

**RECONSIDERATION  
OF THE  
DECISION OF THE UMPIRE**

**REVIEW OF CONTRACTOR'S  
INTENDED WORK ASSIGNMENT**

**JOFFRE 2000 PROJECT (NOVA CHEMICALS)**

**J.A.Plan #9907. June 3, 1999**

**Disputing Trades**

International Brotherhood of Boilermakers, Iron Ship builders, Blacksmiths, Forgers & Helpers. Lodge 146, Edmonton.

International Association of Bridge, structural, Ornamental and Reinforcing Iron Workers. Local 720, Edmonton.

**Reconsideration of the Decision of the Umpire  
Intended Work Assignment  
Intake Air Filter House, Dampers and Power Rigging of the Filters.  
Joffre 2000 Project (Nova Chemicals), Spantec Constructors Ltd.**

**Reconsideration Request**

The request for reconsideration was brought by the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers & Helpers. Lodge 146, Edmonton; in their letter to the Jurisdictional Assignment Plan of the Alberta Construction Industry (J A Plan), dated May 11, 1999. Reconsideration to be made on the basis of documents only. An oral hearing was not requested.

**Authority**

The authority of the Umpire to undertake this reconsideration is based on Article VII of the Procedural Rules of the J A Plan, the request submitted by the Boilermakers and the response submitted by the Ironworkers.

Spantec Constructors Ltd. confirmed that the decision of the Umpire dated April 30, 1999 has been put into effect and remains in effect.

**Nature of the Request for Reconsideration**

The Boilermakers do not agree with the Umpire's ruling in respect to the Intake Air Filter House, the Dampers and the Power Rigging of the Filters.

The Boilermakers wish to introduce the Boilermaker / Millwright Agreement as it relates to this matter and in context with the Ironworker / Millwright Agreement. Also, the Boilermakers wish to elaborate on previous evidence submitted on which the Umpire was silent as to its relevance.

## EVIDENCE

### Reconsideration Evidence Submitted by the Boilermakers

#### Exhibit #1, #2, #3 and #4

Herewith the complete decision of Arbitrator W.E.(John) Hart dated March 10, 1994 (which was included in part as Exhibit #6 in the original application). This decision assigns the plenum (including filters), ducting and stack to the Boilermakers. Also included are comments by the Boilermakers on that decision and copies of the drawings submitted to Arbitrator Hart.

Arbitrator Hart acknowledges the Boilermaker / Ironworker Agreements dated May 28, 1926 and April 10, 1973. Both these Agreements were reviewed in my original decision. However the decision of record dated October 5, 1979 referred to by Arbitrator Hart, was not included in the original evidence submitted by the Boilermakers and I do not find it in the evidence submitted with this request for reconsideration.

The further evidence contained in these exhibits, illustrates that a filter house and a plenum are two different words which may refer to the same thing, and a filter house or plenum may be looked on as an integral part of the intake air system. Arbitrator Hart has obviously ruled this way. In my original ruling I said that the filter house was not an integral part of the air intake system. I now consider that statement to be incorrect.

The decision by Arbitrator Hart dated March 10, 1994, awards the complete intake air system to the Boilermakers. I do not think that Arbitrator Hart was incorrect, but I suggest that there is more than one way the work may be assigned. I chose to give significant weight to the April 10, 1973 agreement. Clause (B) assigns the Boilermakers the "...intake and exhaust ducts, as well as all stacks." It does not give the Boilermakers the complete intake air system. The drawings should also be examined in this regard. In the section drawing Z-Z, it appears that the intake air duct begins after the transition section labeled Plenum. Also section drawing A-A shows the intake air duct beginning after the Filter House. Based primarily on the above, I so ruled.

#### Exhibit #5

The May 1, 1971 Agreement between the Ironworkers and the Millwrights is included. The Boilermakers point out that this Agreement does not give the Ironworkers the right to perform rigging on work that belongs to any other craft, in this case the Boilermakers, nor does it give the Ironworkers the right to perform rigging on equipment belonging to the Millwrights where they have previously agreed that the Boilermakers would perform this rigging. I agree.

However the May 1, 1971 Agreement is applicable to the dispute as long as the work is assigned to the Ironworkers. I would support the arguments advanced by the

Boilermakers if the work had been assigned to them, and it appears that the Millwrights also support this position.

Article #8 of the same agreement says that any agreement that either Craft presently has with any other International Union shall take precedence over the this agreement. The October 6, 1964 Agreement between the Boilermakers and the Millwrights takes precedence over the May 1, 1971 Agreement.

