State Arbitration Board
State Of Florida Department of Transportation
Order #5-95 (1995)
Dade/Broward Counties
Proj. #86060-3500 & 3504
Ct.#
FAP #ACSU-403-2(53)
SR-25 (US-27) – from Dade/Broward County line to Pines Blvd. and from Pines Blvd. to Griffen Road.
Contractor: Weekley Asphalt Paving, Inc.
Claim: Asphalt Design Mix Change

Note: NO! State Arbitration Board – Arbitration Order 5-95 – Summary was found in file folder by Mary Ward or Zac Wiginton.

STATE ARBITRATION BOARD
STATE OF FLORIDA

WEEKLEY ASPHALT PAVING, INC.)	ORIGINAL
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)	
)	PROJECT NO. 86060-3500 & 3504
- and -)	
)	
)	LOCATION: Dade/Broward County, Florida
)	
)	
)	
DEPARTMENT OF TRANSPORTATION)	
)	

RE: Arbitration In The Above Matter

DATE: Thursday, August 31, 1995

PLACE: Florida Transportation Center
1007 Desoto Park Drive
Tallahassee, Florida

TIME: Commenced at 9:10 a.m.
Concluded at 10:05 a.m.

REPORTED BY: CATHERINE WILKINSON
CSR, CP
Notary Public in and for
the State of Florida at
Large

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APPEARANCES:

MEMBERS OF THE STATE ARBITRATION BOARD:

Mr. H. E. "Gene" Cowger, Chairman
Mr. Jack Roebuck
Mr. Bill Deyo

APPEARING ON BEHALF OF WEEKLEY ASPHALT PAVING, INC.:

Mr. Daniel Weekley

APPEARING ON BEHALF OF THE DEPARTMENT OF TRANSPORTATION:

Mr. David Wang
Mr. James Musselman
Mr. Scott Cushing

* * *

I N D E X

PROCEEDINGS

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

Mr. Bill Deyo was appointed as a member of the Board by the Secretary of the Department of Transportation. Mr. John Roebuck was elected by the construction companies under contract to the Department of Transportation.

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

Will the persons who will make oral presentations during this hearing please raise your right hand and be sworn in.

(Whereupon, all witnesses were duly sworn.)

CHAIRMAN COWGER: The documents which put this arbitration hearing into being are hereby introduced as Exhibit 1. This consists of the notice of arbitration hearing, the request for arbitration submitted by the contractor, and the attachments thereto.

Attachment number 2 is a package of information submitted to the Board on July 25, 1995, in rebuttal to the contractor's claim, and the information attached thereto.

May we go off the record just a minute.

(Discussion off the record)

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

CHAIRMAN COWGER: Back on the record. Does either party have any other information it wishes to put into the record as an exhibit?

MR. WEEKLEY: I don't know if you received -- I don't know what letters you have from me except for the -- I guess you just have the --

MR. ROEBUCK: The claim.

MR. WEEKLEY: -- the claim letter. I do have numerous other letters that were sent leading up to that, but I don't know -- I would like to -- I don't have extra copies of them. If I may refer to them. I've never done this before. I've never been in arbitration before. I will just refer to my letters, and if you want to review them during the course --

CHAIRMAN COWGER: Why don't we do this. Are these letters going back and forth between you and the Department?

MR. WEEKLEY: Yes. I don't know if it would be necessary to use them, but it is informing -- they are all letters the Department has received back and forth that were sent to me.

CHAIRMAN COWGER: The way we will handle that is you go ahead and testify from them as you deem necessary, and some of them may be in this package that DOT submitted.

MR. ROEBUCK: He has some included in his.

MR. WEEKLEY: Right. So, I'm not that organized. If it's necessary, I will --

CHAIRMAN COWGER: If it's necessary -- that either we or the DOT thinks it is necessary to introduce anything else as an exhibit as we go through, we will tell you and if you will mark it, then after the hearing is over we will have copies made for everyone.

MR. WEEKLEY: Okay.

CHAIRMAN COWGER: I don't think it will be a big issue.

MR. WEEKLEY: I don't think there's any letters in this package that have not been submitted.

CHAIRMAN COWGER: Mr. Musselman?

MR. MUSSELMAN: We do have one additional amendment to our submittal. We have adequate copies if you want. We can distribute them.

CHAIRMAN COWGER: Let's go ahead and distribute them. Mark your copy as Exhibit 3, if you will. Everybody mark the top of this as Exhibit 3, if you

will, please.

(Whereupon, Exhibit No. 3 was received in evidence.)

CHAIRMAN COWGER: The only exhibit that everybody hasn't seen is this exhibit we have just marked number 3. Mr. Weekley, do you care to have any time to examine that?

MR. WEEKLEY: No.

CHAIRMAN COWGER: Then we will move on. 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 parties are requested to assure that they receive properly identified copies of each exhibit -- we have three -- submitted during the course of this hearing, and to retain these exhibits. The Board will furnish the parties a copy of the court reporter's transcript of this hearing when we send the final orders, but the parties will not be furnished copies of the exhibits.

The hearing will be conducted in an informal manner. First the contractor's representative will

elaborate on his claim and then the Department of Transportation will offer rebuttal.

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

For Mr. Weekley's benefit, we do conduct these things in a very informal manner. So, if you would like to proceed with your presentation.

One thing the Board likes to have at the very beginning is for you to state the total amount of your claim.

MR. WEEKLEY: The total amount of my claim is the -- is $81,542.54 and also the -- I don't have the exact amount of the penalties that was withheld on lots 2 and 3.

CHAIRMAN COWGER: Does DOT have that information with them? Rather than looking for it -- rather than trying to bring it out right now, would you look for it and at some point in time let us know how much that was.

MR. CUSHING: I don't have it with me.

CHAIRMAN COWGER: Was on two lots, though, right?

MR. WEEKLEY: Right, on lots 2 and 3.

CHAIRMAN COWGER: Let's proceed on then.

MR. WEEKLEY: Okay. Our claim is based on the change on the material that was milled off of U.S. 27, what was actually there and what was in the bid documents when we bid the job.

In the bid package they give you a composition of the existing mix, and it tells you that -- it also states that the material will fine up, will get finer as you mill it or truck it or handle it. That is something that we are well aware of.

There is also the -- in designing all our mixes, we take -- there is a -- we have the -- there is a chart that people use in those calculations that we got from Gainesville back years ago talking about the -- using the percentages, of what percentage the material will grind up.

We have done -- you have to base your bid -- we base our bids on these calculations, for the amount of RAP that can be put back into the mix. That's the reason like on this particular job I think it was evident we was over a hundred thousand dollars low on the project. I'm sure that it was because of the -- using the 40 percent RAP into the mix.

Where everyone else was calculating the normal -- in south Florida the normal is 25 percent. It has been stated that milling -- that asphalt contractors in

south Florida generally use 25 percent for RAP in the mixes.

I think as a general statement that is true, because when you crush materials -- that is just for a standard, you know, standard procedure. In our case we have done a lot of work in District 1 on U.S. 27, up in Sebring, we've done work in Arcadia, Clewiston.

In Clewiston, I think we started -- one of our mixes -- this was about 15 years ago -- was 52 percent. We bid those -- we figured our bid based on the composition of the mix that was in the book. I'm sure that's how all contractors -- in south Florida bidding against the south Florida contractors, because they do this bid -- General, Pan American, all those people, they just basically bid in south Florida. They are not used to competing against the APAX and the different people, Ajax on recycling projects.

As you know, the prices vary in those -- when you get out of our district and into those districts people really rely on putting more -- you know, as much as they can into those mixes.

One reason why not many contractors use a high percentage of that in our district is because you only get 3,000 or 4,000 tons off the job on the average, so it's not worth calculating and getting the different

liquids. It takes a different tank for the different liquids.

So, that's the reason, in south Florida, we normally only use 25 percent or thereabouts, because you do have to get a different liquid. It's just not worth redesigning.

On this particular project it was in close proximity to the plan. It was a large project, a lot larger than normal, as far as number of tons to come off of the project.

And that's the reason we figured -- well, we assumed everyone else would be, too, or I would not have left over a hundred thousand dollars on the project. I would have figured the 40 in that -- I would have figured 20,000 and tried to use the 40. But that's a different story.

So, we based our -- we based our bid on recycling what we felt the composition -- what the page said we could, taking into consideration the finest, you know, the mix fining up.

We have done this a number of times before in District 1 and other districts where we have recycled large amounts of asphalt. It happens all over the state, in other districts, those same things. People use that composition page to figure the finest.

This mix, the mix, what we found when we started paving was it was real erratic, once we started milling and producing.

Mr. Cushing was very fair to -- when this started we found the problem -- the problem was found, we did have three options that it states in this package: a shutdown, a redesign or cutting back to 25 percent. And I think there was one other one.

At that time, because of the time running on the project, we didn't feel like we could redesign. You know, reducing the mix to 25 percent was the only one we had at that point because time was running on the project. I would have had to pay a remobe -- paid my milling contractor to mobe and remobe, all these different things.

So, that was the option we chose, even though we was damaged to the extent of over $81,000. We felt like that -- we still had to keep moving because of the schedules on that job and other jobs.

We had -- as it ended up, one thing that we did -- one thing that was brought up by I think it was Bill Walsh, that the project -- we wasn't damaged because even though we reduced it to 25 percent in this mix, we used it on other DOT projects.

Well, our plant -- as Scott can say, we got a

very limited space at our asphalt plant, and we do have one area, I guess from about here to Mr. Cummings' office and so many feet wide that we stockpile our milled asphalt so when we -- we have a bigger area where we have other RAP that we crush, but I'm talking about the milled asphalt. We only have a limited space.

So, we did use this asphalt on other projects, but the other milling jobs that we did, we had to deadhead the asphalt out to and stockpile it -- we've got a hundred acres out in west Broward. We had to deadhead trucks there. That cost us a lot of money, because there was no room to stockpile the other job because this was not used up. If we had used the 40 percent on this project, we would have used it up.

I think I can safely say that we've got over -- like most asphalt contractors, in excess of over 150,000, 200,000 tons of recycled asphalt stockpiled. So, we don't like to preserve it. With a job like this, we wanted to get it into the mix, get it used.

I guess that's all I have to say at this time. I don't know if I've forgot anything or not, but I guess that explains --

CHAIRMAN COWGER: You will have the opportunity to come back. Let me make sure I understand. The

thing you just stated about this surplus RAP, what this caused you to do as I understand is you ended up with a stockpile of milled RAP material at your plant. In order to compensate for that, you had to haul some of your other RAP off some distance to temporarily store it?

MR. WEEKLEY: The other jobs that we went to had to be hauled to -- we have a hundred acres out in west Broward. We had to stockpile it there. RAP -- not just for me, but I think it becomes a hindrance. Now it is a hindrance, it really isn't a plus at this time. Ten years ago it was, but now it isn't. All your customers expect you to take it. It's just a hindrance.

That was the -- like I say, that was a problem there. And not only there, each job that you bid stands on itself, to the bonding company and on our financial records stands on its own.

When you have a loss on a project, when you have to pay for more AC and more virgin materials, that is a loss on that project. And the bonding company, your financial statements, everyone looks at a job basis.

So, the job did -- that put that job to the tune of over $80,000.

MR. ROEBUCK: Mr. Weekley, reading your

documents, you said that DOT gave you the composition of the existing mix. I presume they did extractions to develop that?

MR. WEEKLEY: Yes, it's in the bid package. They take cores.

MR. ROEBUCK: I don't know that we've got that.

CHAIRMAN COWGER: It's in DOT's package.

MR. ROEBUCK: It wasn't in your submittal, it's in --

CHAIRMAN COWGER: It's in DOT's package. I made a copy out of there for each of you all, the Board members. Just to make it clear, all I did was copy from the DOT's rebuttal package, attachment number 1, page one and two of two, and then I think I also have in that package the design mixes which are attachment number 2.

MR. ROEBUCK: Right.

CHAIRMAN COWGER: So, all we are doing is looking at something that was copied out of the DOT's rebuttal package. This is nothing that everybody hasn't already seen.

May I ask a couple of questions. You mentioned an adjustment factor. I assume that that is in some DOT document somewhere?

MR. WEEKLEY: I'm not -- I can't answer -- I know

we've got it, we got it some years ago through Gainesville. It's a percentage of fineness that they figured. It's a document that we received, yes.

CHAIRMAN COWGER: Okay. I will ask that of DOT. Well, let me ask you now, Mr. Musselman --

MR. WEEKLEY: Well, let me say we have never had this problem before. We have never in District 1 -- I think we've had a few design mixes down there in this district for over 25 percent, but not many. In all the jobs we have had in District 1 we have used these packages and were successful using them and didn't have any problem.

If this was a job that you did, like I was doing in District 1, it would have been devastating because the contractor would only have one project to do, he mobilizes to do one project, using that scenario, you would be in big trouble.

Now I'm -- what would you do if you were Ajax or someone going out to do a project in the middle of the state, you know, in the middle of nowhere and had all this asphalt left over and no place to take it to, no job to use it on.

CHAIRMAN COWGER: Mr. Musselman, I don't want you to get into your rebuttal now, but what document is he referring to?

MR. MUSSELMAN: Let me say up front it's not a contract document. It was not included in the contract, nor in the plans nor in the standard specifications.

It basically comes from the Department's asphalt plant technician manual in which are some factors, call them milling factors, if you like, that will give you a general, ballpark idea on what the gradation of the milled material is after you apply the factor to the cores, whether it comes from composition or from cores that he may have taken himself.

CHAIRMAN COWGER: You have answered the question. If you will retain the rest of that until the rebuttal I think that's the appropriate thing to do.

MR. MUSSELMAN: Sure.

CHAIRMAN COWGER: Another question. What does the contract say about the -- about what reliance the contractor should place on this data that's provided for him in regard to the composition of the mix?

In other words, there is a report called the composition of existing pavement that's included in the contract as I understand it. I note, and I think Mr. Weekley testified to this, under composition of existing pavement where they give you the data, there is a note down at the bottom, gradation values will

become finer during processing of the existing pavement material.

I think you were aware of that, Mr. Weekley?

MR. WEEKLEY: Yes, we were aware.

CHAIRMAN COWGER: It is a matter of how much finer it became.

MR. WEEKLEY: That's the reason we used the factor to factor that fineness.

CHAIRMAN COWGER: So, your claim is based on that the material either was not as represented or it was unique from the standpoint that it broke down more than typically?

MR. WEEKLEY: Yes. I think it was just a matter that the asphalt wasn't -- in some cases -- it fluctuated so much.

MR. ROEBUCK: You said it was erratic?

MR. WEEKLEY: Erratic is what we found.

MR. ROEBUCK: Is it customary to get this composition of existing pavement on all your resurfacing work?

MR. WEEKLEY: On milling recycling jobs, yes.

CHAIRMAN COWGER: In developing the design mix for this job that became the mix you used, as I understand it, on day one you used an approved mix from using some other RAP until you had enough material

to start on the second day using the material from this particular project.

In developing a design mix, at the point the design mix was developed, as I understand, you had milled no material off of this job at that time?

MR. WEEKLEY: No. We designed the mix through the coring system. We sent it -- we designed it. We sent all this out to Gainesville. I'm not totally sure where we sent it.

They approved the mix. They look over what we -- from all the data we have, and it takes approximately a couple of weeks to get that. Then they send it back to us, either approving it, denying it or asking for a change.

CHAIRMAN COWGER: In the mix, though, that you submitted and used on this project, and ultimately had trouble with, with the 40 percent RAP, I guess really what I want to know is where did you get the gradation values that are shown for the RAP material in that design mix?

You did not mill, so you didn't have any mill material. Did you take any additional cores to get that, or did you rely on the cores that were in the contract?

MR. WEEKLEY: I cannot state that. I'm not

totally -- I've got to assume -- I'm not the expert on testing. I'm more in the production and laying. I pay people to do that. I'm sure we took cores from the project. I'm looking down there, we take cores from the project, send men out there, and they take those and develop the design mix.

And in this case with the 40 percent we had to get a -- using a recycling agent. It wasn't normal AC to be able to use the 40 percent. But, yes, we do take cores and send them off.

CHAIRMAN COWGER: Do you mind if I ask Mr. Cushing that question? Do you happen to know how it was done?

MR. CUSHING: I know they got the cores and that's as far as it goes.

CHAIRMAN COWGER: Did they take their own cores or did they use your cores?

MR. CUSHING: They took their own cores for the design.

CHAIRMAN COWGER: That's what I needed to know.

MR. CUSHING: They may have used the gradation out of the contract document.

MR. ROEBUCK: Out of this composition (indicating)?

MR. CUSHING: It appears that they used the

gradation that was in the contract document, not any of their results from running their cores.

CHAIRMAN COWGER: Okay. We will get into that a little later. That's all the questions I have.

Did either one of the other Board members have any questions?

MR. ROEBUCK: In that market in Broward County, you rarely ever use more than 25 percent RAP, you or any of your companies?

MR. WEEKLEY: Not in DOT mixes, and again it's because this is so -- the jobs are too small. As a matter of fact, the ex-vice-president of our company, Roy Smith, a couple of our jobs he based our bids on 30, 35 percent.

And I would rely on him to tell me whatever. And I would say, Roy, we can't do that on a job that only has 2,000 or 3,000 tons of asphalt because we can't keep it separated. We don't have the stockpiling room.

Roy had the -- from bidding around the state, in our case, he started using that because it is a -- it would be a competitive edge, but you can't use it because of the -- there's no place to stockpile all of this.

In south Florida land is so expensive, it's not like in other parts where you can buy it for 5,000 or

6,000 an acre, it's 50,000 or 100,000 an acre.

But, yes, to answer your question, very seldom is over 25 percent used. There are no jobs big enough, basically, not many of them.

CHAIRMAN COWGER: Mr. Deyo or Mr. Roebuck, do you have any other questions before we turn it over to DOT?

MR. ROEBUCK: No.

MR. DEYO: I'm okay.

CHAIRMAN COWGER: I would suggest to DOT that you kind of follow from your summary of rebuttal that you submitted. It would appear to me that it might be more appropriate to discuss item number 2 and then come back and discuss item number 1. It just seems to flow better.

MR. MUSSELMAN: Certainly. Let me, if I could, just give you a little background on what the intent of the composition report is.

Mr. Roebuck, as you asked earlier, the composition is included in every contract where the milling is included. It's not included to tell you to recycle it. You don't have to use it. You're going to be taking this material off the pavement, you're going to be stockpiling it, doing whatever you want to. This is giving you some basic information of what it is in the roadway.

I'm not certain if Mr. Weekley's contention is that the composition was incorrect or if the material just fined up more than anticipated based on the milling factors that he used.

Again, I'm not certain whether he's saying that the composition was wrong, that those gradation values are in place, because we feel pretty comfortable with those.

Again, once the material is milled out, we don't have any way of predicting how much that gradation is going to change. A lot of it is a factor of the construction. It could be the speed of the milling operation, condition of the milling teeth, how he handles it. Maybe he takes it to the stockpile and runs over it with a bulldozer. Certainly there is no way DOT can predict that.

