

STATE ARBITRATION BOARD

10780 Anderson Lane
Lake Worth, FL. 33467-5464

Phone (561) 433-4535

FAX (561) 433-8136

February 2, 2002

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

Re: Arbitration Board Order 6/2001
State Project Financial ID No. 249489-1-52-01
Miami-Dade County

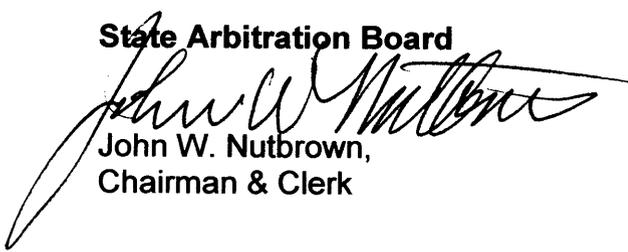
Dear Mr. Albaugh

Find enclosed the State Arbitration Order as captioned above.

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

Sincerely;

State Arbitration Board


John W. Nutbrown,
Chairman & Clerk

cc: Board Members

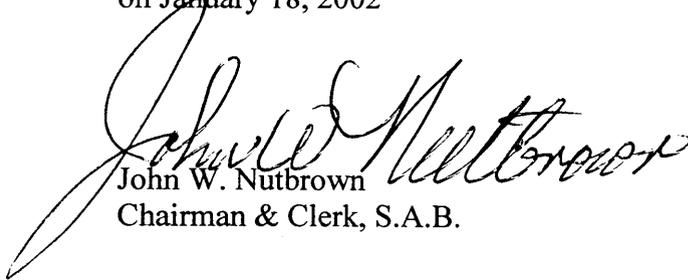
REC'D
STATE ARBITRATION BOARD
MEMBERS OFFICE
02 FEB 22 AM 11:37

STATE ARBITRATION BOARD

Order No. 6-2001

/// NOTICE ///

In the case of Pan American, L.P. versus the Florida Department of Transportation on Financial Project I.D. No 249489-1-52-01 in Dade County, Florida, both parties are advised that the State Arbitration Board Order 6-2001 has been properly filed with The Clerk of the State Arbitration Board on January 18, 2002


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

S.A.B. CLERK

JAN 18 2002

FILED

Copy of Order & Transcript to:

Bill Albaugh, Highway Operations

John D. Parker, President, Pan American L.P.

STATE ARBITRATION BOARD

Order No. 6-2001

RE: Request for Arbitration
Pan American Construction, L.P.
State Project No. 87090-3552 in
Dade County, Florida

The following members of the State Arbitration Board participated:

John W. Nutbrown, Chairman
Freddie Simmons, Board Member
Robert G. Burleson, Board Member

Pursuant to a written notice, a hearing was held on a request for arbitration commencing at 10:00 AM on October 25, 2001. The Contractor, Pan American Construction L.P., presented a written request for arbitration of its claim in the total amount of \$615,263.00. The claim arises out of the allegation the contractor was delayed and not allowed to work in a productive manner caused by the number of manholes and valves within the paving limits of the project and other items located on Northwest 36th Street, in Dade County, Florida. The Department of Transportation presented a written rebuttal and summary of position. At the hearing the claimant introduced a revised claim in the amount of \$595,199.00. The Board has considered the written submissions and the testimony and evidence presented at the hearing on October 25, 2001 and enters this Order Number 6/2001.

ORDER

The Board is unanimous in this decision.

During the hearing the Board determined that similar parts of the claim could be grouped together for administrative ease and did so identified below.

Item 2	Clearing & Grubbing Inefficiencies
Item 3	Regular Excavation Inefficiencies
Item 4	Limerock Base Inefficiencies
Item 5	Optional Base ABC Inefficiencies
Item 5	80mm Asphalt Inefficiencies
Item 6	Friction Course Inefficiencies

Based on the Contractor's claim submittal, the above six items total \$181,615.00 and are based on cost overages for the complete project. Mylar drawings, provided by the Contractor, plotting all the valves and manholes, reveals a total combined count of 207 units. The Department's rebuttal indicates a total of 182 units as shown on the plans. At the hearing it was revealed a number of units, which were to be taken out of service were left in place causing the overage. When the number of units shown on the plans is divided by the actual count it shows an overrun of 14%. The Department testified the majority of additional work was found to be in phase 3

which was the reconstruction of the North side of 36th Street which works out to be approximately 50% of the project. Based upon the analysis that one-half of the claimed cost

STATE ARBITRATION BOARD

Order No. 6-2001

overrun is \$ 90,808.00 and the overrun in the number of manhole and valve units is 14% the Board awards the Contractor \$12,713.00 for these combined items.

Item 8 Additional Harmonization Costs.

During the hearing the Department acknowledged the possibility that the language in this portion was "somewhat ambiguous" and the Department felt somewhat in agreement that the contractor was due additional compensation. The Hearing record reflects that in some cases the harmonization was quite extensive. Once the Contractor gave "notice to claim" the C.E.I. on the project kept the cost records required by the Standard Specifications. The Board accepts the amount determined by the Department as reasonable and awards the Contractor \$21,802.00 for this item.

Item 9 Additional Flowable Costs

In its rebuttal the Department agrees the Contractor is due compensation for the additional work of removing stronger than normal flowable backfill. The Board accepts the Departments recommendation in the related item. The Board awards the Contractor \$15,277.00 for this item.

Item 10 Additional Maintenance of Traffic.

The Contractor alleges it was delayed by the additional number of valves and manholes and production was reduced. It is determined that this overage amounts to 14% of the total. The Contractors submittal package shows a M.O.T. cost of \$437.82 per day. The Contractor has requested the Board to compensate him for 70 calendar days.. The requested number of days multiplied by 14% is 9.8 days or 10. The Board awards the Contractor \$ 4,378.00 for this item.

Item 11 Additional Jobsite Overhead Costs.

Thorough review of both submittal packages and the hearing transcript reveals the following. According to contract documents the project was scheduled for completion in 500 calendar days. The Contractor in preparing his bid based his schedule on 300 calendar days and did not achieve this accelerated schedule. The actual project was completed 135 calendar days early. The Board cannot award the additional jobsite overhead when the project was completed early. The Board makes no award on this item.

Item 12 Margin on Extra Work

If the work relating to this claim had been extra work relating to contract items overlooked and not paid by the Department then the added margin would be just. The Board does not agree with the Contractor and makes no award on this item.

Item 13 Additional Early Completion Bonus

STATE ARBITRATION BOARD

Order No. 6-2001

The rebuttal package as presented by the Department agrees 5 days early completion bonus is due the contractor relating to the removal of the flowable fill. The Board awards the Contractor 5 days at a rate of \$1,760.00 per day totaling \$8,800.00 for this item.

Item 14 Additional Costs Regarding Refusal of #57 Stone as Trench Backfill

A considerable amount of testimony was provided relating to this item. The Contractor prepared its bid for this project using regular earth material for backfill of the pipe ditches. After starting the project he requested to change the pipe ditch backfill material to #57 stone. The Department after review declined to allow the use of this material as backfill. The Contractor's reason in requesting this material was to facilitate his backfill operation in areas where the groundwater was very high. This method of backfill has been used in other areas of the district on a case-by-case decision. After being turned down at the project level the contractor dropped the matter. The Department refused this material and the Board makes no award for this item.

STATE ARBITRATION BOARD

Order No. 6-2001

The Department is ordered to compensate the Contractor in the amount of \$71,702.00.00 which includes interest at the statutory rate since September 22, 1999.

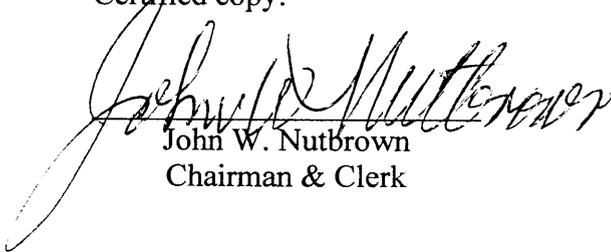
The Department shall reimburse the State Arbitration Board \$149.29 for court reporting costs.

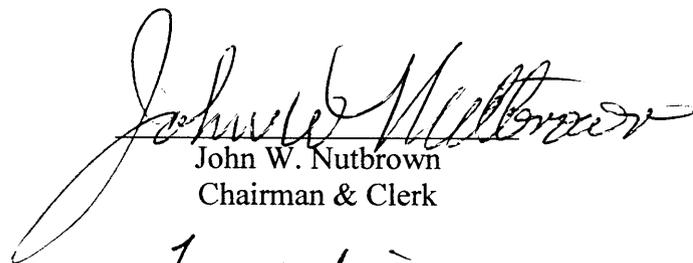
The Contractor shall reimburse the State Arbitration Board \$447.60 for court reporting costs.

