

From: Prince, Jared - LPL583082 </o=ORG01/ou=GBR01/cn=Recipients/cn=JMP>
Sent: Thursday, May 10, 2018 12:45 PM
To: Noelle Rodier <nrodier@wsandco.com>
Cc: Achinelli, Tony - GBR666465 <Tony_Achinelli@JLTGROUP.COM>; Donna Chan <DChan@wsandco.com>
Subject: Century Aluminium - river closure delay claim - LNP Ref DB1703553001

Hi Noelle, I was catching up with the leader today in order to discuss moving this claim forward. I would like to update you as to how those discussions went.

First and foremost the lead has confirmed cover attachment under the extra expense language. This is limited to USD 1m in the aggregate and they are satisfied that the recoverable claim exceeds this sum. As a result we will submit a formal request for them to agree to pay this amount.

It is possible they will require a payment authority or form of acceptance but we will revert as and if this is required in order to collect those funds.

We then discussed the balance of the claim and how the policy can respond to the loss in full. We primarily focussed on the marine consequential loss insurance section of the policy. This was noted to provide cover up to USD 3m as a result of delay in the delivery of the product. Despite our assertion that coverage is therefore in force hereunder, the leader has countered our opinion. Firstly, it was deemed that this section of cover only applies to the specific risks listed in that section. Under the "risks covered" clause they accept that this includes delay, however this clause ends with the language "caused by:" and then lists the specific triggers that are required in order for coverage to be operative. We went through each of the risk clauses and the lead concludes that the situation which led to these expenses is not described. As a result, this section of the policy was discounted as providing any further cover.

The lead also pointed out that no shipments which were not already on the water were delayed. They were delivered on time, just by another means. No identified and insured peril has occurred to those rail shipments from the warehouse, and in any event delay is not an insured peril under the policy except for the additional cover for delay as described and provided in the extra expense language. The limit for which they are already agreeing to settle.

We then discussed the sue and labour clause in both the marine consequential loss insurance section of the policy as well as the main body of the wording. The leader reached the same conclusion for the consequential loss section, in that the situation encountered was not encapsulated within any of the descriptions of the "caused by" section, and therefore any cost incurred did not avert or minimise a loss under that section, because it did not provide cover in the first place. For these same reasons the "minimising losses" and "avoidance in delay" sections of the policy were also discounted.

Finally we reviewed the sue and labour section of the main body of the policy. The policy is written on American Institute Cargo Clauses 32B-10 but with clause number 3 amended to read "against all risk of physical loss of or damage to the subject matter insured from any external cause". When referring to these AICC clauses there is a delay warranty under 13. C which excludes losses caused by delay, whether the delay is caused by an insured peril or not. The leader feels that the losses presented from the barge shipments are caused by delay and are therefore excluded entirely under the policy. The only section of the policy that extends cover for delay is the extra expense clause, which they accept provides coverage and the policy should therefore respond up to the extended limit described therein of USD 1m. The expenses arising by sending the product by a different mode of transport are not delayed, they are not lost or damaged, and the expense to ship them by rail has not averted or minimised a loss under any section of the policy as described above. Hence no sue and labour application can be applied.

It is therefore their current position, based upon the known facts to date, that this claim will be limited to USD 1m of extra expense cover.

We would therefore seek your instructions please as to acceptance or otherwise of this sum, alongside any additional information we can offer that will allow us to ask them to reconsider the above.

I did also test the water to see if we could have discussions around increasing the settlement but based upon the current information, this would be considered as a payment outside the scope of the policy, and become an ex gratia discussion requiring discussion at an underwriter level with every insurer considering this for their own share independently.

Tony is currently travelling so if we can try and schedule a call for say Tuesday next week we can discuss next steps in detail.

EXHIBIT
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Kind regards,
Jared

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From: Noelle Rodier [mailto:nrodier@wsandco.com]
Sent: 19 March 2018 20:45
To: Prince, Jared - LPL583082
Cc: Achinelli, Tony - GBR666465; Donna Chan
Subject: FW: Cargo Claim

Hi Guys:

Here is the most up to date information we have on the Ohio River loss for CAC.

Thanks,

Noelle

