

per her

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Vero Beach, FL. 32968

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Mr. Bill Albaugh, P.E.
Highway Operations
Florida Department of Transportation
605 Suwannee Street MS-57
Tallahassee, FL. 32399-0450

**Re: Arbitration Board Order 1/2002
State Project Financial ID No. 240797-1-52-01
Volusia County, Florida**

Find enclosed the State Arbitration Order as captioned above.

Mr. Freddie Simmons has a copy of the Claimants package as well as the Departments rebuttal and transcript for your use if you will contact him when this arrives.

State Arbitration Board

John W. Nutt
Chairman & Clerk

cc: **Board Members**

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STATE ARBITRATION BOARD

Order No. 1-2002

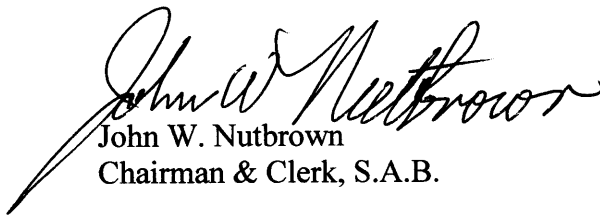
S.A.B. CLERK

/// NOTICE ///

NOV 09 2002

FILED

In the case of Haynes & Sons, Inc. versus the Florida Department of Transportation on Project No. 79000-3556 in Volusia County, Florida, both parties are advised that the State Arbitration Board Order 1-2002 has been properly filed with The Clerk of the State Arbitration Board on October 30, 2002



John W. Nutbrown
Chairman & Clerk, S.A.B.

Copy of Order & Transcript to:

Bill Albaugh, Highway Operations

Judy Haynes, President, Haynes & Sons, Inc..

STATE ARBITRATION BOARD

Order No. 1-2002

RE: Request for Arbitration
Haynes and Sons, Inc.
State Project No. 79000-3556 in
Volusia County, Florida

The following members of the State Arbitration Board participated:

John W. Nutbrown, Chairman
Freddie Simmons, Board Member
John C. Norton, Board Member

Pursuant to a written notice, a hearing was held on a request for arbitration commencing at 11:00 AM, Tuesday, February 12, 2002.

The Contractor, Haynes and Sons, Inc., presented a written request for arbitration of its claim in the total amount of \$87,201.28. The claim arises out of alleged changed site conditions caused by the discovery of an improperly located gas main which caused additional work and time within the project limits on SR-430 in Volusia County, Florida. The Department of Transportation presented a written rebuttal and summary of its position. The Board has considered the written submissions, the testimony and evidence presented at the hearing on February 12, 2002 and enters this Order Number 1-2002.

ORDER

The Board is unanimous in this decision.

During the hearing testimony was given which covered a number of other utility conflicts by the Claimant and was not shown in the claim package.

Testimony by both the Claimant and the Department agreed the gas main was shown on the plans, but not in the correct location. A decision was made to move the gravity wall .30 meters to remove the gas main from underneath the gravity wall. This adjustment helped but did not alleviate the excavation problem as the gas main was still in very close proximity to the wall footing and forming material. Extra time and effort were required to make this installation so as not to damage the existing line. In addition a sanitary sewer service lateral and a water service, not shown on the plans, were damaged, repaired and placed into the wall.

At Station 18+91 a concrete signalization pole was encountered. Plans show this pole to be behind the wall. Claimant had to remove a portion of the footing and fit the pole into the wall face. All of which could not be anticipated at bid time.

STATE ARBITRATION BOARD

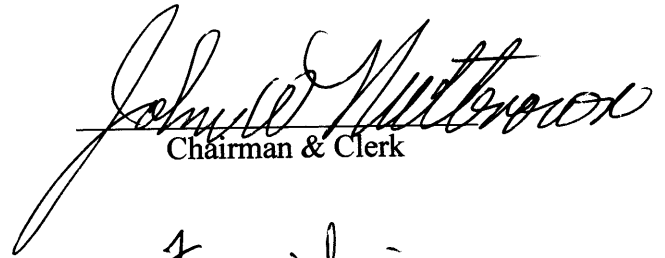
Order No. 1-2002

The Department is ordered to compensate the Contractor in the amount of \$37,394.00 which includes interest at the statutory rate since April 13, 2000.

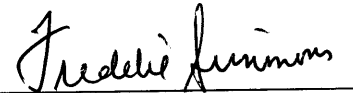
The Department shall reimburse the State Arbitration Board \$295.00 for court reporting costs.

Vero Beach, Florida

Dated: October 29, 2002

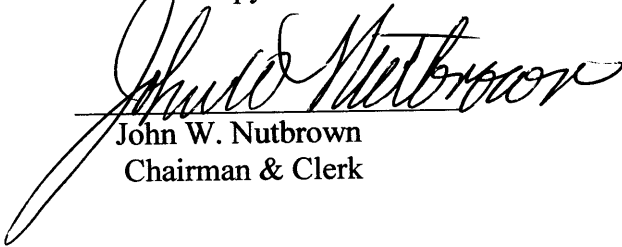


Chairman & Clerk

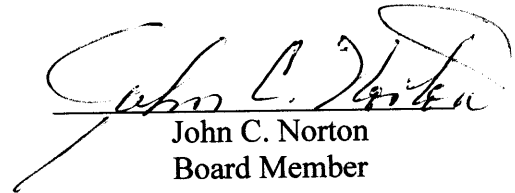


Freddie Simmons, P.E.
Board Member

Certified Copy:



John W. Nutbrown
Chairman & Clerk



John C. Norton
Board Member

John W.
Nutbrown

STATE ARBITRATION BOARD

Order No. 1-2002