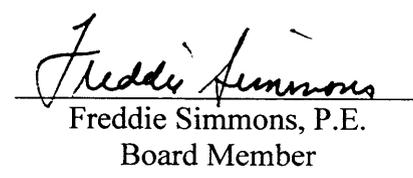
Lake Worth, Florida

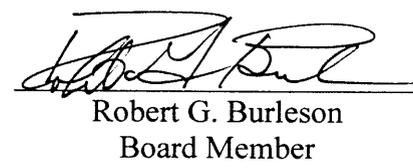
Dated: January 18, 2002

Certified copy:


John W. Nutbrown
Chairman & Clerk


John W. Nutbrown
Chairman & Clerk


Freddie Simmons, P.E.
Board Member


Robert G. Burleson
Board Member

S.A.B. CLERK

JAN 18 2002

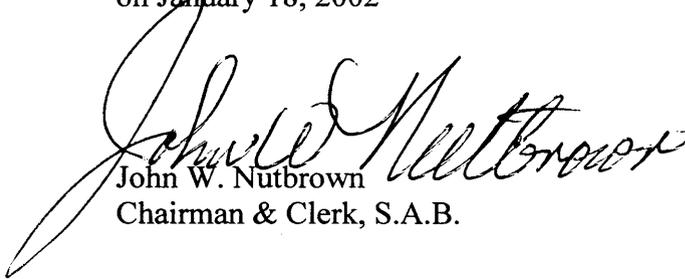
FILED

STATE ARBITRATION BOARD

Order No. 6-2001

/// NOTICE ///

In the case of Pan American, L.P. versus the Florida Department of Transportation on Financial Project I.D. No 249489-1-52-01 in Dade County, Florida, both parties are advised that the State Arbitration Board Order 6-2001 has been properly filed with The Clerk of the State Arbitration Board on January 18, 2002



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

S.A.B. CLERK

JAN 18 2002

FILED

Copy of Order & Transcript to:

Bill Albaugh, Highway Operations

John D. Parker, President, Pan American L.P.

STATE ARBITRATION BOARD

Order No. 6-2001

RE: Request for Arbitration
Pan American Construction, L.P.
State Project No. 87090-3552 in
Dade County, Florida

The following members of the State Arbitration Board participated:

John W. Nutbrown, Chairman
Freddie Simmons, Board Member
Robert G. Bureson, Board Member

Pursuant to a written notice, a hearing was held on a request for arbitration commencing at 10:00 AM on October 25, 2001. The Contractor, Pan American Construction L.P., presented a written request for arbitration of its claim in the total amount of \$615,263.00. The claim arises out of the allegation the contractor was delayed and not allowed to work in a productive manner caused by the number of manholes and valves within the paving limits of the project and other items located on Northwest 36th Street, in Dade County, Florida. The Department of Transportation presented a written rebuttal and summary of position. At the hearing the claimant introduced a revised claim in the amount of \$595,199.00. The Board has considered the written submissions and the testimony and evidence presented at the hearing on October 25, 2001 and enters this Order Number 6/2001.

ORDER

The Board is unanimous in this decision.

During the hearing the Board determined that similar parts of the claim could be grouped together for administrative ease and did so identified below.

Item 2	Clearing & Grubbing Inefficiencies
Item 3	Regular Excavation Inefficiencies
Item 4	Limerock Base Inefficiencies
Item 5	Optional Base ABC Inefficiencies
Item 5	80mm Asphalt Inefficiencies
Item 6	Friction Course Inefficiencies

Based on the Contractor's claim submittal, the above six items total \$181,615.00 and are based on cost overages for the complete project. Mylar drawings, provided by the Contractor, plotting all the valves and manholes, reveals a total combined count of 207 units. The Department's rebuttal indicates a total of 182 units as shown on the plans. At the hearing it was revealed a number of units, which were to be taken out of service were left in place causing the overage. When the number of units shown on the plans is divided by the actual count it shows an overrun of 14%. The Department testified the majority of additional work was found to be in phase 3

which was the reconstruction of the North side of 36th Street which works out to be approximately 50% of the project. Based upon the analysis that one-half of the claimed cost

STATE ARBITRATION BOARD

Order No. 6-2001

overrun is \$ 90,808.00 and the overrun in the number of manhole and valve units is 14% the Board awards the Contractor \$12,713.00 for these combined items.

Item 8 Additional Harmonization Costs.

During the hearing the Department acknowledged the possibility that the language in this portion was "somewhat ambiguous" and the Department felt somewhat in agreement that the contractor was due additional compensation. The Hearing record reflects that in some cases the harmonization was quite extensive. Once the Contractor gave "notice to claim" the C.E.I. on the project kept the cost records required by the Standard Specifications. The Board accepts the amount determined by the Department as reasonable and awards the Contractor \$21,802.00 for this item.

Item 9 Additional Flowable Costs

In its rebuttal the Department agrees the Contractor is due compensation for the additional work of removing stronger than normal flowable backfill. The Board accepts the Departments recommendation in the related item. The Board awards the Contractor \$15,277.00 for this item.

Item 10 Additional Maintenance of Traffic.

The Contractor alleges it was delayed by the additional number of valves and manholes and production was reduced. It is determined that this overage amounts to 14% of the total. The Contractors submittal package shows a M.O.T. cost of \$437.82 per day. The Contractor has requested the Board to compensate him for 70 calendar days.. The requested number of days multiplied by 14% is 9.8 days or 10. The Board awards the Contractor \$ 4,378.00 for this item.

Item 11 Additional Jobsite Overhead Costs.

Thorough review of both submittal packages and the hearing transcript reveals the following. According to contract documents the project was scheduled for completion in 500 calendar days. The Contractor in preparing his bid based his schedule on 300 calendar days and did not achieve this accelerated schedule. The actual project was completed 135 calendar days early. The Board cannot award the additional jobsite overhead when the project was completed early. The Board makes no award on this item.

Item 12 Margin on Extra Work

If the work relating to this claim had been extra work relating to contract items overlooked and not paid by the Department then the added margin would be just. The Board does not agree with the Contractor and makes no award on this item.

Item 13 Additional Early Completion Bonus

STATE ARBITRATION BOARD

Order No. 6-2001

The rebuttal package as presented by the Department agrees 5 days early completion bonus is due the contractor relating to the removal of the flowable fill. The Board awards the Contractor 5 days at a rate of \$1,760.00 per day totaling \$8,800.00 for this item.

Item 14 Additional Costs Regarding Refusal of #57 Stone as Trench Backfill

A considerable amount of testimony was provided relating to this item. The Contractor prepared its bid for this project using regular earth material for backfill of the pipe ditches. After starting the project he requested to change the pipe ditch backfill material to #57 stone. The Department after review declined to allow the use of this material as backfill. The Contractor's reason in requesting this material was to facilitate his backfill operation in areas where the groundwater was very high. This method of backfill has been used in other areas of the district on a case-by-case decision. After being turned down at the project level the contractor dropped the matter. The Department refused this material and the Board makes no award for this item.

STATE ARBITRATION BOARD

Order No. 6-2001

The Department is ordered to compensate the Contractor in the amount of \$71,702.00.00 which includes interest at the statutory rate since September 22, 1999.

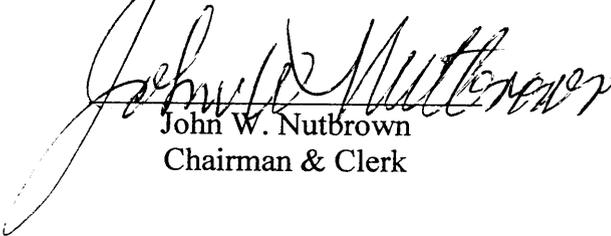
The Department shall reimburse the State Arbitration Board \$149.29 for court reporting costs.

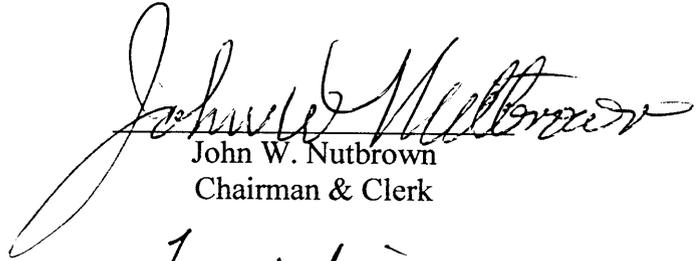
The Contractor shall reimburse the State Arbitration Board \$447.60 for court reporting costs.

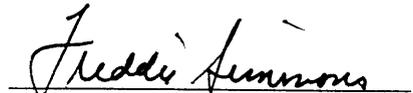
Lake Worth, Florida

Dated: January 18, 2002

Certified copy:


John W. Nutbrown
Chairman & Clerk


John W. Nutbrown
Chairman & Clerk


Freddie Simmons, P.E.
Board Member


Robert G. Burleson
Board Member

S.A.B. CLERK

JAN 18 2002

FILED

APPEARANCES:

MEMBERS OF THE STATE ARBITRATION BOARD:

Mr. John W. Nutbrown, Chairman
Mr. Robert Burleson
Mr. Freddie Simmons

ON BEHALF OF THE CONTRACTOR:

Mr. Douglas A. Conley
Mr. Mike Coughlin
Mr. Mauricio Cruz
Mr. Paul Guptill
Mr. B. Morton Myrick
Mr. John D. Parker

ON BEHALF OF THE DEPARTMENT OF TRANSPORTATION:

Mr. Mark A. Croft
Mr. Steve D. McCue
Mr. Tim Smith

I N D E X

EXHIBITS

Exhibit No. 1 in Evidence	3
Exhibit No. 2 in Evidence	5
Exhibit No. 3 in Evidence	5

CERTIFICATE OF REPORTER	57
-------------------------	----

P R O C E E D I N G S

1
2 MR. NUTBROWN: This is a hearing of the State
3 Arbitration Board, established in accordance with Section
4 337.185 of the Florida statutes. Mr. Freddie Simmons was
5 appointed as a member of the board by the secretary of the
6 Department of Transportation.

7 Mr. John Norton was elected by the construction
8 companies under contract to the Department of
9 Transportation. And we have a substitute in his place,
10 Mr. Robert Burleson. Mr. Norton felt he had a conflict, to
11 the fact that he had helped prepare the package.

12 These members chose me, John Nutbrown, to serve as
13 the third member of the board and as the chairman. And our
14 terms will expire June 30th, 2004.

15 I'd like each person who will make oral presentations
16 during this hearing to please raise your right hand and be
17 sworn in.

18 (Whereupon, the witnesses were duly sworn.)