**Exhibit #6**

The October 6, 1964 Agreement between the Boilermakers and the Millwrights is included. This agreement also covers rigging. The agreement gives both Crafts control of their own rigging, and where both crafts are working jointly and the Millwrights require assistance in rigging operations, the Boilermakers will be requested to perform same. It is clear that the Boilermakers have control of their own rigging on work assigned to them.

Article Two – Dust Collectors is also drawn to the attention of the Umpire. I comment on the relevance of this equipment under Exhibit #10 to #12.

**Exhibit #7**

I have no problem in agreeing that the knocked down dust collector is covered by the October 6, 1964 agreement.

**Exhibit #8 and #9**

The Umpire notes that these settlements of disputes between the Boilermakers and the Millwrights dated August 6, 1973 and November 17, 1970 gives the Boilermakers the installation of the inlet air ducts, filters and silencer sections as well as the plenum on work assigned to these Crafts.

**Exhibit #10, #11 and #12**

This Understanding between the Boilermakers and the Ironworkers on non-pressurized bag houses dated February 8, 1972, was not discussed in the Umpire's original decision because it did not seem to apply. The Contractor in fact said in a letter dated March 4, 1999 that "There is no similarity between this filter house and a dust collection bag house." The further evidence provided under this exhibit points out the similarity in function between the two processes, and the May 7, 1999 letter from the Boilermakers International notes that the filter house in question does not contain any mechanical components and that it is "very similar to a dust collector." I agree.

**Exhibit #13**

The Umpire takes note of these excerpts from Boilermaker – Ironworker joint committee meetings, confirming that the work of dust collectors and non-pressurized bag houses belong to the Boilermakers. Also that the basic principles covering precipitators will also apply to dust collectors.

**Exhibit # 14**

The Umpire takes note of these jurisdictional dispute reports between the Boilermakers and the Ironworkers dated September 9, 1985, October 25, 1982 and August 27, 1982 in respect to inlet air filters, and notes that the work was awarded to the Boilermakers.

Also the letter dated January 19, 1970 is noted. It should also be noted that on these U.S. projects, agreement was reached between representatives of the two Crafts in respect to the work in dispute on a particular project. In only one case was an agreement between the Crafts referred to, dated October 15, 1928, and I am not familiar with that agreement.

**Exhibit # 15 and #16**

The Umpire takes note of the decision of the Joint Board dated June 7, 1951 concerning the dismantling and handling of drum filters, and the subsequent assignment of power rigging of filters to the Boilermakers based on this decision. The right of the Boilermakers to do the rigging on work assigned to them has been previously acknowledged.

**Exhibit #17**

The Umpire takes note of these decisions dated March 29, 1994, September 9, 1966 and January 19, 1972 in favour of the Boilermakers. Here again, agreement was reached between the representatives of the two Crafts in respect to the work in dispute on a particular project.

**Exhibit #18 and #19**

The Agreement of Record dated May 28, 1926 was reviewed in my original decision. The Agreement of Record dated September 23, 1953 is new evidence. In this latter agreement the Ironworkers agree to the Boilermakers historic claim over “.....all vessels requiring tight joints.” Whether the term all vessels can also be applied to a filter house based on the reasoning that a filter house also requires tight joints, is a mute point. The definition (Webster) of a vessel is a utensil to hold something, and that definition does not apply to a filter house. My opinion is that these Agreements of Record are sufficiently vague concerning filter houses to permit a choice in assigning of the work.

Section 3 of the 1953 agreement allocates plate work and internal components of precipitators to the Boilermakers, and excerpts from committee minutes note that bag houses and dust collectors are to be erected in accordance with the precipitator understanding. This further evidence must be considered in the light of the similar function of dust collectors, bag houses and filter houses; and whether a clause referring to one or two can be made to apply to the third on the basis of similar function only. I believe it may apply, but it is not mandatory.

Section 7 of the 1953 agreement allocates attachments to the ducts and fan housing in respect to forced and induced draft fans to the Boilermakers.

**Exhibit #20**

The Umpire takes note of the Joint Board decisions dated January 8, 1971, March 5, 1971, and July 22, 1971 with respect to disputes between the Boilermakers and the Ironworkers, awarding work in connection with dust collectors to the Boilermakers based on the Memorandum of Agreement dated September 23, 1953 .

