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June 18, 2003

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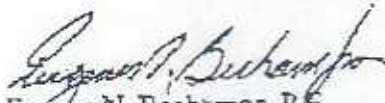
Mr. Al Moyie, P.E.
FDOT
2250 Irene Street
Jacksonville, FL 32236

Re: SR9A West to East of US1 and SR9A/I-95
Interchange Dispute Relating to City of
Jacksonville Noise Ordinance

Gentlemen:

The Dispute Review Board reviewed all data submitted by both parties prior to the DRB Hearing. The Hearing was conducted on May 27, 2003. Following the hearing, the DRB deliberated on May 28, 2003. Subsequent to these deliberations the DRB members prepared written documentation on various positions.

A telephone conference call was conducted on June 3, 2003. Following this there were additional documents between the DRB members. Finally on June 16, 2003, a second conference call was conducted and the conclusions and final report were prepared. The result is a recommendation with a minority opinion. These are both attached.


Eugene N. Bechamps, P.E.
DRB Chairman

Encl.: DRB Report, 22 Pages

Project Description

The project generally consists of major reconstruction of the Interstate 295/95 Interchange with multiple bridge structures. 1.3 miles of new six-lane highway to a new bridge over the FEC Railway and US 1 with connecting ramps.

Dispute

AMEC Civil claims that the Florida Department of Transportation was responsible to obtain all environmental permits for nighttime work on the project and that FDOT has failed to obtain environmental permits in a timely manner. As a result AMEC has suffered impacts and has been delayed in its prosecution of the project.

AMEC requests a finding that FDOT is responsible for any and all consequences of AMEC not being able to work meaningfully at night on the project.

The FDOT denied AMEC allegations with the exception of the limited period between November 20, 2001 to December 13, 2001. The FDOT further states that it had defined the permits it had obtained and that AMEC was required to obtain all other permits.

AMEC Civil Position

AMEC's position states that under the contract FDOT is responsible for obtaining all environmental permits and that the City of Jacksonville has an ordinance that prohibits nighttime construction activities without a permit and prohibits nighttime noise levels exceeding 60 dBA.

AMEC contends that the permit and variance required to obtain relief from noise ordinances are environmental permits and their contract requires certain work to be done only during night hours.

In addition AMEC contends that by its own admission, FDOT acknowledges that there is no practical way to complete construction of the project without nighttime construction activities. Nor is there any practical means to complete construction of the project without exceeding both daytime and nighttime noise emission levels allowed by City of Jacksonville Noise Ordinance.

AMEC argues that FDOT failed to obtain its required permit allowing nighttime work until January 29th, 2003, and has also failed to obtain the required environmental permitting to allow construction activities to exceed noise levels allowed by City of Jacksonville Noise Ordinance.

FDOT has admitted, in recent applications for variance, to both daytime and nighttime noise restrictions, which application was not made until some fifteen months after project

commencement, that it is impossible to complete the project without exceeding both daytime and nighttime noise ordinances.

Finally FDOT has filed a lawsuit against the City of Jacksonville asserting the City of Jacksonville Noise Ordinances are unconstitutional as applied to FDOT projects, but FDOT has taken no steps to protect AMEC from enforcement of the Noise Ordinances by the City of Jacksonville.

Florida Department of Transportation Position

The FDOT position is that the contract language is clear, requiring the Contractor to become familiar with and comply with city laws and ordinances.

Despite repeated attempts by FDOT to encourage AMEC to obtain a variance to allow nighttime operations to legally continue, AMEC denied responsibility to obtain a variance. The FDOT acted responsibly and timely and submitted a variance request, which covered essential nighttime construction as well as segmental casting yard activities. In addition a noise pollution permit to allow construction activity to occur at night was subsequently obtained by FDOT. As noted in Article 7-2, Sub Article 7-2.1 of the Standard Specifications, "the contractor shall, except as noted for certain permits, procure all permits, procure all permits and licenses necessary to prosecute the work".

The contract plans designate certain work as nighttime activities including maintenance of traffic operations, milling and resurfacing operations, installation of overhead sign structure, and erection of segmental bridges over existing intersection facilities. Nighttime work was designated for operations to prevent substantial user delays and decrease accidents.

As of April 22, 2003, AMEC and FDOT have been cited for two violations of the City of Jacksonville Noise Ordinance. The first citation, issued for working at night on November 20, 2001, was remedied by FDOT on December 13, 2001. The second citation, issued April 3 and 4, 2002, involved pile driving at night exceeding the

allowable nighttime noise level. AMEC remedied this citation. AMEC nighttime pile driving was in violation of the contract requirements.

