#1

KEENE
CORPORATION

345 PARK AVENUE, NEW YORK, N. Y. 10022 • TELEPHONE (212) 421-7122

January 31, 1974

Bechtel Power Corporation
P. O. Box 3965
San Francisco, California 94119

Attention: Mr. G. F. Brown,
Project Manager

Gentlemen:

This will acknowledge receipt of your letter of January 4, 1974.

Needless to say we were quite surprised at the form and content of your letter. Your offer is totally unacceptable and is hereby rejected.

While you may find it "very hard to understand why Keene would discard $14,500 worth of material" the answer is quite simple. The reason for discarding the Unibestos material was that it was an asbestos product which could not be used (with exceptions not relevant here) after January 1, 1973.

The other points in your letter indicate a similar degree of misunderstanding as to what happened.

Preliminarily, I would like to reiterate that the draft claim submitted to your Mr. Yost on December 28, 1973 related solely to the costs of emergency materials and direct labor application costs related to such emergency materials. The draft claim did not include other costs resulting from the Owens-Corning strike, such as those arising from erratic work release sequence due to the delay caused by the strike. We are preparing a separate work release sequence claim per our December 13, 1973 agreement with you.

Your reference to Amendment No. 1 in response to our claim for added labor costs for application of double vs. single layer calcium silicate is inappropriate -- Amendment No. 1 does not apply. Amendment No. 1 was not issued until late November 1971 after we had been verbally instructed because

PLAINTIFF'S EXHIBIT tabbies WV-010116

PLAINTIFF'S EXHIBIT tabbies 05658.00

of emergency circumstances to proceed to insulate the auxiliary steam and heating pipe systems with whatever material we could find in whatever thickness was necessary to complete the insulation at once. That amendment, however, relates to the auxiliary steam system only. It does not include costs for applying double layer material to the heating pipe system. We also call your attention to the fact that the amendment does not provide for additional costs to either fabricate or apply .016 jacketing in our warehouse, nor in the alternative, costs related to .025 field applied jacketing. The amendment is confined strictly to cost for applying double layer material on the auxiliary steam system only. The amendment does not include the items for which our claim was made.

Your comments on Items 3 and 4 are correct in the delineation of specifications. Item 3 is the added material cost for purchasing .016 jacketing to match factory applied jacketing -- this would relate to both auxiliary steam system and the heating pipe system. Item 4 covers the added cost for handling and applying .016 jacketing offsite in our St. Louis warehouse because of the unavailability at that time of factory applied jacketing. Because factory applied jacketing was not available and in order to meet the emergency job site instructions from your representatives to proceed with insulation, Keene had two alternatives:

1. To field apply .025 jacketing at additional cost, or

2. To fabricate and apply .016 jacketing in the St. Louis warehouse at added cost.

Election of the latter option was based on the fact that it represented the least costly of the alternatives and provided a uniform installation. The costs of the material, fabrication and application of .016 jacketing in the St. Louis warehouse were added costs directly attributable to the Owens-Corning strike. They would not have been incurred except for that strike.

Your letter on Items 3 and 4 also refers to the fact that at the time of the contract bid Keene stated that .016 jacketing would either be installed in the factory or at the St. Louis warehouse. While we can find no reference in our file to that statement, it would not be unusual for Keene to

qualify the bid in this manner. As you know, we reached a decision to use factory applied .016 from Owens-Corning. This decision was frustrated by the Owens-Corning strike and we were forced to change our plans and fabricate in out St. Louis warehouse. This change was dictated by the strike; it was beyond our control and it resulted in extra costs. Since factory applied jacketing was unavailable because of conditions beyond Keene's control, Keene would expect reimbursement for added costs.

If we had originally planned to use the St. Louis warehouse, it would have been somewhat more costly to us than the Owens-Corning factory applied, but not nearly of the magnitude of the actual costs incurred when the strike forced a change in plans. Thus, these were real increased costs as a result of the strike over and above those that might have been incurred if we had picked a different course initially. In addition, we believe that we are entitled to the increased costs resulting from the strike even though there may have been other more expensive options available to use pre-strike. We planned to use the least expensive option and the strike stopped us.

With respect to the loss on Unibestos material, see the comment above about the asbestos content. Unibestos was not prohibited in the Bechtel specifications. The prohibition against its use was contrary to the specifications. We were instructed to get whatever material was available from any available source because of the Owens-Corning strike. In response to this instruction, we obtained the Unibestos material - both single layer and double layer. The discussion in your letter about double layer vs. single layer is largely irrelevant since we had both.

Please let us have your concurrence as to the items you disallowed in your January 4th letter. We would be pleased to furnish further information if you feel that would be helpful.

If you have problems in regard to the other drafts submitted, it might save time and effort if we could discuss them before you take "formal" action.

Very truly yours,

Dan McCarthy/pc

Daniel C. McCarthy
Vice President

cc: Mr. K. E. Bridegroom
Manager of Mechanical Engineering
Union Electric Company
316 North 12th Street
St. Louis, Missouri