So, based on that, we put the information in the contract with a note that says -- and let me quote directly. "The gradation values will become finer during the processing of the existing pavement material," because we have no way of -- no way of anticipating how much finer it will become.

We have some general ideas, but obviously if you're milling in north Florida where you're using perhaps granite or river gravel versus south Florida or

even Brooksville, wherever you are in the state, it would make a little difference.

A number of contractors, when they get the composition information, they will use, based on their own experience, they know typically how much it's going to degrade during the milling and the handling. Other contractors tend to take it back and stockpile it and reprocess it further.

Again, a little bit of experience comes into play here, based on how much material is going to fine up.

Again, our perspective is that it's the contractor's responsibility -- all we are saying is this is going to become your material. This is not necessarily what it's going to be -- we don't give you gradation efforts milled. It's your responsibility to determine the gradation.

There are some basic quality control requirements during the first couple of days of milling. Obviously the contractor had the opportunity to determine the gradation of the incoming RAP. Apparently that wasn't done.

The same thing during the design of the mix. The contractor by his specification -- I'm not certain if this was actually -- I don't know if it was actually done or not. I know we received cores in our

laboratories to verify the mix design.

The contractor when he designed the mix had the opportunity to run extractions to determine was the composition correct or not.

Again, our data indicates that there is no -- we stand by the composition, there's no problem with that. We wouldn't doubt that there is a variation in gradation that might have occurred in milling. I would be very shocked if we applied any factor that anyone came up with that hit the gradation directly.

The other thing I would like to point out is what we did, we reviewed the milling factors that are typically used. We applied the gradation that is shown in the composition and applied all the different milling factors.

From looking at the gradation that's given in your composition, if you plug that in, that basically fits in as an S-1 mix.

If you go into our plant menu, which again I would like to remind you it is not a contract document, it would recommend a coarser mix, for example, S-1, to use a coarse milling factor. What I'm getting to the material as it's coarser in place will tend to degrade more so. The sand/asphalt top mix in the roadway is not going to degrade as much as an S-1

would.

As such, we would recommend for Type S-1 the coarse factor be applied. In this instance it appears the contractor applied the intermediate milling factor incorrectly. What this would amount to is the minus 200 that he anticipated his calculations would show 8.1. That's what is shown on the actual mix design.

Calculations using the coarse milling factor would have put it up to 10.5, which is an increase in minus 200 of 2.4 percent.

I think that by itself had the contractor used the correct milling factor, he would have realized, hey, I can't run 40 percent RAP in this mix.

So, number one, the milling factors are not a contract document. The factor that was used, number two, was applied incorrectly.

Let me see. The other -- again, the contractor had the opportunity during the initial milling processes to determine as far as the penalties go, the first day of milling he could have easily determined what the gradation of the actual milled material was. That's the purpose that we have the quality control program for the contractor to follow is so they don't get into these sort of situations.

Again, even during the coring of the project by

the contractor, gradations could have been run on the materials themselves just to verify the accuracy of the data included in the composition.

CHAIRMAN COWGER: May I ask one question, I think.

MR. MUSSELMAN: Certainly.

CHAIRMAN COWGER: When you were talking about applying the milling factors, you looked at the design mix. You looked at the composition of the existing pavement for the RAP.

MR. MUSSELMAN: Uh-huh.

CHAIRMAN COWGER: You applied the milling factors I guess for the coarse and the intermediate size to all of the strings?

MR. MUSSELMAN: Yes, sir.

CHAIRMAN COWGER: You drew the conclusion that it appears like the contractor used the wrong set of milling factors.

MR. MUSSELMAN: Yes, sir.

CHAIRMAN COWGER: Now, did that apply only to the number 200 sieve or did that fit all the sieves?

MR. MUSSELMAN: I believe it applied to all the sieves. So, from reviewing the data, applying that factor, it appears the design was based on the composition gradation, multiplied by the intermediate

milling factor gave you the proposed design gradation.

CHAIRMAN COWGER: Or somewhere in that vicinity, is that true?

MR. MUSSELMAN: Yes, sir.

CHAIRMAN COWGER: Okay. Mr. Weekley, you had something you wanted to say?

MR. WEEKLEY: But this design mix was sent to Gainesville and approved. So, we acted under the -- what the -- our experience on numerous jobs and evidently -- I will assume that Gainesville must have agreed with us if they sent the design mix back approved when the factors were used.

MR. MUSSELMAN: Don't mis -- when we verify a mix design, that is not an endorsement that your gradation is going to be -- for example, we don't require you to send stockpile gradations to verify that the gradation on the mix design is right.

MR. WEEKLEY: You assume the material --

MR. MUSSELMAN: We are going to fabricate it exactly as shown on that mix design. We don't do an analysis and say hey, this RAP is coarser or finer. Again, we're basing it on data you submit. It's the contractor's responsibility under the quality assurance specifications to do the design and quality control of the asphalt mix.

In this case he designed the mix, using the data that he came up with, which again was based on the milling factor applied to the composition of gradation.

MR. DEYO: Did you confirm that his mix design is supported by the materials that he submitted to the lab, what he's got in there as far as gradations?

MR. MUSSELMAN: No, sir, we don't verify the gradations. What we do is --

MR. DEYO: You verified his mix design. If he said it was 6.8 percent --

MR. MUSSELMAN: If he said there was 2 percent minus 200, then we would have put it together at 2 percent.

Maybe he's got a way of wasting minus 200 at the plant that we're unaware of, maybe he's running the RAP material over a scalping screen and separated the coarse RAP from the fine. Again, there's no way the Department can verify that from Gainesville to know what the contractor is actually doing during construction.

MR. ROEBUCK: Clarify a little confusion for me. Sometimes it looks to me like a little knowledge is a dangerous thing.

This composition, you say it is based on an extraction of every mile of pavement. Back when some

of this asphalt was laid, we didn't have the sophisticated asphalt control procedures in effect. Mr. Weekley is saying the asphalt that he milled was very erratic, that the gradations were varying, he assumed, through the course of the job.

And your information was based on limited amounts of pours.

Are you doing this to keep the various bidders from going out prior to turning in a bid and drilling that pavement?

MR. MUSSELMAN: Yes, sir. We could have -- potentially have a project with 15 contractors bidding and we would be closing down -- imagine I-95 with these people out there.

MR. ROEBUCK: You provide them with this general information. Maybe there is not enough caution in the notes. Then you say go out and take your own cores after you get the job and develop your mix from whatever the uniformity or lack thereof is in the actual cores that they would be extracting? That's the way it works?

MR. MUSSELMAN: Yes, sir, there is a specification requirement that basically tells you to cut ten six-inch diameter cores and this is how you're going to do your mix design based on your ten six-inch

diameter cores.

CHAIRMAN COWGER: Let me, since I did a little research on this thing, let me read you what it says in the specifications so we will have it in the record. Now this is for use of reclaimed asphalt pavement where the contractor is using material milled from the project in the mix.

"Procedures for obtaining representative samples for the mix design" -- this is by the contractor -- "shall be as follows."

The key one is, "The contractor shall cut ten six-inch cores approved by the materials office" -- talks about refilling the core holes.

And that's basically, I think, what happened on this project, from what the testimony says, the contractor did cut his own cores, because that's what the specs required of him. He cannot rely totally on the cores that are shown in the document, in the bid documents.

Now, go back just a minute to Mr. Weekley's testimony, though, where he says that he bid the job based on the core data that was shown in the contract documents and there was no reason to core the material, to core the pavement prior to bidding. Just so we all understand.

MR. ROEBUCK: That's why the State says they provide this information to prevent the --

CHAIRMAN COWGER: Right.

MR. WEEKLEY: There are jobs that we know we can't even recycle. When we look at them, we know there are jobs we can't even use it and some of them we know we can't even use it back in State work.

In south Florida we was the first company to recycle. We started with the drum plants, crushing plants and doing recycling, first down there. And so I mean we are all well familiar with the -- we don't figure every job on the same amounts. Some jobs we know we can't even use the milling material in and we bid them accordingly. Our prices fluctuate according to the amount we figure we can recycle.

MR. MUSSELMAN: One other thing I would like to point out. On Exhibit 3 -- I will let Scott Cushing address this, but this is a finding from some of our independent assurance observations.

MR. CUSHING: Well, I would like to go back to what Jim said, that the contractor gets his ten cores. Of course, he can run his own gradation off those ten cores. A lot of contractors have got 20 cores where they can do their own testing. Some contractors wait until they mill some of the material and then they

design off the milled material.

However, that delays something for like two or three weeks. If they're handicapped for space, that can interfere with that.

We did go out at the end of March. We did an independent observation at the plant. We made, under our remarks on this report, that the QC technician was supposed to run a test for every thousand tons of milled material used, but his records show only one test for the entire job, which is far below the number of tests needed.

On his quality control plan that is submitted for approval, he states that he will run a gradation test for every thousand tons of incoming material, including the RAP material. And our records indicated that he did not do it on this material that was coming in.

MR. WEEKLEY: But that is after the mix -- whether that's true or not, that's after the -- after we cut back to 25 percent. So it had no bearing on whether we could do 40.

MR. CUSHING: That's correct.

CHAIRMAN COWGER: This report is based on an inspection, though, made, as I understand it, a couple of months or more after the mix in dispute here was produced, right?

MR. CUSHING: Yes.

CHAIRMAN COWGER: Wasn't this mix produced in early February?

MR. ROEBUCK: Yes.

CHAIRMAN COWGER: This report is done in April. We understand what you're saying.

MR. CUSHING: Yes.

CHAIRMAN COWGER: Okay. DOT, what else do you have to say about your issue number one or number two, I mean? Because I think issue number one we can deal with rather quickly.

Your number two point about the composition of the pavement, of the existing pavement, do you have anything further to say on that?

MR. MUSSELMAN: Again, we feel our data in the composition is accurate. Again, there is -- as David Wang points out to me up in section 2, the bidder is expected to examine carefully the site of the proposed work and the proposal plans, specifications and contract forms that are contemplated before submitting a proposal.

So, again I would expect that representatives of Mr. Weekley's company would have reviewed the project, would have looked at the composition, and at that point made a determination that, yes, knowing the age of the

project, saying yes, this is more than likely a Type S-1 and gone in -- if they chose to use the milling factors that came from the asphalt plant technician manual, again had they used the correct milling factor, I think we wouldn't be here today. I don't think they would have bid it at 40 percent.

Again, every project in the state, the milling, natural mill gradation is going to be different than how it's predicted, whether it's predicted based on the contractor's experience or if he draws dice out of a black hat or -- regardless of how it's done, it's going to be different. And every single time the Department will find itself with a claim if the gradation did vary.

Again, I think we have done all that we can do, is basically give them the general information of what is on the roadway and then let the contractor determine from then what it is actually going to be after his milling operations.

I don't think I have anything else to add to that.

CHAIRMAN COWGER: Let me ask Mr. Cushing a question or two. Somewhere in the documentation that you submitted you talked about the plant technician recalibrated the plant. You ran lot number 2, you had

a problem with dust or asphalt content, then you skipped a day, and then they ran lot number 3 and had a similar type problem.

What is -- in this case, what does recalibrating the plant consist of?

MR. CUSHING: On the first day, they ran the -- a different mix. In other words, to give them time to -- for the milling machine to supply them some material in there. When we started the second lot on February 1, they ran 542 tons and it was an automatic shut-down because of the asphalt content. And at that time it was noted that the minus 200 was extremely high, but was not in the automatic shut-down mode.

After the plant was shut down and then we informed the contractor -- and it's kind of standard practice, that we expect them to run some calibrations and found out why was your AC high, why did you have this shut-down.

So, normally they recalibrate their asphalt plant. Their quality control technician will go out there and get another test and run an extraction test to prove to the acceptance technician there at the plant that the AC content is right and that the gradation looks decent enough to start on again. And based on that information, then they were allowed to

start on lot 3.

Then on lot 3, we had the automatic shut-down on the minus 200 material. It exceeded the design specifications by enough to require the shut-down.

CHAIRMAN COWGER: In both cases the air content was not failing but close to it?

MR. CUSHING: I didn't understand the question.

CHAIRMAN COWGER: The air voids, I'm sorry.

MR. CUSHING: The air voids were on the low side but not to shut down.

CHAIRMAN COWGER: Let me go back and ask my question about recalibration. I understand what you're saying is in that day that they were working on this thing they did something and then they ran some more mix, and you ran -- they ran extractions on that, and the -- you or the project people were satisfied that they could start again.

Now, what did he do to recalibrate the plant? I mean did he change the mix design? Was there a concern that maybe the gates were set wrong or something in the plant?

MR. CUSHING: I think that was their concern is they had to check the gate settings to make sure the RAP material was at the proper percentage because normally you would assume that with a high AC content

and with a high dust content that maybe the calibration of the RAP material was not correct.

But again, that's an assumption and that's the reason we tell the quality control technician, Weekley's person, check all your calibrations, you may want to check it out and see what you have and run an extraction on it before you can start again.

CHAIRMAN COWGER: As best you know, there was no change in the design mix that he was targeting for?

MR. CUSHING: No, not at that point. No.

CHAIRMAN COWGER: Between lots 2 and 3 is all I'm asking for.

MR. CUSHING: No change.

MR. WEEKLEY: Doesn't sometimes dust act as AC? Doesn't sometimes dust -- I'm asking. My limited knowledge about mixes, sometimes dust will act as AC.

MR. MUSSELMAN: It will act almost as the same, if you had too much asphalt, you get the same --

MR. WEEKLEY: I'm saying what is assumed to be too much AC content, the dust could also have been a factor there. The second time it was the dust that was determined.

MR. MUSSELMAN: The dust will come out as a minimal aggregate. It won't show up physically as asphalt, but it may affect the characteristics of the

flow and other characteristics.

MR. DEYO: The question we had on the asphalt gradation penalties on lots 2 and 3, did they in effect withhold payment for all material produced under those two lots?

MR. CUSHING: There was a 20 percent penalty on the AC, on lot number 2. And I have not done a calculation. I think that was the only penalty -- that was the only penalty that was in place on lot 2 as far as I know. That's the only one the referee was done on was on the AC content. It was verified by Gainesville. It would be 20 percent of the 542 tons that were produced.

On lot 3, there was a penalty -- well, I take that back.

There was also a penalty on the 200 for lot 2. There was a penalty for the AC and there was a penalty for the 200. I don't know the degree of the penalty on the 200, the percentage.

On lot 3 there was a 20 percent penalty on the minus 200 material. And that would have involved 1253.10 tons.

MR. MUSSELMAN: Mr. Cowger, I would like to point out had the contractor been keeping up with his quality control requirements as stated in the contract, he

probably would have avoided these penalties.

That may not have affected how he based his bid, but certainly he would have known the gradation, had the materials coming to his plant. Part of his quality control plan was to take a sample in every thousand tons of incoming RAP material and test it.

Certainly at that point of the penalty part, regardless of what your findings are, I don't think there's any way to get out of the penalties. Again, the material is coming in. He could have seen the dust is running considerably higher than we anticipated and could have solved the problem earlier.

MR. DEYO: Your contention is lack of testing at the plant more or less led to the penalty assessment?

MR. MUSSELMAN: Yes, lack of quality control testing, not necessarily by the Department.

MR. WEEKLEY: I don't totally agree with that. We probably had -- milling a thousand tons when we started producing it, and on the first day we did shut down when it became obvious. We did shut down, we didn't say the hell with you, we are keeping running. We shut down. We acknowledged it.

So, I'm not totally -- I don't totally agree -- I would like to go on record saying I don't totally agree with that record.

MR. MUSSELMAN: If you were getting aggregate from a new quarry that you had never gotten from before, and they told you this was the gradation at the quarry, wouldn't you test when it got to your yard, probably the first truckload that came in?

MR. WEEKLEY: I don't think that has a direct bearing on what our test showed. I don't agree that this problem might have necessarily shown, arisen itself from that testing.

MR. MUSSELMAN: Again, I do think --

MR. WEEKLEY: The adjustments -- that's the reason -- it's also stated that we could have made adjustments to design mix. That is not true because the recycling agent, you can only change -- we have no RAP to change it. Scott can only change it in 5 percent with that recycling agent.

So, you know, anyhow, I don't totally agree with that statement.

CHAIRMAN COWGER: When you went -- Mr. Musselman, what you are saying, just so I can sum it up, on the first day of production while he was working on lot 1 with this other design mix, they were milling material and bringing it to the plant?

MR. MUSSELMAN: Yes, sir.

CHAIRMAN COWGER: Your testimony is that he could

have, as that material arrived and began to build a stockpile, he could have sampled and tested that material to determine what particularly the P-200 content of that material was?

MR. MUSSELMAN: That's right.

CHAIRMAN COWGER: There's no evidence that was done? Is that what you are saying?

MR. MUSSELMAN: The independent insurance report says there was only one test for the entire project, one test. So, I don't know when that one test was run.

MR. WEEKLEY: We should know. Scott, did you bring that, when that test was run?

MR. CUSHING: No, it was your records.

MR. WEEKLEY: After we reduced it to 25 percent, I mean whatever, I still think that that one test, whether it was one test or two, I don't -- I'm going by what you're saying because I have no knowledge.

MR. MUSSELMAN: Again, getting back to the penalties, had you run tests on the incoming RAP material as you would do, or you should do on incoming virgin aggregate materials, you would see that the gradation here in the RAP is different than what we designed and maybe you could increase your testing frequency.

That's the whole purpose of having the quality

control program is to monitor your product. That is the contractor's requirement to do that.

MR. ROEBUCK: Did I miss anything? Did you submit us a sheaf of extraction data that you performed?

MR. WEEKLEY: No, I didn't submit any of that.

MR. ROEBUCK: I didn't see any. I thought it might have been in your other documents there.

MR. WEEKLEY: We didn't feel like it was necessary.

MR. ROEBUCK: You made the statement the material you were milling was erratic in gradation or whatever.

MR. WEEKLEY: The bottom line is -- what this is all about is not even what was done at the plant, whatever -- it's what the job was bid on. Using the information, we are getting up to me -- I think we are getting off a little bit into the case was what the bid documents showed and what we relied on and we submitted. That's really what we are talking about.

I mean I don't mind discussing about testing procedures or whatever, but I don't really feel like it's relevant. We did some -- as these gentlemen know, we have made some changes in our testing procedures. I don't think that's really relevant here.

CHAIRMAN COWGER: Gentlemen, I think, unless

somebody has got something else to say, we need to leave the issue of the composition of the material and what happened.

Do either one of the Board members have any questions? Mr. Wang?

MR. WANG: I would like to emphasize on the general specifications 2-4, the bidder -- and during the submission of proposal, he should -- in other words, he is responsible to examine all the information provided by the contract document. And also, that contract document is just a general indication of the materials. And he should make his examinations and to make sure that his proposal will support his examination.

So, our gradations, which we just discussed, is just a general indication of the materials. He is responsible to examine, to check, to do whatever he should to support his proposal and view before the bidding.

CHAIRMAN COWGER: Okay. Mr. Weekley, do you have anything else to say on that issue?

MR. WEEKLEY: No.

CHAIRMAN COWGER: I do want to give DOT the opportunity, and I think we can handle this pretty briefly, to talk about whether or not DOT required the

contractor to reduce the percent RAP from 40 to 25.