**Exhibit #21**

In this excerpt from minutes of a joint committee meeting held on August 24, 1964 between the Boilermakers and the Millwrights, the committee recognized the Boilermakers jurisdiction over the "...handling, rigging and assembly of containers and vessels that require tight joints either welded, bolted, riveted and bolted which are dust, air, gas, water and similar liquids, air, dust and liquid proof." Again the reference is to containers and vessels.

**Exhibit #22**

Herein is correspondence consisting of forty final assignments where the Boilermakers have been awarded the work on filters and filter houses.

This concludes the Boilermakers reconsideration evidence.

**Reconsideration Evidence submitted by the Ironworkers****Ironworkers / Millwrights**

The Ironworkers alone were awarded the filter house by the Contractor. No reference was made to the Ironworker – Millwright agreements in awarding the filter house or the installation of power operated dampers (if they exist). In fact, the dampers are not power operated but are rain deflectors mounted in a permanent position.

The Millwright is however involved in the work through trade practice and craft jurisdiction, and was involved with all contractor meetings.

**Transition Section or Plenum**

The Ironworkers maintain that this section merely reduces the filter house outlet to a smaller diameter to which the duct work connects. This opinion is confirmed by the Contractor in two letters to the Boilermakers dated May 12, 1999, in which he says that the drawing which has the word Plenum on it is in error and this section is "...simply a transition from a large square to a smaller square opening to which the duct work connects."

The question here as it applies to this dispute is, at which point does the inlet air duct work begin?

**April 10, 1973 Agreement**

The Ironworkers (Local 720) point out that they were not aware of this agreement until the Boilermaker's submission, and although they feel that the Ironworkers have maintained this work through contractors assignments, they will not be addressing this matter in the reconsideration.

**Other Evidence**

Further evidence by the Ironworkers comprises copies of material previously submitted, including a complete copy of the Ironworker / Millwright power rigging agreement. The evidence concludes with 27 multi-craft contractor assignments to the Ironworkers of mechanical equipment associated with turbine installations. Of these, 9 are projects in Alberta and a further 16 are in Canada. A number of the assignments refer to turbines only and others to handling and rigging. 16 projects include ducts and/or filters.

The Ironworker evidence continues with assignments to the Ironworkers of filters, dust collectors and air filters on other projects.

Pages #1 and #8 of the jurisdictional mark-up by Fluor for the Union Carbide Plant at Prentiss, dated March 2, 1999 is also included. This mark-up and the Ironworker – Boilermaker Bin/Hopper Agreement which follows, is referred to by the Ironworkers in cautioning the Umpire to be careful when weighing the argument of terminology.

This concludes the Ironworkers reconsideration evidence.

**Summary**

To support this reconsideration application, the Boilermakers have introduced lengthy and significant evidence dealing with their claim for the work of the Air Intake Filter House, Dampers and Power Rigging of the Filters. In fact, 22 exhibits were provided.

Through the evidence presented in this reconsideration, the Boilermakers have established clearly their right to be considered for the work in respect to the Intake Air Filter house, Dampers and Power Rigging of the Filters, both through experience and previous awards.

I will not comment further on the decision of Arbitrator Hart.

The concern of the Boilermakers that the Contractor only considered prevailing practice when making his assignment is understandable. The Contractor made no reference to the Agreements that exist between the Boilermakers and the Ironworkers.

With respect to those agreements, I do not consider that the Agreement of Record dated May 28, 1926 can be applied in a mandatory way to this dispute, if it can be applied at all. Also, the Agreement of Record dated September 23, 1953 can not be applied in a mandatory way to this dispute. The Memorandum of Agreement dated April 10, 1973 however has direct application to this dispute. (see next paragraph). The October 6, 1964 Agreement between the Boilermakers and the Millwrights takes precedence over the May 1, 1971 Agreement between the Ironworkers and the Millwrights, in respect to work assigned to the Boilermakers.

The Memorandum of Agreement dated April 10, 1973 is the only agreement that can be applied unequivocally to the assignment of this work. It awards the intake and exhaust ducts to the Boilermakers. Although this and other agreements have obviously been interpreted to award the complete intake air system to the Boilermakers, I believe that on this project the Boilermaker work begins at the reduced end of the section labeled Plenum.

**Decision**

The ruling of the Umpire dated April 30, 1999 remains in force.

This decision applies to this project only and is based on the particular facts and evidence presented.

G.R.Beatson, Umpire  
J.A.Plan / Alberta Construction Industry