

DECISION OF THE UMPIRE

APPLICATION FOR REVIEW OF CONTRACTOR'S
INTENDED WORK ASSIGNMENT

TRANS ALTA ENERGY SUNCOR FACILITY
FORT MCMURRAY, ALBERTA

CONTRACTOR. FLUOR CONSTRUCTORS CANADA LTD.

J.A.Plan # 9909. July 20, 1999

Disputing Trades

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

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

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**Review of Intended Work Assignment -
Installation of a Filter House Canister (all connections welded air-tight)
Trans Alta Energy Suncor Facility, Fort McMurray, Alberta.
Fluor Constructors Canada Ltd.**

Description of the Work

The description of the work was provided in a letter and attachments sent to the J A Plan Administrator dated July 12, 1999 from Fluor Constructors Canada Ltd.

“The work in question consists of installation of two (2) filter houses associated with the 115.5 MVA gas powered turbine generators. The filter houses are on the upstream side as part of the air intake system. The system also contains snow hoods and bird and trash screens. The filter house is connected to the sound damper and reducer on the down stream side.”

Descriptive information covering the gas turbine intake system, equipment function and design, materials of construction and the assembly of the filter house is included by way of attachments to the letter. In addition, four drawings are included, one by Higgott-Kane and three by Airguard.

Nature of the Protest

“The Boilermakers wish to be granted the opportunity to present and defend our position for the **installation of a filter house with canister (all connections welded air-tight)**. The purpose for which installation is used is to filter air of any dust and/or debris before the air enters a gas turbine.”

Authority

The authority of the Umpire is based on the Jurisdictional Assignment Plan of the Alberta Construction Industry, the request and documentation submitted by the Boilermakers and the response submitted by the Ironworkers.

EVIDENCE

Boilermakers Submission

The evidence submitted by the Boilermakers was presented in fifteen Exhibits.

Exhibit #1 consists of a sectional drawing and a perspective of the filter house plus page 3 from the contractor's mark-up showing the initial and final assignment of the work.

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The Boilermakers describe the function of the filter house as an integral part of the air intake system and stress the importance of tight joints in the construction.. This is acknowledged.

The criticism by the Boilermakers for the way in which the assignment of the work was made is noted by the Umpire.

The Umpire also notes that the Boilermakers have been assigned the disputed work on previous occasions.

Exhibit #2 Reference is made to the Agreement of Record between the Boilermakers and the Ironworkers dated May 28, 1926. The Umpire has considered this Agreement previously and again in connection with this dispute. Section 1 of the Agreement begins with the words, "The construction, erection and assembling of all boilers, parts and work in connection therewith ...", it then goes on to list a variety of boiler parts and concludes with the quotation referred to by the Boilermakers as relevant to the disputed work, "...all connections between the boiler and the stack, (commonly known as breaching), built of sheet steel or iron, supports for the same (which are not part of the building structure), uptakes, smoke boxes, air and water heaters, smoke consumers, hot or cold air ducts (except when used for ventilating purposes)." In the Agreement all this work belongs to the Boilermakers, but how can this description which deals with boilers and parts, ie. entirely different equipment, be made to apply to a filter house which cleans the air going to a gas turbine? The clause should not be applied to the work in dispute.

Similarly Section 3, which refers to tanks or containers requiring tight joints, should not be applied to the work in dispute for the reasons I give in the Summary on page 5.

Exhibit #3 Reference is made to the Agreement of Record dated September 23, 1953. In this Agreement, the Boilermakers' historic claim over all vessels requiring tight joints is upheld. But a filter house is not a vessel. A vessel is a utensil to hold something and that cannot be said to describe a filter house. Also, I cannot support the position that the Boilermakers are the only craft that has jurisdiction over tight joints.

Exhibit #4 Reference is made to the Agreement between the Boilermakers and the Ironworkers dated April 10, 1973 known as the Peaking Unit and/or Gas Turbine Agreement. I consider this to be an applicable agreement in respect to intake and exhaust

duct work, but it does not cover this dispute. Although a filter house is an integral part of the air intake system, it is not an intake duct.

Exhibit #5 A decision from the Impartial Jurisdictional Disputes Board dated October 4, 1974 assigning peaking units on a Long Island project to the Boilermakers, based on the April 10, 1973 Agreement. Are we to assume that the entire project was assigned to the Boilermakers based on an agreement that only gives them ducts and stacks?

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Exhibit #6 This is the decision by Arbitrator Hart dated March 29, 1994 on which I commented in detail in my reconsideration decision of May 4, 1999.

Exhibit #7 A decision from the Joint Board dated February 2, 1973 rescinding its decision of November 30, 1972, and awarding intake and exhaust ducts in connection with a gas turbine peaking unit to the Boilermakers, based on the May 28, 1976 Agreement.

Exhibit #8 A decision from the Joint Board dated May 11, 1973 on an original assignment issue awarding an air duct that contains filters to the Boilermakers.

Exhibit #9 A decision by Arbitrator Fagan under the Canadian Plan dated June 30, 1999, in favour of the Boilermakers thereby reversing Umpire Beatson's decision of April 30, 1999 and reconsideration of May 4, 1999.

Exhibit #10 An excerpt from the Boilermaker - Iron Worker Joint Committee meeting dated January 31 - February 2, 1955, agreeing that the basic principles covering precipitators would also apply to dust collectors.

