



Mr. Harrison Youngblood, P.E (Utilities Engineer for Indian River County)

06-March-2024

Indian River County  
1800 27<sup>th</sup> Street (Building "B")  
Vero Beach, Florida 32960

**Subject: Indian River Contract No. 2021026 Delays Beyond the Contractors Control.**

Dear Mr. Youngblood,

TLC Diversified is in receipt of your letter dated 01-March-2024 requesting TLC to provide an updated Finishing Schedule with a written request for an extension of Contract time to include valid reasons for an extension. The letter also references the liquidated damages clause in the contract.

Please note that TLC is relying on these same documents under General Conditions section 12.03 A and 12.03 C dealing with Delays beyond the control of the Contractor. A portion of this was modified under the Supplemental General Conditions where 12.03 A was removed and replaced with modified verbiage.

Delays beyond the Contractors control are delineated in this section and state," Where Contractor is delayed or prevented from completing any part of the Work within the Contract Times due to delay beyond the control of the Contractor, the Contract Times (or Milestones) will be extended" The Contractor is tasked with providing evidence that the delay(s) impacted the critical path and prove that delays were caused by various items out of his control including acts of God and Owner related delays.

TLC and our subcontractors and suppliers have experienced multiple and ongoing delays throughout this project which have affected our anticipated completion date. The entire construction industry is experiencing this issue on projects of long durations that overlapped with the Worldwide pandemic. We continue to ask the Owner for assistance in limiting these delays as this project is **hypersensitive to any delays, critical shutdown requests and out of sequence work**.

TLC has commented throughout this project that we scheduled the project correctly but in reality, were forced to build it backwards and out of sequence because of the disastrous and ongoing delays caused by the pandemic.

TLC issued a written (friendly Notice) to the Engineer and Owner on 29-December-2021. We provided examples of (pricing escalations / delivery delays / labor shortages) and expressed that the project would run over. The Notice informed all parties not of one delay but instead a catastrophic set of (plural) delays in every part of the project. TLC requested help from the Owner and Engineer to deal with these issues and explained how TLC was self-performing many parts of the work in order to maintain forward motion in any place that was possible. Further examples of this can be discussed in necessary.

TLC has provided the Owner notice of delays both verbally in meetings and in writing as evidenced by language in each of the change orders stating, "with the current supply chain delays that have been discussed in the project meetings it is difficult to quantify the additional time required to quote this change. TLC is therefore reserving our rights to additional time for the project that will be determined at a later date."

An important point that needs to be relayed before discussing the delays and remedies to them, is the sequencing of different interconnected systems that are specific and re-occurring on this project. Each of these systems are hypersensitive to any delays, critical shutdown requests or out of sequence work.

The work activities on this Oslo Road project were intentionally designed to be performed in series and not in parallel in order to maintain potable water delivery to customers in sufficient quantity and quality without interruption. As a result, any delay in any part of the project affects the entire series of activities on the entire project. For example:

- The New HSP pumps #4 and #5 had to be installed and operational before the existing HSP pumps 1,2,3 could be taken offline and renovated.
- Only one of four R/O skids can be taken offline and completely replaced including the initial demolition of the existing skid and related instrumentation and electrical work.
- Only one feedwater pump out of five can be taken off line at any given time including the demolition of the existing connecting 8" feedwater manifolds that selectively feed each of the four existing R/O skids.
- The R/O permeate and concentrate stainless piping in the pipe trenches require complete demolition and then require a completely new larger stainless piping system installed in specific sequences in order to tie in the new R/O systems while keeping the existing R/O systems and entire plant operational.
- There are many other areas with these requirements, but we only want to point out that work throughout this Contract must happen in specific sequences.
- Adding more people does not necessarily allow for more work to progress. For instance, TLC cannot go in and demo all of the existing R/O skids.
- Please note that TLC offered suggestions that would allow the Contractor to build uninhibited by the phasing constraints which would allow for much faster progress. Each of these requests were not acceptable to the Owner.

TLC utilized specified companies on this project and expected nothing short of on time and complete deliveries followed by the timely installation of each of the materials. We instead have continued to face delays beyond the control of not only the General Contractor but also to each of our suppliers and subcontractors.

