STATE ARBITRATION BOARD
1022 Lothian Drive
Tallahassee, Florida 32312

May 17, 1990

/ / / NOTICE / / /

In the case of Gator Asphalt Company versus the Florida Department of Transportation on Project No. 17040-3518 in Sarasota County, Florida, both parties are advised that State Arbitration Board Order No. 2-90 has been properly filed on May 17, 1990.

H. E. Cowger

H. Eugene Cowger, P.E.
Chairman & Clerk, S.A.B.

S.A.B. CLERK
MAY 17 1990
FILED

HEC/sfc

Copies of Order and Transcript to:
R.D. Buser, P.E., Director, Office of Construction/FDOT
Dan Mathews, Project Manager/Gator Asphalt Company

STATE ARBITRATION BOARD

ORDER NO. 2-90

RE:

Request for Arbitration by
Gator Asphalt Company on
Job No. 17040-3518 in
Sarasota County

The following members of the State Arbitration Board participated in the disposition of this matter:

H. Eugene Cowger, P. E. Chairman
Frank Carlile, P. E. Member
Sam Turnbull, P. E. Member

Pursuant to a written notice, a hearing was held on a request for arbitration commencing at 11:10 a.m., Tuesday April 10, 1990.

The Board Members, having fully considered the evidence presented at the hearing,, now enter their order No. 2-90 in this cause.

ORDER

The Contractor presented a request for arbitration of a claim for additional compensation in the amount of $94,148.25 to cover additional costs incurred because of alleged improper enforcement of specification requirements in regard to backfilling of storm sewer pipe trenches by the Department of Transportation.

The Contractor presented the following information in support of his claim:

1. During the three week period immediately preceding December 3, 1988, we encountered wet conditions in backfilling the portion of storm sewer pipe trenches below the elevation of the top of the pipe, even though we had successfully dewatered the pipe trench to allow placing of the pipe as required by the specifications. The water table was at approximately the same elevation as the top of the pipe. The Department of Transportation instructed us to use mechanical tampers to compact the backfill in this situation even though borings taken by them indicated the soil to be of the A-3 soil classification. Because of the wet conditions encountered and our being required to use mechanical tampers

beginning with the bottom layer of the trench, we were unable to achieve the required density using mechanical tampers. We think that the problem in achieving density where wet conditions existed could have been avoided if we had been allowed to hand tamp the first two or so layers of the backfill.

2. Several times during the period when these wet conditions were adversely affecting our ability to achieve density, we requested that the Department of Transportation approve use of Article 125-8.3.3 of the Standard Specifications, Backfill under Wet Conditions, which allows hand tamping of backfill until the backfill reaches an elevation such that its moisture content will permit use of mechanical tampers. They refused our request.

3. On December 3, 1988, the Department of Transportation reversed their position. They allowed us to begin backfilling the pipe trench in accordance with the specification for backfill under wet conditions and they did not perform density tests along the sides of the pipe. At that time there was approximately 1,200 feet of pipe trench in which the required density had not been achieved up to the elevation of the top of the pipe.

4. Failure of the Department of Transportation to allow backfilling of storm sewer pipe under the specification for backfill under wet conditions during this three week period disrupted and delayed our operations, resulting in increased costs.

The Department of Transportation rebutted as follows:

1. Prior to the period during which the Contractor encountered wet conditions in the pipe trench, he was experiencing problems in consistently obtaining the required density because in many cases the backfill soil was at a moisture content well below the optimum moisture content. After repeated suggestions by the Project Engineer, the Contractor for a short period added water to the backfill material and the percentage of passing density tests

increased. The Contractor then began to double the space between well points and the pipe trench immediately went from too dry to too wet. Thus, the wet conditions in the pipe trench were caused by an action of the Contractor.

2. The Contractor brought excess moisture into the pipe backfill material from below and along the sides of the pipe trench by using an excessive number of passes of the mechanical tamper.

3. After the wet conditions were encountered, the Contractor ignored suggestions by the Project Engineer of means by which he might dry the bottom of the pipe trench and another suggestion that drier soil be used as backfill. The Project Engineer also pointed out a situation where water discharged from dewatering operations was being allowed to stand in a ditch paralleling and approximately 25 feet from the pipe trench.

4. Our inspector suggested to the Contractor on several occasions that he propose to the Project Engineer that backfilling be done under the specification covering backfilling under wet conditions. The Contractor did not make such a request to the Project Engineer. It is our opinion that, since construction operations are under the control of the Contractor, he in fact responsible for initiating this request.

5. On December 1, 1988, in the interest of allowing progress on the job to continue, the Project Engineer initiated action to utilize the backfilling under wet conditions specification.

6. In our opinion, disruption of and delays to the Contractors operations were caused by his failure to properly control the pipe backfill operation.

The Board in considering the testimony and exhibits, found the following points to be of particular significance:

1. The testimony revealed that one or more layers of hardpan were encountered in the area where the most severe problems with excessive moisture in the backfill occurred.

2. The Department of Transportation stated that it was the Contractor's responsibility to recognize that the specification covering backfill under wet conditions was applicable. The specifications for constructing storm sewer pipe are essentially method type specifications in which the various operations are spelled out in detail.

3. In its testimony the Department of Transportation mentioned that the trench was dry enough for laying the pipe but moisture was brought in from below and adjacent to the pipe trench as backfilling progressed. The specification covering backfill under wet conditions relates to dewatering for placing backfill.

4. The Contractor contributed to the delays and disruption of operations in this situation by the manner in which he conducted his operations.

From the foregoing and in light of the testimony and exhibits presented, the State Arbitration Board finds as follows:

The Department of Transportation is directed to reimburse the Contractor in the amount of $30.000 for his claim.

The Department of Transportation is directed to reimburse the State Arbitration Board the sum of $325 for Court Reporting Costs.

Tallahassee, Florida

Dated: 17 May 1990

H. Eugene Cowger, P. E.
Chairman & Clerk

Frank Carlile, P. E.
Member

Certified Copy:

H. Eugene Cowger, P. E.
Chairman & Clerk, S.A.B.

17 May 1990
Date

Sam P. Turnbull, P. E.
Member

S.A.B. CLERK

MAY 17 1990

FILED

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STATE ARBITRATION BOARD
STATE OF FLORIDA

GATOR ASPHALT COMPANY and DEPARTMENT OF TRANSPORTATION	PROJECT NO. 17040-3518 LOCATION: Sarasota County, Florida

RE:	Arbitration In The Above Matter
DATE:	Tuesday, April 10, 1990
PLACE:	Florida Transportation Center 1007 Desoto Park Drive Tallahassee, Florida
TIME:	Commenced at 11:10 a.m. Concluded at 1:10 p.m.
REPORTED BY:	CATHERINE WILKINSON CSR, CP, CCR Notary Public in and for the State of Florida at Large

WILKINSON & ASSOCIATES
Certified Court Reporters
Post Office Box 13461
Tallahassee, Florida 32317

APPEARANCES:

MEMBERS OF THE STATE ARBITRATION BOARD:

Mr. H. E. "Gene" Cowger, Chairman
Mr. Sam Turnbull
Mr. Frank Carlile

APPEARING ON BEHALF OF GATOR ASPHALT COMPANY:

Mr. Thomas Downs
Mr. Bob Taylor
Mr. Dan Mathews

APPEARING ON BEHALF OF THE DEPARTMENT OF TRANSPORTATION:

Mr. Marshall Dougherty
Mr. Ken Blanchard
Mr. Charlie Crews
Mr. Douglas Moore
Mr. Oren Whightsel
Mr. James Mercer
Mr. Jan Tollefsen
Mr. Bob Clemens

* * *

I N D E X

P R O C E E D I N G S

CHAIRMAN COWGER: This is a hearing of the State Arbitration Board established in accordance with Section 337.185 of the Florida Statutes.

Mr. Frank Carlile was appointed as a member of the Board by the Secretary of the Department of Transportation. Mr. Sam Turnbull was elected by the construction companies under contract to the Department of Transportation.

These two members chose me, Gene Cowger, to serve as the third member of the Board and as Chairman.

Our terms of office began July 1, 1989, and expire June 30, 1991.

Will all persons who intend to make oral presentations during this hearing please raise your right hand and be sworn in.

(Whereupon, all witnesses were duly sworn by the Chairman.)

CHAIRMAN COWGER: The documents which put this arbitration hearing into being are hereby introduced as Exhibit No. 1. That consists of the notice of arbitration, the request for arbitration of a claim, and all the attachments to that request for arbitration of a claim.

Does either party have any other information it

wishes to put into the record as an exhibit?

We will go off the record a minute to sort through the exhibits.

(Brief pause)

CHAIRMAN COWGER: Back on the record. While we were off the record, DOT submitted a package of information entitled claim evaluation dated April 10, 1990, which is hereby entered into the record and identified as Exhibit No. 2.

Does either party have any other information it wishes to put into the record as an exhibit? Hearing nothing, we will proceed on.

(Whereupon, Exhibit Nos. 1 and 2 were received in evidence.)

CHAIRMAN COWGER: During this hearing the parties may offer such evidence and testimony as is pertinent and material to the controversy and shall produce such additional evidence as the Board may deem necessary to an understanding and determination of the matter before it.

The Board shall be the sole judge of the relevance and materiality of the evidence offered.

The hearing will be conducted in an informal manner. The contractor will elaborate on his claim and then DOT will offer rebuttal.

Either party may interrupt to bring out a point by coming through the chairman. However, for the sake of order, I must instruct that only one person speak at a time.

Also, so that our court reporter will be able to produce an accurate record of this hearing, please introduce yourself the first time you speak.

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I think that before we begin, let's take just a very few minutes here, stop, go off the record, and everybody that wants to can take a look at this rather bulky exhibit that DOT has submitted. We will give the Board and the contractor just a very few minutes to look at it. We will come back on the record very shortly.

(Brief pause)

CHAIRMAN COWGER: We will go back on the record now. Mr. Downs, is it my understanding that Mr. Taylor is going to present the claim on behalf of Gator?