If entitlement is due AMEC, the period from November 20, 2001, to December 13, 2001, is the only period during which night work was halted on the project.

Explanations

1. In arriving at its finding the Dispute Review Board has identified two types of nighttime work:
 - a. The work required by the contract documents to be accomplished only at night for traffic safety reasons. (Required Work).
 - b. The work desired by AMEC to be accomplished at night to most efficiently achieve the Contract completion date, including the location of the segmental casting yard, (Optional Work).
2. AMEC and all bidders were advised of the Jacksonville Noise Ordinance.
3. Section 7 of the Standard Specifications states that FDOT will procure all environmental permits.
4. Section 8 of Standard Specifications required AMEC to comply with applicable regulations governing noise abatement.
5. The plans require AMEC to conduct pile driving activities in accordance with the Jacksonville Noise Ordinance.
6. The FDOT had obtained the following permits:
 - a. St John Water Management District 4-031-0396-GM-NPDES.
 - b. St John Water Management District 12-031-01706 cut and fill identified wetlands.
 - c. Department of Army permit # 199404119 (IP-CA)

7. At time of bid and beginning of work, FDOT had not obtained any permits from the City of Jacksonville for the Required Work to be performed at night, nor had FDOT obtained a variance from the City of Jacksonville Environmental Protection Board from its Noise Pollution Control Rule.
8. AMEC was required to, and had knowledge of, the requirements of the City of Jacksonville Environmental Protection Board.
9. On November 20th, 2001, the Regulatory Environmental Services Department, (RESD), advised of a noise complaint resulting from operating construction equipment between the hours of 10:00 pm and 7:00 am.
10. On December 13, 2001, the FDOT submitted a variance request to the Jacksonville Environmental Protection Board, (JEBP), to allow nighttime construction work. FDOT did not restrict its request to Required Work.
11. On December 19, 2001, AMEC was advised of FDOT variance request and informed that nighttime work could resume in compliance with the noise rule of JEBP.
12. On January 29, 2002, the Jacksonville Environmental Protection Board advised that consideration of the variance request submitted by FDOT had been postponed so that RESD staff could develop specific criteria to consider this and other roadway project variance requests.
13. On April 3, 2002, RESD advised of a noise complaint resulting from pile driving between the hours of 10:00pm and 7:00am.
14. On April 4, 2002, RESD advised of a noise complaint resulting from pile driving between the hours of 10:00pm and 7:00am.

15. On April 10th, 2002 AMEC was advised that if nighttime operations exceed noise limits of JEBP, then AMEC must obtain a variance.
16. On April 17, 2002, AMEC disagreed that AMEC should apply for a variance to JEPB rule to permit AMEC to exceed noise limitations. AMEC expressed the opinion that AMEC would not have standing to obtain a variance to FDOT's permit.
17. On May 16, 2002, FDOT advised AMEC that FDOT does not intend to seek a variance to noise levels, but that AMEC may seek the variance based on AMEC's operations and methods.
18. AMEC could have applied for a variance to the Jacksonville Noise Ordinance.
19. AMEC did not apply for a variance to the Jacksonville Noise Ordinance.
20. On October 9, 2002, RESD advises that FDOT projects require individual Noise Pollution Source Permits, to allow construction between 10:00pm and 7:00am, with the noise emitted limited to 60 dBA.
21. On November 14, 2002, FDOT submitted a noise permit application for construction at night (10:00pm - 7:00am). This application included the request of December 13, 2001, which included Required Work and Optional Work.
22. On January 29, 2003, RESD issued a permit for construction of the project during daytime hours limiting noise to 65 dBA and during nighttime hours limiting noise to 60 dBA. This included Required Work and Optional Work.
23. On February 18, 2003, FDOT submitted a variance request to JEBP Rule 4.208D which would allow nighttime construction to exceed the noise level of

60 dBA. The data reviewed by the DRB suggests that this request included more than just the Required Work, although the letter of February 19, 2003, to AMEC from Parsons suggests otherwise.