MR. MUSSELMAN: We will let Scott handle that.

MR. CUSHING: I think Mr. Weekley indicated in his opening statement that we gave him the opportunity of three choices: either redesign the mix, switch back to the original mix that he used on day one, or we contact the State materials office and see if we could reduce the RAP material.

I'm only allowed to go down 5 percent. It was pretty well indicative of the results we had that a 5 percent reduction in the milled materials wouldn't solve the problem.

At that time Weekley took the option to reduce the milled material to 25 percent.

We contacted the State materials office with proposed gradation, with the proposed percentage changes, and they thought they would work.

We went out there the next day. Weekley made the mix up with the new percentages of RAP and the new percentages on the virgin aggregates. We made Marshall fills, took extractions and indicated that the mix would meet our specification requirements and we started back up.

I think they lost one day while we were doing that retest to get him started again, rather than have

to go through the two-week design process.

CHAIRMAN COWGER: I assume the P-200 in that new mix with the 25 percent RAP then came out okay?

MR. CUSHING: Yes, sir.

CHAIRMAN COWGER: Mr. Weekley, do you have anything to say about that? He's saying just about what you said.

MR. WEEKLEY: No, he gave us the three choices, but that was the only choice, even though we wanted -- that was the only choice we really felt like we had because had it been deducted to 28 percent or redesigned. So, that was the choice.

CHAIRMAN COWGER: That's what you said earlier on.

MR. WEEKLEY: Yes, he acted very fairly in allowing us to keep going -- acted quickly to keep going.

CHAIRMAN COWGER: We are getting very close to the point we are going to close out, but I do want to give anyone who has any further statements, DOT, the contractor, the opportunity to make a statement.

Hearing nothing, Mr. Roebuck, do you have any questions?

MR. ROEBUCK: No, sir.

CHAIRMAN COWGER: Mr. Deyo?

MR. DEYO: No, I don't.

CHAIRMAN COWGER: This hearing is hereby closed. The Board will meet to deliberate on this claim sometime probably in the next six weeks and you will have our final order shortly thereafter.

(Whereupon, the hearing was concluded at 10:05 a.m.)

CERTIFICATE OF REPORTER

STATE OF FLORIDA)

COUNTY OF LEON)

I, CATHERINE WILKINSON, Court Reporter, do hereby certify that I was authorized to and did stenographically report the foregoing hearing; and that the transcript is a true record of the testimony given.

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

Dated this 22nd day of September, 1995.

CATHERINE WILKINSON
CSR, CP, CCR
Post Office Box 13461
Tallahassee, Florida 32317

STATE ARBITRATION BOARD

1022 LOTHIAN DRIVE
TALLAHASSEE, FL 32312-2837
PHONE: (904) 385-2852 OR (904) 942-0781 FAX: (904) 942-5632

(1)

NOTICE OF ARBITRATION HEARING

TO: J.B. Lairscey, P.E. Title: Director, Office of Construction/FDOT

TO: Daniel D. Weekley Title: President, Weekley Asphalt Paving

Contracting Firm: Weekley Asphalt Paving, Inc.

Address: PO Box 820010 (Street Address or P.O. Box No.) South Florida (City) FL (State) 33082-0010 (Zip)

RE: State Project No.: 86060-3500 & 3504 Fed. Aid Project: ACSU-403-2(53) & (52)

Location: SR-25 (US 27) from Dade/Broward County Line to Pines Blvd and from Pines Blvd to Griffen Road

Each of you is hereby given notice of an arbitration hearing reference the above project to be held by the State Arbitration Board with the following conditions to apply:

DATE: Thursday, August 31, 1995 **TIME:** 9:00 A.M.

LOCATION: 1007 Desoto Park Drive, Tallahassee, Florida. Board Room in Florida Transportation Center located appx. 1/2 mile east of DOT Building, off Lafayette Street.

The Contractor will ☐ will not ☒ be represented by counsel.

THE CONTRACTOR WILL HAVE THE FOLLOWING PERSONS PRESENT AT THE HEARING:

Name:	Title:
Daniel D. Weekley	President, Weekley Asphalt Paving
Roy G. Smith, Jr.	Vice President, Weekley
Michael Vlam	Quality Assurance Mgr., Weekley

FDOT IS REQUESTED TO HAVE THE FOLLOWING PERSONS PRESENT:

Name:	Title:

ANY ADDITIONAL EXHIBITS PRESENTED AT THE HEARING FOR CONSIDERATION BY THE BOARD SHALL BE SUBMITTED IN QUADRUPLICATE.

DATE: August 9, 1995

cc: All Board Members
Wilkinson & Associates CCR

SIGNED: H. Eugene Lairscey P.E.
Chairman, S.A.B.

STATE ARBITRATION BOARD

1022 LOTHIAN DRIVE
TALLAHASSEE, FL 32312-2837
PHONE: (904) 385-2852 OR (904) 942-0781 FAX: (904) 942-5632

(1)

NOTICE OF ARBITRATION HEARING

TO: J.B. Lairscey, P.E. Title: Director, Office Of Construction/FDOT

TO: Daniel D. Weekley Title: President

Contracting Firm: Weekley Asphalt Paving, Inc.

Address: P.O. Box 820010 South Florida FL 33082-0010
Street Address or P.O. Box No. City State Zip

RE: State Project No.: 86060-3500 & 3504 Fed. Aid Project: ACSU-403-2(53) & (52)

Location: SR-25 (US 27) from Dade/Broward County Line tp Pines Blvd. and from Pines Blvd. to Griffen Road

Each of you is hereby given notice of an arbitration hearing reference the above project to be held by the State Arbitration Board with the following conditions to apply:

DATE: Wednesday, August 2, 1995 TIME: 10:00 A.M.

LOCATION: 1007 Desoto Park Drive, Tallahassee, Florida. Board Room in Florida Transportation Center located appx. 1/2 mile east of dot Building, off Lafayette Street.

The Contractor will ☐ will not ☒ be represented by counsel.

THE CONTRACTOR WILL HAVE THE FOLLOWING PERSONS PRESENT AT THE HEARING:

Name:	Title:
Daniel D. Weekley	President, Weekley Asphalt Paving
Roy G. Smith, Jr.	Vice President/Weekley
Michael Vlam	Quality Assurance Manager/Weekley

FDOT IS REQUESTED TO HAVE THE FOLLOWING PERSONS PRESENT:

Name:	Title:

ANY ADDITIONAL EXHIBITS PRESENTED AT THE HEARING FOR CONSIDERATION BY THE BOARD SHALL BE SUBMITTED IN QUADRUPLICATE.

DATE: 11 July 1995 SIGNED: H. Eugene Lairscey P.E.
Chairman, S.A.B.

cc: All Board Members
Wilkinson & Associates CCR

STATE ARBITRATION BOARD

1022 Lothian Drive
Tallahassee, FL 32312-2837
Phone: (904) 385-2852 or (904) 942-0781 FAX: (904) 942-5632

MEMORANDUM

DATE: 20 June 1995

TO: J.B. Lairscey, P.E., Director of Construction/FDOT

FROM: H. Eugene Cowger, P. E., Chairman

RE: *REQUEST FOR ARBITRATION OF A CLAIM ON:*

STATE PROJECT NO.: 86060-3500 & 86060-3504

PROJECT LOCATION: SR 25 (US 27) from Dade/Broward Line
to Pines Blvd & from Pines Blvd to Griffin RD

CONTRACTOR: Weekley Asphalt Paving, Inc.
PO Box 820010
South Florida, Florida 33082-0010

The State Arbitration Board has received the attached ***Request for Arbitration of a Claim*** from the Contractor for the above subject project.

We have scheduled a hearing for this claim on Wednesday, August 2, 1995. You will receive a ***Notice of Hearing*** stating the exact time set for this hearing no later than fourteen (14) days prior to the hearing date.

Note:
In accordance with the procedures adopted by the State Arbitration Board, the Department of Transportation shall submit its primary rebuttal exhibit to the Contractor and to the Board so that it is received not less than then ten (10) days prior to the date of the hearing. Verbal testimony and simple exhibits may be submitted during the hearing. All exhibits submitted during the hearing shall be in quadruplicate, except a single copy of contract plans, specifications, supplemental specifications and special provisions and pay quantity calculations will be permitted.

STATE ARBITRATION BOARD

1022 LOTHIAN DRIVE
TALLAHASSEE, FL 32312-2837
PHONE: (904) 385-2852 OR (904) 942-0781 FAX: (904) 942-5632

REQUEST FOR ARBITRATION OF A CLAIM

CONTRACT NUMBER: 18513

Contractor's Name: Weekley Asphalt Paving, Inc.

Address: P.O. Box 820010 (Street Address or P.O. Box No.) South Florida (City) Florida (State) 33082-0010 (Zip)

State Project No.: 86060-3500 & 86060-3504 Fed. Aid Project: ACSU-403-2(53); ACSU-403-2(52)

Location: SR-25 (US-27) from Dade/Broward County Line to Pines Blvd. and from Pines Blvd. to Griffen Road

Amount of Original Contract: $ 1,215,010.89 Total Amount of Claim: $ 81,542.54

The Contractor elects to:

☐ Submit only the written information attached to this request and, subject to agreement by the Department of Transportation, waive an oral presentation to the Board.

OR

☑ Attend a hearing scheduled by the Board to present testimony and additional exhibits.

The Contractor will be represented by an attorney: ☐ Yes ☑ No

If a hearing is to be held, the Contractor will be represented by the following persons:

Name:	Title:
Daniel D. Weekley	President, Weekley Asphalt Paving, Inc.
Roy G. Smith, Jr.	Vice President, Weekley Asphalt Paving, Inc.
Michael Vlam	Quality Assurance Manager, Weekley Asphalt Paving, Inc.

If a hearing is to be held, the Contractor requests that the following DOT personnel be present:

Name:	Title:

The Contractor acknowledges having read §337.185, Florida Statutes, which authorizes and governs the State Arbitration Board.

4-28-95 (Date) — (Signature) — DANIEL D. WEEKLEY PRESIDENT (Type or Print Name and Title)

SUMMARY OF CLAIM

Weekley Asphalt Paving, Inc. ("Weekley") contracted with the Florida Department of Transportation ("FDOT") to perform paving work on State Project Nos. 86060-3500 and 86060-3504 (the "Project"). The Project was final accepted on July 24, 1994. (See attached Engineer's Weekly Report accepting Project.)

Weekley files this request for arbitration of its claim for increased costs incurred in changing its design mix for Type S Asphalt on the Project.

Weekley was originally approved by FDOT to use a 40% recycle mix. During the course of the Project, FDOT required Weekley to use a 25% recycle mix because of its greater fluctuations in the dust content in the milled material than that expected. Weekley bid the project, and FDOT approved the mix design with a 40% recycle mix. in reliance on the Project bid package which represented the asphalt characteristics of the existing roadway. This change in design mix substantially increased Weekley's costs in the amount of $81,542.54 plus the return of penalties that were deducted for mix problems. (See attached letters dated June 28, 1994 and August 8, 1994 which explain the factual background and provide supporting information for the costs, especially the August 8, 1994 letter from Roy G. Smith to William Walsh, P.E.)

FDOT denied the claim of Weekley for these extra costs. (See attached letters dated July 27, 1994 and September 19, 1994.) FDOT's position represents a lack of understanding of the bid process, Weekley's justifiable reliance on the FDOT bid documents, and a misunderstanding of the design and manufacture of recycled mix.

FLORIDA DEPARTMENT OF TRANSPORTATION

LAWTON CHILES
GOVERNOR

Fort Lauderdale Construction - District 4
5550 Northwest 9th Ave., Ft. Lauderdale, Florida 33309
Telephone: (305) 776-4300
(FAX) (305) 776-4300 Extension 248

BEN G. WATTS
SECRETARY

July 27, 1994

cc: Dan
Done 8-1-94 BL

Mr. Marty Yount
Weekley Asphalt Paving, Incorporated
Post Office Box 820010
South Florida, Florida 33082-0010

Dear Mr. Yount:

SUBJECT:	Work Program Item Number:	4110865 & 4110873
	State Job Number:	86060-3500 & 86060-3504
	Federal Job Number:	ACSU-403-2(53) & ACSU-403-2(52) (EXEMPT)
	County:	Broward
	Description:	SR-25 (US-27) fm. Dade/Broward Co. Line to Pines Blvd. & fm. Pines Blvd. to Griffin Rd. ROADWAY IMPROVEMENTS

ASPHALT DESIGN MIX CHANGE

We have reviewed your request dated June 28, 1994, for additional costs associated with changing the asphalt design mix from 40% milled to 25% milled material.

Your Company stated in your February 11, 1994, letter that the asphalt design mix had to be adjusted because of a higher dust content in the rap than was shown in the bid package. Higher dust content should be expected. This is stated in the contract as follows: "The graduation values will become finer during processing of the existing pavement material". Also, even in your Asphalt Design Mix AQ 93-6129, there is a note stating the #200 sieve job mix formula increased due to expected aggregate break down during production.

In addition, it was your Company's choice to attempt to use 40% milled material and when the failure occurred, it was your Company's choice to reduce to 25% milled material instead of designing a completely new mix or using other valid mixes.

Why did DOT allow this if Not req. new design mix?

This office is denying your claim for extra costs associated with changing asphalt mix from 40% milled material to 25% milled.

JUL 1994 Received Weekley Asphalt

Sincerely,

William R. Walsh

William R. Walsh, P.E.
Resident Engineer

WRW/ash

cc: Manuel Then, S. Cushing, D. C. Ishan, File, Reading File

RECYCLED PAPER

FLORIDA
LAWTON CHILES
GOVERNOR

DEPARTMENT OF TRANSPORTATION

Fort Lauderdale Construction - District 4
5550 Northwest 9th Ave., Ft. Lauderdale, Florida 33309
Telephone: (305) 776-4300
(FAX) (305) 776-4300 Extension 248

BEN G. WATTS
SECRETARY

CC: DAW
Marty

file

Do we get w/ Cummings c Lawrence at this point?

September 19, 1994

Mr. Marty Yount
Weekley Asphalt Paving, Incorporated
Post Office Box 820010
South Florida, Florida 33082-0010

Dear Mr. Yount:

SUBJECT:	Work Program Item Number:	4110865 & 4110873
	State Job Number:	86060-3500 & 86060-3504
	Federal Job Number:	ACSU-403-2(53) & ACSU-403-2(52)(EXEMPT)
	County:	Broward
	Description:	SR-25 (US-27) fm. Dade/Broward Co. Line to Pines Blvd. & fm. Pines Blvd. to Griffin Rd. ROADWAY IMPROVEMENTS

ASPHALT DESIGN MIX CHANGE

We have reviewed your request of August 08, 1994, to reconsider our denial of your claim for extra costs.

We have discussed this issue with District Construction as well as our District Lab and our position is still unchanged.

Your claim is denied.

Sincerely,

William R. Walsh

William R. Walsh, P.E.
Resident Engineer

WRW/ash

cc: Manuel Then, P.E., District 4 Construction Engineer
M. E. Finch, Area Engineer
S. I. Bradford, Final Estimates
D. C. Ihsan, Project Engineer
File
Reading File

RECYCLED PAPER

weekley asphalt paving, inc.
P.O. BOX 820010 • SOUTH FLORIDA, FLORIDA 33082-0010

August 8, 1994

FLORIDA DEPARTMENT OF TRANSPORTATION
District Four
5550 N.W. 9th Ave.
Ft. Lauderdale, FL 33309

Attention: William R. Walsh, P.E.

RE: SR 25(US 27) From Dade/Broward County Line to Pines Blvd. and From Pines Blvd. to Griffin Rd, DOT Project #86060-3500/3504

Gentlemen:

We are in receipt of your letter dated July 27, 1994, regarding the required change in milled material in the recycled Type S asphalt. In the letter you based your denial on incorrect facts.

The composition of existing asphalt provided in the bid package is supposed to be representative of the asphalt in the roadway. We are supposed to be able to use this information in figuring what percentage of rap we can introduce into the new mix. Mix designs are calculated with an adjustment to the #200 sieve as shown in the bid package. This adjustment is provided by the D.O.T. and is to provide an increase in #200 sieve material due to the milling process. The D.O.T. adjustment comes from statistics provided by years of their calculating what the milling process does to the original amount of #200 sieve shown in composition of existing asphalt. Our original design mix (40% rap) was calculated with the milling factor included. The 40% rap was accepted and the D.O.T. Testing Laboratory agreed with the mix design before we utilized it.

The problem was not with the mix design, but was with the great fluctuations in the #200 sieve material that was contained in the existing pavement. We properly designed the mix with the information supplied by the D.O.T. Evidently, the composition of the existing asphalt differed radically from what was shown.

389-5311
PHONES: BROWARD (305) [illegible] • DADE (305) 625-3133 • FAX (305) 432-5568

When we are bidding on D.O.T. projects, we must rely on information provided by the D.O.T. If this information is incorrect, we must be compensated for damages we incur due to the incorrect information. Therefore, we must ask that you reconsider your decision as soon as possible.

We are entitled to our claim as submitted as well as the return of penalties that were deducted for mix problems.

Please review and if necessary schedule a meeting to discuss this problem.

Respectfully,
WEEKLEY ASPHALT APVING, INC.

Roy G. Smith, Jr.
Vice President

RGS:bl
rgs391jj

weekley asphalt paving, inc.

[illegible]

June 28, 1994

FLORIDA DEPARTMENT OF TRANSPORTATION
District Four
5550 N.W. 9th Ave.
Ft. Lauderdale, FL 33309

Attention: Bill Walsh

RE: SR 25(US 27) From Dade/Broward County Line to
Pines Blvd. and From Pines Blvd. to Griffin Road,
DOT Project #86060-3500/3504

Gentlemen:

On February 11, 1994, we advised you of our intent to file a claim for having to change our design mix for Type S Asphalt due to the variation in dust in the milled material from the composition of existing pavement that was provided in the bid package.

We were approved to run a 40% recycle mix, but due to the great fluctuation in dust, the F.D.O.T. required us to run a 25% recycle mix. This caused us to expend more money for liquid asphalt and virgin aggregate since we had to use more of both in the 25% mix. The following is a breakdown of costs for same.

<u>Cost of Virgin Aggregate Delivered to Asphalt Plant</u>

Aggregate	$3.50	Ton ?
Sales Tax	0.21	
Delivery	0.73	
TOTAL	**$4.44**	**Ton**

<u>Cost of Liquid AC Delivered to Asphalt Plant</u>

A/C with Anti-Strip	$113.00	Ton
Sales Tax	6.78	Ton
Delivery	4.60	Ton
	$124.38	**Ton -- 233 Gal/Ton**
	=	**$0.534 Gal**

P.O. BOX 820010 -- SOUTH FLORIDA, FLORIDA 33082-0010
PHONES: BROWARD (305) 437-8800 • DADE (305) 625-3133 • FAX (305) 432-5568

Original
40% Recycle Type S Mix

New Liquid AC Required	3.2%	=	7.46 Gal x 0.534 Gal
			= $3.99 Ton
New Aggregate Required			60% x $4.44 Ton
			= $2.66 Ton

Revised
25% Recycle Type S Mix

New Liquid AC Required	5.3%	=	12.35 Gal x 0.534 Gal
			= $6.59 Ton
New Aggregate Required			75% x $4.44 Ton
			= $3.33 Ton

The total cost increase is as follows:

	ORIGINAL MIX	REVISED MIX	Difference
1. Liquid AC cost increase	$3.99 Ton	$6.59 Ton	$2.60 Ton
2. Aggregate cost increase	2.66 Ton	3.33 Ton	0.67 Ton
TOTAL COST DIFFERENCE			$3.27 Ton
+ 10% OVERHEAD			0.33
			$3.60
5% PROFIT			0.18
			$3.78

Therefore, our total claim is $3.78 ton x 21,572.1 tons ? = $81,542.54.