MR. DOWNS: Well, Dan may have a few things to say first.

MR. MATHEWS: I'm Dan Mathews with Gator Asphalt. Our total claim is for $94,148.25. Our claim is based on Taylor Pipeline's attempt to have to compact the trench under wet conditions, and we feel that Mr. Taylor's claim is justified.

The fact that he had four different project

engineers in the month that he was working on this project contributed to the factors of his delays. And this is Mr. Bob Taylor to my right and he's going to present his claim.

CHAIRMAN COWGER: Before Mr. Taylor starts, would you repeat that number.

MR. MATHEWS: 94,148.25.

CHAIRMAN COWGER: Thank you. Mr. Taylor, you may proceed.

MR. TAYLOR: To start with, I would like to ask the Board a procedure here. This file that the State has presented, it's my understanding when we presented our claim to the Board, that nothing would be discussed other than what we have had submitted. There are a lot of things in here we have never seen before.

Am I supposed to justify anything they have in here that is true or not true, go through their portion of the claim, also, or is it just what I have filed and presented to the Board?

In other words, they filed, you know, answers to some questions here that we have never seen, some of their stands on certain situations that we have never seen before. It was my understanding that nothing other than what was presented prior to today would be submitted.

CHAIRMAN COWGER: The position that the Board takes on that is that no new issues can be brought before the Board. I don't think that DOT has brought any new issues.

I will ask DOT, in your package dealing with the rebuttal of claim points, is there anything in there that in your opinion has not been previously discussed with the contractor in some of the meetings in attempting to settle this claim?

MR. DOUGHERTY: I will defer that to the resident engineer only because this claim has been ongoing since before my time in the construction office.

MR. MOORE: I'm the resident engineer, Doug Moore. There have been at least three separate claim settlement attempts on this particular claim. At least two of those were quite lengthy. I believe all of the points that were brought out in our claim rebuttal have more than adequately been discussed with the contractor in those settlement attempts.

MR. DOUGHERTY: I would like to interject a letter from Taylor Pipeline dated December 19, 1988, where he states his claim and basis for claim. All of those points that are mentioned in that letter are taken verbatim, are in pretty much the majority and done in this rebuttal.

Our rebuttal talks about plan sequence of work. He says he was hampered by us. He talks about backfilling under wet conditions. That's mentioned in there. Achieve a hundred percent density, that's also mentioned in his letter to us. Various size pipes being utilized in order to install the pipe well points, that's mentioned in the letter.

I just went through and verified that each one of those points is mentioned in that letter of December 19th.

CHAIRMAN COWGER: So that the Board understands, in this document, the three-page document called rebuttal of claim points, the portions of that statement that are underlined -- those are essentially quotes taken from the December 19, 1988 statement of claim submitted by Taylor Pipeline?

MR. DOUGHERTY: Yes, sir.

CHAIRMAN COWGER: Mr. Taylor, what the Board would like for you to do is to go ahead and present your claim. From looking at the package, I think that you have seen most of this information at some point or another.

However, if you feel that there is information here that you need to further evaluate, the Board will consider -- the Board will allow you to submit a written

statement subsequent to this hearing to provide whatever additional information you may feel is appropriate that you have not had time to prepare today. Then the Board will -- prepare for today.

The Board will then, of course, submit that to the DOT and allow them to make a statement in rebuttal to whatever you may say, and we will close it out at that point.

That information will have to be to the Board from you by no later than April 20th, ten days from today, in order for us to allow -- to get it to the DOT to let them look at it and get it back and give us time to consider it between the time we meet again -- before we meet again.

Let's proceed on on that basis. And at the end of the hearing we will come back and discuss this a little bit more as to whether or not the Board feels it is appropriate for you to make such a submittal. We are not making that commitment at this point, we're just trying to ease your concern a little bit.

Okay, if you will proceed on.

MR. TAYLOR: Basically my claim as mentioned before was the fact that I did ask several times to be able to use the backfill under wet conditions and I was denied that. I continued to work on the job trying to

obtain densities.

I do have some photos here that I guess I'll just use these as I go along with describing the claim. Basically I would like to submit these just to show the efforts that we did put into the compaction and then I will go a little further into the different areas we had problems with.

CHAIRMAN COWGER: What is occurring right now for the record is that the contractor has some color photographs of the work. We are passing those around. Members of the Board and DOT will examine those photographs. They are of the pipeline -- of the storm sewer work as it was under construction.

MR. TAYLOR: This just shows some of the efforts we put into the densities. And then as I mentioned, the compactors had to make several passes over the materials before the water did come up to the top. I brought some pictures to show in some areas we weren't even able to make one pass, let alone several.

These next few pictures show the area that my claim basically consists of where we had the major problems. We well pointed. As we laid the pipe, the trench was dry in the well point system.

After several hours of open trench, some of the moisture started seeping in from the far side of the

trench.

On several occasions I asked to be allowed to use the backfill under wet conditions to where we could come up and get a foot above the wet material to where it would support a compactor, a mechanical compactor, which the specifications called for.

We were denied that and told to -- didn't care how we did it, to put points across the ditch and try to dry the other side of the trench before we were able to come up any further, which we made every effort in doing so.

At one point I asked the engineer if we would be able to backfill under wet conditions. I explained that when we bid the job we went by the core borings as far as Class 3 material and also the fact that it showed the water table at elevation 26 on the core borings, and the description of the materials on the job site.

An elevation 26 is approximately at the top of the pipe where we were laying it. Elevation 29 is the approximate finished roadway, which is about three foot.

I was told at that time there was no such thing as a water table, and that we had to dry our trench and all the way down to the bottom of our ditch, which was approximately nine, nine and a half foot from the top of the ground.

The next picture I'm presenting is after we put

in the well points it shows that the core borings were correct in showing that the water table was approximately three to three and a half foot from the top of the ground.

From December the 3rd, I believe it was, after several attempts to get the DOT to let me backfill under wet conditions, I was told verbally and later given a memorandum from Bartow stating that we could backfill our trench under wet conditions.

And at that time I had, I believe, approximately a thousand, 1200 foot of trench open. I was told at that time to go ahead. And all the efforts that I made previous to that on compaction was null and void to backfill the trench to the top of the pipe, which was the water table that was on the plans and the densities would start one foot above the pipe to the finish grade.

From that point on I had very little difficulty in keeping any density. These next pictures show the procedures that we used that I asked for all along and was denied, and they let me, after December the 3rd. At that point I was able to lay my pipe and at the end of the day have my trench backfilled pretty close to where the end of the job was in the evening with the backfill all the way to the top.

We were told that we could take T-tamps and

compact around the haunches of the pipe, bring it up by hand. We put mechanical tampers in there and compacted it in layers but the densities were not taken.

I have a copy here of the backfill under wet conditions specification that does say that on Class A-3 material that you can backfill by hand until you get to the point to where mechanical tamping can be supported.

Also, I feel that the density tests that were taken, I don't really feel that they were accurate to the point -- I put these next few pictures will show we used a jumping jack to try to obtain the density alongside of the pipe.

We were achieving 98, 99 percent, 99.3, but they weren't enough to pass the density. So we spent a couple of days with a 16-ton roller that we put on the same runs of pipe that we used the compactor on, the jumping jacks.

We were told that the 16-ton roller did not bring the density up any higher than it did with the jumping jack. We find that very hard to believe. These are some pictures of the efforts we made in trying to increase the density.

Also, I checked with Ardaman and Associates on some of our densities that failed, we had optimum

moisture, exactly optimum moisture. We were trying to find a method to get our densities because it was so -- we were so close with 98s and 99s. We couldn't understand why we weren't getting a hundred with optimum moisture in some areas.

Ardaman advised me at that time we achieved the 99 percent, 99.3. We made several passes with the compactor and it actually went down. The optimum moisture still stayed at exactly what we were supposed to have, I think it was 12 and a half or 13 percent.

I was quite awed by the fact that we couldn't get the densities to pass being that the material was very, very tight. If you stomped it with your foot, you could virtually hurt the bottom of your foot, the material was so tight. We used a probe rod and actually leaned across the probe rod with the average weight of say 165, 170 pounds and the probe rod would go in the ground two or three inches, yet our densities still couldn't pass.

I asked Gary Smith at Ardaman, I said I'm bewildered with optimum moisture. We get 98, 99 percent, we make a few more passes, take the test again, the optimum moisture stays the same but the test number drops down to 97 or 96.

His opinion, from years of experience, we did have 100 percent, optimum moisture, had 99.3 or 99. If it

starts going the other way you've broken the curve and you've lost your density. Like I say, it was optimum moisture.

CHAIRMAN COWGER: Which of the compactive efforts are you referring to there when you consulted with Ardaman? Were you using the roller or the jumping jack-type compactor?

MR. TAYLOR: The jumping jack at that point. This is one more final picture that shows that we just put the material on the pipe by hand and were T-tamping it, bringing it up.

The main thing that is confusing to me is I actually -- there were some areas that were driveways for businesses that were open and had a nine and a half foot cut in front of it, and we were trying to get these driveways open.

We actually shut down our pipe laying procedures and spent several days in trying to achieve densities in these areas, which we never did. We never did get our hundred percent on all of the lifts. In some areas we did, but most of them were 98, 99. We never did achieve the hundred percent in all of the areas we needed.

Like I say, we were told to go ahead and backfill the trench and start taking densities one foot above the pipe.

My biggest complaint and the basis of my claim is I spent close to three weeks in time and equipment and labor to achieve these densities and then I was told regardless of if they failed or if they passed that they weren't necessary.

So these are the bases of my claim. My biggest objection is I spent several days and up to three weeks making -- trying to attempt these densities that were fluctuating 98, 99, back and forth.

Then I was told that they weren't even required, that the densities weren't necessary, they would start taking the densities, we would use backfill under wet conditions and continue to backfill by hand up to the top of the pipe.

See, that's the major points of my claim that all the efforts we spent trying to achieve these, that we were told at a later date that they were null and void and we would take our densities a foot above the pipe.