24. On February 25, 2003, AMEC requests that the variance request be modified to include all work.
25. On March 12, 2003, FDOT requests AMEC to be more specific as to its modification request and advises that it has included the segmental casting yard located within the project site limits in the variance request.
26. On March 12, 2003, FDOT responded to a request for additional information by RESD. This response identified the contractors schedule for work through April 2005. The DRB had no additional information on any other nighttime work desired by AMEC other than AMEC's February 25, 2003, request for all work.
27. On March 20, 2003, in response to FDOT's March 12, 2003 request, AMEC's expresses it's disagreement on most issues relating to this situation.
28. On April 14th, 2003, FDOT responded to a second request for additional information by RESD. This response gave the period of time for the variance as through June 30, 2006, provided additional data on expected noise levels for various operations and equipment, provided photographs showing approximate locations of various operations and discussed the Public Information Program.
29. On May 20, 2003, AMEC sent the DRB a copy of a newspaper article, which indicated that a noise variance had been granted, but from the newspaper

article it was not clear to the DRB, what the work limitations of the variance were. The actual noise variance document was not available at the time of the DRB Hearing.

Comments

- 1. FDOT could have applied for variance or requested to have sound signage which is a part of the bag house construction. FDOT could have applied for variance for noise at the beginning of work under AMSC design.
- 2. FDOT could have applied for noise variance for 100% of the construction by FDOT of variance compliance.
- 3. The noise variance was issued in April of 2003 was a result of the noise variance request being issued in violation of the variance plan which was issued as a driving concern and subject to the noise ordinance of the City of Jacksonville.

Conclusions

1. FDOT could have applied for permits or variances for the required nighttime work in advance of the beginning of construction. FDOT did not.
2. AMEC could have applied for variances for noise at the beginning of construction. AMEC did not.
3. FDOT could have applied for noise variances, but it did not until notification by RESD of the noise complaints.
4. The noise complaints made by RESD in April of 2002 were a result of pile driving during nighttime hours. This was in violation of the contract plans which require that all pile driving activities are subject to the noise ordinance of the City of Jacksonville.

Recommendation

The DRB recommends that:

1. FDOT is responsible for the consequences, of AMEC not being able to work on the Required Work or the Optional Work, between November 20, 2001 and December 19th, 2001. *LET'S SEE TO AMEC*
2. AMEC is responsible for the consequences of the April 2002, noise complaint resulting from AMEC operating pile driving equipment which exceeded the limits of the City of Jacksonville Noise Ordinance, since the contract requires all pile driving activities to be subject to the City of Jacksonville Noise Ordinance.
3. The recommendation of the DRB is that, beyond that stated above, FDOT is responsible for the consequences of AMEC not being able to work during nighttime hours for the Required Work and that AMEC is responsible for the consequences of not being able to work during daytime or nighttime hours for the Optional Work.
4. A minority opinion is contained on the following pages.

The Matter of the dispute between AMEC Civil and the Florida Department of Transportation, regarding the Jacksonville Noise Ordinance has been reviewed by the Dispute Review Board.

The recommendations of the Dispute Review Board with a Minority Report are respectfully submitted.



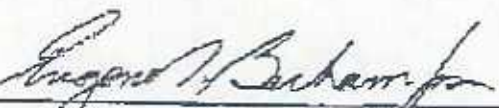
William Downs

6/18/03
Date



Simon Foster

17th June 2003
Date



Eugene N. Bechamps
Chairman

6/18/03
Date

Minority Opinion

Minority Opinion

Facts

1. Both parties were aware of and have acknowledged that a Permit was required to undertake any work at night between 10pm to 7am.
2. Both Parties were aware that the Required Work (defined as work specifically identified by FDOT that had to be carried out at night) that was to be carried out between 10pm and 7am would exceed the Noise Ordinance and would require a variance.
3. Amec was aware that any Optional Work (defined as all other work under the Contract) that they may have wished to be carried out between 10pm and 7am would exceed the Noise Ordinance and would require a variance. The Contract does not specifically limit night work providing it complies with the Noise Ordinances.
4. Both Parties admit that on previous projects within the limits of the City of Jacksonville (COJ) there had never been any previous problems with the COJ enforcing either the no Night Work 10pm to 7am or Noise Ordinances.
5. FDOT, prior to bid, had applied for and received three Environmental Permits.
6. The Permits required for night work and variances to Noise Ordinances, both day and night, are **environmental permits**. Rule 4, Noise Pollution Control, of the Jacksonville Environmental Protection Board covers all permits both that to actually work at night between 10pm and 7am, Rule 4.208(A), and construction permits, Rule 4.501(A), to allow work to exceed the allowable noise level both during the day and night – refer specifically to 4.208(E) which state "Any construction or maintenance permit issued by an agency of the COJ for an activity that will produce a noise level exceeding the limits of Rule 4".
7. Contract Documents are clear and specific that FDOT is responsible for all **environmental permits**, for both Required Work and Optional Work. Whilst Article 7-1.1 clearly says that Amec shall "... become familiar and comply with all Federal, State, county and city laws..." the same Article is also specific that "The Department will procure all environmental permits required by Federal, State, county and local regulatory agencies." Although Article 7-2.1 states that Amec shall obtain all permits it is qualified by stating "Except as noted for certain permits..." FDOT has argued that Article 7-2.1 is expanded by the identification of the three permits that they maintain are the only permits that fall within the "Except as noted for certain permits...". However this expansion is not specific to just these three and the clear and unequivocal statement in Article 7-1.1 that "The Department will procure all environmental permits ..." must mean that environmental permits are part of the "Except as noted for certain permits..."