Please review and prepare a Supplemental Agreement to reimburse us for our added costs.

Respectfully,
WEEKLEY ASPHALT PAVING, INC.

Marty Yount
Project Manage
MY:bl
my1812ii

cc: Debra Ishan, Fl Dept. of Transportation
Nancy Smith, Moreland Altobelli

02/21/95 15:36 305 492 5566 WEEKLEY ASPHALT 002

STATE OF FLORIDA DEPARTMENT OF TRANSP TION

ENGINEER'S WEEKLY SUMMARY

FORM 700-010-1
CONSTRUCTIO
01/9

ENGINEER'S WEEKLY SUMMARY OF EVENTS, OBSERVATIONS AND REMARKS

Week of Monday July 18, 1994 Through Sunday July 24, 1994
(SR-25/US-27 Milling & Resurfacing)

Weekley Asphalt (Prime):
No work this week

Received
Weekly Asphalt
AUG 1994

Project Engineer's Observations & Remarks
RPM warranty period began on June 25, 1994
and will end on July 24, 1994.
The Project was Final Accepted on July 24, 1994
This is the final Report.

ENGINEER IN CHARGE (signature)

D. Ihsan PE-I
ENGINEER IN CHARGE (PRINT NAME AND RANK)

Ft. Lauderdale Const.
DOT OFFICE OR CONSULTANT C.E.I.

STATE JOB NUMBER	FED. AID JOB NO.	CONTRACTOR	CONTRACT NUMBER
060-3500/3502	ACSU-403-2(52) ACSU-403-2(53)	Weekley Asphalt	18513

WEEK ENDING	COUNTY	JOB PROGRESS	ELAPSED TIME
Sunday July 24, 1994	Broward	1,260,000 / 1,268,410.88 = 99 %	236 / 236 = 100 %

CONTRACT DAYS USED 236 PROGRESS SCHEDULE SHOWS ____ % COMPLETED AFTER ____ DAYS

THIS FORM SUMMARIZES THE INFORMATION ON DAILY REPORT OF CONSTRUCTION FROM MONDAY THROUGH SUNDAY. AFTER COMPLETION, ATTACH THIS FORM TO THE TOP OF THE WEEK'S DAILY REPORT OF CONSTRUCTION FORMS PRIOR TO DISTRIBUTION.

DISTRIBUTION: ORIGINAL COPY PROJECT FILE
COPY TO DISTRICT CONSTRUCTION ENGINEER
COPY TO CONTRACTOR (AS REQUESTED)
COPY TO FHWA (F.A. OVERSIGHT)
COPY TO CENTRAL OFFICE

FLORIDA DEPARTMENT OF TRANSPORTATION
LAWTON CHILES
GOVERNOR
605 Suwannee Street, Tallahassee, Florida 32399-0450
BEN G. WATTS
SECRETARY

(2)

5-9

July 25, 1995

Federal Express with
return receipt requested

Mr. H. Eugene Cowger, P.E., Chairman
State Arbitration Board
1022 Lothian Drive
Tallahassee, Florida 32312-2837

Dear Mr. Cowger :

RE: **ARBITRATION OF A CLAIM\SUMMARY OF REBUTTAL**

State Project No.:	86060-3500 & 86060-3504
F.A.P. No.:	ACSU-403--2(53) & ACSU-403--2(52)
W.P.I. No.:	4110865 & 4110873
County:	Broward

A "Summary of Rebuttal" dealing with the arbitration of a claim on the above captioned project is attached. Please review the summary and the attachments and settle the claim at the hearing on Wednesday, August 2, 1995.

Your attention to this matter is appreciated.

Sincerely,

Jimmy B. Lairscey, P. E.
Director, Office of Construction

JBL/ww
Attachments
cc: C. W. Goodman
Manny Then
James Musselman
Scott Cushing
David Wang

RECEIVED BY: H. E. Cowger
DATE: 7/24/95
Time: 4:00 p. m.

SUMMARY OF REBUTTAL

The Florida Department of Transportation (Department) has reviewed the "Summary of Claim" and the relevant attachments that were submitted by Weekley Asphalt Paving, Inc. (Weekley), and would like to offer the following rebuttal:

Weekley claims that it bid the subject project with the intention of producing the Type S-I mix utilizing 40 percent of the milled material taken from the roadway. Based on the Composition of Existing Pavement Report, Weekley initially designed the mix with 40 percent milled material, submitted the mix design for verification, and the mix design was subsequently approved by the Department. However, during the production of the S-I mix in question, the first two LOTs were automatically terminated due to either high P-200 material, or a high asphalt content. At this point the amount of milled material in the mix was decreased to 25 percent.

It is the Department's belief that there are two primary issues that relate to this claim that is before the State Arbitration Board:

1) Did the Department require that Weekley drop the amount of milled material in the mix to 25 percent?

2) Did the Composition of Existing Pavement Report erroneously indicate that a higher percentage of milled material could be used in the mix?

The Department's rebuttal for each of these two issues is as follows:

1) **Did the Department require that Weekley drop the amount of milled material in the mix to 25 percent?**

Weekley designed a Type S-I asphalt mix (Mix Design Number QA 93-6128) with 40 percent milled material from the project in the mix. During the first production day, 1/31/94, Weekley used Mix Design Number QA 93-5849 (Type S-I) for LOT #1 in order to allow the milling machines to provide enough milled material to start producing QA 93-6128.

QA 93-6128 was initially produced on 2/1/94 for LOT #2. The first acceptance test result obtained by the Department resulted in an automatic LOT termination due to excessive asphalt in the mix. It should also be noted that the P-200 content in the mix was 2.3 percent above the target value of 5.7 percent. Weekley's Quality Control Technician then recalibrated the asphalt plant, and ran an extraction test which indicated that the mix was now satisfactory.

What did he do?

LOT #3 was started on 2/3/94, and the results of the acceptance test resulted in another automatic LOT termination, this time due to excessive P-200 material in the mix.

In accordance with Article 6-8, Subarticle 330-6.5, and Subarticle 331-2.2.4 of the Standard Specifications for Road and Bridge Construction, 1991 Edition, it is the Contractor's responsibility for the design and process control of the asphalt mix. Subarticle 6-8.1 states, "The Contractor shall provide and maintain a quality control system that will provide reasonable assurance that all materials, products, and completed construction submitted for acceptance conform to contract requirements whether manufactured or processed by the Contractor or procured from subcontractors or vendors."

Since both LOT #2 and LOT #3 were terminated due to either a high P-200 content or a high asphalt content, and since the Marshall properties of the mixture were borderline, it was evident that the Contractor was not producing the asphalt mix that was representative of the mix design, nor was it being produced in accordance with the specification requirements. Since in the Department's opinion, the mix had properties which indicated that it may be prone to rutting, the District Bituminous Engineer contacted the Contractor's Quality Control Technician and presented the Contractor with three options that would expedite the resolution of the problem:

1) Redesign the mix.

2) Use another approved mix design with their stockpiled crushed Reclaimed Asphalt Pavement (RAP) material.

3) Reduce the amount of milled material in QA 93-6128 to 25 percent, contingent upon satisfactory Marshall properties during production.

At this point the Contractor chose to reduce the milled material in the mix design to 25 percent. The Marshall properties were then field verified by the District Materials Office, and the mix was revised and used for LOTs 4 through 8.

It is our position that the Department did not require the Contractor to reduce the milled material in the mix, it was the Contractor's decision. The Contractor, at any point, could have redesigned the mix but chose not to. It should also be pointed out that it is neither in the Department's or the Contractor's best interest to continue to produce an asphalt mixture that does not meet specification requirements.

2) Did the Composition of Existing Pavement Report erroneously indicate that a higher percentage of milled material could be used in the mix?

The Composition of Existing Pavement Report is included in the bid package to provide Contractors with a general description of the pavement materials that exist prior to milling. Since the milled material becomes the property of the Contractor upon milling, it is important, for bidding purposes, that the Contractor be familiar with some of the basic engineering properties of the existing pavement material. Along with information on the overall pavement thickness, and thickness evaluated, the composition report also includes information on the asphalt binder (viscosity and penetration) and the in-place asphalt mixture (gradation and asphalt content). With the exception of gradation, most of these properties are relatively constant, and do not change significantly after milling and additional handling.

The final gradation of the milled material is a function of a number of processing factors such as the condition of the milling equipment/milling teeth, depth and direction of the milling cut, speed of the milling operation, as well as handling and stockpiling. Even the type of asphalt plant used to produce the recycled mix can affect the gradation of the milled material as it is processed through the plant. Since the Department has no manner of controlling or predicting these factors, it is impractical to "forecast" in the composition what the gradation will be after milling. Because of this, the composition has a statement that reads as follows: "The gradation values will become finer during the processing of the existing pavement material". The composition in no way states how much of the milled material can be used in a recycled mix (if any), nor does it in any way limit the amount of milled material that can be used. (Limitations on the use of milled material are addressed in the Standard Specifications.) 50% for 1½"

As was stated earlier, under the Department's Quality Assurance specifications for asphalt construction, the design and process control of an asphalt mixture is the responsibility of the Contractor, not the Department. It is likewise the Contractor's decision to determine how much, if any, milled material will be incorporated into an asphalt mixture. As such, it is unfair to hold the Department accountable for a decision that is the option of the Contractor.

In addition to the two primary issues that have been addressed, there are several other miscellaneous factors that should be brought to the Arbitration Board's attention:

1) The Department attempted to help the Contractor by expediting the situation. After the second consecutive LOT termination, the District Bituminous Engineer suggested three

options to the Contractor. By rights, the District Bituminous Engineer could have simply told the Contractor to redesign the mix.

2) The Contractor's Quality Control personnel, through their QC testing on the incoming RAP, should have immediately detected that the gradation of the [redacted] finer than anticipated, and either stopped production of the mix, or made adjustments to account for the difference. It should also be noted that the Contractor's QC personnel on this project were recently identified as having falsified QC records on another FDOT project - specifically on the incoming RAP material. This raises the question as to whether or not the incoming RAP material was tested properly, or tested at all.

3) The excess RAP material that originated from this project was used up on other FDOT projects.

Contr. did not lose use of any RAP

Based on all of the above-mentioned reasons, the Department is denying any claim for Compensation filed by Weekley Asphalt Paving, Inc.

Attachments:

1. Composition of Existing Pavement Report
2. Design Mix QA 93-5849, Design Mix QA 93-6128, and Design Mix QA 93-6128 (Revised).
3. Daily Reports of Asphalt Plant Inspector
4. Independent Assurance Reports - Bituminous Mixture
5. Two letters dated July 27, 1994, and September 19, 1994, from W. R. Walsh, to Weekley Asphalt Paving, Inc.
6. Memorandum dated July 22, 1994, from S. A. Cushing, to Manny Then.

FLORIDA DEPARTMENT OF TRANSPORTATION
LAWTON CHILES
GOVERNOR
BEN G. WATTS
SECRETARY

State Materials Office
2006 N.E. Waldo Road
Gainesville, FL 32609

(904) 372-5304

March 18, 1993

M E M O R A N D U M

TO: Fourth District Materials Engineer

FROM: K. H. Murphy

SUBJECT: Proposed Recycle Project No. 86060-3500
FAP No. - MU-403-2 (53)
SR - 25
W.P.I. No. - 4110865
County - Broward
From M. P. 0.00 to M. P. 3.504

At your request, tests were performed on the subject project to determine the composition of the existing pavement. A summary of the results is attached.

The properties obtained from the roadway cores submitted indicate that the existing pavement material is suitable for use in a recycled asphalt hot mix and/or use as base course for shoulders.

If we can be of further assistance in developing the project please let us know.

KHM:dj

cc: Certifications
State Bituminous Materials Engineer
State Pavement Design Engineer
State Specifications Engineer
State Preliminary Estimates Engineer
Fourth District Design Engineer
Fourth District Construction Engineer
Fourth District Bituminous Engineer
Fourth District Project Manager, YUE

AttachmenT

ATTACHMENT No. 1
PAGE 1 OF 2

COMPOSITION OF EXISTING PAVEMENT

PROJECT NO. 86060-3504
FAP NO. MU-403-2 (52)
SR - 25
WPI NO. - 4110873
COUNTY BROWARD
FROM M.P. 3.504 TO M.P. 7.192

SOUTHBOUND ROADWAY

(2)

	RANGE	AVERAGE	
Viscosity @ 140°F (Poises)	14,367-55,186	43,556	
Penetration @ 77°F (0.1mm)	15-19	17	
Asphalt Content (%)	6.8-7.1	6.9	
Gradation - Percent Passing			
1"			
3/4"		100	
1/2"	98-99	98	
3/8"	88-94	92	
No. 4	65-78	72	
No. 10	48-54	50	Factor From Manual
No. 40	32-34	33	
No. 80	16-17	17	↓
No. 200	5.0-6.0	5.7 x 1.84 = 10.5 %	
Total Pavement Thickness (In.)	6.8-8.0	7.4	Contractor Used 8.4% in 40% RAP Design
Thickness Evaluated (In.)	(TOP) 3.00		

Mix

NOTE: The values shown in this composition were determined from extraction of pavement cores taken at a minimum frequency of one per lane mile throughout the project.

The gradation values will become finer during processing of the existing pavement material.

The average asphalt content of the total quantity of existing material after processing will be within [illegible] shown.

ATTACHMENT NO. 1

PAGE 2 OF 2

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

STATEMENT OF SOURCE OF MATERIALS AND JOB MIX FORMULA FOR BITUMINOUS CONCRETE

SUBMIT TO THE STATE MATERIALS AND RESEARCH ENGINEER, CENTRAL BITUMINOUS LABORATORY, P. O. BOX 1029, GAINESVILLE, FL 32602.

FAP No. SU-076-1(8)

Project No. 93004-3518 Type Mix S-I Recycle Date 3 / 15 / 93

Road No. SR-808 (Glades Road) County Palm Beach District 4

Contractor Name & Plant Location Weekley Asphalt Paving, Inc. - Pembroke Pines, FL. Phone (305) 431-3066 (305) 437-8800

Intended Use of Mix Structural Submitted By Michael Vlam QA Tech. Michael Vlam, Robert Vlam

F.D.O.T.

TYPE MATERIAL	CODE	PRODUCER	PIT NO.	DATE SAMPLED
1. Milled Material		93004-3518 Top 1.5" MP 2.369 to 6.683 EB & WB	Roadway	3 / 15 / 93
2. S-1-A Stone	20	L. W. Rozzo	86-139	3 / 15 / 93
3. S-1-B Stone	21	L. W. Rozzo	86-139	3 / 15 / 93
4. Asphalt Screenings	20	L. W. Rozzo	86-139	3 / 15 / 93
5.				
6.				

PERCENTAGE BY WEIGHT TOTAL AGGREGATE PASSING SIEVES

Blend	37 %	13 %	15 %	35 %	%	%	JOB MIX	GRADATION
Number	1	2	3	4	5	6	FORMULA	DESIGN RANGE
3/4"	100	100	100	100			100	100
1/2"	100	85	100	100			98	88 - 100
3/8"	99	38	99	100			91	75 - 93
No. 4	67	7	31	100			65	47 - 75
No. 10	46	5	5	76			45	31 - 53
No. 40	30	4	3	49			29	19 - 35
No. 80	18	3	3	25			16	7 - 21
No. 200	8.3	2.4	1.7	2.0			5.8 *	2 - 6
Sp. Gr.	2.585	2.465	2.439	2.515			2.522	

The mix properties of the JMF have been verified and the mix design is approved subject to FDOT specifications.

* Increased due to expected aggregate breakdown during production.

Upper Spec limit is 6.0 %

MATERIALS DIVISION USE ONLY

CC: Mr. J. B. Lairscey
Mr. M. A. Croft
Mr. S. A. Cushing
Weekley Asphalt Paving
Con Bit Lab
Bit Res Lab
Project File

RECEIVED
MAY 11 1993
DIST. MATERIALS OFFICE

QA 93-5849(TS-I) JMIX for Lot (illegible)

State Materials & Research Engineer

Effective Date 4 / 29 / 93

ATTACHMENT 2
PAGE 1 OF 3

STATE OF FLORIDA DEPARTMENT OF TRANSPORTAT.

STATEMENT OF S[illegible]E OF MATERIALS AND JOB MIX FORMULA FOR BITU[illegible]OUS CONCRETE

SUBMIT TO THE STATE MATERIALS AND RESEARCH ENGINEER, CENTRAL BITUMINOUS LABORATORY, P. O. BOX 1029, GAINESVILLE, FL 32602.

FAP No. SU-403-2(53) & SU-403-2(52)

Project No. 86060-3500 & 86060-3504 Type Mix S-I Recycle Date 9 / 27 / 93

Road No. SR-25 (US-27) County Broward District 4

Contractor Name & Plant Location Weekley Asphalt Paving, Inc. - Pembroke Pines, FL Phone (305) 433-0411 (305) 437-8800

Intended Use of Mix Structural Submitted By Robert Vlam QA Tech. Robert Vlam

Nicholas Oxenborg

	TYPE MATERIAL	F.D.O.T. CODE	PRODUCER	PIT NO.	DATE SAMPLED
1.	Milled Material		86060-3504 Top 3.00" MP 3.504 to 7.192 Southbound	Roadway	9 / 4 / 93
2.	S-1-A Stone	20	L. W. Rozzo	86-139	9 / 4 / 93
3.	S-1-B Stone	21	L. W. Rozzo	86-139	9 / 4 / 93
4.	Asphalt Screenings	20	L. W. Rozzo	86-139	9 / 4 / 93
5.					
6.					

PERCENTAGE BY WEIGHT TOTAL AGGREGATE PASSING SIEVES

Blend	40 %	13 %	21 %	26 %	%	%	JOB MIX	GRADATION
Number	1	2	3	4	5	6	FORMULA	DESIGN RANGE
3/4"	100	100	100	100			100	100
1/2"	100	85	100	100			98	88 - 100
3/8"	95	39	99	100			90	75 - 93
No. 4	78	6	26	100			63	47 - 75
No. 10	56	4	5	80			45	31 - 53
No. 40	37	3	3	57			31	19 - 35
No. 80	21	2	3	30			18 *	7 - 21
No. 200	8.1	1.6	1.6	2.6			5.7 *	calc. @ 4.46 2 - 6
Sp. Gr.	2.585	2.465	2.439	2.515			2.519	5.7 / 4.46 = 1.28

The mix properties of the JMF have been verified and the mix design is approved subject to FDOT specifications.