19 MR. NUTBROWN: The request for arbitration for claims
20 submitted by the claimant, including all attachments
21 thereto, and the administrative documents proceeding this
22 hearing are hereby introduced as Exhibit No. 1. That's
23 both packages.

24 (Whereupon, Exhibit No. 1 was received in evidence.)

25 MR. NUTBROWN: Does either party at this time have

1 any information other than what was previously submitted
2 that they would like to place into evidence?

3 MR. COUGHLIN: Yes.

4 MR. NUTBROWN: You do?

5 MR. COUGHLIN: Yes.

6 MR. NUTBROWN: Do you have copies for everybody?

7 MR. COUGHLIN: I do not. I have copies for the
8 board.

9 MR. NUTBROWN: What is it?

10 MR. COUGHLIN: What this is, sir, is the 36th Street
11 job with all the valves shown. And then I have overlays
12 that we can lay. And I have enough copies for all the
13 members and the plans to show, in addition.

14 MR. NUTBROWN: And we'll enter it as Exhibit Number
15 2.

16 MR. COUGHLIN: And we have overlays that we can
17 present to both parties. These overlays actually lay on
18 the plan sheets themselves and demonstrate the location of
19 the valves and manholes in question.

20 MR. NUTBROWN: Okay.

21 MR. COUGHLIN: We'll use those later.

22 MR. NUTBROWN: Do you furnish a magnifying glass with
23 those two first sheets?

24 MR. COUGHLIN: That's why we blew it up. It's a
25 little -- and finally for members of the board and for the

1 department team, we have the claims summary.

2 MR. NUTBROWN: This would be the mylars and the two
3 sheets are Exhibit Number 2. And the adjusted claim
4 summary would be Exhibit 3.

5 (Whereupon, Exhibit Nos. 2 and 3 were received in
6 evidence.)

7 MR. NUTBROWN: Okay. Is there any problem with the
8 exhibits that have been presented? Does anybody have any
9 objection to them?

10 MR. SMITH: Some of the numbers are different, Jack,
11 on these, on the claim summary than what has been
12 previously presented. And we obviously haven't had an
13 opportunity to examine that.

14 MR. NUTBROWN: Okay. During the hearing the parties
15 may offer such evidence and testimony as is pertinent and
16 material to the dispute being considered by the board and
17 shall produce such additional evidence as the board may
18 deem necessary to an understanding of the matter before
19 it.

20 The board shall be the sole judge of the relevance
21 and materiality of the evidence offered. Parties are
22 instructed to assure that they receive properly identified
23 copies of each exhibit.

24 So in that case, you will need to make copies. Well,
25 we've only got one copy of these at this time. At least

1 one for Mark's office. And of course your own is there.
2 But as far as trying to make all that into one copy for
3 everybody, I think it's stretching it.

4 MR. SMITH: Jack?

5 MR. NUTBROWN: Let me finish the statement and then
6 we'll get into it.

7 MR. SMITH: Oh, I'm sorry. Okay.

8 MR. NUTBROWN: The board will send the parties a copy
9 of the reporter's transcript, along with our order, but
10 will not furnish copies of the exhibits.

11 As is typical in arbitration proceedings, this
12 hearing will be conducted in an informal manner. The board
13 is not required to apply any legalistic approach or
14 strictly apply the rules of evidence used in civil court
15 proceedings. We are primarily looking for information in
16 regard to the facts and contract provisions that apply to
17 this case.

18 The order of proceeding will be the claimant to
19 present their claim and then for the respondent to offer
20 rebuttal. Either party may interrupt to bring out a point
21 by going through the chairman. And we need to keep it
22 orderly, and as I said previously before we got into this
23 conversation, that I don't want to see conversations across
24 the table. Come through the chairman and we'll acknowledge
25 you and let you have your say-so.

1 Okay. With that, Mort, who's going present your --

2 MR. MYRICK: John is going to have an opening
3 statement for us.

4 MR. PARKER: Ready to proceed?

5 MR. NUTBROWN: Yeah, go ahead.

6 MR. PARKER: Okay. My name is John Parker. I'd like
7 to introduce the people we have here. We have Mort Myrick,
8 our vice president of estimating. Paul Guptill, our vice
9 president of construction at the time this project was
10 going on.

11 Mike Coughlin, our project manager for this project.
12 Doug Conley, our area superintendent. And Maurice Cruz,
13 the site superintendent for this job.

14 As we all know, we're here on the Northwest 36th
15 Street job. We bid this project in early 1997 and were
16 awarded the job by DOT on July 7th of 1997.

17 The contract amount was \$5,299,044. The job itself
18 involved the complete reconstruction of Northwest 36 Street
19 in Miami from Northwest 17th Avenue to Northwest 37th
20 Court, including clearing and grubbing, excavation,
21 stabilization, optional limerock base, Type S asphalt
22 concrete, friction course, drainage structures, and french
23 drains, curb and gutter, sidewalk, siding, and
24 harmonization work.

25 The contract was set at 500 calendar days, making the

1 original final completion date August 12th of 1999. The
2 contract also included a clause providing for liquidated
3 savings for early completion of \$1,760 per calender day for
4 each calender day the contract was accepted prior to
5 expiration of the allowable contract time, which could be
6 adjusted by standards for FDOT contracts.

7 This clause was of special interest to us as a
8 contractor since when we bid the job, we were convinced
9 that we could complete this project in 300 calender days
10 and receive payment for 200 days of liquidated savings,
11 which would amount to over \$350,000. In fact, this would
12 cover some costs and our profit for this project. We
13 completed this project on June 24th, 1999, 135 days ahead
14 of final completion but not as good as the 200 days of
15 early completion that we had originally planned.

16 During this project, we notified Delta Engineers that
17 valve and manhole problems in section 1 and 2 of the north
18 side of 36th Street were causing a loss of productivity for
19 all operations, including clearing and grubbing existing
20 asphalt, excavation, grading, limerock base, asphalt
21 paving.

22 Delta responded by saying they had forwarded our
23 claim to the City of Miami Water and Sewer Department so
24 that they could be aware of the intent to claim.

25 In addition to these problems with roadwork

1 construction resulting from the water line, we also
2 incurred extra costs for harmonization work done outside
3 the normal work area, removal of flowable fill over the
4 City of Miami water line, and other issues involving the
5 department's refusal to consider our request to use 57
6 stone backfill for pipe trenches. We believe we would have
7 finished this with even more time off the schedule.

8 Finally, we have asked for compensation for 70 days
9 of extended MOT, extended job overhead costs, and an
10 additional early completion bonus which we believe we would
11 have achieved but for the impacts of the City of Miami
12 water line and other factors.

13 With that kind of a brief summary, we'd like to
14 briefly go into the major areas of our claim and thought
15 processes there.

16 Claims 2 through 7, which are clearing and grubbing,
17 regular excavation, limerock base, optional base, ABC, 80
18 millimeter asphalt and friction course all have similar
19 impact from the same items.

20 I'd like Mort to briefly describe through the bid
21 process and what he saw and what actually was out in the
22 field and what took place, followed by Mike's observations
23 from physically out in the field. So with that, Mort?

24 MR. MYERS: I'm Mort Myrick, vice president of APAC
25 at the time. First of all, I analyzed this project. I

1 went out and looked at the project. Then I analyzed the
2 plans, went through the plans and went through the specs.
3 I read the specs. Then I went through and started
4 analyzing the plans, what was shown on the plans sheets and
5 the utility location sheets.

6 When I went through and analyzed the plan, there was
7 existing water line which showed what remained, one we
8 placed out of service on the north side, and some work on
9 the south side to be taken out of service. The new water
10 line that they showed there, according to the utility
11 relocation sheet, was to be put in before we started our
12 project.

13 Then I highlighted the valves and manholes that were
14 shown on the plans and on the utility sheets we relocated
15 or remained in place. And at that time I did not see a
16 real problem with the number of valves and manholes that
17 were out there.

18 After, we found out we had a problem later on in the
19 job. As you can see from the overlays and the CAD sheet we
20 have here, the clusters of valves and manholes on the north
21 side was extreme. I would never have been able to estimate
22 that those valves and manholes would be in they situation
23 they are right now from the plans as they were submitted.
24 And that's a brief synopsis of how I looked at the job when
25 I bid it. Mike?

1 MR. COUGHLIN: To further reinforce the valve
2 conflict issue, if we may, for a minute, take the overlay
3 sheet 24, if you overlay it at station 28, it gives you an
4 idea of what we faced and an example of what was basically
5 shown or not shown on the plan. And it gives you a very
6 good picture. There's a couple of different examples.

7 MR. PARKER: Do you want to help them to see it?
8 He's got a set.

9 MR. BURLESON: Is that station 28?

10 MR. COUGHLIN: Yes, sir. And if you lay that right
11 on 28, a couple of examples will show. It doesn't really
12 matter where.

13 MR. SIMMONS: Here, I've got it right here.

14 MR. NUTBROWN: Okay. Station 27 is what we're
15 looking for. There is 13, 14, 15. Let's see. That's 18.

16 MR. COUGHLIN: There's an equivalent station in
17 there.

18 MR. NUTBROWN: Let's see here, 18.

19 MR. COUGHLIN: What sheet is that right there, Mort?

20 MR. NUTBROWN: Here it is. I've got it.

21 MR. MYRICK: Sheet 43.

22 MR. NUTBROWN: I've got the intersection here, but it
23 doesn't look anything like that.

24 MR. PARKER: Mike, why don't you bring your book up
25 there.

1 MR. COUGHLIN: Okay. It's easier. And let all the
2 members see it. Give me 27 as well, please.

3 MR. MYRICK: Station 27?

4 MR. COUGHLIN: Yes. Here. I'll just lay this up
5 here. What you're seeing is an example of the water valves
6 and sewer manholes we ran into. Once you remove the
7 overlay, you also see that they're not shown. Give me
8 sheet 24, Mort.

