

June 17, 1997

Faxed June 17, 1997

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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: I-4 Disputes Review Board - Issue #9
 Finding of Fact Pertaining to Embankment and Excavation at MSE Walls

On June 11, 1997 at the request of the Contractor, Cone and Graham (Cone) and the Florida Department of Transportation (FDOT) the Disputes Review Board (DRB) held a hearing to consider the subject dispute. Written documentation had been previously furnished to the DRB by each of the parties.

The existing bridges over I-4 at CR 579 and Kingsway Road are being replaced by longer wider structures. In order to construct the MSE Walls in front of the new abutments for these structures, Cone had to remove some of the existing embankment material behind the new abutments in order to install the straps. This material then had to be replaced with granular backfill meeting the MSE Wall specifications. Cone has requested additional compensation to cover this work which they stated was not included in their bid price. The FDOT contends that the Special Provisions for Reinforced Earth Walls (Section 528) call for the cost of this work to be included in the price for Reinforced Earth Walls.

Section 528-5 Basis of Payment of the Special Provisions for this project states (in part):

"...The cost of all foundations and walls below the proposed final ground line shall be included in the unit cost for Reinforced Earth Wall. The cost of granular fill for the normal roadway template shall be included in the pay quantity for embankment or borrow excavation, as applicable. The cost of excavation and fill required specifically for wall construction below the normal roadway template shall be included in the Unit Cost for Reinforced Earth Walls."

Note 9 on Plan Sheet MW-2 states (in part):

"The area of MSE retaining wall to be used for payment shall be the area bounded by the top of Traffic Railing Barrier (or top of coping/parapet in areas without Traffic Railing Barrier), the proposed final ground line at front face of wall and the begin and end wall limits as shown on control plans. The cost of all fill material and excavation (required specifically for wall construction outside of the roadway cross section template) and walls below the proposed final ground line shall be included in the unit cost for retaining walls, Pay Items 528-70 Alt. AA or 545-70 Alt. AB."

(required specifically for wall construction outside of the roadway cross section

The Contractor states that:

As regards the note on sheet MW-2:

"The area in question is not outside of the normal roadway template. This embankment would be required¹ regardless of the presence of an MSE wall."

As regards Special Provision 528-5:

"The specification is clear that embankment and excavation required for the roadway template shall be included in the pay quantity for embankment or borrow excavation, as applicable. The cost of excavation and fill required specifically for wall construction below the normal roadway template shall be included in the unit cost for Retained Earth Wall"

The Contractor is contending that all of the volume of cut and fill within the Limits of Proprietary Wall Volume (see plan sheet MW-2) is within the "roadway cross section template" and this entire volume should have been included in the plan quantity for Embankment.

The Engineer states that:

As regards Special Provision 528-5:

"The second paragraph of Subarticle 528-5 Basis of Payment clearly states "The cost of excavation and fill required specifically for wall construction below the normal roadway template shall be included in the unit cost for Reinforced Earth Wall." The cost of granular fill for the normal roadway template shall be included in the pay quantity for embankment (Item 120-6) as specified in Subsection 528-5 of the Special Provisions. The final embankment quantity will be determined by comparing final cross sections to the original cross sections. The portion of work required to excavate and fill below the existing ground line is separate and distinct from the embankment.

The Engineer's position is that the plan quantity for Embankment is correct in including only those MSE wall volumes that are above the existing ground line.

The crux of the dispute lies in the interpretation of the terms "normal roadway template" and "roadway cross section template". A reasonable interpretation of both of these terms is "The volume between the existing ground line and the lines and grades shown in the plans for the surface of the completed embankment" (See the Method of Measurement for the item Embankment in Subarticle 120-12.2 of the Standard Specifications). For pay purposes on facility upgrade projects, the original ground line is the surface of the ground that existed immediately before construction began on the project.

To establish the bottom of the normal roadway template as the original ground line that existed many years ago prior to construction is not a reasonable interpretation on upgrade projects since it is not feasible to establish that pre-existing ground line. Further, the "Approx. Existing Groundline" is shown on the MW sheets of the plans as the ground line that existed prior to beginning construction on this project.

prior to beginning construction on this project.

¹ In such case the embankment would be pre-existing and not be paid for.

DISPUTE REVIEW BOARD DECISION

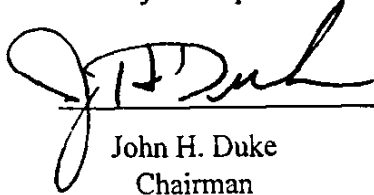
The Typical Wall Sections on Plan Sheet MW-2 show the "Limits of Proprietary Wall Volume" from back of wall to 1'-0" min. beyond the end of the straps. Plan sheets MW-3, 4, 5, and 6 show the Approximate Existing Ground line at Proprietary Walls 1A through 4 and provide sufficient information for the contractor to estimate the volume of material to be included in the unit price for the walls.

Although the limits of the excavation and embankment to be included in the various pay items could have been better defined, the Board finds that a careful reading of the plans and specifications would support the Engineer's position.

The Board, therefore, finds in favor of the FDOT.

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.


I-4 Project Disputes Review Board



John H. Duke
Chairman



G. A. "Dolph" Hanson
Member



H. E. "Gene" Cowger
Member

CC: Brian McKishnie, P.E.