* Increased due to expected aggregate breakdown during production.

QA 93-6128(TS-I)

Mix for This job

MATERIALS DIVISION USE ONLY

CC: Mr. J. B. Lairscey
Mr. W. Walsh
Mr. S. A. Cushing
Weekley Asphalt Paving
Cen Bit Lab
Bit Res Lab
Project File

Upper Spec Limit is 6.0 %

State Materials & Research Engineer

Effective Date 10 / 7 / 93

ATTACHMENT 2
PAGE 2 OF 3

TO:JB LAIRSCEY

JUL-19-'95 WED 14:33 ID:MATLS OFC ADMIN FAX NO:904-334-1648 #969 P03

STATEMENT OF SOURCE OF MATERIALS AND JOB MIX FORMULA FOR BITUMINOUS CONCRETE

SUBMIT TO THE STATE MATERIALS AND RESEARCH ENGINEER, CENTRAL BITUMINOUS LABORATORY, P. O. BOX 1029, GAINESVILLE, FL 32602.

FAP No: SU-403-2(53) & SU-403-2(52)

Project No: 86060-3500 & 86060-3504 Type Mix [redacted] Date 2 / 10 / 94

Road No: SR-25 (US-27) County Broward District 4

Contractor Name & Plant Location: Weekley Asphalt Paving, Inc. - Pembroke Pines, FL Phone (305) 433-0411 (305) 437-8800

Intended Use of Mix: Structural Submitted By: Robert Vlam QA Tech.: Robert Vlam

Nicholas Oxenborg

	TYPE MATERIAL	F.D.O.T. CODE	PRODUCER	PIT NO:	DATE SAMPLED
1.	Milled Material		86060-3504 Top 3.00" MP 3.504 to 7.192 Southbound	Roadway	9 / 4 / 93
2.	S-1-A Stone	20	L. W. Rozzo	86-139	9 / 4 / 93
3.	S-1-B Stone	21	L. W. Rozzo	86-139	9 / 4 / 93
4.	Asphalt Screenings	20	L. W. Rozzo	86-139	9 / 4 / 93
5.					
6.					

Replaced RAP w/ Scrn

PERCENTAGE BY WEIGHT TOTAL AGGREGATE PASSING SIEVES

-15%

+15%

Blend	[redacted]	13 %	21 %	41 %	%	%	JOB MIX	GRADATION
Number	1	2	3	4	5	6	FORMULA	DESIGN RANGE
3/4"	100	100	100	100			100	100
1/2"	100	85	100	100			98	88 - 100
3/8"	95	39	99	100			91	75 - 93
No. 4	78	6	26	100			67	47 - 75
No. 10	56	4	5	80			48	31 - 53
No. 40	37	3	3	57			34	19 - 35
No. 80	21	2	3	30			18 *	7 - 21
No. 200	8.1	1.6	1.6	2.6			6.0 *	2 - 6
Sp. Gr.	2.585	2.465	2.439	2.515			2.509	

Calc. 3.64

6.0 / 3.64 = 1.64 Used a higher factor

The mix properties of the JMF have been verified and the mix design is approved subject to FDOT specifications.

* Increased due to expected aggregate breakdown during production.

How could they get 5.7% P-200 with 40% RAP

MATERIALS DIVISION USE ONLY

CC: Mr. J. B. Lairscey
Mr. W. Walsh
Mr. S. A. Cushing
Weekley Asphalt Paving
Cen Bit Lab
Bit Res Lab
Project File

QA 93-6128(Rev. 2-10-94)(TS-I)

Revised to reflect changes in the blend, JMF, optimum asphalt, lab density and recycling agent.

Upper Spec limit is 6.0%

State Materials & Research Engineer

Effective Date 2 / 10 / 94

ATTACHMENT 2
PAGE 3 OF 3

TO:JB LAIRSCEY
JUL-19-'95 WED 14:34 ID:MATLS OFC ADMIN FAX NO:904-334-1648 #969 P04

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

DAILY REPORT OF ASPHALT PLANT INSPECTOR

FORM 675-030-06-b
MATERIALS
04/91

Project No. 86060-3500 Road No. SR-25

Material No. 120 A Sample No. S1002 Date Sampled 2-1-94 2-1-94

Station From N/A Sample From TRUCK Reference Line N/A Source 05

Plant No. AO 633 LOT Quantity 542.30 Tons Intended Use STRUCTURAL

Date Received 2-1-94 Date Tested 2-1-94 Tested By Code LL

Status FA

Pay Item No. 1 1 3 3 1 2

Type Mix S-1-R Mix Design No. QA 93-6128

Percent Passing Sieve	Lot # 2 Sublot # 1 Size	Lot # ____ Sublot # ____ Size	Lot # ____ Sublot # ____ Size	*** Average of Deviations from JMF	*** Pay Factor Lot # ____
1¼					
1					
3/4	100				
1/2	96.49				
3/8	90.90				
4	64.07				
10	47.47				
40	33.10				
80	20.21				
200	7.96	8.44			
AC Content	6.89				

*** To be computed when LOT is completed.

REMARKS: Automatic Shut Down on A.C.

	Mix Produced (Tons)
Previous Quantity	1160.10
This Quantity	542.30
Total	1702.40

Est. Mix Temp. 290
Avg. Temp. Today 283
Max. Temp. Today 290
Min. Temp. Today 270

Inspector F. SAUNDERS

Proj. Engr. [signature]

cc: District Bituminous Engineer

ATTACHMENT 3
PAGE 1 OF 2

RECYCLED PAPER

621-588

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

DAILY REPORT OF ASPHALT PLANT INSPECTOR

FORM 675-030-06-b
MATERIALS
04/91

Project No. 86060-3500 Road No. SR 25
Material No. 120A Sample No. S1003 Date Sampled 2-3-94
Station From N/A Sample From TRUCK Reference Line N/A Source 05
Plant No. A0633 LOT Quantity 1253.10 Tons Intended Use STRUCTURAL
Date Received 2-3-94 Date Tested 2-3-94 Tested By Code L.L.
Status
Pay Item No. 111-331-1-12

Type Mix S-1-R Mix Design No. QA 93-6128

Percent Passing Sieve	Lot # 3 Sublot # 1 Size	Lot # Sublot # Size	Lot # Sublot # Size	*** Average of Deviations from JMF	*** Pay Factor Lot #
1¼					
1					
3/4	100				
1/2	99.55				
3/8	94.17				
4	64.55				
10	47.08				
40	33.19				
80	20.83				
200	8.84				
AC Content	6.19				

*** To be computed when LOT is completed.

REMARKS:

Automatic Shut Down on the #200 Sieve

	Mix Produced (Tons)
Previous Quantity	1702.40
This Quantity	1253.10
Total	2955.40

Est. Mix Temp. 290
Avg. Temp. Today 293
Max. Temp. Today 300
Min. Temp. Today 275
Inspector E. SAUNDERS
Proj. Engr.

cc: District Bituminous Engineer

ATTACHMENT 3
PAGE 2 OF 2

DEPARTMENT OF TRANSPORTATION
CQRB035 ENGLISH TEST RESULTS PAGE 001

JOB NO: 86060-3500 WP NO: 4110865 40 CONTRACTOR: WEEKLEY ASPHALT PAVING INC.
MATERIAL: 120G BIT MIX-TYPE S SAMPLE: I0002 DATE RECD: 02/01/94
FORM NO: 285-01 DATE TESTED: 02/02/94 TEST BY: 6D LAB NO: N/A STATUS: P

QUAL.	TYPE OF TEST/MEASUREMENT	TEST RESULT
	JOB MIX FORMULA	
	PASSING 3/4" SIEVE	100.0000 PCT
	PASSING 1/2" SIEVE	98.0000 PCT
	PASSING 3/8" SIEVE	90.0000 PCT
	PASSING NO. 4 SIEVE	63.0000 PCT
	PASSING NO. 10 SIEVE	45.0000 PCT
	PASSING NO. 40 SIEVE	31.0000 PCT
	PASSING NO. 80 SIEVE	18.0000 PCT
	PASSING NO. 200 SIEVE	5.7000 PCT
	ASPHALT CONTENT	6.0000 PCT
	ACCEPTANCE SAMPLE	
	PASSING 3/4" SIEVE	100.0000 PCT
	PASSING 1/2" SIEVE	96.4900 PCT
	PASSING 3/8" SIEVE	90.9000 PCT
	PASSING NO. 4 SIEVE	64.0700 PCT
	PASSING NO. 10 SIEVE	47.4700 PCT
	PASSING NO. 40 SIEVE	33.1000 PCT
	PASSING NO. 80 SIEVE	20.2100 PCT
	PASSING NO. 200 SIEVE	7.9600 PCT
	ASPHALT CONTENT	6.8900 PCT
	IND. ASSURANCE SAMPLE	
	PASSING 3/4" SIEVE	100.0000 PCT
	PASSING 1/2" SIEVE	97.1300 PCT
	PASSING 3/8" SIEVE	92.4900 PCT
	PASSING NO. 4 SIEVE	66.5100 PCT
	PASSING NO. 10 SIEVE	48.8900 PCT
	PASSING NO. 40 SIEVE	34.2900 PCT
	PASSING NO. 80 SIEVE	20.8300 PCT
	PASSING NO. 200 SIEVE	8.4400 PCT
	ASPHALT CONTENT	7.0200 PCT
	STABILITY	3,268.0000 LBS
	FLOW (0.01 IN)	14.0000 IN
	DENSITY	140.6000 PCF
	AIR VOIDS	3.0000 PCT
	LOT	2
	SUBLOT	1

40 %

2.0

Verifies Accep. Sample

ATTACHMENT 4
PAGE 1 OF 2

DEPARTMENT OF TRANSPORTATION
CQRB035 ENGLISH TEST RESULTS PAGE 001

JOB NO: 86060-3500 WP NO: 4110865 40 CONTRACTOR: WEEKLEY ASPHALT PAVING IN
MATERIAL: 120G BIT MIX-TYPE S SAMPLE: I0003 DATE RECD: 02/03/94
FORM NO: 285-01 DATE TESTED: 02/04/94 TEST BY: 6D LAB NO: N/A STATUS: P

QUAL.	TYPE OF TEST/MEASUREMENT	TEST RESULT
	JOB MIX FORMULA	
	PASSING 3/4" SIEVE	100.0000 PCT
	PASSING 1/2" SIEVE	98.0000 PCT
	PASSING 3/8" SIEVE	90.0000 PCT
	PASSING NO. 4 SIEVE	63.0000 PCT
	PASSING NO. 10 SIEVE	45.0000 PCT
	PASSING NO. 40 SIEVE	31.0000 PCT
	PASSING NO. 80 SIEVE	18.0000 PCT
	PASSING NO. 200 SIEVE	5.7000 PCT
	ASPHALT CONTENT	6.0000 PCT
	ACCEPTANCE SAMPLE	
	PASSING 3/4" SIEVE	100.0000 PCT
	PASSING 1/2" SIEVE	99.5500 PCT
	PASSING 3/8" SIEVE	94.1700 PCT
	PASSING NO. 4 SIEVE	64.5500 PCT
	PASSING NO. 10 SIEVE	47.0800 PCT
	PASSING NO. 40 SIEVE	33.1900 PCT
	PASSING NO. 80 SIEVE	20.8300 PCT
	PASSING NO. 200 SIEVE	8.8400 PCT
	ASPHALT CONTENT	6.1900 PCT
	IND. ASSURANCE SAMPLE	
	PASSING 3/4" SIEVE	100.0000 PCT
	PASSING 1/2" SIEVE	98.9800 PCT
	PASSING 3/8" SIEVE	92.5000 PCT
	PASSING NO. 4 SIEVE	64.1400 PCT
	PASSING NO. 10 SIEVE	46.8000 PCT
	PASSING NO. 40 SIEVE	33.1900 PCT
	PASSING NO. 80 SIEVE	20.8600 PCT
	PASSING NO. 200 SIEVE	8.7700 PCT
	ASPHALT CONTENT	6.4200 PCT
	STABILITY	3,383.0000 LBS
	FLOW (0.01 IN)	13.1000 IN
	DENSITY	141.3000 PCF
	AIR VOIDS	3.3000 PCT
	LOT	3
	SUBLOT	1

Verifies Accep. Sample

ATTACHMENT 4
PAGE 2 OF 2

TO:JB LAIRSCEY
JUL-19-'95 WED 14:36 ID:MATLS OFC ADMIN FAX NO:904-334-1648 #969 P08

FYI

FLORIDA DEPARTMENT OF TRANSPORTATIC
LAWTON CHILES, GOVERNOR
BEN G. WAT, SECRETAR
Fort Lauderdale Construction - District 4
5550 Northwest 9th Ave., Ft. Lauderdale, Florida 33309
Telephone: (305) 776-4300
(FAX) (305) 776-4300 Extension 248

July 27, 1994

RECEIVED
JUL 28 1994
DISTRICT 4
CONSTRUCTION OFFICE

Mr. Marty Yount
Weekley Asphalt Paving, Incorporated
Post Office Box 820010
South Florida, Florida 33082-0010

Dear Mr. Yount:

SUBJECT:	Work Program Item Number:	4110865 & 4110873
	State Job Number:	86060-3500 & 86060-3504
	Federal Job Number:	ACSU-403-2(53) & ACSU-403-2(52) (EXEMPT)
	County:	Broward
	Description:	SR-25 (US-27) fm. Dade/Broward Co. Line to Pines Blvd. & fm. Pines Blvd. to Griffin Rd. ROADWAY IMPROVEMENTS

ASPHALT DESIGN MIX CHANGE

We have reviewed your request dated June 28, 1994, for additional costs associated with changing the asphalt design mix from 40% milled to 25% milled material.

Your Company stated in your February 11, 1994, letter that the asphalt design mix had to be adjusted because of a higher dust content in the rap than was shown in the bid package. Higher dust content should be expected. This is stated in the contract as follows: "The graduation valves will become finer during processing of the existing pavement material". Also, even in your Asphalt Design Mix AQ 93-6129, there is a note stating the #200 sieve job mix formula increased due to expected aggregate break down during production.

In addition, it was your Company's choice to attempt to use 40% milled material and when the failure occurred, it was your Company's choice to reduce to 25% milled material instead of designing a completely new mix or using other valid mixes.

This office is denying your claim for extra costs associated with changing asphalt mix from 40% milled material to 25% milled.

Sincerely,

William R. Walsh, P.E.
Resident Engineer

WRW/ash

ATTACHMENT 5
PAGE 1 OF 2

cc: Manuel Then, S. Cushing, D. C. Ishan, File, Reading File

FLORIDA DEPARTMENT OF TRANSPORTATIO
LAWTON CHILES
GOVERNOR
Fort Lauderdale Construction - District 4
5550 Northwest 9th Ave., Ft. Lauderdale, Florida 33309
Telephone: (305) 776-4300
(FAX) (305) 776-4300 Extension 248
HENRY A. ATTS
SECRETARY

ED

September 19, 1994

RECEIVED

SEP 19 1994

DISTRICT 4
CONSTRUCTION OFFICE

Mr. Marty Yount
Weekley Asphalt Paving, Incorporated
Post Office Box 820010
South Florida, Florida 33082-0010

Dear Mr. Yount:

SUBJECT:	Work Program Item Number:	4110865 & 4110873
	State Job Number:	86060-3500 & 86060-3504
	Federal Job Number:	ACSU-403-2(53) & ACSU-403-2(52)(EXEMPT)
	County:	Broward
	Description:	SR-25 (US-27) fm. Dade/Broward Co. Line to Pines Blvd. & fm. Pines Blvd. to Griffin Rd. ROADWAY IMPROVEMENTS

ASPHALT DESIGN MIX CHANGE

We have reviewed your request of August 08, 1994, to reconsider our denial of your claim for extra costs.

We have discussed this issue with District Construction as well as our District Lab and our position is still unchanged.

Your claim is denied.

Sincerely,

William R. Walsh, P.E.
Resident Engineer

WRW/ash

cc: Manuel Then, P.E., District 4 Construction Engineer
M. E. Finch, Area Engineer
S. I. Bradford, Final Estimates
D. C. Ihsan, Project Engineer
File
Reading File

ATTACHMENT 5
PAGE 2 OF 2

TO: JB LAIRSCEY

JUL-19-'95 WED 14:37 ID:MATLS OFC ADMIN FAX NO:904-334-1648 #969 P10

To Vernon

FLORIDA **DEPARTMENT OF TRANSPORTATION**

LAWTON CHILES
GOVERNOR

BEN G. WATTS
SECRETARY

FY Files
mt

M E M O R A N D U M

DATE : July 22, 1994

TO : Manny Then, P.E., District Construction Engineer

FROM : Scott A. Cushing, District Bituminous Engineer

COPIES : Bill Walsh

SUBJECT : PROJECT NAME : SR 25 (US 27) From Dade/Broward County Line to Pines Blvd. and From Pines Blvd. to Griffin Road.
WORK PROGRAM ITEM NO.: 4110865 & 4110873
STATE JOB NO. : 86060-3500 & 86060-3504
FEDERAL JOB NO. : ACSU-403-2(53) & ACSU -403-2(52)
COUNTY : Broward

This concerns the claim that Weekley Asphalt Paving, Inc. has made pertaining to the use of milled material obtained from these projects in Design Mix QA 93-6128 (S-1).

Weekley Asphalt Paving, Inc. designed QA 93-6128 (S-1) to use 40% of the milled material. The following scenario took place after this mix was used. Design Mix QA 93-5849 (S-1) was used for Lot #1 on 1-31-94 to allow the milling machines to provide enough milled material to start using QA 93-6128(S-1). The mix was used to start Lot #2 on 2-1-94 and after the first acceptance test result was obtained it resulted in an automatic lot termination due to high minus 200 material. [and high AC] The quality control technician for Weekley Asphalt Paving, Inc. recalibrated the plant and ran a new extraction which indicated that the minus 200 material was satisfactory. Lot #3 was started on 2-3-94 and the results of the acceptance test on ~~both the asphalt content~~ and minus 200 material resulted in an automatic lot termination. Since both Lot #2 and Lot #3 had such high minus 200 material that the lots had to be terminated and since the Marshall flow and voids were borderline, the contractor's quality control technician was contacted by the District Bituminous Engineer and given three options. One, redesign the mix. Two, reduce the amount of milled material to 25%, with the approval of the State Materials Office. Three, use one of their other mixes using 25% of crushed reclaimed asphalt pavement. The contractor chose to use 25% of the milled material and samples were taken of the revised mix design. The results were satisfactory and this revised mix was used for lots 4 through 8.

(32)

ATTACHMENT 6
PAGE 1 OF 2

RECYCLED PAPER

This mix design was one of the very few that Weekley Asphalt Paving, Inc. has designed using more than 25% and if you review the asphalt composition report, contained in the special provisions, one paragraph states "The gradation values will become finer during processing of the existing pavement material." The reason the majority of the asphalt contractors in District Four use 25% is due to the problem of high minus 200 material when using milled material or crushed asphalt pavement. Weekley Asphalt Paving, Inc. has also claimed that much of this material was stockpiled since they could not use the 40% in the asphalt mix. This office was contacted by Weekley's quality control technician on 5-13-94 and informed that all the milled material from these two projects was used on other projects and that this mix would no longer be available for use.