8. Based on the fact that both FDOT and Amec had never had a previous problem working between the hours of 10pm and 7am or at levels in excess of the Noise Ordinances it is reasonable to assume that they did not expect that there would be a problem on this project. Indeed the Rule 4 of the JEPB is quite specific in 4.500 (D) which states "No facility shall be required to have any type of noise permit, renewal permits excepted, until notified by a letter from the Division....".
9. FDOT did not seek either a Permit for Night Work 10pm to 7am or a variance to the Noise Ordinance prior to bid.
10. The Preconstruction minutes make no reference to either the need for a Night Work 10pm to 7am Permit nor variances that may be required to the Noise Ordinances.
11. Work commenced without either a Night Work 10pm to 7am Permit or any variances to Noise Ordinances for either Required or Optional Work.
12. Both AMEC and FDOT were notified on 11/20/01 by RESD, Air and Water Quality Division, that a violation of Rule 4.208(A) had occurred. Rule 4.208(A) says: "No person shall operate or permit the operation of construction or maintenance equipment excluding generators, mud hogs and well point pumps, used in construction or maintenance between the hours of 10pm and 7am unless specifically permitted for a particular project by a department of COJ".
13. FDOT acknowledged its responsibility under the Contract Documents and applied for the necessary permit by filing a Variance Request with COJ on 12/13/01. The Variance Request was specific in that it covered all work, both Required and Optional, and stated that "There is no practical means known or available to meet the project schedule and comply with Rule 4.208(A)".
14. FDOT notified Amec on 12/19/01 that as a result of the variance being filed (Safe Harbor) Amec were authorized to work at night between 10pm and 7am within the noise levels in the ordinance. Both parties were aware at this time that even though Safe Harbor may have existed, any work carried out between 10pm and 7am would exceed the Noise Ordinance. FDOT's letter also makes reference that "The Department will continue to work with the COJ Environmental Regulation Representatives".
15. Based on this letter and the fact that neither party had previously had any problems it is reasonable to assume again that neither expected there to be a problem regarding noise levels and the fact that they had received no specific letter from the Division as set out in JEPB Rule 4.500(D) Amec restarted night work and continued until both FDOT and Amec were notified on 4/3/02 that the piling work being carried out at night between 10pm and 7am was in violation of Rule 4.208(D), noise level exceeding 60dBA.

16. In the meantime FDOT had been notified by COJ on 1/29/02 that the necessary hearing by the Air/Odor Committee, a condition precedent to their variance request made on 12/13/01, had been postponed. Whilst Safe Harbor continued to exist no Permit for Night Work had or could be issued until the Air/Odor Committee had heard the Variance request. Amec were not copied on this correspondence until FDOT's rebuttal dated 4/8/03. However it is reasonable to assume that up to 4/3/20 Amec were working at night.
17. From 4/3/02 to 2/18/03 when FDOT made a variance request for noise levels to exceed the Ordinance for the Required Work, each continued to represent that the other had the responsibility for obtaining the variance. However it is important to note that during this period:
- FDOT did not authorize Amec to act as their duly authorized agent for the purpose of making a Night noise variance request, as is provided in Rule 4.501. Construction Permits. Rule 4.501(A) is quite specific to noise emissions that exceed the ordinance.
 - FDOT, without notifying Amec, filed a lawsuit against the COJ in April 2002 alleging that the COJ Tree and Noise Ordinances were unconstitutional.
 - FDOT were notified by COJ on 10/9/02 that notwithstanding the variance request that FDOT had made on 12/13/01 for Night Work 10pm to 7am, FDOT needed, as set out in Rule 4 V to complete a Noise Pollution Source Permit Application. COJ's letter is clear- "... construction projects throughout Duval County require individual Noise Pollution Source Permits. Specifically, construction on FDOT projects between the hours of 10pm and 7am is prohibited, unless permitted by the COJ". Amec were not copied on this correspondence until FDOT's rebuttal dated 4/8/03.
 - FDOT again performed as required under the Contract and made the necessary application on 11/14/02. This application was specific in that it enclosed a copy of the variance request dated 12/13/01, which covered all work, both Required and Optional. Amec were not copied on this application until FDOT's rebuttal dated 4/8/03.
 - Circuit Court in Duval County on 1/23/03 rules in favor of FDOT and declares that COJ's Tree Ordinance is unconstitutional.
 - COJ on 1/29/03 issues a Permit for Amec's project for all work at night 10pm to 7am.
 - FDOT again performed under the Contract and without consulting with Amec, made a blanket application on 2/14/03 for a large number of its projects, including Amec's project, for a variance to daytime noise ordinance levels. Application is specific in that it covers all work both that which may be Required and Optional Work.
 - On the same day, 2/14/03, FDOT made another blanket application, this time for Permits to work at night between 10pm and 7am on a large number of projects, including Amec's project - the application makes note that a Permit has already been issued for the Amec

