

STATEMENT OF CONSIDERATIONS

REQUEST BY WEIRTON STEEL CORPORATION FOR AN ADVANCE WAIVER OF FOREIGN AND DOMESTIC PATENT RIGHTS FOR INVENTIONS DEVELOPED UNDER DOE CONTRACT NO. DE-FCO7-92ID13162, RELATING TO THE DEVELOPMENT OF AN INTEGRATED SCHEDULING AND LOGISTICS SYSTEM FOR THE DOMESTIC METALS INDUSTRY; W(A)93-009, CH-0760.

In the report of the House Committee on appropriations relating to the Department of Interior and Related Agencies Appropriations Act of 1991 (Public Law 101-512), DOE was requested to develop an integrated manufacturing information system (IMIS) for the steel industry. Accordingly, DOE, acting through its Office of Industrial Processes under the Assistant Secretary for Conservation and Renewable Energy, has entered into a cost shared contract with Weirton Steel Corporation (WSC) for its development.

Under the IMIS program, WSC is to build an integrated scheduling and logistics system, capable of enhancing the competitiveness of the domestic metals industries. The system work includes research and development, application design, and corporate process redevelopment of a scheduling and logistics manufacturing system. As required by P.L. 101-512, WSC has agreed to a 50% cost share for the duration of the contract and any extensions which is estimated to be a three year project, at an approximate total cost of 18 million dollars. It is WSC's belief that a waiver of the Government's patent rights, as set forth in the following, will promote the policies and objectives of Chapter 18, Title 35 of the U.S. Code and foster the commercial development of the IMIS.

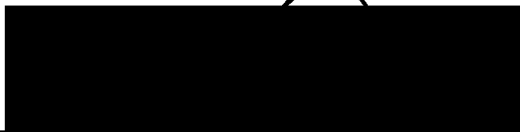
As stated in section 6 of WSC's petition, WSC is a primary supplier of flat rolled steel, and tin-plated steel. It supplies domestic automobile manufacturers, tin can producers, and major appliance manufacturers. WSC has developed extensive applications dealing with the acquisition of information necessary and skills essential to the success of the project. In addition, WSC has expended over 20 million dollars in developing support, communications channels, and employee education, directly applicable to the work involved in the IMIS program.

The waiver of the Government's rights in inventions is subject to Government march-in rights, a paid-up royalty free Government license and a U.S. preference provision comparable to that set out in 35 U.S.C. 204. Additionally, products sold or used in the United States by WSC and its' subsequent licenses which embody inventions under this waiver must be substantially manufactured in the United States, and further, any license or other transfer of rights in a subject invention to third parties other than licensees or affiliates of WSC at the time of this agreement must be approved by DOE prior to any such transfer. As an additional enhancement to the U.S. Competitiveness provision of this initiative, it is a condition of this waiver and WSC has agreed to license the technology to U.S. domestic manufacturers under reasonable terms and conditions.

The grant of this waiver should not result in adverse effects on competition or market concentration. Rather, the waiver should enhance competition and growth of the metals industry in the United States, and in particular, broaden the competitive base of U.S. manufacturers. Moreover, waived inventions will be subject to a royalty-free license to the Government and DOE has the right to require periodic reports on the utilization or the efforts at obtaining utilization that are being made for the waived inventions. Therefore, if WSC is not making reasonable efforts to utilize a waived invention, DOE can exercise its march-in right and require licensing of the invention.

In considering the foregoing, it is believed that granting the waiver will provide the petitioner with the necessary incentive to invest its resources in a manner to make the technology available to the public in the shortest practical time.

Therefore, in view of the objectives and considerations set forth in DOE PR 9-9.109-6, all of which have been considered, it is recommended that the requested waiver be granted.

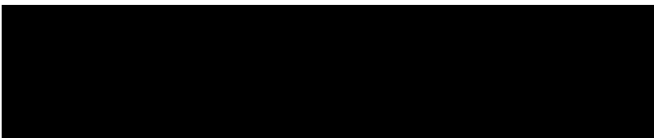


Tyrone Davis
 Patent Attorney
 Office of Intellectual
 Property Counsel

Date 6-18-93

Based on the foregoing Statement of Considerations and the representations in the attached waiver petition, it is determined that the United States and the general public will best be served by a waiver of rights of the scope described above, and therefore the waiver is granted. This waiver shall not apply to any modification or extension of this agreement, where through such modification or extension, the purpose, scope, or cost of the agreement is substantially altered.

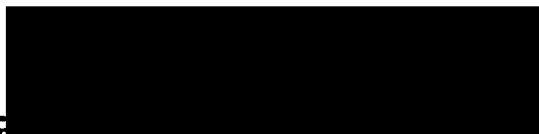
CONCURRENCE:



Peter H. Salmon-Cox, Director
 Office of Industrial Processes

Date June 25, 1993

APPROVAL:



Richard E. Constant
 Assistant General Counsel
 for Intellectual Property

Date 6/28/93