There should be no consideration given to waiving the asphalt and gradation penalties on Lots 2 & 3 since the referee system indicated that the acceptance results be used.

It was the decision of Weekley Asphalt Paving, Inc. to attempt to use 40% milled material and the reduction to 25% was their choice over designing a completely new mix. A sample of the milled material was tested and the minus 200 results compared favorably with the gradation shown on the design mix.

It does not appear that Weekley Asphalt Paving, Inc. has a strong claim since the milled material was used on other projects and no new mix designs have been submitted requesting to use more than 25% of reclaimed asphalt pavement or milled material since this problem with the minus 200 material was encountered.

Lot #3 was terminated. as required by our specifications, on 2-3-94 and after a few phone calls about the mix problems, samples of the revised mix using 25% milled material were taken on 2-4-94. This indicates that the contractor only lost one day and that was because of the lot termination. The contractor could have elected to use another valid mix and not lost any time.

The milled material had to transported from the project to the plant no matter whether 40% or 25% was used, so the validity of the contractor's claim for additional trucking is questionable.

/c

#7100

ATTACHMENT 6
PAGE 2 OF 2

(3)

FLORIDA DEPARTMENT OF TRANSPORTATION

REPORT OF
INDEPENDENT ASSURANCE OBSERVATIONS-QUALITY ASSURANCE FOR ASPHALT CONST.

PROJECTS: 86060-3500 ROAD NO.: US 27 CONTRACTOR: WEEKLEY ASPH PAVIN
PLANT LOCATION: PEMBROKE PINES QUALITY CONTROL TECHNICIAN: R.VLAM
PLANT INSPECTOR: F.SAUNDERS TYPE OF PLANT: DRUM

An independent assurance review was made by a representative of thi office in accordance with the provisions of the Assurance Testing Plan to b used with Quality Assurance for Asphalt Construction to insure that Projec personnel perform their respective tasks as outlined in the specification and in the Quality Assurance training course, and to insure that th Contractor fulfills his contractual obligations as set forth the in th Specifications.

Observations were made to determine levels of performance and/o compliance in the following areas:

1. FDOT Acceptance Sampling, Testing and Paperwork

N.O	a.	Extractions	OK	e.	Random Number Tables
OK	b.	Design Mix	OK	f.	Weekly Scale Checks
OK	c.	Plant Inspections	OK	g.	Daily Report(s)
OK	d.	Work Sheets and Charts	OK	h.	Acceptance Control Charts

2. Contractor's Quality Control Sampling and Testing Procedures

OK	a.	Extractions	N.A	d.	Belt/Bin Sampling
OK	b.	Gradations/Incoming Material	OK	e.	Plant Inspections
*	c.	Extractions/Milled Material	OK	f.	Moisture Checks (Drum)
OK	g.	Mix Temperatures (First Five and then every Fifth load)			

3. Contractor's Plant, Quality Control System & Equipment

OK	a.	Stockpiles	OK	i.	Approved Targets
OK	b.	Plant Calibration Charts	OK	j.	Pyrometer Readout
OK	c.	QC Tech on Design Mix	OK	k.	Asphalt Line Thermometer
OK	d.	Approved QC Plan	OK	l.	Scale Certification (6mo.
OK	e.	Cold Bins (Gates & Baffles)	N.A	m.	Pugmill (Condition/Leaks)
N.A	f.	Hot Bins	N.A	n.	Mixing Time (35 Sec. Min.
OK	g.	Screens	OK	o.	Transport Sampling Device
OK	h.	Testing Equipment & Lab.	OK	p.	Trucks (Tarps/Chains/Hole

4. Remarks: THE Q.C TECHNICIAN WAS SUPPOSED TO RUN A TEST FOR EVERY THOUSAND TONS OF MILLED MATERIAL USED BUT HIS RECORDS SHOW ONLY ONE TEST FOR THE ENTIRE JOB WHICH IS FAR BELOW THE NUMBER OF TESTS NEEDED.

N.A.: Not Applicable
N.O.: Not Observed
INDEPENDENT ASSURANCE OBSERVER: F.SAYADIAN DATE: 4/25/94

DISTRIBUTION: Resident Engineer (2) - Moreland Altobelli - 10021
District Construction Engineer - Manny Then
File
WEEKLEY ASPH PAVING INC.
SCOTCH A.CUSHING Scotch A. Cushing 4-26-94
District Bituminous Engineer Date

DOT

SUMMARY OF REBUTTAL

The Florida Department of Transportation (Department) has reviewed the "Summary of Claim" and the relevant attachments that were submitted by Weekley Asphalt Paving, Inc. (Weekley), and would like to offer the following rebuttal:

Weekley claims that it bid the subject project with the intention of producing the Type S-I mix utilizing 40 percent of the milled material taken from the roadway. Based on the Composition of Existing Pavement Report, Weekley initially designed the mix with 40 percent milled material, submitted the mix design for verification, and the mix design was subsequently approved by the Department. However, during the production of the S-I mix in question, the first two LOTs were automatically terminated due to either high P-200 material, or a high asphalt content. At this point the amount of milled material in the mix was decreased to 25 percent.

It is the Department's belief that there are two primary issues that relate to this claim that is before the State Arbitration Board:

1) Did the Department require that Weekley drop the amount of milled material in the mix to 25 percent?

2) Did the Composition of Existing Pavement Report erroneously indicate that a higher percentage of milled material could be used in the mix?

The Department's rebuttal for each of these two issues is as follows:

1) Did the Department require that Weekley drop the amount of milled material in the mix to 25 percent?

Weekley designed a Type S-I asphalt mix (Mix Design Number QA 93-6128) with 40 percent milled material from the project in the mix. During the first production day, 1/31/94, Weekley used Mix Design Number QA 93-5849 (Type S-I) for LOT #1 in order to allow the milling machines to provide enough milled material to start producing QA 93-6128.

QA 93-6128 was initially produced on 2/1/94 for LOT #2. The first acceptance test result obtained by the Department resulted in an automatic LOT termination due to excessive asphalt in the mix. It should also be noted that the P-200 content in the mix was 2.3 percent above the target value of 5.7 percent. Weekley's Quality Control Technician then recalibrated the asphalt plant, and ran an extraction test which indicated that the mix was now satisfactory.

LOT #3 was started on 2/3/94, and the results of the acceptance test resulted in another automatic LOT termination, this time due to excessive P-200 material in the mix.

In accordance with Article 6-8, Subarticle 330-6.5, and Subarticle 331-2.2.4 of the Standard Specifications for Road and Bridge Construction, 1991 Edition, it is the Contractor's responsibility for the design and process control of the asphalt mix. Subarticle 6-8.4 states "The Contractor shall provide and maintain a quality control system that will provide reasonable assurance that all materials, products, and completed construction submitted for acceptance conform to contract requirements whether manufactured or processed by the Contractor or procured from subcontractors or vendors."

Since both LOT #2 and LOT #3 were terminated due to either a high P-200 content or a high asphalt content, and since the Marshall properties of the mixture were borderline, it was evident that the Contractor was not producing the asphalt mix that was representative of the mix design, nor was it being produced in accordance with the specification requirements. Since in the Department's opinion, the mix had properties which indicated that it may be prone to rutting, the District Bituminous Engineer contacted the Contractor's Quality Control Technician and presented the Contractor with three options that would expedite the resolution of the problem:

1) Redesign the mix.

2) Use another approved mix design with their stockpiled crushed Reclaimed Asphalt Pavement (RAP) material.

3) Reduce the amount of milled material in QA 93-6128 to 25 percent, contingent upon satisfactory Marshall properties during production.

At this point the Contractor chose to reduce the milled material in the mix design to 25 percent. The Marshall properties were then field verified by the District Materials Office, and the mix was revised and used for LOTs 4 through 8.

It is our position that the Department did not require the Contractor to reduce the milled material in the mix, it was the Contractor's decision. The Contractor, at any point, could have redesigned the mix but chose not to. It should also be pointed out that it is neither in the Department's or the Contractor's best interest to continue to produce an asphalt mixture that does not meet specification requirements.

2) Did the Composition of Existing Pavement Report erroneously indicate that a higher percentage of milled material could be used in the mix?

The Composition of Existing Pavement Report is included in the bid package to provide Contractors with a general description of the pavement materials that exist prior to milling. Since the milled material becomes the property of the Contractor upon milling, it is important, for bidding purposes, that the Contractor be familiar with some of the basic engineering properties of the existing pavement material. Along with information on the overall pavement thickness, and thickness evaluated, the composition report also includes information on the asphalt binder (viscosity and penetration) and the in-place asphalt mixture (gradation and asphalt content). With the exception of gradation, most of these properties are relatively constant, and do not change significantly after milling and additional handling.

The final gradation of the milled material is a function of a number of processing factors such as the condition of the milling equipment/milling teeth, depth and direction of the milling cut, speed of the milling operation, as well as handling and stockpiling. Even the type of asphalt plant used to produce the recycled mix can affect the gradation of the milled material as it is processed through the plant. Since the Department has no manner of controlling or predicting these factors, it is impractical to "forecast" in the composition what the gradation will be after milling. Because of this, the composition has a statement that reads as follows: "The gradation values will become finer during the processing of the existing pavement material". The composition in no way states how much of the milled material can be used in a recycled mix (if any), nor does it in any way limit the amount of milled material that can be used. (Limitations on the use of milled material are addressed in the Standard Specifications.)

As was stated earlier, under the Department's Quality Assurance specifications for asphalt construction, the design and process control of an asphalt mixture is the responsibility of the Contractor, not the Department. It is likewise the Contractor's decision to determine how much, if any, milled material will be incorporated into an asphalt mixture. As such, it is unfair to hold the Department accountable for a decision that is the option of the Contractor.

In addition to the two primary issues that have been addressed, there are several other miscellaneous factors that should be brought to the Arbitration Board's attention:

1) The Department attempted to help the Contractor by expediting the situation. After the second consecutive LOT termination, the District Bituminous Engineer suggested three

EX 2

options to the Contractor. By rights, the District Bituminous Engineer could have simply told the Contractor to redesign the mix.

2) The Contractor's Quality Control personnel, through their QC testing on the incoming RAP, should have immediately detected that the gradation of the RAP material was finer than anticipated, and either stopped production of the mix, or made adjustments to account for the difference. It should also be noted that the Contractor's QC personnel on this project were recently identified as having falsified QC records on another FDOT project - specifically on the incoming RAP material. This raises the question as to whether or not the incoming RAP material was tested properly, or tested at all.

3) The excess RAP material that originated from this project was used up on other FDOT projects.

Based on all of the above-mentioned reasons, the Department is denying any claim for Compensation filed by Weekley Asphalt Paving, Inc.

Attachments:

1. Composition of Existing Pavement Report

2. Design Mix QA 93-5849, Design Mix QA 93-6128, and Design Mix QA 93-6128 (Revised).

3. Daily Reports of Asphalt Plant Inspector

4. Independent Assurance Reports - Bituminous Mixture

5. Two letters dated July 27, 1994, and September 19, 1994, from W. R. Walsh, to Weekley Asphalt Paving, Inc.

6. Memorandum dated July 22, 1994, from S. A. Cushing, to Manny Then.

FLORIDA DEPARTMENT OF TRANSPORTATION
LAWTON CHILES
GOVERNOR
BEN G. WATTS
SECRETARY

State Materials Office
2006 N.E. Waldo Road
Gainesville, FL 32609

(904) 372-5304

March 18, 1993

M E M O R A N D U M

TO: Fourth District Materials Engineer

FROM: K. H. Murphy

SUBJECT: Proposed Recycle Project No. 86060-3500
FAP No. - MU-403-2 (53)
SR - 25
W.P.I. No. - 4110865
County - Broward
From M. P. 0.00 to M. P. 3.504

At your request, tests were performed on the subject project to determine the composition of the existing pavement. A summary of the results is attached.

The properties obtained from the roadway cores submitted indicate that the existing pavement material is suitable for use in a recycled asphalt hot mix and/or use as base course for shoulders.

If we can be of further assistance in developing the project please let us know.

KHM:dj

cc: Certifications
State Bituminous Materials Engineer
State Pavement Design Engineer
State Specifications Engineer
State Preliminary Estimates Engineer
Fourth District Design Engineer
Fourth District Construction Engineer
Fourth District Bituminous Engineer
Fourth District Project Manager, YUE

AttachmenT

ATTACHMENT No. 1
PAGE 1 OF 2

TO:JB LAIRSCEY

JUL-19-'95 WED 14:33 ID:MATLS OFC ADMIN FAX NO:904-334-1648 #969 P03

STATEMENT OF SOURCE OF MATERIALS AND JOB MIX FORMULA FOR BITUMINOUS CONCRETE

SUBMIT TO THE STATE MATERIALS AND RESEARCH ENGINEER, CENTRAL BITUMINOUS LABORATORY, P. O. BOX 1029, GAINESVILLE, FL 32602.

FAP No: SU-403-2(53) & SU-403-2(52)

Project No: 86060-3500 & 86060-3504 Type Mix S-I Recycle Date 2 / 10 / 94

Road No: SR-25 (US-27) County Broward District 4

Contractor Name & Plant Location: Weekley Asphalt Paving, Inc. - Pembroke Pines, FL Phone (305) 433-0411 (305) 437-8800

Intended Use of Mix: Structural Submitted By: Robert Vlam QA Tech.: Robert Vlam

Nicholas Oxenborg

TYPE MATERIAL	F.D.O.T. CODE	PRODUCER	PIT NO:	DATE SAMPLED
1. Milled Material		86060-3504 Top 3.00" MP 3.504 to 7.192 Southbound	Roadway	9 / 4 / 93
2. S-1-A Stone	20	L. W. Rozzo	86-139	9 / 4 / 93
3. S-1-B Stone	21	L. W. Rozzo	86-139	9 / 4 / 93
4. Asphalt Screenings	20	L. W. Rozzo	86-139	9 / 4 / 93
5.				
6.				

PERCENTAGE BY WEIGHT TOTAL AGGREGATE PASSING SIEVES

Blend	25 %	13 %	21 %	41 %	%	%	JOB MIX	GRADATION
Number	1	2	3	4	5	6	FORMULA	DESIGN RANGE
3/4"	100	100	100	100			100	100
1/2"	100	85	100	100			98	88 - 100
3/8"	95	39	99	100			91	75 - 93
No. 4	78	6	26	100			67	47 - 75
No. 10	56	4	5	80			48	31 - 53
No. 40	37	3	3	57			34	19 - 35
No. 80	21	2	3	30			18 *	7 - 21
No. 200	8.1	1.6	1.6	2.6			6.0 *	2 - 6
Sp. Gr.	2.585	2.465	2.439	2.515			2.509	

The mix properties of the JMF have been verified and the mix design is approved subject to FDOT specifications.

* Increased due to expected aggregate breakdown during production.

MATERIALS DIVISION USE ONLY

CC: Mr. J. B. Lairscey
Mr. W. Walsh
Mr. S. A. Cushing
Weekley Asphalt Paving
Cen Bit Lab
Bit Res Lab
Project File

QA 93-6128(Rev. 2-10-94)(TS-I)

Revised to reflect changes in the blend, JMF, optimum asphalt, lab density and recycling agent.

State Materials & Research Engineer

Effective Date 2 / 10 / 94

ATTACHMENT 2
PAGE 3 OF 3

TO: JB LAIRSCEY
JUL-19-'95 WED 14:34 ID:MATLS OFC ADMIN FAX NO:904-334-1648 #969 P04

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

DAILY REPORT OF ASPHALT PLANT INSPECTOR

FORM 675-030-06-b
MATERIALS
04/91

Project No. 86060-3500 Road No. SR-25
Material No. 120 A Sample No. 51002 Date Sampled 2-1-94
Station From N/A Sample From TRUCK Reference Line N/A Source 05
Plant No. AO 633 LOT Quantity 542.30 Tons Intended Use STRUCTURAL
Date Received 2-1-94 Date Tested 2-1-94 Tested By Code LL
Status FA
Pay Item No. 1 3 3 1 1 2

Type Mix S-1-R Mix Design No. QA 93-6128

Percent Passing Sieve	Lot # 2 Sublot # 1 Size	Lot # Sublot # Size	Lot # Sublot # Size	*** Average of Deviations from JMF	*** Pay Factor Lot #
1¼					
1					
3/4	100				
1/2	96.49				
3/8	90.90				
4	64.07				
10	47.47				
40	33.10				
80	20.21				
200	7.96	8.44			
AC Content	6.89				

*** To be computed when LOT is completed.

REMARKS: Automatic Shut Down on A.C.