project. Again the Application is specific to all work and covers both Required and Optional Work.

- On 2/18/03 FDOT made a request for a Noise Variance to exceed noise levels for only the Required Work with the addition of the segmental casting operation which is Optional Work. It is significant to note that this was made without any reference to Amec. FDOT argue that the only reason that they are doing this is to protect their staff – this is disingenuous since exposure to their staff existed from 4/3 02.
18. "Safe Harbor" existed from 2/18/03 for Amec to carry out the Required Work and segmental casting operations from 10pm to 7am at levels in excess of the Noise Ordinance.
 19. COJ approved the FDOT 2/18/03 application for a variance on 5/12/03 – this has not yet been formally issued but it is assumed that it will be for the noise levels requested.
 20. Based on the variance application made by FDOT on 2/18/03 it is considered that
 - Amec's ability to seek and obtain another variance for the Optional Work to be carried out at night in excess of allowable levels has been severely prejudiced.

Minority Opinion

Conclusions

Both Parties have acknowledged their awareness and understanding of the COJ Noise Ordinances, both as it relates to Night Work between the hours of 10pm and 7am and to Noise Levels established for work both during the day and night.

Additionally it is understood that both Parties believed that based on their own extensive experience of working within the COJ, that COJ would not necessarily enforce these ordinances.

The Contract is specific that Amec should become knowledgeable of and comply with all applicable regulations – however the Contract is also specific that FDOT shall obtain all Environmental Permits required for the Project - it is also absolutely clear that the Permits required to comply with the Noise Ordinances are Environmental Permits.

On 11/20/01 both Parties were notified of a Noise Ordinance Rule 4.208(A) violation (no night work between 10pm and 7am unless specifically permitted).

Without suggesting that it was Amec's responsibility to obtain the Permit, FDOT prepared and submitted a Variance Request for a Permit to work at night between 10pm and 7am for all the work covered in the Contract, within the limits of the Ordinance. This application provided Safe Harbor and Amec were duly authorized to recommence and to comply with noise level restrictions in accordance with the ordinance.

However this authorization was in effect meaningless because both Parties were aware that no work, either required or Optional could be carried out at night between the hours of 10pm and 7am without exceeding the Noise Level ordinance.

It can be reasonably argued that Amec relied on the fact that FDOT had applied for the initial Variance which reinforced their interpretation that it was FDOT's responsibility to obtain all Environmental Permits and were expecting FDOT to apply for the Noise Level Variance. In addition FDOT did not, as is required under the Rule 4.501(C), give Amec a letter authorizing them to act as their agent for making future applications for Variances and/or permits.

FDOT's suggestion that Amec were duly authorized by the signing of the Contract is not accepted and is borne out by the fact that FDOT, in making the application for the Permit to work at night between 10pm and 7am dated 11/14/02, provided as part of that application such a letter of authority, authorizing themselves to make that application. The Permit Application form is specific that a letter of authorization has to be attached to the application

However it is considered that notwithstanding the previous violation neither party expected COJ to enforce the noise level ordinance until 4/3/02 when both parties were again cited, this time for breach of Rule 4.208(D). It is considered that from 12/13/01 to 4/3/02 Amec were

able and did work at night – the Noise Ordinances are complaint driven and the first complaint was received 4/3/02.

