

June 6, 1996

Faxed June 6, 1996

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Re: WPI No: 7143198
State Project No: 10190-3428/6428
F.A.P. No.: ACDPI-ACNH-0043-(6)(FO)
Contract: Interstate 4, Segment 2
Description: State Road 400 (I-4) from I-75 East to McIntosh Road
Counties: Hillsborough

Subject: Disputes Review Board - Issue #5
Additional Payment for the Use of Smooth Outer Wall Concrete Pipe at Locations
Where Installation by Jacking and Boring is Required.

At the request of MK/Centennial (MK), the Consultant Resident Engineer, and The Cone Corporation (Cone), the Contractor, the Disputes Review Board (DRB) held a hearing on May 24, 1996 to consider a dispute over costs related to use of smooth outer wall concrete pipe at locations where installation of storm sewer pipe by the jacking and boring method is required. Written documentation was furnished to the Board and the parties in advance of the hearing. This documentation included a letter from Cone dated May 8, 1996 and related attachments (Exhibits A through I) and a letter from MK dated March 12, 1996 that set out the position of the Department of Transportation on this dispute. Oral presentations were made to the DRB at the hearing including references to specific provisions of the contract. Subsequent letters (MK - May 31, 1996, and Cone - June 3, 1996) were received concerning payment for Concrete Collars For Dissimilar Pipe Joints.

Issue: Cone requested additional compensation for the difference in cost between smooth outer wall tongue and groove type concrete pipe and bell and spigot type concrete pipe at locations where storm sewer pipe is required to be installed by the boring and jacking method. This request also included compensation for the cost of constructing concrete collars near the ends of the steel casings to accommodate the change from smooth outer wall pipe to bell and spigot pipe. The Department of Transportation has rejected this request.

Cone used the following arguments to support their position:

"1. The only mention of use of smooth outer wall tongue and groove pipe is a note on Plan Sheet No. 12 relating to the Casing Steel (Jack and Bore) pay items that reads:

"The Contractor will be required to install a steel casing pipe where drainage structure construction is required by the boring and jacking method. The size of the steel casing pipe shown in the plans is based on the use of RCP, Wall B, and smooth outer tongue and groove joints. All details of the boring and jacking method shall be provided by the Contractor and approved by the Engineer prior to beginning work. All costs for boring and jacking and any incidentals associated with the completed installation will be included in Item 730-76-xxx, Steel Casing Pipe."

2. No separate pay items were provided for the use of smooth outer wall pipe.

3. *There are no plan notes stating that the cost of furnishing the special smooth outer wall pipe is to be included in the pay items for a Pipe Concrete Culvert pay item.*
4. *Notes on Drainage Structure sheets and in the Summary of Drainage Structures sheets indicate where pipe is to be installed inside a steel casing pipe using the boring and jacking method. These notes do not state that smooth outer wall concrete pipe is required within the steel casing.*
5. *The Summary of Drainage Structures sheets show the specific type of pipe to be used at each location. No mention is made here of use smooth outer wall concrete pipe at the locations where a steel casing is required.*
6. *The Department of Transportation Qualified Products List does not cover smooth outer wall type concrete pipe.*
7. *The only means provided in the plans for connecting dissimilar types of pipe (special smooth outer wall concrete pipe and standard bell and spigot concrete pipe) is a concrete collar.*

Our bid for this project was based on use of the standard bell and spigot type concrete pipe at the locations where boring and jacking is required, because there was no specific provision in the plans for use of other than bell and spigot type concrete pipe at these locations. Since smooth outer wall concrete pipe is not manufactured in Florida, the cost of this type of pipe is considerably higher than bell and spigot type pipe.

Concrete collars constructed at junctions between smoother outer wall type concrete pipe and bell and spigot type concrete pipe were necessary, because it was necessary to use smooth outer wall type concrete pipe within the limits of steel casings."

