

January 30, 1979

Mr. Lynn Seeber, General Manager  
Tennessee Valley Authority  
Knoxville, Tennessee 37902

Invitation 73-824811 - Indefinite Quantity Term Contract  
for Rebar Splicing Materials - Proposed Yellow Creek Nuclear  
Plant

Dear Mr. Seeber:

Last October we received subject Invitation To Bid. We submitted the bid based on supplying material equal or superior to the Cadweld splice.

We are now informed that the award of this requirement was made to Erico Products as the low responsive bidder meeting the requirements of the Invitation. That we took exception to the Invitation by bidding a rebar splice different from the Cadweld process as required by the Invitation. That T.V.A. has committed in the Yellow Creek PSAR to conform to the Cadweld process outlined in NRC Regulatory Guide 1.10. We are told that because we bid an alternate process we were not considered for award.

We take exception to the above statement that the T.V.A. is committed to conform to the Cadweld process and refer you to a NRC Regulatory Guide 1.10 footnote which provides for Methods and Solutions different from those set out in the guide are acceptable under certain conditions.

Our bid made note of the fact that the Fox Howlett coupler had been accepted for review by the NRC in March 1976.

We take exception to the award of this bid to Erico Products as the low responsive bidder. It was well known by your people that the Fox Howlett coupler differs from the Cadweld process so if the reasoning for rejection is as stated, why was the invitation sent to us in the first place. We have no other way to bid on materials except on an or-equal basis in terms of performance as provided for in all government procurement.

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Tennessee Valley Authority  
Knoxville, Tennessee 37902

We ask that the award of this requirement be cancelled or delayed until such time as we can clearly demonstrate that the Fox Howlett qualifies on the or-equal basis in terms of performance and at less cost than noted in the Notice to Unsuccessful Bidder.

As you know, we have complained over the years as to the unfairness of the single supplier situation as applied to nuclear work. We believe it is time to demand that some corrective measures be taken, hopefully with your cooperation.

Please may we have your comments.

Very truly yours

FOX INDUSTRIES

Charles J. Fox

CJF/pk  
cc: R. O. Barnett  
G. Ownsby

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UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

MAR 6 1979

Mr. Charles J. Fox  
Fox Industries  
722 Folger Avenue  
Berkeley, California 94710

Dear Mr. Fox:

Your letter to Chairman Hendrie of February 2, 1979, has been referred to me for reply. I have reviewed the records and correspondence relating to your interaction with this agency since 1972 and can easily understand and be sympathetic with your difficulty in attempting to get a formal approval by the staff of the Nuclear Regulatory Commission (NRC) of your topical report, "Performance Tests and Engineering Evaluation of Fox-Howlett No-Slip Couplers for Reinforcing Steel Bars." You should be aware that staff approval merely means that a topical report can be referenced in specific nuclear power plant applications. It is not a certification or endorsement of a particular component or subsystem.

However, I would like to point out that a basis for accepting your product has received consideration and informal acceptance by the technical personnel of the NRC staff on the ACI 359 Code Committee who reviewed and commented on Code Case 1758, "Requirements for Materials and Qualification and Performance Testing of Reinforcing Bar Splice Systems (Taper Threaded Splices)". This Code Case was voted affirmatively by the NRC member at the ASME Boiler Pressure Vessel Main Committee level, then it was approved and issued in 1976. This informal acceptance is being extended to the Code change identified as JC 8-13, "Incorporatin of Various Splice Systems Now Permitted by Code Cases". NRC staff are members on The Subgroup on Materials, Construction and Examination, The Joint Committee, and other ACI 359 subgroups and working groups.

Formal approval of your topical report by the NRC staff is not a prerequisite for NRR acceptance for use of your product in nuclear power plants. All utilities and architect-engineering firms can utilize your splice system in the construction of nuclear power plants subject to the normal review by the NRC staff of any docketed application. Publication of the Code Case 1758 by the ASME Boiler and Pressure Vessel Code provides a basis for such staff review.

At the present, we have no procedural difficulty in starting our technical review, but as our letter to you of March 22, 1978, (from Mr. Karl Kniel) indicated, priority consideration of more pressing matters delayed initiation of a formal review of your topical report. Unfortunately, this situation has continued during the past eleven months.

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RELIANCE SHEET & STRIP CO.

Charles J. Fox

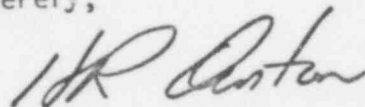
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With respect to your understanding of NRC regulatory guides, this agency does have two different ways of promulgating written guidance and direction. A regulation, which is published in Title 10, Code of Federal Regulations, describes requirements that must be complied with by the industry. By contrast, regulatory guides (such as 1.10 on Cadweld Splices) describe an acceptable method. As noted in the enclosed preamble to Regulatory Guide Series, "guides are not intended as substitutes for regulation, and, therefore, compliance with these guides is not required." In addition, note that the regulatory guide on Cadweld Splices was written when there were no other available splice systems in the industry other than the Cadweld Splice. Also, I would like to inform you of a current NRC staff effort to delete the regulatory guide on Cadweld Splices after publishing one that would endorse the qualification criteria for all splice systems identified by the Code.

Our view of your correspondence with TVA is that it is a matter between you and them. If TVA had proposed use of your product during our review of Yellow Creek, we would have reviewed it and the acceptance of the Code Case by our code representatives would have played a part in our review.

We will attempt to reschedule the review of your topical report. However, that review should not be a determining factor in the use of your product by the nuclear industry. I trust that the above documentation will aid you in discussions with utilities planning to build nuclear power plants and will help assure that you receive reasonably fair treatment by potential users of your product.

Sincerely,



Harold R. Denton, Director  
Office of Nuclear Reactor Regulation

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