It is significant that during the period leading up to this citation FDOT were in dispute with COJ over interpretation of the COJ Tree Ordinance which understandably caused some tension between FDOT and COJ and shortly after the citation FDOT filed suit against the COJ which suit argued that both the COJ Tree Ordinance and Noise Ordinances were unconstitutional - Amec were not notified by FDOT that suit had been filed.

From 4/4/02 to 2/18/03 (when FDOT applied for a variance for the Required Work together with segmental casting operations) both Parties consistently denied the responsibility for applying to COJ for the necessary variance to the Noise Ordinance for night work that would make the Safe Harbor position of working between 10pm and 7am effective – Amec pointing to the Contract that makes FDOT responsible for all Environmental Permits and FDOT simply saying, without giving any letter of authority, that it was Amec's responsibility.

It is significant that during this period, unbeknown to Amec FDOT were instructed by COJ on 10/9/02 of the need for a Permit Application for a variance to Rule 4.208(A) on any of FDOT's projects and that notwithstanding the variance request that FDOT had made 12/13/01, an application was also needed on Amec's project. FDOT, again without insisting that this was Amec's responsibility as they had consistently done from 4/3/02 up to that date, submitted their application on 11/14/02 for all work on the project – both Required and Optional Work – this Permit was issued by COJ 1/29/03.

Again it is significant to note that, unbeknown to Amec, FDOT on 2/14/03 submitted two blanket variance requests to COJ for a large number of their projects, including Amec's project. The first was for a noise variance for daytime work and the second was for night work between 10pm and 7am. Again on 2/18/03 and also unbeknown to Amec, FDOT submitted a variance request for a noise variance for Amec's project for the Required Work and segmental casting operation. It is understood that this Permit was issued by COJ 5/12/03. Again it is significant to note that FDOT did this without insisting that this was Amec's responsibility as they had consistently done up to that date.

FDOT have argued that the reason that they applied for a variance to the Noise Ordinance on 2/18/03 was not because the Contract obligated them so to do but to protect their staff from possible prosecution. This argument is not accepted since the risk to their staff existed from 4/3/02 the date of the initial and only Noise Violation citation.

It has been argued by Amec that a variance to the Noise Ordinance cannot be obtained until a Permit to work at night has been issued and that notwithstanding the Safe Harbor provision that even if they accepted that it was their responsibility to obtain the noise variances, they could not have done so until 1/29/03. It would need an independent legal opinion to ascertain whether their argument has any basis but from the fact that FDOT waited until 2/18/03 to request a variance to the Noise Level for the Required Work and segmental casting operation one could assume that FDOT were of the same opinion.

However in conclusion neither party lived up to the declared spirit of partnering and each for their own specific reasons postured that it was not their responsibility to obtain the necessary Environmental Permits required for the work not just to be constructed in a meaningful way

but at all since no work could be performed either day or night and comply with COJ Noise Ordinances.

It is felt that FDOT's response to whole issue has been, and continues to be, substantially impacted by their ongoing law suit with the COJ and Amec's responses have been and continue to be strictly contractual to the extent that they are relying on the fact that the Contract is specific, as it is, that it is FDOT's responsibility to obtain all Environmental Permits and any Noise Permit or Variance Requests to the Noise Ordinance are Environmental Permits.

Minority Opinion
Recommendation

Based on the preceding conclusions it is recommended that:

1. From Project Start to 11/20/01
Amec able to work meaningfully at night.
2. From 11/20/01 to 12/13/01
Amec not able to work meaningfully at night.

Amec entitled to any and all consequences of not being able to work meaningfully at night on both the Required and Optional Work.
3. From 12/13/01 to 4/3/02
Amec were able to work at night on both Required and Optional Work.

Amec entitled to any and all consequences of not being able to work meaningfully at night.
4. From 4/4/02 to 2/18/03
Amec have been able and did work at night. 10pm to 7am on Required Work even though FDOT acknowledge that noise levels of equipment used on Required Work breach Noise Ordinance.

Amec unable to work meaningfully at night on Optional Work. FDOT acknowledge that equipment exceeds noise levels in Ordinance.

Amec entitled to any and all consequences of not being able to work meaningfully at night on Optional Work.
5. From 2/18/03 to date
Amec able to work meaningfully at night on Required Work and the segment casting operation.

Amec entitled to any and all consequences of not being able to work meaningfully at night on Optional Work.