MK supported the Department of Transportation rejection of the request for equitable adjustment with the following:

1. *It is reasonable to conclude from the note on Plan Sheet No. 12 related to Pay Items No. 730-76-xxx Casing Steel (Jack and Bore) that smooth outer wall concrete pipe is to be used as the carrier pipe within steel casings.*
2. *Since the quantity of steel casing is shown in both the Drainage Structure sheets and the Summary of Drainage Structures sheets, the quantity of the various sizes of smooth outer wall pipe required is clearly set out in the plans.*
3. *The plan quantities for the Pipe Concrete Culvert pay items corresponding to the various sizes of concrete pipe to be installed in a steel casing included the quantity of concrete pipe to be installed in steel casing. Therefore, payment for the smooth outer wall pipe is included in the compensation for those items.*
4. *It is clear that the outside diameter of a standard bell and spigot type concrete pipe is larger than the inside diameter of the corresponding steel casing.*
5. *The Department of Transportation Qualified Products List is not intended to be all inclusive of restrictive."*

The findings of the DRB are as follows:

The Board believes that the designers were remiss in not specifying the smooth outer wall pipe in the summary of drainage structures or the drainage cross sections. Further, a separate item for smooth outer wall concrete pipe would have eliminated any controversy as to method of payment and intent of the plans and specifications. However, the Plan note on Sheet 12,

"730-76-XXX THE CONTRACTOR WILL BE REQUIRED TO INSTALL A STEEL CASING PIPE WHERE DRAINAGE STRUCTURE CONSTRUCTION IS REQUIRED BY THE BORING AND JACKING METHOD. THE SIZE OF THE STEEL CASING PIPE SHOWN IN THE PLANS IS BASED ON THE USE OF RCP, WALL B, AND SMOOTH OUTER TONGUE AND GROOVE JOINTS. ALL DETAILS OF THE BORING AND JACKING METHOD SHALL BE PROVIDED BY THE CONTRACTOR AND APPROVED BY THE ENGINEER PRIOR TO BEGINNING WORK. ALL COSTS FOR BORING AND JACKING AND ANY INCIDENTALS ASSOCIATED WITH THE COMPLETED INSTALLATION WILL BE INCLUDED IN ITEM 730-76-XXX, STEEL CASING PIPE." (Emphasis Added).

is a pay item note, prominently positioned (in the front section of the plans) on the Summary of Quantities sheet and as such should have been carefully read by the Contractor's estimator. This note was sufficient to alert him that a special pipe (other than normally used in the area) was required inside the steel casings.

The tongue and groove pipe required meets the criteria for payment for the item under which it is being paid.

The cover sheet to the plans (sheet 1) states on the lower left hand corner that:

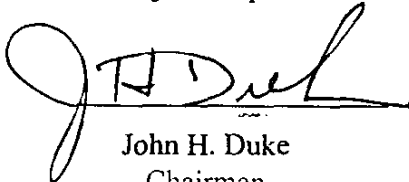
"These plans have been prepared in accordance with and are governed by the State of Florida, Department of Transportation, Roadway and Traffic Design Standards. (Booklet dated January 1994)"

Index 280 - Miscellaneous Drainage Details, page 1 of 4, of the above indicates that the cost of concrete collars to join dissimilar pipes is to be included in the contract unit price for the new pipe.

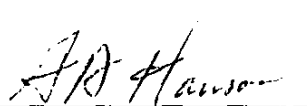
The Board, therefore, **recommends that no additional compensation be made** to the contractor for costs incurred in installing smooth outer wall concrete pipe in steel casings or for concrete collars associated with joining the dissimilar pipe joints.

I certify that I participated in all of the meetings of the DRB regarding the Dispute indicated above and concur with the findings and recommendations.

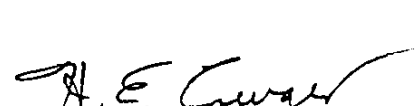
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