9 MR. NUTBROWN: Well, here's the overlay for sheet 24.

10 MR. SIMMONS: Here's the overlay.

11 MR. COUGHLIN: Okay. Here again, what we're seeing
12 is the same problem. We anticipated them to be sort of
13 equally spaced at bid time. And I think Mort has addressed
14 that. But as you can see, they cluster up. They interfere
15 with all the operations we're doing in a given section.

16 As another example, if we go to station 24, there's
17 another perfect example.

18 MR. PARKER: Mike, I think we can -- I just wanted
19 them to get a little short feel for --

20 MR. COUGHLIN: Sure, just get a look.

21 MR. PARKER: -- what Mort saw and what some of the
22 examples were. And we can get into that in more detail.

23 Obviously, as you can see by these clusters, anyone
24 that's been out there and tried to build around these
25 things and been out on the roadway can see what an

1 inhibitor those were. And again, those affected items 2
2 through 7 of our claim.

3 In addition to that, before we leave there, there was
4 a statement made that those items shown on the relocation
5 schedule of the list and what was actually the end result,
6 that there was actually less than those shown by 16%, when,
7 in fact, that's not the case.

8 In fact, our as-builts, if you refer to the white
9 sheets there in our complete as-builts, when you go back
10 and calculate what's there, what's on final grade on the
11 project, there's 198, which is actually a nine percent
12 increase from what's shown, so.

13 MR. NUTBROWN: Well, excuse me, what was the planned
14 quantity for manholes adjustments and valve adjustments in
15 the job?

16 MR. PARKER: One hundred eighty-two of existing and
17 new. Once -- you've got existing placed out of service and
18 then new, that was planned to be 182.

19 MR. MYRICK: John, he asked for the planned quantity.

20 MR. PARKER: The planned quantity for adjustments?

21 MR. NUTBROWN: Yes.

22 MR. SIMMONS: The planned was 182, right?

23 MR. COUGHLIN: We're confirming that right now.

24 MR. MYRICK: They didn't have any adjustments in --

25 MR. NUTBROWN: That's a manhole. Is that a manhole?

1 MR. PARKER: The utilities --

2 MR. CROFT: The utilities did the adjustments.

3 MR. NUTBROWN: There was no item for valve or manhole
4 adjustment.

5 MR. PARKER: No.

6 MR. CROFT: It was done by the utilities.

7 MR. PARKER: Item 8 of our claim 12 is for additional
8 harmonization costs beyond the scope that one could imagine
9 at bid time, the grade differentials. And we'll let Mort
10 speak to that later.

11 Item nine of our claim, additional flowable fill
12 costs, there doesn't seem to be much dispute about this
13 item. This is a dollar value associated with it that we
14 incurred. Instead of flowable fill, basically concrete
15 backfill on these lines. And so that's item number 9.

16 Item 10, additional MOT costs associated with the
17 time of the claims listed above. Item 11, job site
18 overhead for those claims above. Item 12 is the margin on
19 that work. And item 13 is the early completion bonus.
20 Item 14 is the claim for the refusal of 57 stone backfill
21 and the time impediment that the rejection of that proposal
22 incurred to us.

23 If you look at our claim summary, a couple of those
24 numbers have changed. And Mr. Smith pointed that out. The
25 two changes are in additional -- actually, there's three --

1 additional MOT costs, job site overhead, and the margin
2 number then changes because we have corrected an error in
3 the daily cost on MOT costs and job site overhead, reducing
4 that. So it affects three items. And it's pretty plain
5 and simple, reducing that.

6 So it reduces our claim from 595,000 -- from 610,000
7 down to 595,000. Also, in the summary is the interest
8 calculation on the 595,000, which is \$213,331.23, taking
9 our total revised claim to \$808,530.33. So that's a brief
10 summary. And I think I was exactly 15 minutes. We will
11 surely get into the nuts and bolts as we go along. But
12 that's the basis of our claim.

13 MR. NUTBROWN: Okay. Thank you, John. Mark?

14 MR. CROFT: I'll open up. Mark Croft. I'm the
15 district construction engineer for District Six. I have
16 with me Steve McCue, who was our senior projects engineer
17 for our consulting Delta on this project. And
18 Tim Smith, who is with CEC, who was under contract for the
19 district as our district claims engineer.

20 Basically, you know, I didn't really intend to make a
21 big summary, because I think our rebuttal is fairly
22 complete. But I want to say, I mean, overall, we think it
23 certainly was a good job. We had cooperation between APAC
24 and our consultant on the job.

25 We feel like we went above and beyond in helping them

1 by opening up some phases of work and helping them to
2 proceed on the job even faster than the contract documents
3 would have allowed.

4 You know, we didn't see a lot of detail in what they
5 submitted. And obviously some of this information we're
6 going to have to look at and see whether there is a change
7 and possibly have to send in an additional response if
8 there is something new that we haven't already addressed.

9 But mainly I think it's a question of entitlement.
10 We feel like the bulk of the claim is for the water
11 valves. As we've said in our claim, it's very clear in the
12 contract documents that the expected number of valves are
13 being added by the new line that was going to be put in.
14 All of the existing water valves were there and easily
15 reviewed upon review of the job when they were looking at
16 the job, preparing to bid it.

17 I think that this is the first time I've heard them
18 talk about clustering of the water valves, but I'm sure Tim
19 will talk about that some more, but I don't think it would
20 not be uncommon, you know, and certainly any experienced
21 contractor would expect to see water valves clustered
22 around the intersections and where our crossing utilities
23 were shown.

24 As far as the backfill, the 57 stone, we don't think
25 there's any entitlement there. The department had no

1 obligation to approve a change. And had it been approved,
2 it would have been a benefit to them but certainly wasn't
3 something that they could have anticipated at bid time and
4 counted on receiving moneys for.

5 And also we don't believe they really presented that
6 fully to us in any detail for us to approve. It was
7 discussed at the project level and never went beyond that
8 until the job was over and they included it in their
9 claim. So I'm going to let Tim give you a little more
10 detail on these issues.

11 MR. SMITH: Okay. Well, maybe we can talk about the
12 claims two through seven real quickly. The project was
13 divided up into, there were four phases, but the actual
14 work occurs in phases 2 and 3. So this would be
15 north-south side of the roadway. And this would be, I'm
16 trying to remember. This is --

17 MR. MCCUE: Seventeen?

18 MR. SMITH: This is phase 2. This is phase 3. And
19 this would be 1, 2, 3, 4; 4, 3, 2, 1. The valves installed
20 by Miami-Dade Sewer and Water and their water line work
21 occurred through phases 1 and 2 -- I'm sorry -- through
22 sections 1 and 2 of phase 3.

23 These were, I think we've covered this pretty well,
24 the work was identified in the plans. They're shown in the
25 cross-sections, the drainage cross-sections, and they're

1 shown in the utilities location.

2 Granted, the valves are not shown individually where
3 they fall; however, a table was included in the
4 supplemental special provisions that basically detailed out
5 how many to expect. They would clearly, from the location
6 of the lines, fall in the roadway, so they can be expected
7 to be in the roadway.

8 Our as-built information revealed, and we have
9 differing information today, so we have to go back and
10 confirm that, that actually less of these were installed
11 than called for by the original plan.

12 So Pan Am has, based on this, has claims two through
13 seven. We don't see the entitlement here unless there's
14 something that we missed as far as the bidder not being
15 aware of this condition at bid time.

16 But beyond that, if you were to go and examine the
17 claim as presented, let's see, two is clearing grub, three
18 is regular ex, four is limerock base. It's actually the
19 base component of the optional base. Five is ABC. Six is
20 80 millimeter structural. Seven is EFC.

21 Pan AM presented a claim amount of 10,679 for
22 clearing grub. 76,160 for this one. 21,105. 35,390 for
23 this. 27,378. And another 10,903.

24 We went and ran some math to see if there was
25 entitlement; do these numbers hold up. And what we found

1 was Pan Am presented a cost for clearing grub for sections
2 1, 2, and 3 of 13,559. They used that as their base, 45%
3 of the clearing. They said that was \$301. Then they
4 presented the cost of 4, 1, 2, and 3 as \$40,810 for 100% or
5 \$408. So the difference was \$27,251 or 55% for \$497.

6 Now, they took the 497 minus the 301. Came up with
7 174 times this 55%, and that equaled the 10,679. Now, the
8 problem with that is that they only had a conflict in
9 sections 1 and 2 of phase 3, but they've included the costs
10 for four sections.

11 So we reran that math, because this would be a
12 quarter, and it came out like this. It was 13,559, that
13 cost, over 3, to arrive at the cost per section: \$4,519
14 times eight sections. If you projected their costs for
15 their measured mile out of over eight sections, it would
16 come to \$36,157. Theirs came to 48,010.

17 The only difference in the cost when you minus this
18 out is \$4,652 over five sections equals \$930 times the two
19 sections impacted equals \$1,861, not \$10,679. This logic
20 or math was repeated through 3 and 4. And then when we got
21 to the asphalt, a percentage was utilized for the carrying
22 on of this basic, what we saw as a problem with the math.

23 So we came back and recalculated these, two through
24 seven. Forty-five -- actually, that must be wrong.
25 Forty-five, 46. That just proves it was less. But 8809,

1 7034, this is in the book, 9186, 5822, 1903. So we came
2 to -- Pan Am's total was \$181,615. We came to 373. If
3 there was entitlement of 100%, that's about 20.5% of the
4 numbers they presented.

