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Box # 71
Folder # 15/W 74c
Eng. 276 Harsh
Chemical Co. 19

W. E. Kelley, Manager, New York Operations Office

April 18, 1952

E. C. Sargent, Area Manager, Cleveland Area Office

Harshaw
CONTRACT W-7405 ENG-276 - REQUEST FOR MODIFICATION OF ARTICLE II

SYMBOL: CLV:AMH:ap

ATTENTION: V. C. DUNCOMBE

Harshaw

During December, 1951, uranium hexafluoride production was discontinued and steps were taken to place this plant in stand-by.

Harshaw's original stand-by proposal was submitted under date of October 24, 1951; the revised proposal was submitted January 9, 1952. This office reviewed the latter proposal and subsequently issued directions for the uranium hexafluoride plant stand-by on February 29, 1952. Since certain work originally proposed by Harshaw was excluded from our directions, for reasons of economy, it is unreasonable to attempt to hold Harshaw to the current contract provision. The contract, as now written, is somewhat conflicting. Harshaw is required to maintain a stand-by condition such that the plant may be placed in operation within 60 days and reach full production within 90 days. At the same time the contract gives to the Commission the right to indicate the extent of stand-by desired. If the word "extent" refers to the portions of the plant to be placed in stand-by, the contract is not in conflict. However, if the intent of that word is to permit the Commission to exercise discretion in determining what work should be done in order to provide a stand-by plant, there does ~~not~~ appear to be a conflict. The latter construction of the language appears to have been adopted by both the Commission and Harshaw personnel. Accordingly, it is unreasonable to expect Harshaw to commit themselves to having a plant operating within a specified period and yet withhold from them discretion in determining what steps must be taken to establish a standby plant.

It is desirable, from the standpoint of the Commission, to be able to specify the work to be done so that some control on stand-by costs can be maintained. As previously mentioned, this office excluded certain work originally proposed by Harshaw and some of this work is considered by Harshaw to be essential to the stand-by in order to meet the present contract requirement of full production in 90 days. We have also permitted the loan of certain essential equipment, such as nitrogen trailers, to other AEC installations during this stand-by period. Although the loan of such equipment was made conditional upon an agreement to return same upon 60 days notice, Harshaw has no assurance that this equipment will be returned in time for them to meet the present contractual requirements.

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W. E. Kelley

E. C. Sargent

CONTRACT 6-7400, Laboratory of the U. S. Department of the Interior

SYMBOL: C-7400-100

ATTENTION: Mr. C. [unclear]

As a result of the additional controls the Commission is now exercising over the degree of control to be maintained, some contractual modification is undoubtedly in order.

Attached is a letter dated March 28 from W. D. Stillwell in which Harshaw proposes a revision of Article II, paragraph 1, that is acceptable to them. This revision requires that the work be completed before the commencement of the 90-day period. From a strictly contractual standpoint, this requirement is not altogether satisfactory since some of the work deferred is of a minor nature, that is, not of the type required for operations. Paragraph 1, such minor items should of course not be required to be completed before the beginning of the 90-day period. However, it has no satisfactory alternative to propose since any modification to Article II, paragraph 1, which is essential to the operation of the plant which is essential to the present or future operations or to which is essential. Our only objection is that the proposed modification is not entirely satisfactory.

We have certain concerns regarding the proposed modification. The proposed revision states that the 90-day period shall end upon the completion of the work described in Article II, paragraph 1, of the contract. From a strictly contractual standpoint, this requirement is not altogether satisfactory since some of the work deferred is of a minor nature, that is, not of the type required for operations. Paragraph 1, such minor items should of course not be required to be completed before the beginning of the 90-day period. However, it has no satisfactory alternative to propose since any modification to Article II, paragraph 1, which is essential to the operation of the plant which is essential to the present or future operations or to which is essential. Our only objection is that the proposed modification is not entirely satisfactory.

Harshaw's proposed modification is a change in the language provided by: "assuming complete final completion of the plant upon which the operation of said plant shall be dependent". Harshaw's explanation of the proposed change is that it was merely a catch-all. They had no other plants in mind when this language was included. We are not satisfied with the proposed modification since the only other portions of the plant which are required to be in operation are those which are dependent upon the fluoride plant are "dependent".

In W. D. Stillwell's letter, it is suggested that the Commission might desire to adjust the obligations specified in paragraph 1, of the contract. It is our belief that any adjustments in the obligations specified in paragraph 1, of the contract, \$60,000.00, appear to be reasonable and should be included in the calendar year 1952.

Enclosures

Harshaw Lab. 6/2/52