CHAIRMAN COWGER: Just for point of clarification, that three week plus or minus period of time that you're referring to is the three weeks immediately prior to --

MR. TAYLOR: December the 3rd.

CHAIRMAN COWGER: December 3, 1988?

MR. TAYLOR: Yes. There were times after that that we still had problems, but I never did refile an

additional claim to increase the amount.

We were trying -- I met with Ken Blanchard several times in Tallahassee twice here, talked to him on the phone. We were trying our best to get this resolved because of my company's financial situation, to not go into a long-term, two or three-year battle.

Once I increased the claim, I would have to go to a court battle, which I could not afford. I was trying to rely on the Arbitration Board to settle our problems, keep it below the $100,000.

CHAIRMAN COWGER: Your claim, the amount you're claiming is concentrated in that three-week period, is that correct?

MR. TAYLOR: Well, it's over a longer period of that, but that's approximately the time I lost, you know, time-wise, that I spent, over and above what was normally required.

CHAIRMAN COWGER: Let me ask both DOT and the contractor this question. The dispute here today relates only to backfill from an elevation somewhere near the top of the pipe, maybe a little bit above the top of the pipe, down to the flow line of the pipe or the bottom of the pipe, is that correct?

MR. TAYLOR: That's correct.

CHAIRMAN COWGER: There's no dispute after you get

above that point?

MR. TAYLOR: No, sir.

CHAIRMAN COWGER: Before DOT rebuts, I kept a few of these photographs that were passed around. I will pass them on around.

I notice that the contractor in some situations installs well points on one side only and in other situations it appears that he's installed some well points on the opposite side by coming off the same header pipe and putting the well points on the opposite side of the pipe from the header. That's this photograph right here.

Is that typical? Was putting well points down one side pretty much typical of this project?

MR. CREWS: I was the project engineer assigned during this claim period, the month of December. The pictures that Mr. Blanchard is looking at has the well points at an angle. Mr. Taylor was trying to take the moisture down below the pipeline.

Now they was put in there for a reason. I realize this is not unusual -- at least it isn't unusual the way it's presented. Our density inspector, Mr. Tollefsen, is familiar with the procedure Mr. Taylor was using. He was trying to lower the water table directly below the pipeline or trying to intercept the water.

You had a roadside ditch that was approximately 30 to 40 feet to the south of the pipe trench. And the water that was percolating through was being a problem with the pipe trench.

And if I -- correct me, if I'm wrong, he was trying to intercept that water to keep it away from the pipe trench before it got there? That's area where the well points are angled?

MR. TOLLEFSEN: You are referring to this? Yes, that was an unsuccessful attempt. Also, he was pumping that water back into his backfill, which shows along the trench there, which we -- I guess --

MR. CREWS: One of our contentions, Mr. Chairman, was one of Mr. Taylor's ways of dewatering was pumping the water back into a roadside ditch which was in turn percolating back through and creating a problem of his own.

We feel that the water should have been allowed to go on through the project on downhill.

CHAIRMAN COWGER: The question I had, really, and let me make a statement and tell me if it's correct, in the interest of time.

The typical way of dewatering on this project was to install a lot of well points down one side of the pipe, and that picture that shows the well points

crossing over the pipe to the other side was only in one area?

MR. CREWS: That's correct.

MR. TOLLEFSEN: That was just sort of an experimental attempt. Generally they went down one side.

CHAIRMAN COWGER: Do you agree with that, Mr. Taylor?

MR. TAYLOR: Yes, generally.

CHAIRMAN COWGER: Which side of the pipe was the ditch, the same side as the well points or the opposite side?

MR. CREWS: Opposite side. The well points are on the east side of the pipe trench. Roadside ditch is on the west side -- excuse me, north side and the roadside ditch was on the south side.

CHAIRMAN COWGER: The well points were on which side of the pipe in relation to the centerline of the road?

MR. CREWS: The north side.

CHAIRMAN COWGER: Away or toward the --

MR. CREWS: Away from the roadside ditch.

CHAIRMAN COWGER: On the right-of-way side of the pipe. I think rather than getting too far off the subject now, I just wanted to clarify those observations

from the photographs.

Mr. Taylor, did you have anything further you wanted to say at this point or would you like to let DOT come back?

MR. TAYLOR: I would like to mention something about the trench. When we first opened the ditch there was several layers of hardpan. When we first installed the ditch, both sides of the trench were very dried up in three to four hours after we installed the pipe.

We had a difficult time getting the far side of the trench compacted. The closest side of the ditch where the well points were we had no problems. It was dry, no moisture.

As far as the water running down the trench when we were dewatering, it was the only way we could get the water to a ditch or trench area to get it away from us. The ditch would be going uphill the other way.

I asked Ardaman about it. Like I mentioned, there were several layers of hardpan. The water was moving. It was not sitting in that trench for any period of time. His feelings were that as long as the water was moving, it would have an awful hard time coming from the ditch nine and a half foot in the ground to affect my backfill and my compaction at the very bottom of my trench.

His feelings were that water came from the seepage through the bottom layer of hardpan that we laid the pipe on. We actually laid the pipe on hardpan.

Closest to the well points it was dry, no moisture at all. On the other side of the 48-inch pipe the water seeped through the bottom of the ditch, the hardpan, but was not coming through the trench along the roadside.

I asked Ardaman and Associates their feelings on that and they said they didn't feel the water, as long as it was moving, could affect the well point system in the bottom of the trench, nine and a half foot deep.

I had no water at the top of the trench from the far side of the ditch. It was all still right at the very bottom. I had no problem all the way up to the top of the ditch after, you know, two or three feet from the bottom of the trench. There was no seepage.

My biggest complaint was I felt at that time on those first three to four hours of critical time, if I was allowed to use backfill under wet conditions which I have done on other DOT jobs, I would be able to get my backfill in there, get that first layer or two compacted and be gone.

But I wasn't permitted to do that until December the 3rd, until after I had spent several days and weeks trying to get compacted which eventually wasn't even

counted.

Regardless of if my method of well pointing was right, wrong, I feel they were right because my trench was dry when I laid my pipe. All these efforts were null and void and they only took the densities after that period of time a foot above the pipe.

So I'm basically wanting to be reimbursed for all that time that I had to spend that they eventually said was not necessary.

CHAIRMAN COWGER: I think what would be appropriate now is to let DOT take this -- not to direct your testimony, but I think this would be appropriate, if you don't object, in your claims evaluation package, DOT, you have a rebuttal claim points, a three-page statement in here.

I think it would be appropriate if the DOT gave some testimony now sort of following along the lines of this statement so that the Board can follow and also then Mr. Taylor can follow, and if there's any information contained in there that he wants to rebut specifically, he can do so.

MR. DOUGHERTY: Okay. I'll be glad to do it that way. As I mentioned earlier, his letter of December 19, 1988, had these points in it that we are going to try to rebut at this time.

FDOT disrupted Taylor's plan sequence of work which resulted in an additional cost to Taylor. FDOT completely disagrees with this statement. The only requirement that FDOT placed on Taylor Pipeline was to adhere to the standard specifications. I don't mean to read this to you. I'm going to try to recap this if I can. I'm certain everyone has read these points.

"Mr. Taylor has stated that FDOT would not allow backfill material to be placed as outlined in the specifications, Section 125.8.3.3, backfill under wet conditions.

"Jim Mercer, who was the project engineer until November 3, 1988," and who is the room right now at the other end of the table, "has stated that the moisture content during his tenure as engineer was too low to adequately achieve density.

"Taylor Pipeline persisted in trying to achieve passing density, even though many density tests have moisture well below optimum.

"When this condition exists, rarely will passing density be obtained, and never with any consistency.

"Mr. Bob Taylor was given this information concerning this, with recommendations for correcting the problem on at least four different occasions," with Mr. Mercer.

"A conversation was held with Mr. Taylor's pipe foreman during the week of October 31, 1988, and revealed that Mr. Taylor had never passed this information along.

"Eventually the pipe foreman was advised by Mr. Taylor to add water to help increase the moisture, the percentage of passing densities began to increase. However, only a short period after adding water to the trench, Taylor Pipeline stopped this process.

"Mr. Taylor began to double space the well points to help increase moisture content without having to water.

"When this was done, the trench went immediately from too dry to one that was too wet. Thus Mr. Taylor created the wet material himself. It was only after Mr. Taylor created this problem that FDOT allowed the use of this specification."

CHAIRMAN COWGER: Please stop at this point. I think it would be appropriate to let Mr. Taylor comment on this at this point because when you turn the page you're going to go to a different subject.

MR. DOUGHERTY: Okay.

MR. TAYLOR: This is what I had mentioned when we first opened. This wasn't submitted. We had no idea this was coming. This is not part of my claim. It

never was part of my claim.

I sat down with Mr. Blanchard here in Tallahassee and explained to him, this is the area -- and I will submit this picture -- that they're talking about, that was too dry next to an orange grove.

If you will look at this material, there is no hardpan. This material is very porous. When you do well points, you can see I've got my well points every other hole and in some places every hole because the water was very porous and came through the material. So, we had to put the points close together to get it dry to lay the pipe in a dry trench, which we did.

We did have problems with it being too dry. It did take us some time to adjust and try to figure out how we were going to handle this, which Gator Asphalt supplied means of water. We got a pump and started pumping water on the top of the trench and making a few passes until we got our densities passed.

This area that they're speaking of at this time had all passing densities. Eventually we achieved all passing densities on this area.

But this is not in the claim. And what the gentleman just spoke of now is not a part of my claim whatsoever. I will submit this picture now of the dry area they are talking about.

MR. DOUGHERTY: Mr. Chairman, Mr. Mercer would like to speak to that, if he could.

CHAIRMAN COWGER: Before Mr. Mercer speaks, if you will hold one second. Looking at DOT Exhibit No. 3, there are some charts in here called pipe backfill.

MR. DOUGHERTY: Yes, sir, there are.

CHAIRMAN COWGER: They apparently cover -- there's four charts.

MR. CREWS: Mr. Chairman, may I make one statement?