5 With regard to claim 8, the harmonization, I think
6 that the department -- we reviewed it. The department
7 looked at it. The department wants to do something with
8 that. They think that the words "all work" cover all work,
9 but it's somewhat ambiguous possibly. So this is one we
10 have some agreement on. And I think we made a
11 recommendation in our package, the differences between, I
12 think, the types of reports available, Delta's information
13 they gathered versus information presented.

14 Number nine is the flowable fill. There's no
15 disagreement on that. I did an independent cost estimate.
16 They did one. You turned in one. The dollars on the work
17 are pretty much the same. The only difference is the
18 \$4,000 worth of material. If you bought it, you need to
19 produce some receipts as backup for it.

20 The other claims, the MOT, the project got done ahead
21 of time. There shouldn't be any additional MOT costs. We
22 went ahead and wrote that up. I think that the
23 specifications provide that the only incentive is \$1,760 a
24 day liquidated savings. So if you got done early,
25 according to the contract, you wouldn't be entitled to

1 that. And you probably didn't spend more than you bid.
2 But then we went into some issues about how the
3 calculations were done and some things that were in there
4 that we didn't think needed to be.

5 Same thing on job overhead. The same thing on, the
6 liquidated savings is based on whatever is awarded.
7 They've got 135 days. I think we offered another five in
8 our package. So that kind of is a board issue to
9 determine.

10 And on the last issue on the 57 stone, I think Mark
11 wrapped it up pretty good, that it was kind of, it was
12 something that didn't get possibly communicated properly or
13 presented properly. But we went through and did an
14 analysis. And basically the drawing, I think, that was
15 used in Fort Pierce or came out of some document showed
16 that you can't place that 57 stone any closer than 48
17 inches or -- no, it's 36 inches below the base. And under
18 the water, you wouldn't place it because you can put
19 anything in there, because you don't have to have a density
20 until you come about a foot out of the water.

21 So when we ran the differences out in elevations
22 throughout the drainage system, it appeared that only about
23 2% of the backfill would have been available to use 57
24 stone. So we think that the department acted correctly.
25 They can accept or deny. I don't know if they did it

1 arbitrarily. So that issue, we don't see entitlement for
2 that.

3 So we're in agreement on two items, two of these
4 areas but none of the others.

5 (Pause)

6 MR. NUTBROWN: Tim, do you have anything else? Mark
7 doesn't have anything else?

8 MR. CROFT: No.

9 MR. NUTBROWN: I'll kind of open it for general
10 discussion. Both sides have put your positions on the
11 table. And we need to hear more rebuttal as far as what
12 Tim has presented and see where you came from versus where
13 he came from.

14 MR. SIMMONS: Where is your summary? I read it last
15 night and I can't find it. I was looking back through it
16 again. There's a summary that shows what your
17 recommendation for this is. Is it in the biggest?

18 MR. SMITH: It's in the biggest. I think it's --

19 MR. SIMMONS: I found it last night and I can't find
20 it again.

21 MR. SMITH: Well, now, you're asking me and I'm --
22 oh, it's right behind the summary of the department's
23 position. And there's a table here.

24 MR. SIMMONS: What's the tab? Oh, okay. That's it.

25 MR. SMITH: It's right before one.

1 MR. SIMMONS: That's what I was looking for.

2 MR. SMITH: Yeah. And it's the district's position.
3 And then if the board determines there's full entitlement
4 with the corrected numbers, it's another number.

5 MR. SIMMONS: That's the one I was looking for.
6 Thank you.

7 MR. PARKER: Mort, why don't you start with the fact
8 that we should have known or should have assumed the
9 impacts of this at bid time, just give a little explanation
10 there.

11 MR. MYRICK: When I analyzed the job, the plan showed
12 the water line. It also showed the existing valves and the
13 manholes. And when I bid the job, we realized there was
14 going to be some more valves and manholes added but not to
15 the extent of what actually happened out there.

16 The valves that are shown on the plans are spread out
17 through the job. We assumed these other valves would be
18 spread out through the job, too. But in my wildest
19 imagination I wouldn't have realized that they would be
20 clustered like they are now. Because the original plans
21 weren't clustered like that either.

22 So there was no way that I could have bid something
23 or anticipated something that was going to be as bad as it
24 turned out. On the other hand, if the water line was shown
25 on the plans, why didn't they show the valves on the plan?

1 That's what I don't understand, that there were some valves
2 shown and now they're saying, I think I counted a total 67
3 or 69 valves shown on the plans when we estimated the job
4 on both the utility location sheets and on the plan
5 sheets.

6 In the utility relocation schedule, it did mention a
7 schedule, but I couldn't find them in the plans. I assumed
8 they were even on the side streets or somewhere other than
9 the roadway. So because of that, we were very much
10 impacted when we came out and started doing the north
11 side. And we realized that all these valves are
12 clustered.

13 And the other point that wasn't brought out was that
14 the ones that were supposed to be placed out of service, I
15 believe there was 43 of them supposed to be placed out of
16 service, never got placed out of service. They still
17 remained there. We still had to work around them in
18 addition to what they were adding there.

19 The intent of the plans was to take the line out of
20 service and the valves out of service so they wouldn't be
21 there anymore. And when we got to the job site, they were
22 there. And they stayed there. Whether they were buried,
23 you know, at bid time and we didn't see them -- because
24 when we rode the job, we certainly did not see any cluster
25 of valves to the extent that is there right now. And the

1 plans don't show that either, both the utility plans or the
2 roadway plan sheets don't show that type of situation out
3 there.

4 MR. PARKER: The reason we did this white overlay,
5 because the individual sheet overlays give you a little
6 more detail, and I apologize for the size of it, but we
7 needed the impact of this. You know, it look like we've
8 got small pox here when you look at this. There was no way
9 to imagine that this was going to look like this.

10 And as you can see, a lot of these are not in
11 intersections or far away from intersections as you go. So
12 we did that just to be able to show that there's no way for
13 us to know. The information was not there to tell us
14 that.

15 And, you know, Mort and Paul, who, you know, bid and
16 billed this job, have, as you all are well aware, just a
17 wealth of experience in doing this, have been doing it a
18 long time. And, you know, I rely on them for their
19 knowledge and their expertise, doing this since, you know,
20 the late '60s with their company and later on with Pan
21 American. And it just, you know, they used their
22 experience and, you know, you couldn't imagine that.

23 MR. SIMMONS: This Exhibit 2 we're talking about
24 here, this is the final total number of valves and
25 manholes, right?

1 MR. MYRICK: Yes, sir.

2 MR. SIMMONS: Okay.

3 MR. NUTBROWN: Mort, I look at this thing, and there
4 appears to be just inside the north curb line a string of
5 valves in line. Is that the new line that went in there?

6 MR. MYRICK: The old line was along the curb line, if
7 I'm not mistaken.

8 MR. NUTBROWN: Well, there's one showing just behind
9 the curb line.

10 MR. COUGHLIN: That would probably have been fire
11 hydrant valves right at the curb.

12 MR. NUTBROWN: Okay. All right. Those would be,
13 there's the one, okay, those would be fire hydrants.

14 MR. COUGHLIN: Yes, sir.

15 MR. MYRICK: There was an existing main right at the
16 curb line that was supposed to be put out of service that
17 didn't come out of service. I mean, they took the main out
18 of service but never took the pipe out, never took the
19 valves out and --

20 MR. NUTBROWN: Didn't take the hydrants out or
21 anything?

22 MR. MYRICK: Right.

23 MR. PARKER: In fact, even did the adjustments as,
24 you know -- they were out of service, but they adjusted
25 them as we went along. So, I mean, they're there now and

1 they're dead, but they're on final grade like they were
2 alive.

3 And, you know, as you all well know, having been part
4 of this, you know, this industry for a long time, anytime
5 that you take work, whether you're removing and there's
6 hidden valves, there's valves close to curb lines, clusters
7 of these things, it becomes small work. It becomes
8 handwork, whether you're removing, whether you're
9 excavating and you're putting back.

10 Instead of placing rock with a dozer to get on
11 subgrade, you're doing it with a Bobcat. You're doing it
12 with a shovel. And when you're grading, instead of having
13 a 12G, you're doing it with a Bobcat. You're doing it with
14 a shovel now. And the same thing goes for the asphalt as
15 well.

16 MR. NUTBROWN: Okay. As far as the friction course,
17 though, once they're up to grade, in most cases you pull
18 across them and then you go back and uncover them; is that
19 correct?

20 MR. PARKER: Well, you don't really pull across them
21 and uncover them. You try to go as flush as possible.

22 MR. NUTBROWN: Flush as possible, I understand.

23 MR. PARKER: Absolutely. But as you're well aware,
24 this was FC material with rubber in the mix, and those
25 adjustments are never perfect. So you've got some higher,

1 some lower. You don't take the paver over at the highest
2 point. Sometimes you pull up and all of a sudden the paver
3 doesn't move forward, because you're kind of hooked on
4 one. You pick up. You do the handwork. You have to do
5 handwork around all that. And it's like trying to spread
6 Rice Krispy treats with a lute that's sticking to
7 everything.

8 There were times on the project, and I see Steve
9 laughing because he's been there, had it on the bottom of
10 his shoes, just like we all have. But doing handwork with
11 that material, you've got one shot at it. And if it
12 doesn't turn out right, you've got to take it out. And
13 then you've got to do it back by hand. And that's what
14 these clusters did to us.

15 Anytime you've got to pick up around a structure like
16 that, regardless of what lift, and especially on the final
17 lift where you're judged on rolling straightedge, it's got
18 to be right, because you can't go on and come back and mill
19 something out, because those costs are too great.

