Plan Umpires' decisions will reflect this.

I strongly recommend the IBW and the UA revisit and resolve this matter to the betterment of both and the elimination of alleged job site harassment.

As stated in my comments to the fifth bullet on page 8 of 10 of my J.A. Plan File #9915 Decision:

*"This may serve as a template between the UA and IBEW for a workable Agreement between them."*

- After reviewing all the J.A. Plan File #9915 evidence and #0003 evidence I find no new evidence that would change my Findings (page 10 of 10) in J.A. Plan File #9915.

## 10. THE RULING

- Spantec's assignment is upheld.
- The Umpire's costs shall be paid by the IBEW.
- This decision is for this project only.

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W.A. Weir, Umpire  
J.A. Plan/Alberta Construction Industry  
April 28, 2000

**ATTACHMENT B**

**Reconsideration of Umpire Weir’s November 28, 1999 Decision – File #9915  
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Project  
Joffre Co-Gen**

**SUMMARY OF WRITTEN EVIDENCE PRESENTED**

**AT**

**ORAL HEARING**

**WEDNESDAY APRIL 05, 2000**

**HELD AT**

**OFFICES OF ALBERTA ARBITRATION & MEDIATION SOCIETY**

**DECORE CENTRE**

**UNIVERSITY OF ALBERTA**

**FACULTY OF LAW BUILDING**

## **EDMONTON, AB**

Present:

- Rob Galey, Western Regional General Superintendent, Spantec Construction Ltd.
- Robert (Bob) Lynn, Business Manager, International Brotherhood of Electrical Workers, Local Union 424.
- George Chatschaturian, Assistant Business Manager, International Brotherhood of Electrical Workers, Local Union 424.
- Rob Kinsey, Business Manager/Financial Secretary, Plumbers & Pipe Fitters, U.A. Local Union 488
- Fred Boenig, Retire Member, Plumbers & Pipe Fitters, U.A. Local Union 488.
- W.A. Weir, J.A. Plan, Umpire

## ATTACHMENT B

**Reconsideration of Umpire Weir’s November 28, 1999 Decision – File #9915**  
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**Project**  
**Joffre Co-Gen**  
**IBEW SUBMISSION**

### Exhibit 1

- Excerpt from Memo of Understanding between IBEW and UA on Instrumentation dated April 7, 1976.

*Umpire’s Comment – Very well discussed by all parties at the Oral Hearing.*

### Exhibit 2

- Letter received by IBEW #424 August 21, 1989 from J.J. Berry, International President, IBEW regarding IBEW/UA Joint Jurisdiction Dispute Committee.

### **Umpire’s Comment – Received as information**

### Exhibit 3

- January 4, 1990 letter from Ken J. Wood, International Vice President, IBEW to Local Union 424 regarding Jurisdictional Dispute #UA 1086.

*Umpire’s Comment – At the Oral Hearing the parties did not agree on the function of this switch.*

### Exhibit 4

- December 19, 1989 2 page letter from Ed Messmore, Director of Trade Jurisdiction, UA to Geo. Heservier, UA International Representative concerning Jurisdictional Dispute No. EW 24-1089.

*Umpire’s Comment – At the Oral Hearing the parties did not agree on the validity of this solution.*

### Exhibit 5

- Jamesbury IMO-67 (12 pages) – Installation, Maintenance and Operating Instructions.

*Umpire’s Comment – Accepted as information. Refer to Attachment A for discussion on this matter.*



Exhibit 6 A, B, C, D & E

- Five separate 8 ½ x 14 sheets of colour prints. Exhibit 6A has handwritten notes indicating valve stem coupling, brackets and linkage arm to transmitter.

*Umpire's Comment – Very good way of explaining the salient matters of the dispute.*

Exhibit 7

- Instruction manual (9 pages) providing installation, operating, calibration, maintenance and parts ordering information for the 4200 Series electronic position transmitters.

*Umpire's Comment – Accepted as information.*