CHAIRMAN COWGER: Sure.

MR. CREWS: The analysis of this claim, at the time I was the project engineer on the job. I had restricted the analysis of the claim with the time frame Mr. Taylor had presented during his claim. I tried to take out everything prior to. There was some problems prior to that Mr. Mercer may elaborate on, but these charts were derived during the time frame of Mr. Taylor's claim.

CHAIRMAN COWGER: All right. The time frame of Mr. Taylor's claim then must be the time frame shown in his daily labor and equipment cost summary starting November 11 and going through December the 3rd.

MR. CREWS: Yes, sir.

CHAIRMAN COWGER: Your analysis is confined --

MR. CREWS: Confined to that period of November-December.

CHAIRMAN COWGER: According to your records you confined your analysis to the areas he was working during those -- during that period of time in accordance with your records?

MR. CREWS: Yes, sir. These charts were derived from that period of time.

CHAIRMAN COWGER: These charts cover the areas that he was working during that period of time?

MR. CREWS: Yes, sir.

CHAIRMAN COWGER: Okay, Mr. Mercer was going to say something then we will come back.

MR. MERCER: In reference to the claim dates, I'm looking at a copy of Mr. Taylor's letter dated March 7 to Gator Asphalt. Statement of claim, basis of claim, and the elements of extra cost.

The time frame goes from 10th of October to 22nd of February. I was the project engineer on this job from the beginning of the project until November 7th. During that period of time -- let me back up a little bit to adjust Mr. Taylor's operation.

In my opinion Mr. Taylor had more than adequate equipment in the beginning with the correct -- good equipment, everything there that should have given him

good production rate. His well points, he had new or practically brand-new equipment, what appeared to be more than heavy enough or satisfactory to do the job.

The problem was that the proctors that we established, you know, what kind of effort at what percent moisture we were using indicated that we needed to have about 13 percent moisture. He was trying to obtain density at around 5 to 6 percent moisture.

From the beginning of the project until November 5th this claim covers this period of time. At that point in time there never was an issue of too wet conditions. We were trying to compact the pipe backfill on too dry a material.

And until just prior to my leaving my instruction or my information to Mr. Taylor, I explained the proctor curve and that it was available for his use, that we -- in order to achieve passing densities we needed to get that moisture somewhere near the peak of that curve. There is a working arrangement of approximately 2 to 3 percent either side of the peak of the curve.

My advice to him at that time was to bring a water truck in, put moisture to the top of the material he was working. And he explained to me that he could not get a water truck in. Of course, you can't put a truck on top of pipe backfill, but you can use a hose on it.

Until the time I left, until about a week before I left when I talked to his pipe foreman, who had never been advised of this, the following day he used a small pump at the location to apply water to the surface material and obtain moisture -- densities.

Now why, I don't know. No effort was made to increase the moisture from the top. I told him that to shut the well points off or bring the moisture up from the bottom was not the correct way to do this because he would be back into an original too-wet situation.

I don't know what happened after I left. For the claim period through November 7th, it was not too-wet conditions.

CHAIRMAN COWGER: Your statement is that between what date, October --

MR. MERCER: October 10th is the claim date for some of the daily labor and equipment costs that he's referenced.

CHAIRMAN COWGER: And up through November 7th, 1988? You're saying that period of time that the problem was that the backfill was too dry?

MR. MERCER: That's correct.

CHAIRMAN COWGER: And that -- are you saying that during that period of time -- and I'm not meaning to put words in your mouth, but are you saying that during that

period of time the contractor never encountered the problem with the backfill adjacent to the pipe, we might say, being so wet that he couldn't compact it?

MR. MERCER: That is correct. If we had conditions -- and I believe as part of the submittal package there are pages from the density logbook that will confirm this.

Additionally, if there was a -- which often you find even with well points, if there was a slight wet condition in the bottom, you will see that the first or second lift in some cases, there was not a test run on it to allow for that wet condition, get up above it.

Even the material going in on top, that was on the side and in the pipe trench, it was too dry to compact. If you beat on it long enough, water has to come in from somewhere.

CHAIRMAN COWGER: Mr. Crews, you had something else to say? Were you the project engineer after Mr. Mercer left?

MR. CREWS: Yes, sir, I was. I came in in the early week of November. There was -- maybe to clarify the Board's thinking, there was two situations, the first being what Mr. Mercer explained, you had dry conditions, which he had met Mr. Taylor on several occasions for several alternate ways. During the early

month of November, it switched. We started having wet conditions.

Mr. Taylor had mentioned earlier that he had repeatedly asked once after I had taken over to go to the backfill under wet conditions. I never recalled Mr. Taylor approaching me once asking that, or I don't think Mr. Mercer does either.

At no time do I know of that Mr. Taylor ever approached us going to the backfill and wet conditions. It was my suggestion that I would discuss this with the previous resident engineer, J. R. Pinion, and explain to him what was going on to see if we wanted to consider this. This was done early in the month of December.

CHAIRMAN COWGER: Mr. Taylor, I believe it would be appropriate to let you come back and discuss this a little bit more.

MR. TAYLOR: Like I mentioned before, the picture I showed is what Jim was talking about, is the area that was too dry. I don't dispute that area. Like I mentioned before, we did get our densities passed in there after we brought in pumps and that sort of thing to wet the material down.

That same period down the street from there I believe it was just prior to Charlie getting there, you mentioned he started in November. We were talking

about toward the end of October, I believe.

From The Oaks condominium project I believe it was, apartments, that area there we laid some, I believe it was 30 or 36-inch pipe. When we laid the pipe, the trench was dry.

We asked if we couldn't go ahead and put a lift or two in there so we could get our mechanical tamper to be supported to where we could start getting the material tight. We were told, no, we couldn't do that, we had to somehow get rid of the water, which we did.

The basis of my claim, there again like I mentioned before, the job started in October. I had difficulties through the job. The basis of my claim is like I mentioned several times, is the denial of backfill under wet conditions.

Charlie, like you mentioned, he came in there in November. I had asked him several times. The other engineers and inspectors on the job, and Gator came over. I tried to get them to get the State to let me backfill under wet conditions.

At that time Charlie informed me there was no such thing as a water table. I asked him why was the soil samples and the conditions of the soil and water table put for information in the bid documents to bid on the job with. At that time I believe Charlie checked into

it and came back at a later date and told me I could go ahead and backfill under wet conditions.

So, the heart of my claim is the portion that I had the difficulty on the backfill under wet conditions. That period, which was those few weeks, approximately three weeks or so from November to December the 3rd is the part that I feel I was treated unfairly because I spent all that time trying to get density.

Whether it was too dry in one lift on the top or a little bit too moist on the bottom, all those densities and efforts were pushed aside and I was told to backfill under wet conditions and the densities would start at one foot above the pipe. At that point I had no trouble getting densities on the rest of the material.

MR. MOORE: Mr. Chairman, could we have Mr. Taylor identify exactly who he asked for wet conditions and approximately when? I would also like to know who in Gator he asked to verify that, please.

MR. TAYLOR: Yes, I did ask Charlie Crews to let me backfill under wet conditions. I also mentioned to Ed -- what is his last name --

MR. MATHEWS: DeVencinto.

MR. TAYLOR: To get with DOT and why could I not

use these specifications that are in the DOT book. He also asked at that time -- they told him I was to well point, I had to dry the ditch up in the bottom. If I had to put in two rows of well points or whatever was necessary to dry that first foot of a nine and a half foot cut.

The whole idea of the backfill under wet conditions is when you use a standard procedure of well pointing. The bottom line is my argument is you double well point when you have a condition that you cannot lay the pipe in dry conditions.

That was not our problem whatsoever. Laying the pipe in dry conditions was no problem. It was the backfill. After three to four hours of it sitting there and the water coming through the hardpan area is where we started having a problem.

At that point is when I asked the DOT, look, we laid the pipe in the dry. There's no water whatsoever in the bottom of the trench for the first four hours. Why can't we go ahead and put a couple of lifts in there to where the mechanical tamper, which is in the specifications, is supported and will hold up with the material?

If they had let me do that, I would have had no problem. But there again, like I said, after all this

argument and going back and forth, they told me that all my efforts weren't necessary anyway, they would start taking densities a foot above the pipe. I feel that they did not make the proper decision in time enough for me to keep from me having to go to great expense.

CHAIRMAN COWGER: I think it's time to let Mr. Dougherty go to the next item because we're into the next item of your statement. He got to the bottom of page one.

I do have one question before we start. Does DOT dispute the statement that in the areas where you ultimately allowed the contractor to place the material under the wet conditions clause that he was able to place the pipe satisfactorily with the dewatering efforts he was using, disregarding the backfill for the moment?

In other words, did he get those areas dried out well enough with the well points that he could satisfactorily place the pipe?

MR. CREWS: As far as I was concerned, Mr. Taylor did an excellent job with his pipe. The well points were excellent. His work, laying his pipe was excellent. I have no problem with his company's normal procedures as far as that. The only problems that I had personally was his controlling of his moisture in the

backfill.

CHAIRMAN COWGER: The reason I asked the question, in looking at the Section 125-8.3.3 of the specifications dealing with backfill under wet conditions, the first sentence says, "Where wet conditions are such that dewatering by normal pumping methods would not be effective, the procedure outlined below may be used."

What I'm trying to establish is he used normal dewatering methods and he was able to dewater the trench well enough to install the pipe, correct?

MR. CREWS: That is correct.

MR. DOUGHERTY: That is correct. That was the last statement we just made in the last rebuttal section we had.

Again, just to reiterate, Mr. Taylor began to double space the well points to help increase moisture content without having to dewater. When this was done, the trench went immediately from too dry to too wet, creating a problem. Then we allowed the use of the specification.

MR. CREWS: Mr. Chairman, may I comment again. I have laid a majority of some of the pipelines on the interstate and some of the areas of Sarasota County. To my knowledge this is the second project within the

Sarasota residency that this specification was allowed to be permitted, in writing, as noted in the diary, as specified in the general specifications.