20 So it does impact. Anytime they pick up that paver,
21 it's half an hour. And that's just a fact.

22 MR. MYRICK: Do you want to touch on harmonization
23 costs at all? Tim mentioned the harmonization costs. Our
24 costs, basically we knew we were having problems with them,
25 so we set up a separate job cost to cover that. So our

1 costs are what we charged to that job through our job cost
2 list.

3 And we put money into our bid under the asphalt item,
4 and it was, or the intent of the plan, as we interpreted,
5 that we would asphalt behind the back of the curb
6 approximately five feet, which is normal for harmonization
7 of private property, especially in a district like this.
8 And then there was money to be put into the sidewalk line
9 to adjust driveways approximately five feet behind the back
10 and curb.

11 In this instance, we did a lot more than that. We
12 had to go in there and excavate basin. We had to pave half
13 a parking lot 40 feet back. And there was numerous
14 instances on the job where we did a lot more than what the
15 plans, that we could interpret, would let us do.

16 MR. NUTBROWN: Without going through the plan, how
17 much did the profile change of the existing to the proposed
18 plan?

19 MR. MYRICK: The back and sidewalks stayed pretty
20 close to the same, because we had to match buildings and
21 thresholds.

22 MR. MCCUE: We changed the sidewalk. It was mainly a
23 small saw tooth was put into it for new drainage.

24 MR. NUTBROWN: Okay. But like Mort just mentioned,
25 the better part of a parking lot, there must have been a

1 fair bit of grade difference to require that that
2 adjustment go back that far in the parking lot.

3 MR. MCCUE: Yeah. That's why they gave us quantities
4 in the plan to do this harmonization back off the back of
5 the sidewalk in the driveway areas.

6 MR. NUTBROWN: There is an actual pay item in there
7 for the harmonization or adjustments and so forth.

8 MR. MCCUE: Yes. There's a plan note on the
9 structural asphalt pay item, which there's like 4400 square
10 meters included for the property harmonization to the back
11 of the sidewalk for the tie-ins into the driveways.

12 MR. NUTBROWN: How much did it overrun or underrun?

13 MR. MCCUE: We actually underran it.

14 MR. MYRICK: We underran the quantity, but the type
15 of work it was wasn't just asphalt, you know. The bid item
16 was asphalt and the bid item was concrete sidewalk, but the
17 work we had to do was a lot more than that.

18 MR. PARKER: Mike, what was our greatest grade change
19 out there?

20 MR. COUGHLIN: I think there were areas where we had
21 a foot to 18 inches of changing ground in there --

22 MR. MYRICK: On some of them, yes.

23 MR. COUGHLIN: -- that we had to go back and make the
24 tie-in and work the grade back into the existing parking.

25 MR. CROFT: We did have backup sidewalk profiles in

1 the plan. So they show where we did have those gradings.

2 MR. MCCUE: And they show the actual driveways at
3 that location.

4 MR. COUGHLIN: Well, it showed nothing behind the
5 back of the walk. All you have is the walk profile. And
6 if you look at the sections in the plan, the only thing
7 that you actually see is to the back of the walk. There is
8 no existing conditions shown beyond that.

9 MR. MCCUE: There is an existing elevation shown at
10 the point, though, of where the driveway tie-in is and
11 where the new proposed grade would be. So if you looked at
12 the difference, you would know there would be a filler or a
13 cut in that area.

14 MR. MYRICK: But you can't when you just put asphalt
15 there, Steve.

16 MR. MCCUE: Yeah, in 95 percent of them we had to
17 excavate down. And all we did was just put asphalt in.
18 And the few of them that were just -- most of them we tied
19 pretty close except for the bigger ones where we had to tie
20 quite extensively. It's shown on plans, you know, that
21 grade difference.

22 MR. SMITH: I think that I had to rely on the
23 information that was provided me both from Pan American and
24 from Delta. And I had some difficulty in reconciling the
25 numbers. I point that out. I've got a 10-8-98, Pan Am's

1 claim for nine personnel for a total of 47 hours. The
2 engineer documents three personnel for 19.5.

3 Another where there are nine personnel for 88.5
4 man-hours and five pieces of equipment. The engineer
5 reports six personnel, a total of 21 man-hours and three
6 pieces of equipment.

7 And they actually kept separate records of this
8 harmonization work. I don't know why there's such a
9 discrepancy between the documents, but I was unable to
10 reconcile them from the information that I was given.

11 MR. NUTBROWN: Okay. Freddie, I see you're writing.
12 Bob, have you got any questions?

13 MR. BURLESON: Well, I'm just a little bit confused
14 about one thing in this utility relocation schedule. And I
15 was more confused after they, you all said you thought
16 there were 182 manhole and valve adjustments shown on the
17 plans.

18 MR. MYRICK: There was what?

19 MR. BURLESON: One hundred eighty-two manhole and
20 valve adjustments. Is that the number that you said a few
21 minutes ago?

22 MR. PARKER: Well, actually if you look at their
23 initial response, page four, section one, I believe, it's a
24 table that kind of helps you understand their statement of
25 what actually happened.

1 But when you go back and do the as-builts, in fact,
2 this was not correct. And I would imagine that the
3 discrepancy is in the placed out of service. It could
4 potentially be the existing. All we know, and I think we
5 agree with it, the 86 new were added, but when you do the
6 as-built on the final pavement out there, it's 198, not the
7 157 they're saying and not even the 182 that's shown as
8 planned.

9 So, in fact, there's a nine percent increase from
10 just a pure count. And, again, we had no idea where they
11 would be or the impact of those. But does that table help
12 you a little bit?

13 MR. BURLESON: (Nodding head affirmatively)

14 MR. PARKER: That's what we were -- good table.

15 MR. MYRICK: At the time of bid, Bob, we didn't see
16 that many structures out there when we rode the job. And
17 the plan sheets don't show that either.

18 MR. BURLESON: Were they under the asphalt?

19 MR. MYRICK: I'm sorry?

20 MR. BURLESON: Were they under the asphalt?

21 MR. MYRICK: Some of them but -- I wasn't out there
22 but some of them were.

23 MR. COUGHLIN: Some were under the asphalt.

24 MR. MCCUE: This was a concrete pavement.

25 (Multiple speakers)

1 MR. SMITH: I attempted to provide all the backup
2 that I could without making a (inaudible) and carrying it
3 around behind each section. And it is redundant. Because
4 I didn't know if individual board members would be
5 reviewing individual claim areas.

6 MR. NUTBROWN: No, we all take all of it.

7 MR. SIMMONS: But, now, that 180, that's what I was
8 going to do, but you've already done it, I assume, 182 that
9 they said was in there came from those numbers in the
10 city's relocation schedule?

11 MR. SMITH: Yeah, right from there (indicating).

12 MR. MCCUE: From the utility relocation schedule
13 right out of the specifications.

14 MR. SMITH: The 157 total came from Delta, who did a
15 survey of it. And I don't know that I provided that in
16 here, but maybe I have it.

17 MR. CROFT: What's the number you all came up with?

18 MR. COUGHLIN: One hundred ninety-eight.

19 MR. MYRICK: One hundred ninety-eight.

20 MR. SIMMONS: What did you say? How many?

21 MR. MYRICK: One hundred ninety-eight. That's what's
22 out there now. It's adjusted finished grade.

23 MR. NUTBROWN: In looking at the overlay sheets, a
24 good percentage of that is in the northbound side.

25 MR. MYRICK: I'm sorry?

1 MR. NUTBROWN: A good percentage of the valves and
2 manholes are all on the north side. There's a few on the
3 south side but nothing to any consequence.

4 MR. PARKER: Correct.

5 MR. SIMMONS: I would have assumed, too, that the
6 list that the city has there would have all been visible
7 when they went through and counted, had they counted right
8 or if they counted right.

9 MR. MCCUE: Yes, sir.

10 MR. SIMMONS: They thought it was 182, I assume, from
11 the numbers they've got in the special provisions there.

12 MR. MCCUE: Yeah, they actually go, they're very
13 specific as to whether they're existing, how many are
14 coming due to the new facilities they're putting in, and
15 how many are going to be taken out of service.

16 MR. SMITH: Delta did a survey of this. I did not
17 include it because I didn't realize that the number of
18 valves was in contention, even through the rebuttal process
19 is the first I heard of it. So we didn't provide this
20 survey that Delta did as backup for the as-built.

21 MR. NUTBROWN: Okay. The only comment that I would
22 make as far as the overlays are concerned, the size of the
23 little dots in those intersections unfortunately is
24 probably by scale dimension three or four feet in
25 diameter. And that's not the case with the water valves.

1 You know, eight inches or ten inches.

2 MR. COUGHLIN: That's correct.

3 MR. NUTBROWN: So that information, it makes them
4 look actually closer together than they really are in the
5 field. But, you know, no doubt there is a lot more of them
6 there. And the way they are clustered is right as to what
7 John says. Okay.

8 MR. PARKER: Tim, on your flowable -- excuse me.

9 MR. SIMMONS: So really, again, one more time with
10 the numbers, you're basically saying that you think there
11 was 150 something existing?

12 MR. MYRICK: The plans only showed 67 or 69 that
13 I could see on the plans. There was a utility schedule
14 that said there was X amount out there. We couldn't, when
15 we rode the job, we didn't see a situation you have right
16 now at the beginning of the job. We did not see all those
17 clusters in those intersections like we have now.

18 Now, if they were there or they got these from
19 as-builts from a long time ago and they were there or they
20 weren't there, that I can't tell you. But what was shown
21 on the plans on the drawings is what I went by.

22 MR. PARKER: Which is almost, it's kind of weird,
23 it's almost exactly half of what they're saying is
24 existing. And, again, we rode the job differently and
25 together. And me growing up as a paving guy, those things

1 are of special interest to us, because I know what they do
2 to us. And you just, you couldn't, they weren't like that.