	Mix Produced (Tons)
Previous Quantity	1160.10
This Quantity	542.30
Total	1702.40

Est. Mix Temp. 290
Avg. Temp. Today 283
Max. Temp. Today 290
Min. Temp. Today 270
Inspector F. SAUNDERS
Proj. Engr.

cc: District Bituminous Engineer

ATTACHMENT 3
PAGE 1 OF 2

TO: JB LAIRSCEY
JUL-19-'95 WED 14:34 ID:MATLS OFC ADMIN FAX NO:904-334-1648 #969 P05

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

DAILY REPORT OF ASPHALT PLANT INSPECTOR

FORM 675-030-06-b
MATERIALS
04/91

Project No. 86060-3500 Road No. SR-25
Material No. 120A Sample No. S1003 Date Sampled 2-3-94
Station From N/A Sample From Truck Reference Line N/A Source 05
Plant No. A0633 LOT Quantity 1253.10 Tons Intended Use STRUCTURAL
Date Received 2-3-94 Date Tested 2-3-94 Tested By Code 4.L
Status
Pay Item No. 11-33-1-12

Type Mix S-1-R Mix Design No. QA 93-6128

Percent Passing Sieve	Lot # 3 Sublot # 1 Size	Lot # Sublot # Size	Lot # Sublot # Size	*** Average of Deviations from JMF	*** Pay Factor Lot #
1¼					
1					
3/4	100				
1/2	99.55				
3/8	94.17				
4	64.55				
10	47.08				
40	33.19				
80	20.83				
200	8.84				
AC Content	6.19				

*** To be computed when LOT is completed.

REMARKS:

Automatic Shut Down on the #200 Sieve

	Mix Produced (Tons)
Previous Quantity	1702.40
This Quantity	1253.10
Total	2955.40

Est. Mix Temp. 290
Avg. Temp. Today 293
Max. Temp. Today 300
Min. Temp. Today 275

Inspector E. SAUNDERS
Proj. Engr.

cc: District Bituminous Engineer

ATTACHMENT 3
PAGE 2 of 2

RECYCLED PAPER

621-588

DEPARTMENT OF TRANSPORTATION
CQRB035 ENGLISH TEST RESULTS PAGE 001

JOB NO: 86060-3500 WP NO: 4110865 40 CONTRACTOR: WEEKLEY ASPHALT PAVING INC.
MATERIAL: 120G BIT MIX-TYPE S SAMPLE: I0002 DATE RECD: 02/01/94
FORM NO: 285-01 DATE TESTED: 02/02/94 TEST BY: 6D LAB NO: N/A STATUS: P

QUAL.	TYPE OF TEST/MEASUREMENT	TEST RESULT
	JOB MIX FORMULA	
	PASSING 3/4" SIEVE	100.0000 PCT
	PASSING 1/2" SIEVE	98.0000 PCT
	PASSING 3/8" SIEVE	90.0000 PCT
	PASSING NO. 4 SIEVE	63.0000 PCT
	PASSING NO. 10 SIEVE	45.0000 PCT
	PASSING NO. 40 SIEVE	31.0000 PCT
	PASSING NO. 80 SIEVE	18.0000 PCT
	PASSING NO. 200 SIEVE	5.7000 PCT
	ASPHALT CONTENT	6.0000 PCT
	ACCEPTANCE SAMPLE	
	PASSING 3/4" SIEVE	100.0000 PCT
	PASSING 1/2" SIEVE	96.4900 PCT
	PASSING 3/8" SIEVE	90.9000 PCT
	PASSING NO. 4 SIEVE	64.0700 PCT
	PASSING NO. 10 SIEVE	47.4700 PCT
	PASSING NO. 40 SIEVE	33.1000 PCT
	PASSING NO. 80 SIEVE	20.2100 PCT
	PASSING NO. 200 SIEVE	7.9600 PCT
	ASPHALT CONTENT	6.8900 PCT
	IND. ASSURANCE SAMPLE	
	PASSING 3/4" SIEVE	100.0000 PCT
	PASSING 1/2" SIEVE	97.1300 PCT
	PASSING 3/8" SIEVE	92.4900 PCT
	PASSING NO. 4 SIEVE	66.5100 PCT
	PASSING NO. 10 SIEVE	48.8900 PCT
	PASSING NO. 40 SIEVE	34.2900 PCT
	PASSING NO. 80 SIEVE	20.8300 PCT
	PASSING NO. 200 SIEVE	8.4400 PCT
	ASPHALT CONTENT	7.0200 PCT
	STABILITY	3,268.0000 LBS
	FLOW (0.01 IN)	14.0000 IN
	DENSITY	140.6000 PCF
	AIR VOIDS	3.0000 PCT
	LOT 2	
	SUBLOT 1	

ATTACHMENT 4
PAGE 1 OF 2

DEPARTMENT OF TRANSPORTATION
CQRB035 ENGLISH TEST RESULTS PAGE 001

JOB NO: 86060-3500 WP NO: 4110865 40 CONTRACTOR: WEEKLEY ASPHALT PAVING IN
MATERIAL: 120G BIT MIX-TYPE S SAMPLE: I0003 DATE RECD: 02/03/94
FORM NO: 285-01 DATE TESTED: 02/04/94 TEST BY: 6D LAB NO: N/A STATUS: P

QUAL.	TYPE OF TEST/MEASUREMENT	TEST RESULT
	JOB MIX FORMULA	
	PASSING 3/4" SIEVE	100.0000 PCT
	PASSING 1/2" SIEVE	98.0000 PCT
	PASSING 3/8" SIEVE	90.0000 PCT
	PASSING NO. 4 SIEVE	63.0000 PCT
	PASSING NO. 10 SIEVE	45.0000 PCT
	PASSING NO. 40 SIEVE	31.0000 PCT
	PASSING NO. 80 SIEVE	18.0000 PCT
	PASSING NO. 200 SIEVE	5.7000 PCT
	ASPHALT CONTENT	6.0000 PCT
	ACCEPTANCE SAMPLE	
	PASSING 3/4" SIEVE	100.0000 PCT
	PASSING 1/2" SIEVE	99.5500 PCT
	PASSING 3/8" SIEVE	94.1700 PCT
	PASSING NO. 4 SIEVE	64.5500 PCT
	PASSING NO. 10 SIEVE	47.0800 PCT
	PASSING NO. 40 SIEVE	33.1900 PCT
	PASSING NO. 80 SIEVE	20.8300 PCT
	PASSING NO. 200 SIEVE	8.8400 PCT
	ASPHALT CONTENT	6.1900 PCT
	IND. ASSURANCE SAMPLE	
	PASSING 3/4" SIEVE	100.0000 PCT
	PASSING 1/2" SIEVE	98.9800 PCT
	PASSING 3/8" SIEVE	92.5000 PCT
	PASSING NO. 4 SIEVE	64.1400 PCT
	PASSING NO. 10 SIEVE	46.8000 PCT
	PASSING NO. 40 SIEVE	33.1900 PCT
	PASSING NO. 80 SIEVE	20.8600 PCT
	PASSING NO. 200 SIEVE	8.7700 PCT
	ASPHALT CONTENT	6.4200 PCT
	STABILITY	3,383.0000 LBS
	FLOW (0.01 IN)	13.1000 IN
	DENSITY	141.3000 PCF
	AIR VOIDS	3.3000 PCT
	LOT 3	
	SUBLOT 1	

ATTACHMENT 4
PAGE 2 OF 2

FYI

FLORIDA DEPARTMENT OF TRANSPORTATIC
LAWTON CHILES
GOVERNOR
Fort Lauderdale Construction - District 4
5550 Northwest 9th Ave., Ft. Lauderdale, Florida 33309
Telephone: (305) 776-4300
(FAX) (305) 776-4300 Extension 248
BEN G. WAT
SECRETAR

July 27, 1994

RECEIVED
JUL 28 1994
DISTRICT 4
CONSTRUCTION OFFICE

Mr. Marty Yount
Weekley Asphalt Paving, Incorporated
Post Office Box 820010
South Florida, Florida 33082-0010

Dear Mr. Yount:

SUBJECT:	Work Program Item Number:	4110865 & 4110873
	State Job Number:	86060-3500 & 86060-3504
	Federal Job Number:	ACSU-403-2(53) & ACSU-403-2(52) (EXEMPT)
	County:	Broward
	Description:	SR-25 (US-27) fm. Dade/Broward Co. Line to Pines Blvd. & fm. Pines Blvd. to Griffin Rd. ROADWAY IMPROVEMENTS

ASPHALT DESIGN MIX CHANGE

We have reviewed your request dated June 28, 1994, for additional costs associated with changing the asphalt design mix from 40% milled to 25% milled material.

Your Company stated in your February 11, 1994, letter that the asphalt design mix had to be adjusted because of a higher dust content in the rap than was shown in the bid package. Higher dust content should be expected. This is stated in the contract as follows: "The graduation valves will become finer during processing of the existing pavement material". Also, even in your Asphalt Design Mix AQ 93-6129, there is a note stating the #200 sieve job mix formula increased due to expected aggregate break down during production.

In addition, it was your Company's choice to attempt to use 40% milled material and when the failure occurred, it was your Company's choice to reduce to 25% milled material instead of designing a completely new mix or using other valid mixes.

This office is denying your claim for extra costs associated with changing asphalt mix from 40% milled material to 25% milled.

Sincerely,

William R. Walsh, P.E.
Resident Engineer

WRW/ash

ATTACHMENT 5
PAGE 1 OF 2

cc: Manuel Then, S. Cushing, D. C. Ishan, File, Reading File

FLORIDA DEPARTMENT OF TRANSPORTATIO
LAWTON CHILES
GOVERNOR
Fort Lauderdale Construction - District 4
5550 Northwest 9th Ave., Ft. Lauderdale, Florida 33309
Telephone: (305) 776-4300
(FAX) (305) 776-4300 Extension 248
BEN G. WATTS
SECRETARY

WW

ED

September 19, 1994

RECEIVED

SEP 19 1994

DISTRICT 4
CONSTRUCTION OFFICE

Mr. Marty Yount
Weekley Asphalt Paving, Incorporated
Post Office Box 820010
South Florida, Florida 33082-0010

Dear Mr. Yount:

SUBJECT:	Work Program Item Number:	4110865 & 4110873
	State Job Number:	86060-3500 & 86060-3504
	Federal Job Number:	ACSU-403-2(53) & ACSU-403-2(52)(EXEMPT)
	County:	Broward
	Description:	SR-25 (US-27) fm. Dade/Broward Co. Line to Pines Blvd. & fm. Pines Blvd. to Griffin Rd. ROADWAY IMPROVEMENTS

ASPHALT DESIGN MIX CHANGE

We have reviewed your request of August 08, 1994, to reconsider our denial of your claim for extra costs.

We have discussed this issue with District Construction as well as our District Lab and our position is still unchanged.

Your claim is denied.

Sincerely,

William R. Walsh, P.E.
Resident Engineer

WRW/ash

cc: Manuel Then, P.E., District 4 Construction Engineer
M. E. Finch, Area Engineer
S. I. Bradford, Final Estimates
D. C. Ihsan, Project Engineer
File
Reading File

ATTACHMENT 5
PAGE 2 OF 2

(38)

FLORIDA DEPARTMENT OF TRANSPORTATION

LAWTON CHILES
GOVERNOR

BEN O. WATTS
SECRETARY

M E M O R A N D U M

DATE : July 22, 1994

TO : Manny Then, P.E., District Construction Engineer

FROM : Scott A. Cushing, District Bituminous Engineer

COPIES : Bill Walsh

SUBJECT : PROJECT NAME : SR 25 (US 27) From Dade/Broward County Line to Pines Blvd. and From Pines Blvd. to Griffin Road.
WORK PROGRAM ITEM NO.: 4110865 & 4110873
STATE JOB NO. : 86060-3500 & 86060-3504
FEDERAL JOB NO. : ACSU-403-2(53) & ACSU -403-2(52)
COUNTY : Broward

This concerns the claim that Weekley Asphalt Paving, Inc. has made pertaining to the use of milled material obtained from these projects in Design Mix QA 93-6128 (S-1).

Weekley Asphalt Paving, Inc. designed QA 93-6128 (S-1) to use 40% of the milled material. The following scenario took place after this mix was used. Design Mix QA 93-5849 (S-1) was used for Lot #1 on 1-31-94 to allow the milling machines to provide enough milled material to start using QA 93-6128(S-1). The mix was used to start Lot #2 on 2-1-94 and after the first acceptance test result was obtained it resulted in an automatic lot termination due to high minus 200 material. The quality control technician for Weekley Asphalt Paving, Inc. recalibrated the plant and ran a new extraction which indicated that the minus 200 material was satisfactory. Lot #3 was started on 2-3-94 and the results of the acceptance test on both the asphalt content and minus 200 material resulted in an automatic lot termination. Since both Lot #2 and Lot #3 had such high minus 200 material that the lots had to be terminated and since the Marshall flow and voids were borderline, the contractor's quality control technician was contacted by the District Bituminous Engineer and given three options. One, redesign the mix. Two, reduce the amount of milled material to 25%, with the approval of the State Materials Office. Three, use one of their other mixes using 25% of crushed reclaimed asphalt pavement. The contractor chose to use 25% of the milled material and samples were taken of the revised mix design. The results were satisfactory and this revised mix was used for lots 4 through 8.

(32)

ATTACHMENT 6
PAGE 1 OF 2

This mix design was one of the very few that Weekley Asphalt Paving, Inc. has designed using more than 25% and if you review the asphalt composition report, contained in the special provisions, one paragraph states "The gradation values will become finer during processing of the existing pavement material." The reason the majority of the asphalt contractors in District Four use 25% is due to the problem of high minus 200 material when using milled material or crushed asphalt pavement. Weekley Asphalt Paving, Inc. has also claimed that much of this material was stockpiled since they could not use the 40% in the asphalt mix. This office was contacted by Weekley's quality control technician on 5-13-94 and informed that all the milled material from these two projects was used on other projects and that this mix would no longer be available for use.

There should be no consideration given to waiving the asphalt and gradation penalties on Lots 2 & 3 since the referee system indicated that the acceptance results be used.

It was the decision of Weekley Asphalt Paving, Inc. to attempt to use 40% milled material and the reduction to 25% was their choice over designing a completely new mix. A sample of the milled material was tested and the minus 200 results compared favorably with the gradation shown on the design mix.

It does not appear that Weekley Asphalt Paving, Inc. has a strong claim since the milled material was used on other projects and no new mix designs have been submitted requesting to use more than 25% of reclaimed asphalt pavement or milled material since this problem with the minus 200 material was encountered.

Lot #3 was terminated. as required by our specifications, on 2-3-94 and after a few phone calls about the mix problems, samples of the revised mix using 25% milled material were taken on 2-4-94. This indicates that the contractor only lost one day and that was because of the lot termination. The contractor could have elected to use another valid mix and not lost any time.

The milled material had to transported from the project to the plant no matter whether 40% or 25% was used, so the validity of the contractor's claim for additional trucking is questionable.

/c

#7100

ATTACHMENT 6
PAGE 2 OF 2

FLORIDA DEPARTMENT OF TRANSPORTATION

Ex 3 / DOT

REPORT OF

INDEPENDENT ASSURANCE OBSERVATIONS-QUALITY ASSURANCE FOR ASPHALT CONST.

PROJECTS: 86060-3500 **ROAD NO.:** US 27 **CONTRACTOR:** WEEKLEY ASPH PAVIN
PLANT LOCATION: PEMBROKE PINES **QUALITY CONTROL TECHNICIAN:** R.VLAM
PLANT INSPECTOR: F.SAUNDERS **TYPE OF PLANT:** DRUM

An independent assurance review was made by a representative of thi office in accordance with the provisions of the Assurance Testing Plan to b used with Quality Assurance for Asphalt Construction to insure that Projec personnel perform their respective tasks as outlined in the specification and in the Quality Assurance training course, and to insure that th Contractor fulfills his contractual obligations as set forth the in th Specifications.

Observations were made to determine levels of performance and/o compliance in the following areas:

1. FDOT Acceptance Sampling, Testing and Paperwork

N.O	a. Extractions	OK	e. Random Number Tables
OK	b. Design Mix	OK	f. Weekly Scale Checks
OK	c. Plant Inspections	OK	g. Daily Report(s)
OK	d. Work Sheets and Charts	OK	h. Acceptance Control Charts

2. Contractor's Quality Control Sampling and Testing Procedures

OK	a. Extractions	N.A	d. Belt/Bin Sampling
OK	b. Gradations/Incoming Material	OK	e. Plant Inspections
*	c. Extractions/Milled Material	OK	f. Moisture Checks (Drum)
OK	g. Mix Temperatures (First Five and then every Fifth load)		

3. Contractor's Plant, Quality Control System & Equipment

OK	a. Stockpiles	OK	i. Approved Targets
OK	b. Plant Calibration Charts	OK	j. Pyrometer Readout
OK	c. QC Tech on Design Mix	OK	k. Asphalt Line Thermometer
OK	d. Approved QC Plan	OK	l. Scale Certification (6mo.
OK	e. Cold Bins (Gates & Baffles)	N.A	m. Pugmill (Condition/Leaks)
N.A	f. Hot Bins	N.A	n. Mixing Time (35 Sec. Min.
OK	g. Screens	OK	o. Transport Sampling Device
OK	h. Testing Equipment & Lab.	OK	p. Trucks (Tarps/Chains/Hole

4. **Remarks:** **THE Q.C TECHNICIAN WAS SUPPOSED TO RUN A TEST FOR EVERY THOUSAND TONS OF MILLED MATERIAL USED BUT HIS RECORDS SHOW ONLY ONE TEST FOR THE ENTIRE JOB WHICH IS FAR BELOW THE NUMBER OF TESTS NEEDED.**

25% mil

N.A.: Not Applicable
N.O.: Not Observed
INDEPENDENT ASSURANCE OBSERVER: F.SAYADIAN **DATE:** 4/25/94

DISTRIBUTION: Resident Engineer (2) - **Moreland Altobelli - 10021**
District Construction Engineer - **Manny Then**
File
WEEKLEY ASPH PAVING INC.
SCOTCH A.CUSHING Scott A. Cushing 4-26-94
District Bituminous Engineer Date

COMPOSITION OF EXISTING PAVEMENT

PROJECT NO.	86060-3504
FAP NO.	MU-403-2 (52)
SR -	25
WPI NO. -	4110873
COUNTY	BROWARD
FROM	M.P. 3.504 TO M.P. 7.192

SOUTHBOUND ROADWAY

(2)

	RANGE	AVERAGE
Viscosity @ 140°F (Poises)	14,367-55,186	43,556
Penetration @ 77°F (0.1mm)	15-19	17
Asphalt Content (%)	6.8-7.1	6.9
Gradation - Percent Passing		
1"		
3/4"		100
1/2"	98-99	98
3/8"	88-94	92
No. 4	65-78	72
No. 10	48-54	50
No. 40	32-34	33
No. 80	16-17	17
No. 200	5.0-6.0	5.7
Total Pavement Thickness (In.)	6.8-8.0	7.4
Thickness Evaluated (In.)	(TOP) 3.00	

NOTE: The values shown in this composition were determined from extraction of pavement cores taken at a minimum frequency of one per lane mile throughout the project.

The gradation values will become finer during processing of the existing pavement material.

The average asphalt content of the total quantity of [illegible] material after processing will be within ±0.5 [illegible] shown.

ATTACHMENT NO. 1

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

STATEMENT OF SOURCE OF MATERIALS AND JOB MIX FORMULA FOR BITUMINOUS CONCRETE

SUBMIT TO THE STATE MATERIALS AND RESEARCH ENGINEER, CENTRAL BITUMINOUS LABORATORY, P. O. BOX 1029, GAINESVILLE, FL 32602.

FAP No. SU-076-1(8)

Project No. 93004-3518 Type Mix S-I Recycle Date 3 / 15 / 93

Road No. SR-808 (Glades Road) County Palm Beach District 4

Contractor Name & Plant Location Weekley Asphalt Paving, Inc. - Pembroke Pines, FL. Phone (305) 431-3066 (305) 437-8800

Intended Use of Mix Structural Submitted By Michael Vlam QA Tech. Michael Vlam, Robert Vlam

TYPE MATERIAL	F.D.O.T. CODE	PRODUCER (Another Job.)	PIT NO.	DATE SAMPLED
1. Milled Material		93004-3518 Top 1.5" MP 2.369 to 6.683 EB & WB	Roadway	3 / 15 / 93
2. S-1-A Stone	20	L. W. Rozzo	86-139	3 / 15 / 93
3. S-1-B Stone	21	L. W. Rozzo	86-139	3 / 15 / 93
4. Asphalt Screenings	20	L. W. Rozzo	86-139	3 / 15 / 93
5.				
6.				

PERCENTAGE BY WEIGHT TOTAL AGGREGATE PASSING SIEVES

Blend	37 %	13 %	15 %	35 %	%	%	JOB MIX	GRADATION
Number	1	2	3	4	5	6	FORMULA	DESIGN RANGE
3/4"	100	100	100	100			100	100
1/2"	100	85	100	100			98	88 - 100
3/8"	99	38	99	100			91	75 - 93
No. 4	67	7	31	100			65	47 - 75
No. 10	46	5	5	76			45	31 - 53
No. 40	30	4	3	49			29	19 - 35
No. 80	18	3	3	25			16	7 - 21
No. 200	8.3	2.4	1.7	2.0			5.8 *	2 - 6
Sp. Gr.	2.585	2.465	2.439	2.515			2.522	

The mix properties of the JMF have been verified and the mix design is approved subject to FDOT specifications.