I have no knowledge except the two jobs -- as a matter of fact, just by coincidence there was a second job I was on about eight years prior to that this was allowed to be done in writing.

The reason this was done, this was an attempt to allow the progress of the job to continue. We was at a stalemate. We was getting an adequate pipeline. The pipeline was laid through the grade. There was no problem laying it.

It is my contention the moisture was not adequately controlled by the contractor. In an effort to continue with job progress, I discussed it with my supervisor Joe Pinion and at length before we made the stipulation to allow the backfilling.

Again, Mr. Taylor indicates he discussed this with me. I deny that. I don't recall at all -- in my original analysis of the claim, I met with Mr. Taylor on December 1st, with the presence of Mr. Ed DeVencinto, which was Gator's representative on the project. I suggested to him several alternate procedures. One of those procedures was to allow the backfill under wet conditions.

I told him I would discuss this if he wanted to go to this method, with my supervisor. If Mr. Pinion -- if I could convince him this was valid, we would sample the material to confirm that yes, it did meet the A-3 specification. I informed Mr. Taylor very emphatically that until I'm sure this is A-3, we're not going to.

After this was done, we core sampled, we had verification that yes, it was A-3. After that, a letter was written, and Mr. Pinion signed that letter, to allow this.

MR. DOUGHERTY: He just covered my next point.

CHAIRMAN COWGER: Going to the top of page two, are you saying that's been covered?

MR. DOUGHERTY: Yes, sir. Dealing with applying the A-3 materials. We agree there was A-3 materials in there, just want to make it clear, our standard specifications states, "When the plans contain the results of a soil survey, such data is not to be construed as a guarantee of the depth, extent or character of the material present."

Okay, to carry on, "Mr. Taylor also states that FDOT demanded that Taylor achieve 100 percent density at optimum moisture of the backfill material.

"Compaction to 100 percent is the established proctor to be required by the standard specifications

and should never be questioned.

"FDOT required Mr. Taylor to saturate the backfill material to obtain optimal moisture." Sorry, "never" -- I left that word out, "never" -- FDOT merely pointed out an obvious problem to Mr. Taylor by suggesting that the moisture content was too low."

Again, I think Mr. Taylor says this is outside the limits of the claim, but it was in the claim letter we got nonetheless.

"Mr. Taylor also states the various size pipes were installed in the dry, in some cases, and well points were utilized in other areas in order to install the pipe in the dry.

"Mr. Taylor has not indicated that he encountered ground conditions that were too wet to dewater, instead he installed pipes in dry trenches. He continues that the required use of mechanical tampers brought the moisture up from below and from the adjacent soils, rendering the backfill unstable.

"Mr. Taylor, in a meeting of March 13, 1989, stated he had several hundred feet of open pipe trench to compact. Without a good dewatering system in effect on long pipe trenches, groundwater will equalize itself and any compaction efforts will accelerate the process. Mr. Taylor's claim indicates that he did not install

well points until after the backfill had reached a saturation point that prevented further productive efforts.

"Mr. Taylor claims that FDOT required the use of mechanical tampers to compact all the backfill material in the trenches.

"The standard specifications require the use of appropriate equipment for compaction as stated in Section 125-8.3.2.

"Mr. Taylor claims that compaction efforts brought up moisture from below and from adjacent soils rendering the backfill so unstable that the mechanical compactors would occasionally have to be dug out of the fill.

"This statement is true. However, the moisture was brought to the top by the excessive number of passes made by the tamps." That's the end of our rebuttal.

I would like to point out in these charts of the material or the densities taken that the optimum moisture, though not present in some lifts, densities, passing densities were still obtained. And that I see no standard pattern for failing or passing depending upon the moisture density of the material itself.

Just one of those interesting things that evidently the process used to obtain compaction was not adequate in some of the cases.

CHAIRMAN COWGER: Mr. Taylor, I think it would be appropriate to allow you to make any additional statements that you would like to at this point.

MR. TAYLOR: There again, I continue to relate back to the fact that the areas that were dry I'm not considering that as part of my claim. We had dry spots and wet spots.

My basic claim is the fact he did not allow me to use a specification that could have been allowed and I did ask for it on several occasions. Gator Asphalt asked for it on several occasions.

Like I said, there were several changes of engineers and inspectors on the job. Whether one didn't know what the other one was doing prior to that, I have no control over that.

But the fact is like I mentioned, the gentlemen said the procedure we use for compaction, I actually had the people from Wisconsin, which we had some of our compactors from, trying to think of the name of them -- one of the representatives from the compaction company.

They came down. We told them we were having a problem, why we could not achieve the densities, because the machine was far exceeding what we should have to have for that type of density.

We had another contractor in the same area that

was laying a force main right alongside our trench, almost in the same trench we did. And he had his testing done also, and he walked right by us where our trench was, had no failures at all. I was there again saying how come he had no problems and we had such problems. I still haven't figured that out.

As far as the proper equipment, you can see the roller we put in there. There again, I questioned the fact that if you take a jumping jack compactor and try for days to get compaction and you get 98, 99, you bring a 16-ton roller in there and the test results show it made no difference, I find that very hard to believe and the pictures will point that out.

There again like I mentioned earlier, Charlie told me there was no such thing as a water table. I did ask him about backfilling the wet conditions, whether he recalls it or not.

Also, in our meeting in December, at the time Charlie opened up his testing records, on one section of pipe, which shows the big 16-ton roller, there had to be approximately four and a half foot of fill put in above the top of my pipe to complete the roadway.

Mr. Crews at that time stated, you know, there are no passing densities in this area. I told him that I was told that we could use the backfill under wet

conditions and the densities would be taken a foot above the pipe. To my knowledge to this day there are still no passing densities to the top of that pipe and it's all been put in.

I spent a week and a half or so trying to obtain densities on that run of pipe, also, which was, there again, they put four and a half foot of fill on top of that pipe and took their densities on that.

The top of my pipe, when I dug my trench, was just about ground level. Then they placed another four and a half foot of fill.

In December Charlie was not aware that any of that area had been passed, from any of his records.

There again, like I say, I spent several days, about a week and a half trying to get densities in that area. The State acknowledged the fact that we did have to do some extensive density behind a curb line.

Charlie did come up to me and say, "Bob, you've been working on this for a couple of days that I know of, why are you getting densities here, they aren't required?"

I told Charlie at that time, "I was told by the inspector I had to have densities because it was close enough to the curb to require it."

Charlie told me at that point to forget about it,

it wasn't necessary. So, they acknowledge that factor. I think in the documentation it's 16 foot of pipe. They offered, I think, it was $1400. It figures out to be approximately $91 a foot.

If you take the total amount of pipe that I had problems with on my densities on the backfill, the wet conditions, multiply that times the $91 and whatever cents it was, it's over $200,000.

There again, I explained I tried to keep my claim down as much as possible and eliminate some of the areas. I didn't even put that in my claim, to try to keep it below the $100,000.

MR. DOUGHERTY: Mr. Chairman, I would like to offer one thing, too. I hear a very definite difference of opinion between Mr. Taylor and Mr. Crews as to whether or not he was alerted to asking for water -- you know, for backfill under wet conditions. I can't account for that. I'm not going to try to point a finger or do any discussion on that part.

The interesting part that was brought to me, even though all these discussions were made and requests were offered, none of them was ever offered in writing nor in person to our resident engineer or to my office. Therefore, you know, requiring a written reply of any kind.

Certainly I would think if I was denied what I thought was my right, I would put it in writing somewhere. Mr. Taylor -- I know he knows how to write letters. So, interesting point.

A while back we had some discussion going and Mr. Tollefsen wanted some time, if I may let him discuss --

MR. CREWS: He's going to say the same thing you're saying. May I just add to Mr. Dougherty's subject. I wanted to point out clearly that in any discussion I had with Mr. Taylor, I made every attempt to include Gator Asphalt's foreman, superintendent on the job. Any conversation I had with Mr. Taylor, Mr. DeVencinto was present. Gator Asphalt, the prime contractor, was totally aware of everything that took place. Okay.

MR. DOUGHERTY: May we recognize Mr. Tollefsen?

MR. TOLLEFSEN: I try to be quiet down here, but I have one point I want to make. I had the advantage of being on the project through this entire period.

Towards the beginning when there was some question about there being water, in spite of the fact that he said there were parts that were too dry, on several occasions, though it's the contractor's responsibility to be aware of the specifications and what he may or

may not request, I on several occasions suggested directly to Mr. Taylor that he go to the project engineer and specifically request that he invoke that paragraph.

I did everything but, you know, insist that he do it. I suggested it to him a number of times. He never made that request until finally he made it of Charlie Crews and it was granted almost immediately.

Up until that point --

MR. CREWS: At the December meeting.

CHAIRMAN COWGER: I know that request was not made and I suggested that it be made, but that was not my responsibility. I just had to say that.

MR. DOUGHERTY: We have differing opinions between the sides.

CHAIRMAN COWGER: You made that suggestion to Mr. Taylor, in accordance with your testimony, some several weeks, might we say, before DOT approved the use of Section 12 -- Section 125-8.3.3?

MR. TOLLEFSEN: I suggested he go to the project engineer since I don't have the authority to grant him that. I suggested to him on several occasions that he go to the project engineer with his request in writing, which is what that paragraph states.

I showed him my spec book. I said, "Here's what

it says, here's what you can do. It doesn't mean they will grant it, but you may request it." He didn't do it until he asked Mr. Crews. Then I believe it was granted almost immediately.

CHAIRMAN COWGER: Mr. Taylor, what do you have to say about that?

MR. TAYLOR: I say that's absolutely incorrect. I did ask several times. I mentioned it to Mr. Hobbs. Every engineer, like I mentioned, Mr. Mathews mentioned from Gator, there were several different changes on that job. I verbally asked all the people there to invoke that specification. I did not put it in writing.

The meeting of, I believe it was June 21st, we had the Federal Highway Administration, the people from Tallahassee, Mr. Blanchard, and we met in Sarasota. They told me that my claim was invalid because I did not put in writing that I intended to file a claim.