3 I mean, our asphalt productions would have been, when
4 we did the estimate, we would have been totally different
5 as far as that goes.

6 MR. NUTBROWN: What was the status of the new water
7 line construction at the time the job was bid? Was it
8 under way or had it been started or --

9 MR. COUGHLIN: No.

10 MR. MYRICK: I don't remember, Jack. I don't think
11 it had started.

12 MR. COUGHLIN: It had not started at the time of
13 bid. We actually had to be delayed in our contract start
14 time due to the fact that they overran their contract
15 start.

16 MR. NUTBROWN: Okay. When they finished, what did
17 they do? Just put a thin overlay on the roadway over where
18 they had disturbed?

19 MR. COUGHLIN: No, sir. What they had gone in and
20 done is basically filled up, and they put a little asphalt,
21 but they filled their trench along the line at the top with
22 what was supposed to be, and this goes back to the flowable
23 fill, but was in fact some concrete and not flowable fill.

24 Then they put a small skin patch right over that with
25 asphalt.

1 MR. GUPTILL: Yeah.

2 MR. BURLESON: The number of valves and manholes that
3 you had to contend with is not whether we take their number
4 or your number? It's not significantly different than what
5 is in the utility relocation schedule; is that right?

6 MR. COUGHLIN: Yes, sir; that's correct. It's the
7 location and the proximity to each other that really became
8 the problem.

9 MR. PARKER: And, you know, the difference is, you
10 know, the numbers are not huge, but they're saying 16
11 percent less. We think there's nine percent more. And so
12 there is, you know, there is a difference.

13 Now, what I was about to ask is in the flowable fill
14 claim, really, the only difference we have is the dollars.
15 And we're very close to dollars on that one, similar in
16 your analysis versus what our actual claim shows.

17 MR. SMITH: The difference is in material, John.

18 MR. PARKER: Okay.

19 MR. SMITH: No backup provided to show the purchase
20 of the material. And as you know, if it's available for
21 backfill from the project excavation, then it's not a
22 separate pay item.

23 MR. PARKER: Uh-huh.

24 MR. SMITH: So had you presented receipts
25 contemporaneous with the dates of the work, then that would

1 have been a no-brainer.

2 MR. SIMMONS: Let's talk about something. With the
3 57 stone, the only difference here is the issue of whether
4 you actually could have used the stone through most of the
5 job or you couldn't have. And the department is saying
6 they didn't allow it. And there's the issue of the water
7 table, whether you can put the 57 stone or not. What's
8 your response to that?

9 MR. COUGHLIN: If I could. If you'll look in the
10 plans along the south roadway, it is almost entirely
11 french-drained within the paved area. The detail in the
12 french drain is within the plans. And since it is in the
13 paved area, our thinking along the lines of this was if
14 it's all right in the paved area for the french drain, then
15 it should be comparable for the solid pipe runs, which were
16 primarily crossings from the south side, but mostly along
17 the north side of the project.

18 We felt that by using that 57 stone as a backfill
19 mechanism, we would save ourselves a considerable amount of
20 time.

21 MR. MYRICK: The distance between the subgrade and
22 the --

23 MR. COUGHLIN: Well, and our intent at the time was
24 to use the same detail as the french drain shown in the
25 plans. It called for a one-foot separation, as I recall,

1 from subgrade. And our intent was to follow that same
2 detail, wrap it as we would a french drain, but just use it
3 in solid pipe runs.

4 MR. PARKER: And that's very similar to what took
5 place on the Bird Road project. It was only a small piece
6 done, but there was not a requirement for this three-foot
7 cover like they're pointing out, nor, you know, the whole
8 south side of the project, you know, there's not three feet
9 of cover before subgrade like the details they're pointing
10 out now.

11 Now, Paul, on our Military Trail job where this was
12 all done, I don't believe there was a requirement for that
13 at all.

14 MR. GUPTILL: No. We didn't actually do it. It was
15 Johnson Davis was our subcontractor who actually was using
16 the 57 rock in lieu of backfill. And actually they used a
17 filter fabric, which we were going to do, too.

18 MR. SMITH: This detail came, I believe, from the
19 Fort Pierce residency. This was the project presented
20 verbally, I believe, by Pan Am as the example of where they
21 could have used this stone.

22 So the department went and got the detail that had
23 been authorized for that one project for alternate backfill
24 pipe method. And this is what it had shown. Nothing was
25 submitted on behalf of Pan Am in the form of a drawing or

1 even a dimensionalized narrative as to how exactly this
2 would be accomplished. But this requirement was apparently
3 arrived at in that residency.

4 MR. CROFT: The issue, Freddie, of whether or not --
5 that was kind of an after-the-fact analysis, say, well, had
6 it been presented, you know, and had we looked at it the
7 same way, we probably couldn't have done it here anyway.

8 Our biggest, my complaint over this issue was that it
9 was raised at the field level. I think they gave a letter
10 to Steve. They had some discussions at the meeting, said
11 give us some -- you know, has this been used before. Give
12 us some feedback and we'll pursue it.

13 That never happened. It never even, you know, was
14 referred back to the district level, you know, to are you
15 aware of are there any other jobs. And it wasn't until a
16 year later or so near the completion of the job that
17 I think they discovered it was used somewhere else, and
18 they said we're going to, you know, we're going to file a
19 claim because this wasn't approved on our job.

20 So I don't think that we really had an opportunity to
21 pursue it fully. Had they really been interested in doing
22 this, you know, they had an obligation to follow up with us
23 and that didn't happen. And also I don't think it was,
24 it's one of those it would have been nice had you let me do
25 this. I would have saved some money. But they haven't

1 been damaged. They bid the job to do it per the
2 specifications, so there's not an entitlement issue that we
3 owe them money because we didn't allow that change.

4 MR. PARKER: You make a good point about or make "a"
5 point about that we didn't take it up to the next level.
6 But when we do discuss it in detail exactly what we want do
7 in the field level, Steve is you, okay. He is the DOT.

8 We described in detail very similar to the rest of
9 the project just right across the street, right across the
10 street, that we want to build the road like this is being
11 built, with the same, the filter fabric, the backfill.
12 There is no significant difference.

13 We did discuss it in the field. He was part of the
14 Bird Road project. He is the one. And whether he sent it
15 up the flag pole or not, he's the one that wrote us the
16 denial letter of it and refused to allow us to do that.

17 So, you know, in our opinion, the fact that we
18 describe in detail, we walk over and see the exact same
19 thing taking place on the other side of the roadway that
20 we're describing, I mean, you can't, that picture can't
21 describe walking over and seeing it happen right across,
22 you know, 20 feet away.

23 And when, you know, we talked to Steve about
24 something, and he's a great guy, he does a great job for
25 you guys, but he is you. And so we, you know, we were

1 communicating with you. And how far that went up we had no
2 way of knowing.

3 MR. CROFT: Well, that's fine. But when he denies
4 it, you know. At that time it was a request. Your request
5 was denied. You didn't go --

6 MR. NUTBROWN: Okay. I've got a question. At what
7 point did the 57 stone backfill come into play from the
8 start of the job?

9 MR. COUGHLIN: I can answer that, if I may. We
10 basically had begun, we had begun, and the work, the
11 drainage work was ongoing in sections, it would be phase
12 two, sections one and two, which was primarily french drain
13 and had some crossings. It was roughly in the June time
14 frame and dates. I think the letter was in the claim
15 package --

16 MR. SMITH: June 16, 1998.

17 MR. COUGHLIN: -- that it was requested.

18 MR. NUTBROWN: I'm sorry. Mike?

19 MR. COUGHLIN: No, sir. Relatively early. We had
20 just, the french drain and some crossings. And let me
21 restate it. Phase two, sections one and two, which is the
22 south side of the roadway, we were pretty complete with our
23 drainage in those areas.

24 MR. MYRICK: I think what Jack's question was,
25 correct me if I'm wrong, you wanted to know when we wanted

1 to use the valves right before the positive drain on the
2 other side.

3 MR. COUGHLIN: When it was requested, I believe was
4 the question. And it was June 16 we requested it. I think
5 the gentleman just answered. But that's when we requested
6 it. Early on in the project.

7 MR. MCCUE: If I might add something, he was telling
8 us that, you know, he walked us across the street. All of
9 this discussion was done via phone with me and Mike. And
10 then at one point he had brought it up in one of our weekly
11 meetings.

12 And we had told them at the time, hey, give us the
13 information that you used on the job and we'll continue
14 on. But that information never came to us. You know, he
15 didn't describe in detail what he was going to do or how he
16 was going to do it. He didn't show me the french drain.
17 He just, he didn't follow up on it.

18 MR. SIMMONS: When you say the Bird Street, where are
19 you talking about?

20 MR. PARKER: The Bird Road project.

21 MR. SIMMONS: Bird Road. I'm sorry.

22 MR. PARKER: Yeah, it was another project
23 approximately --

24 MR. MCCUE: Southwest 40th Street.

25 MR. PARKER: -- seven miles, eight miles southwest of

1 there.

2 MR. SIMMONS: It had been done a couple years earlier
3 prior to this or something?

4 MR. MCCUE: Yeah.

5 MR. PARKER: Probably two years.

6 MR. MCCUE: Yeah. They keep telling me that I put it
7 there, but I can't recall that.

8 (Multiple speakers)

9 MR. NUTBROWN: Okay. Let's try to hold down
10 across-the-table conversation here.

11 MR. CROFT: You know, that's, you know, at the time
12 it was denied by our representative in the field. But, you
13 know, they didn't, they never filed a notice and said we
14 don't agree with this decision, we're going to claim for
15 it, until the end of the job. So if we didn't agree with
16 his position, we didn't have an opportunity to say, you
17 know, that's a mistake and correct it, because they never
18 brought it back to us.