* Increased due to expected aggregate breakdown during production.

MATERIALS DIVISION USE ONLY

CC: Mr. J. D. Lairscey
Mr. M. A. Croft
Mr. S. A. Cushing
Weekley Asphalt Paving
Con Bit Lab
Bit Res Lab
Project File

RECEIVED QA 93-5849(TS-I)
MAY 11 1993
DIST. MATERIALS OFFICE

State Materials & Research Engineer

Effective Date 4 / 29 / 93

ATTACHMENT 2
PAGE 1 OF 3

STATE OF FLORIDA DEPARTMENT OF TRANSPORTAT.

STATEMENT OF S[illegible]E OF MATERIALS AND JOB MIX FORMULA FOR BITU[illegible]OUS CONCRETE

SUBMIT TO THE STATE MATERIALS AND RESEARCH ENGINEER, CENTRAL BITUMINOUS LABORATORY, P. O. BOX 1029, GAINESVILLE, FL 32602.

FAP No. SU-403-2(53) & SU-403-2(52)

Project No. 86060-3500 & 86060-3504 Type Mix S-I Recycle Date 9 / 27 / 93

Road No. SR-25 (US-27) County Broward District 4

Contractor Name & Plant Location Weekley Asphalt Paving, Inc. - Pembroke Pines, FL Phone (305) 433-0411 (305) 437-8800

Intended Use of Mix Structural Submitted By Robert Vlam QA Tech. Robert Vlam

Nicholas Oxenborg

	TYPE MATERIAL	F.D.O.T. CODE	PRODUCER	PIT NO.	DATE SAMPLED
1.	Milled Material		86060-3504 Top 3.00" MP 3.504 to 7.192 Southbound	Roadway	9 / 4 / 93
2.	S-1-A Stone	20	L. W. Rozzo	86-139	9 / 4 / 93
3.	S-1-B Stone	21	L. W. Rozzo	86-139	9 / 4 / 93
4.	Asphalt Screenings	20	L. W. Rozzo	86-139	9 / 4 / 93
5.					
6.					

PERCENTAGE BY WEIGHT TOTAL AGGREGATE PASSING SIEVES

Blend	40 %	13 %	21 %	26 %	%	%	JOB MIX	GRADATION
Number	1	2	3	4	5	6	FORMULA	DESIGN RANGE
3/4"	100	100	100	100			100	100
1/2"	100	85	100	100			98	88 - 100
3/8"	95	39	99	100			90	75 - 93
No. 4	78	6	26	100			63	47 - 75
No. 10	56	4	5	80			45	31 - 53
No. 40	37	3	3	57			31	19 - 35
No. 80	21	2	3	30			18 *	7 - 21
No. 200	8.1	1.6	1.6	2.6			5.7 *	2 - 6
Sp. Gr.	2.585	2.465	2.439	2.515			2.519	

The mix properties of the JMF have been verified and the mix design is approved subject to FDOT specifications.

* Increased due to expected aggregate breakdown during production.

MATERIALS DIVISION USE ONLY

CC: Mr. J. B. Lairscey
Mr. W. Walsh
Mr. S. A. Cushing
Weekley Asphalt Paving
Cen Bit Lab
Bit Res Lab
Project File

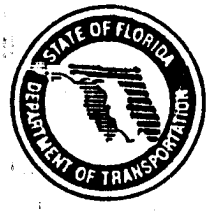
QA 93-6128(TS-I)

State Materials & Research Engineer

Effective Date 10 / 7 / 93

ATTACHMENT 2
PAGE 2 OF 3

ASPHALT PLANT TECHNICIAN MANUAL



Prepared by the State Materials Office and the State Construction Office – 1990 Edition

C. Characterization of Existing Materials

Before the recycled asphalt mix design and formulation of recycling agent can be established for a recycling project, it is necessary to characterize the materials in the existing pavement. Sampling of the materials from the existing pavement should be based upon consideration of the following:

1. Variations in layer thicknesses and type of asphalt concrete mixtures according to data from prior sampling and/or original construction plans. Care must be taken to identify changes in materials that result from having the recycling project encompass two or more original construction projects.

2. Variation in degree of the class of cracking throughout the project. Highly cracked sections of the pavement may be indicative of asphalt viscosities that substantially exceed those in other sections of the roadway.

A minimum of two six-inch cores should be cut from each lane mile of the existing pavement and tested to determine asphalt content, aggregate gradation, and to obtain recovered asphalt for testing. Samples used for testing should be first measured to determine thickness of each layer and then trimmed or cut to a thickness comparable to the desired depth of milling. Asphalt content and aggregate for gradation analysis should be obtained in accordance with FDOT procedure FM 1-T 164. These tests are performed by the District Laboratory.

The Central Bituminous Lab will recover a sufficient quantity of asphalt from each core per lane mile of roadway for conducting the following tests:

(1) Penetration at 77°F (25°C)

(2) Absolute Viscosity at 140°F (60°C)

Upon completion of the foregoing tests, a summary giving the composition of the existing pavement is prepared by the Central Bituminous Lab and a copy included in the plans or the Special Provisions for the project.

When stockpiled RAP material to be used as a component in a DOT mix is from a non-DOT project, the contractor will be responsible for determining the composition in accordance with the following:

(a) The contractor shall submit a bag of RAP material composited by sampling several locations in the stockpile(s) to the State Materials Office at least four weeks prior to their planned start of mix design. The Department will run viscosities on the RAP material and furnish the information to the contractor.

(b) The contractor shall run a minimum of six extraction gradation analyses of the RAP material. The samples

shall be taken at random locations around the stockpile(s).

(c) The contractor shall request the District Bituminous Engineer to make a visual inspection of the stockpile(s) of RAP material. Based on his visual inspection, the District Bituminous Engineer will determine the suitability of the stockpiled materials.

D. Contractor Responsibilities

The contractor has the option to use up to sixty percent (60%) RAP material in asphalt base course (ABC) mixes, and up to fifty percent (50%) in all other asphalt concrete mixes except friction course. RAP material will not be allowed in any friction course mix. When RAP material is planned to be used in a mix, the contractor, at the time of preparing his bid, must select new aggregates and the proportioning to meet the specified gradation requirements. This is based on the gradation of the RAP material.

To convert the gradation of the existing pavement shown in the composition to the gradation that will exist after milling, the following factors are used:

Sieve Size	Coarse*	Intermediate**	Fine***
3/4"	1.00	1.00	1.00
1/2"	1.03	1.02	1.00
3/8"	1.06	1.03	1.00
#4	1.16	1.08	1.00
#10	1.24	1.12	1.00
#40	1.27	1.13	1.00
#80	1.49	1.25	1.12
#200	1.84	1.42	1.21

* Coarse Mixes--Type I, Binder, Type S, FC-2, and ABC-3
** Intermediate Mixes--Type II, Type III, FC-1, FC-4, and ABC-2
*** Fine Mixes--SAHM and ABC-1

Since the new asphalt cement or recycling agent is included in the price of the mix (ton or square yard), the contractor must also determine the amount of bituminous material required prior to bidding. The amount required is based on the amount of RAP material to be used in the mix, the asphalt content in the RAP material, and from an assumed optimum asphalt content for the recycled mix. The assumed optimum asphalt content for coarse graded mixes is 6.0 percent and it is 6.5 percent for fine graded mixes.

If the asphalt content of the approved design mix varies from the assumed optimum asphalt content, payment for the mix will be adjusted up or down, based on the cost of the asphalt cement (taken from the current Asphalt Price Index) plus 10 percent. The contractor is responsible for the design of all recycled mixes. To obtain representative samples of the existing pavement for the

mix design, the contractor will cut ten 6-inch cores in areas designated by the State Materials Office. A nomograph developed by the Department will be used to assist the contractor in selecting a suitable grade of recycling agent prior to design of the mix. (Figure 5-1)

E. Preparation of the Recycle Mix Design

The following procedures will be used in handling the RAP material and preparing the combined aggregate batches for the mix design. After the aggregate batches have been prepared, the standard Marshall Design Procedure (FM 1-T 245) will be followed, the same as for conventional mixes.

1. Place the ten 6-inch roadway cores (the portions that represent the thickness to be milled) in the oven at 230°F until they can be broken down into small pieces without degrading the aggregate in the mix.

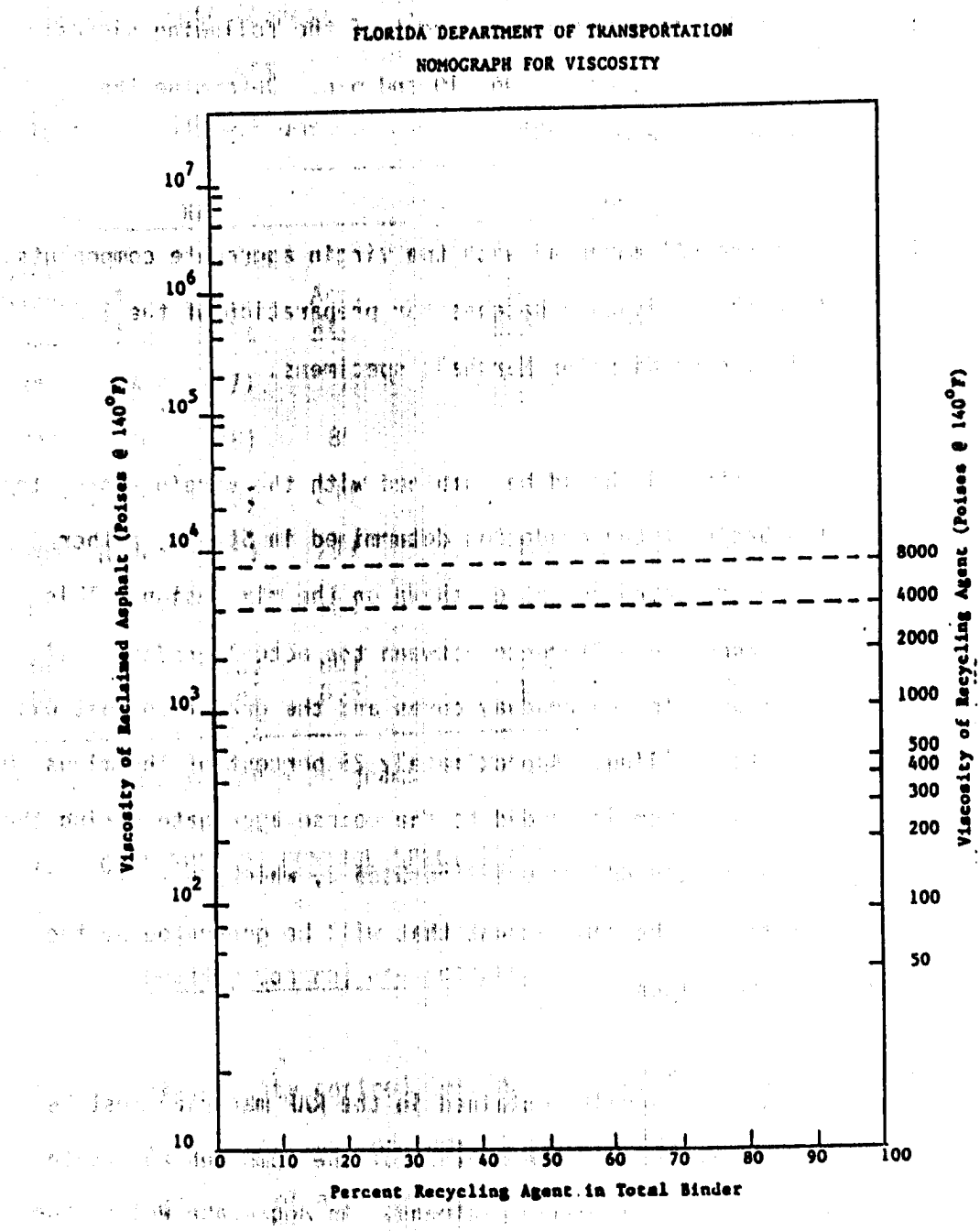


Figure 5-1 Nomograph for Viscosity

2. Spread the broken-down RAP material in a thin layer in a flat pan to prevent rebinding. Cool to room temperature.

3. Separate RAP material using a nest of the following sieves: 3/4", 1/2", 3/8", No. 4, No. 10 and pan. Determine the gradation of the material.

4. Combine the RAP material with the virgin aggregate components to form the individual batches for preparation of the 2.5" height by 4.0" diameter Marshall specimens.

   The RAP material should be combined with the virgin aggregates on the basis of the gradation determined in Step 3, rather than the extracted gradation shown on the mix design. This will correct the difference between the actual gradation of the aggregate in the roadway cores and the gradation that will exist after milling. Approximately 25 percent of the minus 10 material will remain bonded to the coarse aggregate during the gradation of the RAP material in Step 3, which is approximately the same amount that will be generated by the milling operation.

   The amount of asphalt contained in the RAP material must be considered during the preparation of the combined aggregate batches for the Marshall specimens. An Aggregate Weigh Sheet showing an example of the adjusted weights to correct for the asphalt contained in the RAP material is shown in the following chart:

AGGREGATE WEIGH SHEET FOR MIX DESIGN

Material	RAP (Cores)	1/2 Stone	Local Sand
Blend - Blend	45%	30%	25%
Weight	*519/495 gms	330 gms	275 gms

Sieve Size	RAP % Ret.	RAP Wt. Ret.	RAP Acc. Wt.	1/2" Stone % Ret.	1/2" Stone Wt. Ret.	1/2" Stone Acc. Wt.	Local Sand % Ret.	Local Sand Wt. Ret.	Local Sand Acc. Wt.
1"	1.4	(7)	7		( )			( )	
3/4"	14.9	(78)	85		( )			( )	
1/2"	24.9	(129)	214		( )			( )	
3/8"	16.5	(86)	299	41.0	(135)	435		( )	
#4	28.0	(145)	580	53.0	(175)	755		( )	
#10	8.9	(46)	801	2.0	(7)	808		( )	
-10	5.4	(28)	836	4.0	(13)	849	100	(275)	1124

* 4.7% A.C. in RAP = 24 grams

IV. CONSTRUCTION CONTROL SPECIFICATIONS

A. Quality Control and Acceptance

The quality control testing required for recycled mixtures is similar to that of conventional paving mixtures. Gradation analyses of aggregate component stockpiles are monitored along with extractions of the RAP materials. Extraction of the hot mix is performed on a specified random basis to control gradation of the mixture. These tests are performed by the Contractor's Quality Control Technician as a part of his plant control program.

(4) Fine Aggregate . . . . . Section 902

*Gravel for use in asphalt concrete mixtures shall be crushed. In addition, the asphalt concrete mixtures containing crushed gravel as the course aggregate component must show no potential for stripping during laboratory testing, before approval of the mix design.

Reclaimed Portland Cement Concrete Pavement may be used as a coarse aggregate or screenings component subject to meeting all applicable specifications.

All materials shipped to the asphalt plant will be sampled at their destination.

331-2.2 Specific Requirements.

331-2.2.1 Condition of Aggregate. The aggregate shall be clean and shall contain no deleterious substances. Coarse or fine aggregate containing any appreciable amount of phosphate shall not be used.

331-2.2.2 Fine Aggregate and Mineral Filler. In laboratory tests, and for the purpose of proportioning the paving mixture, all material passing the No. 10 sieve and retained on the No. 200 sieve shall be considered as fine aggregate, and the material passing the No. 200 sieve shall be considered as mineral filler.

331-2.2.3 Screenings. Any screenings used in the combination of aggregates shall contain not more than 15 percent of material passing the No. 200 sieve. When two screenings are blended to produce the screening component of the aggregate, one of such screenings may contain up to 18 percent of material passing the No. 200 sieve, as long as the combination of the two does not contain over 15 percent material passing the No. 200 sieve. Screenings may be washed to meet these requirements.

331-2.2.4 Use of Reclaimed Asphalt Pavement. Reclaimed asphalt pavement may be used as a component material of the bituminous mixture subject to the following:

1. The Contractor shall be responsible for the design of asphalt mixes which incorporate reclaimed asphalt pavement as a component part.
2. Reclaimed asphalt pavement shall not exceed 60 percent by weight of total aggregates for Asphalt Base Courses nor more than 50 percent by weight of total aggregates for Structural and Leveling Courses. Reclaimed asphalt pavement shall not be used in Friction Courses.
3. A grizzly or grid with openings of a sufficient size to prevent clogging of the cold feed shall be mounted over the reclaimed asphalt pavement (RAP) cold bin.

A grizzly or grid over the RAP cold bin, in-line roller crusher, screen, or other suitable means shall be used to prevent oversized RAP material from showing up in the completed recycled mixture.

In the event that oversized RAP material appears in the completed recycled mix, plant operations shall cease and the appropriate corrective action shall be taken.

4. The reclaimed asphalt pavement material as stockpiled shall be reasonably uniform in characteristics and shall not contain aggregate particles which are soft or conglomerates of fines.

When milling is required on the project and a Composition of Existing Pavement

is included in the plans or special provisions and the Contractor elects to use the milled material as a component of the asphalt mixture, the procedures for obtaining representative samples for the mix design shall be as follows:

1. The Contractor shall cut ten six-inch cores in area(s) approved by the Materials Office. The core holes shall be filled immediately pribr to opening to traffic.
2. Representative samples may also be obtained by milling the existing pavement to the full depth shown on the plans for pavement removal for a length of approximately 200 feet. The pavement removed shall be immediately replaced with the specified mix in the contract and paid for at the contract unit price.
3. The Contractor will be required to submit a request in writing to the State Materials Engineer for any variance from the above outlined methods of obtaining samples for mix designs.

When the reclaimed asphalt pavement to be used as a component in a mix design is stockpiled from a previous DOT project and the Composition of Existing Pavement is known, the Contractor shall design the mix and submit to the Materials Office for approval.

When the composition of stockpiled reclaimed asphalt pavement to be used as a component in a mix design is not known, the procedures for design shall be as follows:

1. The Contractor shall submit a bag of reclaimed asphalt pavement, composed of samples from several locations in the stockpile(s), to the Materials Office at least four weeks prior to his planned start of mix design. The Department will run viscosities on the reclaimed asphalt pavement and furnish the information to the Contractor.
2. The Contractor shall run a minimum of six extraction gradation analyses of the reclaimed asphalt pavement. The samples shall be taken at random locations around the stockpile(s).
3. The Contractor shall request the District Bituminous Engineer to make a visual inspection of the stockpile(s) of reclaimed asphalt pavement. Based on visual inspection, the District Bituminous Engineer will determine the suitability of the stockpiled materials.
4. When the Contractor submits his proposed mix design to the Materials Office for approval, he shall submit the data from the extraction gradation analyses required above.

331-2.2.5 Recycling Agents. When reclaimed asphalt pavement is approved for use as a component material, a recycling agent meeting the requirements specified in 916-2 shall be used in the mix.

The State Materials Office will select the best formulation suited for the project and reserves the right to request reasonable changes throughout the construction duration.

331-3 PERMISSIBLE VARIATION FOR THE COARSE AGGREGATE.

The aggregate or aggregates shipped to the job shall be sized and uniformly graded or combined in such proportions that the resulting mixture meets the grading requirements of the mix design.