And at that time Mr. Blanchard stated that that particular specification did not apply because I was not asking for additional monies for work, I was asking for additional monies the delay caused me. So, that's my -- my letters after that show that that's what the claim consisted of.

MR. MOORE: May I make a very crucial point. It's the DOT's stand that dewatering under wet

conditions on this job was never required. The dewatering efforts by the contractor did, in fact, dry out the ditch. There was not standing water as was required by the specifications. Dewatering effort showed continuously throughout the project that it was dewatering the ditch so he could, in fact, put his pipe in.

As I understand from the old resident, the specification was allowed simply to progress the project. We felt there was a compromise we needed to make on the specifications in order to get the project done in a timely manner.

I think the records that we have presented in this package more than adequately point out the fact that the majority of the soils were, in fact, under dry conditions, not under wet conditions, and a compactive effort was failing because of that particular item, not because of the moisture. The moisture was coming from the excessive tamping, the tamping of the soils underneath the pipe. It was coming up through the soils and causing failures of density tests.

CHAIRMAN COWGER: Mr. Crews?

MR. CREWS: Mr. Chairman, Mr. Taylor had mentioned earlier in one of the statements about one particular run of pipe where he was required to get densities or

densities were not required.

In this one run of pipe, Mr. Taylor correct me if I'm wrong, it's an area of a curb inlet that crosses an area outside of the normal traveled roadway, which you would normally not require densities. The only requirements is that any time that pipeline is in a two-to-one slope you do have to require densities in accordance with the specifications.

Mr. Tollefsen, if I'm not correct, please correct me. Mr. Tollefsen did, in fact, mark the pipeline with keel, where Mr. Taylor's foreman knew where density was required. We made a recommendation to concede that run of pipe in an effort to settle some monetary value.

It's still my contention there was density required in this run of pipe only in an area of five to six feet of an area. Outside of the slope I concede we did not require density. The only recommendation we made was to help in some way show that we did make an attempt to go back and try to evaluate the entire claim.

CHAIRMAN COWGER: Let me ask a question at this point. It's been stated and admitted by DOT that there were some sections of pipe where 125-8.3.3 was invoked. Therefore, density was not required from the bottom of the pipe trench up to a foot or so above the top of the pipe.

How much pipe was -- did this involve? In other words, can you tell me approximately how many lineal feet of pipe you did not require density for?

MR. CREWS: Estimating -- and Mr. Taylor correct me -- 800 feet.

MR. TAYLOR: Closer to 1200.

MR. CREWS: When the backfill under wet conditions was invoked, Mr. Taylor, I, Mr. DeVencinto, and the project inspector O. A. Whightsel met out there to try to determine a water table factor.

Mr. Taylor pointed out in the plans there is a designation at the time the soil survey is made, the water table that was there -- I advised Mr. Taylor we would go down to that point and determine at that time if it was feasible to go any deeper or come up. But we would take and use this elevation as pointed out in the plans just as the location of the water table at the time the soil survey is made.

Now, this was -- we went back in those areas, the 800 feet or so, to utilize that to determine where to start density. Is that correct, Mr. Taylor?

MR. TAYLOR: Yes. And I also pulled well points behind myself. And after, I think it set maybe four or five days we did go back there around the structure right in front of Storer Cable Television's office and

it did verify the fact that the water table was within a few inches of approximately elevation 26, which represented the top of the pipe.

CHAIRMAN COWGER: So really what you're saying is you established the approximate water table as the elevation below which you were not going to require density through this 800 to 1200 feet of pipe, whatever it maybe be?

MR. CREWS: We determined once we had an elevation we would dig down or go up and down from there.

CHAIRMAN COWGER: I understand. Can you tell me approximately how many total feet of trunk line pipe there was on this job?

MR. TAYLOR: 9,000. This particular area, sir, is the area that was the deepest, the biggest size pipe and the most costly to install. Nine and a half foot cut.

CHAIRMAN COWGER: I kept hearing testimony about excessive tamping. This is confusing me. I assume we're talking about the area of the 800 to 1200 feet now that we have narrowed the discussion down to at this point at least.

And it's admitted that the contractor dewatered the trench well enough to get the pipe installed in a satisfactory manner, and that he did encounter problems in backfilling in this area due to excessive moisture,

apparently being what I would call pumped up from below or from the sides of the trench by the tamping operation.

Now, DOT, why do you feel that the contractor exerted excessive tamping effort when he was setting out to try to get density, wasn't he, at that point?

MR. CREWS: May I say something?

CHAIRMAN COWGER: Sure.

MR. CREWS: It's our contention that the normal backfilling method from the previous past, if you have some good materials, you have a valid proctor, three to four passes with a tamp is adequate to obtain density.

Mr. Taylor met with myself and Mr. Glenn Ivey, which is in our district office at one point. Mr. Taylor had used the term on one occasion, he had run anywhere from 20 to 30 passes in some areas.

It's my contention those passes were in excess. I feel if Mr. Taylor had run three to four to five passes and then come up with hey, I can't get density, we've got a problem. I think he indicated he run numerous passes. I still contend that the numerous passes are what created Mr. Taylor's problem.

CHAIRMAN COWGER: Was there ever any attempt to run a density test when, say, five passes had been made?

MR. CREWS: Mr. Tollefsen?

MR. TOLLEFSEN: Well, for one thing, we ran into this problem with some excessive water where that was at the point where he started pulling off some of his well points, he was not dewatering to the extent he had been at the beginning, number one.

And as far as -- maybe I don't --

MR. CREWS: The question was any time he had run four or five passes, did you take a density to find out --

MR. TOLLEFSEN: I took a density whenever one was requested. When they feel that they've done an adequate job of compaction, then they ask for a density, then I take one.

I think what happened here is they shut down and deleted well points in an attempt to bring water up or to look for wet conditions at this stage of the game. And if you pull the well points and make excessive passes, you're going to soak up the water just like a sponge.

MR. CREWS: I think the Department is not under the responsibility to tell the contractor when to take density. The contractor is in totally control of his work. At no time do I or one of my inspectors want to infringe on that right.

CHAIRMAN COWGER: Mr. Taylor, what do you have to

say about this issue of excessive tamping?

MR. TAYLOR: There again the only time the so-called excessive tamping took place is like I mentioned before, is the areas where we were getting 99.3 in and they said the densities weren't passing. At that time we tried a couple more passes, a couple more passes. We took tests every so many passes.

Yes, we did have 20 runs in there, but it wasn't excessive moisture. The pictures will show very clearly that the first time we cranked the compactor up, it sank right into the lower part of the fill, right at the bottom of the pipe. When we installed the pipe, the trench was dry. When you put a jumping jack in there and crank it up, it didn't take but a couple of jumps. You can see in the picture the compactor did sink into the fill.

I asked if we couldn't put a couple of feet of fill in there to try to get above that water table to where the mechanical tamper could be stabilized, but, no, sir, we did not do excessive tamping to bring any water up. That is incorrect.

MR. TOLLEFSEN: I think if you look back in your record you will see several times that Mr. Taylor has mentioned that the well points dried up the hole and within four hours water came into it. I think he

mentioned four hours several times.

There's no need, with my little experience, to wait for four hours before you put those first two lifts in. In the normal procedure, if you know your well points, that the water is going to intrude, that you get those lifts in there as soon as possible. Waiting four hours is waiting for water, especially when you start pulling the well points.

They well pointed, laid it in a dry ditch, yanked off the well points so the water didn't come in. To wait four hours to put the dirt in --

CHAIRMAN COWGER: What you're saying is that the contractor waited for four hours after he turned the well points off to start trying to backfill?

MR. TOLLEFSEN: That's what he said, that they laid the pipe in a dry ditch and then four hours later water started coming in, couldn't they then lay it under wet conditions.

CHAIRMAN COWGER: Mr. Taylor, go ahead.

MR. TAYLOR: There again, like I said, if three and four hours that I mentioned was a factor that we started out in a structure, 48-inch pipe, nine and a half foot in the ground, you're not going to blaze through and put 300 foot in the ground in three or four hours. It's big pipe, nine and a half foot deep. It

takes time.

You can't start taking densities with one or two joints of pipe in the ground. We tried to get six or eight joints in the ground to have an area we could run a compactor back and forth instead of trying to run it back and forth on four to eight feet.

It takes easily a 48-inch pipe nine and a half foot in the ground minimum three to four hours before you can get some working room to work with to start taking your density.

CHAIRMAN COWGER: I think we understand that. I think what we need to know though, were the well points turned off before you started to try to compact?

MR. TAYLOR: No, sir, they were not. I had my well points on at all times. The only time I shut my well points off was like I mentioned earlier where I was down in an area where it was excessively dry, like in the orange groves. I cut that off to try to bring some water up to pull the moisture down through the material. That's the only time I did that. On the areas that I asked for backfill under wet conditions, the well points were not put in, were run and shut off at any time.

CHAIRMAN COWGER: DOT, do you wish to make a statement about what Mr. Taylor just said?

MR. DOUGHERTY: From what I hear, I think we have discussed this point several times already.

CHAIRMAN COWGER: The key point here is were the well points shut off prior to completion of the backfill up to the top of the pipe?

MR. DOUGHERTY: All I can do is ask my inspector.

MR. TOLLEFSEN: I didn't suggest they be shut off. He had started pulling some well points. At first he had well points at least at every other connection. If there is a connection so many feet. He had reduced the number of well points. As far as shutting off, I'm not suggesting that he shut the system down completely but he reduced the dewatering which had been affected before and it was reduced.

MR. CREWS: Mr. Chairman, may I include in your package that we have prepared for you, there are several copies of the density charts, one of them in particular is very strange, where there was approximately seven densities taken on one lift. The moisture chart is so erratic that it's my indication here that the moisture content was not adequately controlled. For instance, almost at the same location --

MR. DOUGHERTY: Which chart are you looking at?

MR. CREWS: Next to the last page.

CHAIRMAN COWGER: This is in Exhibit No. 2,

correct?

