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**From:** Iain McAlister  
**Sent:** 23 February 2011 19:32  
**To:** 'brandon.nolan@mcgrigors.com'; 'Steven Bell'; 'Susan Clark'; 'Williamson, Simona'  
**Cc:** Robert Burt  
**Subject:** J086: tie - Infraco; "Key topic areas 1 and 3" - PRIVILEGED and CONFIDENTIAL - Prepared in contemplation of litigation - FOISA EXEMPT  
**Attachments:** J086 - 1301and3 - Notes - Slides to accompany 1301 and 1303 narratives 23Feb11.pdf; J086-1301i Ver00 Notes - Effectively ignores INTC 429 decision.docx; J086-1301ii Ver00 Notes - Includes INTCs that predate 429 and postdate 536.docx; J086-1301iii Ver00 Notes - INTCs ignore progress and is entirely theoretical.docx; J086-1301iv Ver00 Notes - INTC ignores all other INTCs and TCOs that predate it.docx; J086-1303i Ver00 Notes - The Programme and its deficiencies.docx; J086-1303ii Ver00 Notes - Updating of Programme for progress.docx; J086-1303vi Ver00 Notes - Ignoring dominant cause of delay.docx; J086-1301ii Ver00 Notes - Includes INTCs that predate 429 and postdate 536.docx

**PRIVILEGED and CONFIDENTIAL - Prepared in contemplation of litigation - FOISA EXEMPT**

Dear Brandon,

In similar fashion to the matters being dealt with by Robert Burt and my other colleagues, please find attached files containing narratives and supporting graphic slides for the following items from Steven Bell's list.

1. Extension of Time and associated loss and expense relating to MUDFA works (INTC 429 & INTC 536)  
**Points to be addressed as follows:-**
  - **INTC 536 Estimate effectively ignores the INTC 429 decision and cherry picks from the reasons.** (see file "J086-1301i Ver00 Notes – Effectively ignores INTC 429 decision")
  - **INTC 536 includes many other INTCs that pre-date INTC 429 and others that post date it.** (see file "J086-1301ii Ver00 Notes – Includes INTCs that predate 429 and postdate 536")
  - **It ignores actual progress.** (see file "J086-1301iii Ver00 Notes – INTCs ignore progress and is entirely theoretical")
  - **It ignores all other INTCs and TCOs that pre-date it.** (see file "J086-1301i Ver00 Notes –INTC ignores all other INTCs and TCOs that predate it")
  - **The analysis is entirely theoretical and does not accord with the factual situation on the ground.** (relevant content included in file "J086-1301iii Ver00 Notes – INTCs ignore progress and is entirely theoretical" are referred to above.)
  
3. Obligations in relation to Programme Clause 60 etc. (all constituent parts; updating Rev1; incorporating progress etc.  
**Points to be addressed as follows:-**
  - **The Programme is deficient of much of the information required by the ERs. Information on many pre-requisites to on-site commencement are missing. Consequently, the updating that has been reported by the Infraco in its Period Reports does not include this pertinent, and often critical, information.** (see file "J086-1303i Ver00 Notes – The Programme and its deficiencies")
  - **It has not been managed in accordance with the Infraco Contract. Specifically, it has not been updated to reflect changes to the Infraco's actual or planned order and manner for delivering the Infraco Works.** (see file "J086-1303ii Ver00 Notes – Updating of Programme for progress")
  - **It has also not been updated to take into account TCOs.** (relevant content included in file "J086-1301i Ver00 Notes –INTC ignores all other INTCs and TCOs that predate it" referred to above)
  - **Infraco submissions for EoT (other than MUDFA) have not followed the contractual mechanisms.** (refer to Infraco letters submitting Revision 2 and Revision 3 programmes under Clause 60 for approval and

granting on EoT without any reference to Clauses 64, 65 and 80, all of which should be self explanatory in making the require point.)

- It is also apparent that the SDS element of the Programme has not been integrated with the Infraco construction programme element. This has resulted in a growing misalignment between these two elements. Delays to the design are not being reflected in the construction programme. This has led to a misrepresentation of projected dates in that element of the Programme. (relevant content included in file "J086-1303ii Ver00 Notes – Updating of Programme for progress" referred to above)
- By these actions the Infraco is obstructing the proper operation of the Infraco Contract with respect to Programme and EoT (see file "J086-1303vi Ver00 Notes – Ignoring dominant cause of delay")

The slides for all of these narratives are contained within the attached pdf file entitled "J086 - 1301and3 – Notes – Slides to accompany 1301 and 133 narrative 23Feb11"

I hope and trust that you find this all to be self explanatory and in order. As ever, if you require any more explanation, clarification or wish to discuss anything further, please do not hesitate to get in touch with me by whatever means is most convenient for you.

Kind regards

Iain

**Iain McAlister, Associate Director  
ACUTUS**

[imcalister@acutus.co.uk](mailto:imcalister@acutus.co.uk)

[www.acutus.co.uk](http://www.acutus.co.uk)

M: +44 [REDACTED]

T: +44 [REDACTED] and +44 [REDACTED]

F: +44 [REDACTED] and +44 [REDACTED]

65 Chandos Place, London, WC2N 4HG

and

Merlin House, Mossland Road, Hillington Park, Glasgow, G52 4XZ

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