Exhibit #11 an excerpt from the Boilermaker - Iron Worker Joint Committee meeting dated July 13 - 14, 1971, awarding the installation of a dust collector to the Boilermakers based on the September 23, 1953 agreement covering Precipitators.

Exhibit #12 An excerpt from the Boilermaker - Iron Worker Joint Committee meeting dated January 12 - 15, 1976, agreeing that the installation of a cooling air duct to a turbine was the work of the Boilermakers.

Exhibit #13 Five Jurisdictional Dispute Reports on projects awarding work to the Boilermakers. The work covered :

- Boiler inlet air filter in inlet duct.
- Filters and duct for gas fired turbine/waste heat boiler.
- Inlet filters and discharge silencers.
- Combustor and bag filter.
- Air inlet duct and outlet duct for a gas turbine.

Exhibit #14 A decision from the Joint Board dated June 7, 1951 awarding the dismantling and handling of drum filters to the Boilermakers.

The above exhibits cover a lot of territory but no filter houses.

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Exhibit #15 More than forty final assignments, twenty three in Canada of which nine are in western Canada, where the Boilermakers have been awarded the work on filters and filter houses. The awards in western Canada were made by five different contractors.

This concludes the Boilermakers' evidence.

Iron Workers Evidence

The Ironworkers presented their evidence in seven parts.

A. In their opening comments and statement of position, the Ironworkers describe the function of the filter house. The claim by the Boilermakers to all vessels that contain tight joints, based on the Agreement of Record dated May 28, 1926 is refuted, and a Decision of Record dated October 6, 1950 is drawn to the Umpire's attention. Here, ash hoppers are the work of the Ironworkers, "...whether or not air or water tight." The point being that the Ironworkers can also claim jurisdiction over vessels that have tight joints. Section 4 of the May 28, 1926 Agreement is also mentioned to reinforce this point.

The Ironworkers say that the agreement between the International Presidents dated April 10, 1973 is not relevant to this dispute because it makes no reference as to who has jurisdiction over the filter house.

Concerning the understanding dated February 8, 1972, the Ironworkers see no similarity between a non-pressurized bag house and a filter house. They also reject the claim that a plenum and a filter house are the same.

The decision by Arbitrator Hart dated March 29, 1994 is rejected by the Ironworkers because there is "...no direct reference made to the Filter House."

The Ironworkers conclude this part of their evidence with a criticism of the Canadian Plan decision dated June 30, 1999 and the role played by Arbitrator Fagan .

- B. The decision by Umpire Beatson dated April 30, 1999 and the reconsideration dated May 4, 1999 are reproduced herewith.
- C. More than eighteen final assignments, seventeen in western Canada where the Ironworkers have been awarded the work on filters and filter houses. Awards were made by twelve different contractors.
- D. A drawing of the filter house and filter house structure.

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- E. P.C.L. Industrial Contractors Inc. clarification letter on filter houses / filters dated June 9, 1999, Aurora Project, Syncrude.
- F. Decision of Record dated October 6, 1950 referred to previously.
- G. A letter dated June 16, 1999 from Spantec Constructors Ltd. to the Canadian Plan Administrator.

This concludes the Iron Workers' evidence.

Summary

Let us first deal with the Agreements of Record and Decision of Record. Contrary to the opinion expressed by Arbitrator Fagan and implied by Arbitrator Hart, the Agreement of Record dated May 28, 1926 should not be applied to the work in dispute for the reasons previously stated. Likewise, the Agreement of Record dated September 23, 1953, confirming "...that all vessels requiring tight joints must be the work of the Boilermakers..." should not be applied in this case. There are many areas of work undertaken by the building trades that require tight joints in order to function properly. To permit the Boilermakers to pick and choose which area of work they wish to claim on the basis of whether or not it requires tight joints, is unfair to the other Crafts. This is not a matter of not adhering to the specific criteria set forth in Article VI (1) of the J A Plan Rules, but rather a matter of refusing to apply Agreements that are not relevant.

The National Joint Board for the Settlement of Jurisdictional Disputes gives intake and exhaust ducts to the Boilermakers. With these rulings I agree as evidenced in my decision of April 30, 1999.

The Joint Committee decisions that deal with dust collectors and precipitators I do not consider relevant. The Joint Committee meetings where the Ironworkers agreed to the

installation of inlet air filters being the work of the Boilermakers are interesting. If the Ironworkers would only agree that a filter house was the work of the Boilermakers, there would be no dispute.

The final assignments provided by both Crafts are impressive. As I said in my reconsideration decision of May 4, 1999, the Boilermakers have established clearly their right to be considered for the work in respect to the Intake Air Filter House. They enjoy the greater number of assignments overall, but the Ironworkers enjoy a greater number of assignments in western Canada. That brings me to the nub of this dispute.

There is no Agreement between the Boilermakers and the Ironworkers that can be applied to this dispute. Even the agreement between the two Presidents talks about intake and

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exhaust ducts, but not filter a house. On the other hand, both the Boilermakers and the Ironworkers have demonstrated competence and interest in this work, and I suggest to contractors that they consider both Crafts when making their intended work assignment. With no decision of Record, Agreement of Record or agreement between the trades that can be fairly applied, and with both Crafts having many previous assignments of this work to their credit, decisions in the future as to which Craft is assigned the work, should be left to the contractor.

Ruling

The work shall remain as assigned by the contractor.

The Umpire's costs shall be shared equally between the disputing parties.

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