MR. CREWS: Yes, sir. The page number is 78-A. It's the third page from the last.

CHAIRMAN COWGER: Got it.

MR. CREWS: For instance, that lift three, the fourth column from the left going right, it's lift three of 13. You have your chart moisture, which shows 8.7 percent. You go right on down that chart. You can look at it, lift three of 13, got 11.8, got 14.8, 14.4.

You go on down the chart and it's hard to visualize that you have a lower moisture at the very bottom and then for some reason the moisture comes up. It's my indication that the water was continually being brought up by that tamp or his method of backfilling.

It is my contention -- now again I made several suggestions to Mr. Taylor on his backfill method, I'm not trying to control his work. In some cases he would let materials consolidate or again like Mr. Phillips had mentioned, start backfilling procedures immediately and come on up.

I think from past experience in there, once you get two feet above your water table your density is no problem, but the two feet above the water table is the main contention.

CHAIRMAN COWGER: In this case the water table was

up several feet above the bottom of the pipe trench?

MR. CREWS: The lift three would be only three feet above the pipe trench. And this particular one here, the first two lifts Mr. Mercer mentioned, we allowed it because of the extreme wet condition down there to go a little higher before we got started.

CHAIRMAN COWGER: I think we have probably heard about enough. We have reduced this thing to arguing. I have one question, though.

Mr. Taylor, would you take your, what we have identified as Exhibit No. 1, which is your original request for arbitration, and go back through that package, a little over eighth of an inch, and we find a letter dated March 7, 1989, from your company to Gator. Let's see if we can all get to that point.

This package is the one that I think pretty well covers the amount of money that your claim is for. Have you found that yet?

MR. TAYLOR: Yes, sir.

CHAIRMAN COWGER: Let's go back through that. The statement of claim. It's about three pages. Then we come to a sheet that shows the total amount of claim, 89,665.

Then the next page is where you developed your total direct equipment and labor costs, which I think

are the numbers that are carried over to the previous page, keeping in mind that $54,000 at the bottom is a sum of the equipment and labor, and on the previous page you've got the labor and equipment broken down.

It appears to me without going through the trouble of adding it up, it appears to me if you add from the previous page direct labor costs, direct equipment costs you're going to get the 54,550.

Now, the question I have, looking at the dates, on that sheet titled daily labor and equipment cost, I see dates going back as early as October 15th, and correct me if I'm wrong, the latest one I see is December 3.

Now those dates are -- don't coincide with the dates we have been talking about earlier. We have been talking about a period of time between November 10th, plus or minus, through December the 3rd. Yet some of these costs that you have developed here are prior to that time. Can you explain that to us?

MR. TAYLOR: Well like I mentioned, this was an overall picture of the entire job in certain areas. Some areas were dry, some were wet. The backfill under wet conditions, like I mentioned, we had the majority of our problem in front of Storer Cable TV, in that area there, which was around the first part of November.

The October area of the claim is areas other than that that we had problems from time to time. Some was dry and some were wet. The backfill and wet conditions basic claim is in the November area in front of Storer Cable. The October is just different areas prior to that.

CHAIRMAN COWGER: In developing this page again, were these total costs on those days? Is that what you have developed, your total equipment and total labor costs for those particular days?

MR. TAYLOR: Yes, sir, I believe that's what it is.

CHAIRMAN COWGER: Okay.

MR. MERCER: Mr. Chairman, again, I would point out that the documents that are in this package will support that the periods during October to the first of November show that there were not wet conditions on the project.

CHAIRMAN COWGER: I think we have got that in the testimony somewhere. That's the reason for asking these questions. These dates in here span back prior to that time that you just mentioned. I think we are about ready to close out. I will warn you. Does anybody have anything real compelling that they wish to say?

MR. CREWS: If I may, one more, Mr. Chairman, the

first large sheet of our preparations I had went through and tried to go back to the 13th of October. And from the density logbook, I arrived at the number of tests that was taken, the number passed, the number that failed.

Also, I worked up a chart for those first three or four pages showing that some of the problem with the density compaction tests, it's still my contention that the density problems on this project were not created because of the lack of DOT measuring the wet conditions. I feel it's -- the Taylor Pipe Company did not adequately control their operations to continue job progress.

CHAIRMAN COWGER: Mr. Taylor?

MR. TAYLOR: There again, we have a difference of opinion here. My feelings are just the opposite of what Charlie said, is that they did not adequately in a timely manner and efficiently make proper decisions at the proper time to keep the contractor from having to spend excessive amounts of money and time on areas that supposedly weren't necessary.

There again, as far as the compaction, with the compactor and whatnot, I agree with Charlie. If we had been allowed to get that first or second lift to come up to get out of the wet moisture, we may not have had near

the problems.

But that is my main contention, that that decision was not made to backfill under wet conditions which allows you to take T-tamps and haunch in around your pipe, put a foot of fill in, hand tamp it with a square tamper by hand, until you get to where the ground stabilizes enough to support a mechanical tamper, which it does state in the specification. If that was permitted, we may not have had near the problem.

The reason this trench was left open for so many days and weeks is the fact that they would not allow us to use backfill under wet conditions and the first couple of lifts failed. They said if the first two failed, the rest don't mean anything. So here I'm stuck with an open trench waiting for days to try to figure out how to control this backfill under wet conditions.

So, I don't feel like it's the contractor's responsibility when I asked several times for them not to make a decision, say, well, like Charlie did, December the 3rd, said Bob, go ahead and backfill it to where your compactor will stabilize and you can use it.

At that point I virtually didn't have very much problems. It was after that that Charlie stated, and that I agree with him, that we didn't have much too much problems.

CHAIRMAN COWGER: Can I ask one question and then I'm going to ask Mr. Carlile ask one.

I keep hearing this one section that occurred over about a three-week period, 800 to 1200 feet of pipe. The larger size pipe or virtually the larger size pipe, apparently the deepest cut on the project.

DOT, tell me if you can, was there anything different about the soil conditions or the depth of the pipe that caused this particular area of the project to be unique?

MR. DOUGHERTY: I will have to defer to my project engineer.

MR. CREWS: No, sir, not that I'm aware of. The normal situation, which I agree with Mr. Taylor, was good material as far as backfilling conditions. One of the things I think Mr. Taylor had mentioned, you have a run of pipe, the longer you leave it open, the more of a problem you have obtaining density. The quicker you can compact it, the better off you are.

Mr. Taylor had mentioned that after this was resolved, all his problems went away.

I tried to isolate the claim period as I had analyzed it for those dates from October through December. There was problems before that period. There was continual problems after that period.

Some similar, same thing. The lead inspector on the job, O. A. Whightsel, can verify there was continual problems, although not as large.

CHAIRMAN COWGER: From the date December the 3rd that you authorized backfilling of wet conditions, was that applicable only to this 800 to 1200 feet or was it applicable at any point in time from that date forward?

MR. CREWS: We allowed him as long as he was able to verify the material that was in place that existed, the A-3 material, providing he dewatered under the normal conditions, to allow the pipe to be set.

CHAIRMAN COWGER: There were places on the project, other than the 800 to 1200 feet, where the placing of material under the wet conditions clause was allowed, but those are not the subject of the claim because those were done after you made the decision? Okay.

MR. CREWS: Is that correct?

MR. TOLLEFSEN: There were no problems after you made that decision because essentially no density was required.

MR. CREWS: Still had the same problems under wet conditions after, that we were allowed to go to that, there were still some existing problems after.

MR. TOLLEFSEN: There were some areas in which

Mr. Taylor refused to try dewatering at all. That was up near Honore Avenue.

As a matter of fact, I think you were involved in that, on some of that diagonal pipe coming onto Fruitville Road, where Mr. Taylor refused to try any dewatering because he felt having been allowed to invoke the backfill under wet conditions paragraph that dewatering was not his responsibility.

CHAIRMAN COWGER: I'm not sure that's pertinent at this point in time because it's beyond the point in time of dispute.

MR. TAYLOR: I want to bring up a major factor in the claim. When we had a final meeting, I think it was in December to try to resolve this, like was mentioned several times, we tried three to four times to try to resolve this claim. Charlie mentioned that it was important to try to get your testing procedure established on these first few lifts so that you could continue your work.

It was brought up several times to the resident engineer that at certain times I was denied test results. All they told me is if the tests pass or fail and I confronted the engineer on the job and told him that this was unsatisfactory, intolerable, and I wanted to know how could I control my moisture content, they

wouldn't tell me the speed that they used on the job.

I would try to see approximately what the moisture content was because I knew what the optimal was supposed to be and the inspector would deliberately take that speed machine, put the dial in the box with the dial facing away from me where I could not tell what the moisture content was and get a fixed pattern, whether I need to add water, is it too wet or too dry. I was denied that.

A few days later I was told -- first of all he told me that they didn't have to tell me the results. All he had to do was say passed or not. A few days later they came back, apologized that they wouldn't give me that information, which helped me out later on.

CHAIRMAN COWGER: DOT, what do you have to say about that? Can anybody verify or rebut that?

MR. CREWS: I can't. Jan, can you elaborate on that?

MR. TOLLEFSEN: I never denied anybody results. As a as a matter of fact --

MR. TAYLOR: It was --

CHAIRMAN COWGER: Wait a minute. No side comments.

MR. TOLLEFSEN: I think there was a period there when I don't even recall who it was that suggested that

we weren't required to give them compact results. As a general practice, if the contractor requests it, I even write the results down for him.

CHAIRMAN COWGER: Were you density inspector?

MR. TOLLEFSEN: Yes, sir.

CHAIRMAN COWGER: All the time?

MR. TOLLEFSEN: Yes. I have no incentive not to give the contractor the results. I have the incentive to give him the results because it makes it easier.

MR. MERCER: There was some period where --

MR. TOLLEFSEN: I wasn't there during some periods, I was on vacation.

CHAIRMAN COWGER: Did I hear some testimony that said there was some discussion within DOT personnel that said that you didn't have to give these results to the contractor?