Being specific to your request,

TLC provided a Finishing Schedule with a request for an extension of time for reasons delineated above. These re-scheduled activities rely on all predecessors to be completed before the next activity can begin

and each of the activities must be completed before its successor can begin. A slippage in only one the activities potentially delays all activities down line from it.

The Off-site Well Modifications were delayed by deteriorated optic cables that needed to be replaced. Multiple meetings were held which ultimately resulted in modifications to the fiber optic cables. The final solution was to replace portions of existing fiber to make the SCADA system reliable. Since that time, the work to complete these four wells has been scheduled. Two of them are now completed including the installation of the associated new control panels. The remaining two wells are scheduled for CC Controls and Paragon Electric to complete on Monday 06-March-2024 and the remaining has been scheduled for Monday 13-March-2024.

#### R/O Nano-Filter R/O Skid Work:

The work for the demolition of the first existing (R/O Skid) Nano-Filter is completed and is reported as functioning as intended.

The delays at the second R/O skid installation were extensive:

- out of sequence work to repair the Owners emergency leak.
- Delays in receipt of Aerex stainless piping.
- Delays by specified but malfunctioning R/O permeate flow meter(s).
- Delays by the denial of multiple requests to shut down the plant to tie in the R/O system.
- This was followed by delays when Harn left the site to go to another available project.
- Delays caused by a malfunctioning feedwater pump.
- These issues have now all been corrected, and the filter membrane loading is now scheduled for 04-March-2024.
- Because this project was designed in series and not in parallel, the delays to the second R/O skid also cause delay to the third and fourth skids and the Feed pump replacements and the Feedwater Pipe replacement and on down the line. We are working with the Engineer and the Owner to streamline the removal and replacement of these final skid(s).

#### Regarding Stainless Steel Pipe Delivery and Installation:

The project has been severely delayed by the absence of the stainless-steel pipe delivery(s). We now have delivery of this stainless-steel piping for all areas on the schedule. TLC has also intentionally increased its labor force after receiving this piping and is currently installing the stainless piping systems.

#### Demolition and Replacement of the (RWB) Raw Water blend Piping:

- This was part of the delayed pipe delivery and was discussed above to correct the Emergency Owner leak. The piping is installed and operational but has some accessories that need to be replaced. These accessories are on order and are included on the updated Finishing schedule for completion.

#### Clean In Place System:

The (CIP) Clean in Place system orders are being written and shop drawings are forthcoming. The materials for this work are on site and installation of the Mezzanine support system will also be on the updated Finishing Schedule.

The Acid Feed system in the Finishing Schedule is installed and is in operation.

The 4000 Gallon Bulk Storage tank is installed and will be scheduled for start-up in the updated Finishing Schedule.

The Co2 system final start up and tank filling is in process of being scheduled. TLC requested 2 start-up dates from the Manufacturer (Tomco) for the Owner to choose from in an email dated 29-February. We are confident that this work will be completed in the next few weeks.

TLC has not left the site since the day we mobilized. We have enjoyed a good working relationship with the Plant Superintendent and with the Owner and Engineer which is sometimes difficult on contracts that last longer than 1 year. We ask that the Owner provide an extension of time and avoid the Liquidated Damages route on this project. That route would be a slippery slope knowing what we have all experienced over the life of this project regarding delays beyond our control and especially on a phased project such as this one.

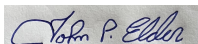
TLC has written many "do better letters" to suppliers and subcontractors over the life of this project and have had some heated discussions informing them to execute their work even in the face of the delays that we are all experiencing.

TLC has asked only for additional time on this project. We have already endured and continue to pay a heavy price for the extended overhead, supervision and even for extra work that the Owner has never received an invoice for. TLC is committed to completing the remaining work on this project as efficiently and as quickly as possible and ask that the Owner provide an extension of time for this request.

We look forward to the safe and expeditious closure to this project and appreciate any assistance the Owner and Engineer can offer.

Sincerely,

TLC Diversified, Inc.



John Elder

Project Manager