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MR. TOLLEFSEN: I think I just said that at one point when it was -- there was a point where things were becoming very abrasive. As a matter of fact, there was a point where I refused to take any more densities because of harassment.

At some point along the way, and I don't think it was ever -- we ever did it, but I was told that we weren't required to give them specific information as to how we did our calculations, we were only required to

tell them is the moisture too high, is the moisture too low. We weren't required to go out of our way to give specific results. As far as I can recall, I always did.

CHAIRMAN COWGER: We've heard enough on that. Mr. Taylor, did you have something?

MR. TAYLOR: Yes, Dave Davison approached him on this matter and told him we were having an extreme problem to get densities and I expected full cooperation from the inspector. And Mr. Davison --

MR. MATHEWS: Mr. Chairman, Mr. Davison was the fourth project engineer on the project.

MR. TAYLOR: At that time he told me that all the inspector has to do is tell you if it passed or failed. He doesn't even have to tell you what the moisture content is. If you want to know what the answer is, you go out and buy your own speedy machine and take your own test. That's what I was told.

I tried to read the gauge before he would get it in the box, but he would shove it in the box with the gauge covered. I found it very difficult to try to control my moisture content to determine how I'm going to pass my test.

CHAIRMAN COWGER: Mr. Moore, I'm going to let you say something and we're not going to discuss that anymore.

MR. MOORE: Mr. Davison was the project engineer far after this claim was on the table. Circumstances that were surrounding that particular conversation were quite stressed. It doesn't have anything to do with this particular claim, it's not within the dates.

CHAIRMAN COWGER: Mr. Carlile, you started to ask a question.

MR. CARLILE: I want to go back to the issue just to clarify something in my mind. If I understand it correctly, during initial operations there was no problem with too much water in the trench? That was not a problem?

MR. TAYLOR: No.

MR. CARLILE: Eventually it became sufficiently wet, they went to the wet conditions process. Nobody has mentioned the weather. Was there any change in the weather, the water table that affected that? The only thing that could have affected the water in the trench would have been the construction operation?

MR. TAYLOR: Yes, sir, the open -- the extended time. Mr. Crews mentioned if we were allowed to apply that backfill in wet conditions, get two feet in pretty quickly, we could have been gone.

MR. CARLILE: The initial problem with the density was not having enough moisture to reach optimum density?

MR. TAYLOR: Not under the claim. On the other end of the job, it was too dry.

MR. CREWS: This is prior to the claim now. When Mr. Mercer was there, it was dry conditions.

MR. MERCER: This claim period does cover it, though.

MR. CARLILE: Is it in the same area of pipe we are talking about?

MR. TAYLOR: Date-wise it is, but like I mentioned, they keep bringing up the fact we had a dry area because my claim is based on backfill under wet conditions. The date from October to December 3rd is in there. There are some days in there that were too dry.

But as far as the basis of my entire claim, those dry days I can concede to and say yes we did have a problem but we eventually did get our densities. Our major claim is we were not allowed the use the backfill under wet conditions.

MR. CARLILE: The wet conditions were caused by a combination of the well point system or what you consider excessive compaction effort?

MR. TAYLOR: It was the fact that it was well pointed, did the standard procedure in the industry, went by the guidelines of the DOT, states that you put your pipe in a dry ditch, which we did. As I mentioned

16 nine and a half foot in the ground, that size pipe as you get a few feet in, you may be two or three hours. A very, very small amount of groundwater came in the bottom of the trench. Of course, you put a fill in there, put a jumping jack in there, it will bring that water up in two jumps.

If I was permitted to get above that water like it mentions in this specifications until the ground will support a mechanical tamper, I would have had no problem throughout the job. I could have gone, put the fill in, gone up with it like we did at a later date after December the 3rd. They allowed me to backfill it all the way to the top of the pipe before I needed my densities.

MR. CARLILE: In those areas initially water was not a problem?

MR. MATHEWS: If I may, I might be able to shed some light on your question. The only difference in the pipe trench, Mr. Taylor encountered a layer of hardpan when he hit wet conditions.

In the previous, when he was having a problem with dry material, he had A-3 material in both trenches but he did encounter a layer of hardpan in there. When he hit that, correct me if I'm wrong, that's where he had water problems. He didn't have the layer of hardpan in

the previous runs.

CHAIRMAN COWGER: The layer of hardpan was below the bottom of the pipe trench?

MR. TAYLOR: There was actually some above it and below it. There was a couple of layers in there. When I laid the pipe, it was dry. There again on the pictures it will show on the far side of the trench, the points had a hard time pulling that distance through hardpan. Water doesn't percolate that well.

CHAIRMAN COWGER: DOT, I think we're going to have to let you rebut on that a little bit. We haven't heard that testimony before, not that specifically.

MR. MOORE: If you go back to the graphs we have put in our package on the pipes on this particular area, you will find that the backfill was -- that they were putting in on top of the pipe, around the pipe, was under moisture, it was not too much moisture, it was under moisture.

What they did is they put dry material in around the pipe, tamp the water up from below. You can't get density on dry material, you just can't do it. You can put a ten-ton roller on dry material and you don't get density.

CHAIRMAN COWGER: Were those pictures of the roller working alongside the pipe in the area -- in this

800 to 1200-foot problem area or was that elsewhere?

MR. TAYLOR: That was across the street and that was optimum moisture, and we still couldn't get density. That compactor brought that material up to optimum moisture. It was 99.2, 99.3 from a jumping jack to a 16-ton roller, the charts on the reports, the written reports show it made no difference. That befuddles me. I can't understand that at all. I've been doing pipe work for 30 years and I've never had a problem with densities on a DOT job like this ever.

CHAIRMAN COWGER: What you're saying is where we saw that roller sitting down in the pipe trench was not in the area in dispute, it was in another area, but the problem you were encountering was just flat out you couldn't get the density?

MR. TAYLOR: That's correct. That's the area that the inspector mentioned that they went ahead and passed all those densities and we put the four and a half foot of fill in.

MR. CREWS: May I make another comment. Mr. Taylor, I had met with him, had made an alternate suggestion regarding this hardpan material, that he contended is a little bit questionable about trying to compact it.

On this project we had an embankment or a truck

borrow. I had suggested to him with approval we could haul some material in from the borrow pit, which was extremely good material and take this material and spread it on the roadway, if this would allow him to continue. That wasn't even considered.

We had considered several options, had suggested to Mr. Taylor several options. None of those options Mr. Taylor ever considered that I'm aware of.

CHAIRMAN COWGER: You were proposing that he bring in some select material to begin his backfill with?

MR. CREWS: Not select material. There was -- for borrow excavation, to bring in a very good material that we have used on other jobs to allow him to continue. If he would just take this material, use it on the fill.

CHAIRMAN COWGER: I understand. I will withdraw the word select, in that select has a special meaning.

MR. CREWS: That's right.

CHAIRMAN COWGER: But this borrow material that you were talking about bringing in would have been used to backfill the pipe for the first few feet from the bottom of the trench up?

MR. CREWS: Yes, sir.

CHAIRMAN COWGER: Not to undercut below the bottom of the trench?

MR. CREWS: Yes. This was suggested to Mr. Taylor.

CHAIRMAN COWGER: Mr. Turnbull, do you have some questions?

MR. TURNBULL: Where you did not have the hardpan, did you have any water problems?

MR. CREWS: Did that hardpan come into the area -- you didn't have a water pump out there?

MR. MERCER: From the beginning of the project until the first of November we had no water problems at all.

MR. TURNBULL: Where you had the hardpan, how low below the pipeline was the hardpan, average?

MR. TAYLOR: Another five foot. It was solid hardpan -- we hit the hardpan a little bit above where the pipe was laid. From there down, because I went out there on a Saturday myself.

I ran the machine, dug test holes on that 1200 foot of pipe that we mentioned. We had to punch those points in there. Dug test holes. We hit that hardpan. We never did find the bottom of it. It was probably another three or four feet.

MR. TURNBULL: Hardpan has a high capillary attraction?

MR. TAYLOR: Uh-huh.

CHAIRMAN COWGER: We are going to restrict the testimony now to Mr. Turnbull's question. Mr. Taylor has answered.

DOT, do you have anything further to say that specifically relates to Mr. Turnbull's question?

MR. TOLLEFSEN: In regards to the area of the hardpan, I don't think we had full well points there either.

MR. TAYLOR: I punched them in with a punch.

MR. TOLLEFSEN: He cut back on the well points.

MR. TAYLOR: Punched them in with a punch.

CHAIRMAN COWGER: Mr. Turnbull, Mr. Carlile, it's my opinion we have all the testimony we need. As we said earlier, or as I said earlier in the hearing, we might offer Mr. Taylor the opportunity to make a written submittal. I see no reason to do that, do you?

MR. TURNBULL: I don't.

MR. CARLILE: No.

CHAIRMAN COWGER: We think we have enough to act on at this point. We are going to go with the testimony we have now.

MR. TURNBULL: Lot of testimony, lot of repetition.

CHAIRMAN COWGER: We are going to close the

hearing out. The hearing is hereby closed. The Board will meet on May 15, 1990, to deliberate on this claim. You will have our order shortly thereafter.

(Whereupon, the proceedings were concluded at 1:10 p.m.)

CERTIFICATE OF REPORTER

STATE OF FLORIDA)

COUNTY OF LEON)

I, CATHERINE WILKINSON, Certified Shorthand Reporter and Notary Public in and for the State of Florida at Large:

DO HEREBY CERTIFY that the foregoing proceedings were transcribed by me at the time and place therein designated; that my shorthand notes were thereafter reduced to typewriting under my supervision; and the foregoing pages numbered 1 through 79 are a true and correct record of the aforesaid proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor relative or employee of such attorney or counsel, nor financially interested in the foregoing action.

WITNESS MY AND AND SEAL this, the 25th day of April, A.D., 1990, IN THE CITY OF TALLAHASSEE, COUNTY OF LEON, STATE OF FLORIDA.

Catherine Wilkinson

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My Commission Expires June 27, 1990