19 MR. BURLESON: John, did you all go back to Steve at
20 all after you got the denial letter, or you just, you got
21 the denial letter and that was it?

22 MR. PARKER: I think there was further conversation
23 but we did -- and I think it's an appropriate time to, you
24 know -- we're known in District Six and known in the
25 state. We're not a company that claims on everything.

1 We're not a claim-oriented company. We're get in, get it
2 built for the public, get out, get on to the next project.

3 So we are not, as other contractors in the state,
4 we're not usually in a more firm, hostile, demanding way.
5 That's just not the way I choose to run a company. And so
6 the fact that we didn't, you know, we didn't call up the
7 chain of command and, you know, rattle the cages, that's
8 just the way we run our company.

9 And it doesn't change the fact that we requested it.
10 There's really not a reason to deny us. And therefore it
11 impeded our progress in what we could have done in getting
12 the job finished earlier for the public, who we all work
13 for.

14 And the fact that there was, you know -- it is
15 related in the fact that we did make a VECP on this for
16 further early completion based on MOT savings, a lot of
17 different things that was denied because the 1,760 -- and
18 at the time we submitted it, they admitted, you know, it's
19 low. It's not, that's not representative of finishing this
20 job early the way it should be.

21 And so there is a number of factors that fall in, but
22 the 1,760 is there. That's what we're asking for. And,
23 you know, it did impede us. We have a little opinion
24 letter on the case law relating to this, if I may, that
25 I don't know if I can introduce, just a real brief

1 description.

2 MR. NUTBROWN: That should have been introduced at
3 the beginning where everybody had a chance to review it.
4 Let me take a look at it.

5 MR. PARKER: Okay. Would you like me to give them a
6 copy?

7 MR. NUTBROWN: Yeah, please.

8 MR. PARKER: So they can be looking at it. And,
9 really, the third page, the last three or four paragraphs
10 really kind of summarizes that, you know, we really don't
11 have a duty to go out and explore what's happening within
12 the department and other areas. We did give them enough
13 examples and the job site example to approve this.

14 MR. NUTBROWN: Freddie, do you want to take a look at
15 that? The third page is really the nuts and bolts of it.

16 MR. SIMMONS: (Examining document)

17 MR. BURLESON: (Examining document)

18 MR. NUTBROWN: While we're waiting, John, does your
19 company have any other facts that need to come to the
20 board?

21 MR. PARKER: I don't believe so.

22 MR. MYRICK: Do you want to discuss any more of the
23 flowable fill?

24 MR. PARKER: No, that's just how they computed the
25 costs versus ours. And we set up the item for it. And I

1 think it's pretty clear on our standpoint. We're close.
2 And, I mean, we're only a few thousands dollars away.
3 We're close enough that I think the board can make a
4 reasonable position on that.

5 MR. SMITH: Jack, can I speak to the backfill 57
6 issue?

7 MR. NUTBROWN: Yeah.

8 MR. SMITH: We went ahead and did an estimate based
9 on the detail that was accepted in the Fort Pierce
10 residency. And we estimated the total amount of backfill
11 placed for storm drain on this project, the total amount,
12 to be approximately 16,420 cubic meters. Now, that
13 quantity is exclusive of french drainage structures and
14 assumes backfill to the bottom of the base.

15 The 329 cubic meters that we came up with represents
16 a quantity of approximately two percent of the project
17 total of 16,320 cubic meters. Based on the elevations of
18 the pipe and the elevations of the roadway, we only saw
19 where you could use 329 cubic meters of this material,
20 assuming that they weren't going to put in and wrap six
21 inches. I think we cut it off at six. So I think I had
22 two tables on that, you know, assuming what premise you
23 took, but to switch operations.

24 And why would you put ballast rock in the water when
25 you can put just normal like A3 material in there for the

1 backfill. So we didn't understand the intensity of the
2 argument. When you really went down and analyzed it, it
3 only amounted to two percent, from what we saw.

4 MR. MYRICK: Can I ask a question?

5 MR. NUTBROWN: Sure.

6 MR. MYRICK: On your own detail, Tim, how far from
7 the bottom of the base did you all figure to the top of the
8 ballast rock?

9 MR. SMITH: Well, it was according to the detail.
10 And what it shows, the detail shows 36-inch minimum
11 separation between the top of the filter fabric envelope
12 and the bottom of the road base material.

13 This project was fairly shallow and was also very
14 wet. So that distance was very small on the project
15 overall when we went back and looked at it. We provided
16 that for you. And if you had, if you had a problem with
17 it, we would have welcomed a rebuttal to it.

18 MR. GUPTILL: Jack?

19 MR. NUTBROWN: Yes.

20 MR. GUPTILL: When he said did we allow to put the
21 backfill in the water, which you are, but that just slows
22 up your production. If you put ballast rock in water, when
23 you're a foot above that water, you can go ahead with a
24 another lift and compact it.

25 If you put fill-in water, you've got to wait about a

1 day or two for dryout to get your next lifts on. So using
2 the ballast rock is tremendously better than using the
3 fill.

4 MR. MCCUE: On the same hand, when you're backfilling
5 in the water, we also have the extra advantage at our site
6 that if you start beating up on that material when it's
7 pumping, we can raise it another six inches, which is what
8 they did on the job site. So you really weren't slowed by
9 that process.

10 MR. CROFT: Can I make a comment? And this obviously
11 is a letter prepared by their attorney, which we haven't
12 had any attorneys involved, so if this going to be
13 introduced, I will have our attorney review it and
14 respond.

15 Just from a layman's standpoint, you know, he's
16 quoting several sections here which I don't believe apply.
17 He's saying engineering reserves the right to make in
18 writing at any time during the work such alterations in the
19 work as are necessary to satisfactorily complete the
20 project.

21 Obviously, we did complete the project. I don't
22 think this was an issue of us not approving this did not
23 allow them to satisfactorily complete.

24 They're also citing different site conditions. There
25 was no change of conditions. The way it was built was the

1 way it was bid and existing condition. And also it says
2 when work is required that is not covered by a price in the
3 contract, then such is found essential to satisfactory
4 completion. There's no indication to us that the way the
5 work was specified was not the way it was bid and should
6 have been built.

7 MR. NUTBROWN: Okay. John, I'll give you this back.
8 Mark, do you want to let him have it back?

9 MR. SIMMONS: The original project schedule that was
10 agreed on to start with, what was the total time? Was it
11 the 500 days?

12 MR. COUGHLIN: Well, of course as you well know,
13 typically DOT projects, you're not allowed to use less than
14 the contract days. And that has been a problem we've run
15 into time and time again. I think it has now changed. But
16 our original estimate was for the 300 days, our internal
17 estimate --

18 MR. NUTBROWN: Your internal estimate. Not as far as
19 the contractor was concerned. It required 500 days.

20 MR. COUGHLIN: Yes, sir.

21 MR. NUTBROWN: Your actual contract time.

22 MR. PARKER: In our original schedule, it was 300
23 days.

24 MR. NUTBROWN: That's internally.

25 MR. COUGHLIN: Right.

1 MR. PARKER: We were told you can't turn that in. We
2 need a 500-day schedule.

3 MR. COUGHLIN: That's been the typical response.

4 MR. SIMMONS: So related to the maintenance of
5 traffic, and what was the other one?

6 MR. SMITH: Job overhead.

7 MR. SIMMONS: Job overhead. In figuring your
8 estimate of those, it's probably in here, but were you
9 basing it on the 500 original contract days? Or I think
10 you based it on the 300, didn't you, anticipating --

11 MR. COUGHLIN: Yes, sir, that's correct.

12 MR. PARKER: And I might point out that our approach
13 to that and our feeling that that could be done in that,
14 that the department got the benefit of that at the time of
15 bid. I mean, that's factored in. They received the
16 benefit of us taking that approach at the time we submitted
17 our bid. Therefore our price was less. And the benefit
18 was there.

19 MR. NUTBROWN: But fortunately our unfortunately, the
20 contracting business is like going to the horse track every
21 day. You just hope you're a winner more times than you're
22 a loser. So how you internally use that information to
23 come up with a low bid, and if it doesn't work out that way
24 exactly, I think that's your problem.

25 MR. PARKER: Exactly. And let me point out that it

1 is without a doubt -- and, you know, we're not out there
2 trying to recover our losses at the horse track. I do want
3 to point out that our losses on the horse track that day
4 when we submitted that bid were \$1,030,604. So we had a
5 bad day at the horse track.

6 MR. SIMMONS: Are you talking about you and the next
7 low bid, the number two?

8 MR. PARKER: No.

9 MR. SIMMONS: Is that where that number came from?

10 MR. PARKER: No, that's our actual losses on the
11 project when we finished completing it. I believe there
12 was 580 something thousand dollars between us and the next
13 bidder. But, yeah, it was a bad day at the horse track.

14 And, you know, we're not out here trying to recover
15 all that either. We've brought up the points that we feel
16 that are reasonable, just like we always do. And, again,
17 we're not claim oriented.

18 And I must say now, division, because I don't know,
19 you know, how some of our companies, the approach they
20 would take, but at this time, you know, we were the same
21 way. We were part of the Couch or Superfos organization,
22 unlike was prepared in here. But things change.

23 MR. NUTBROWN: Okay. Freddie, do you have any
24 questions?

25 MR. SIMMONS: Well, the time is a critical thing, as

1 far as this whole picture. And in looking at the, saying
2 that you had estimated it being 300 days, in your in-house
3 anyhow, that would have included, then, I would assume you
4 would have anticipated using the 57 stone? Because that
5 time is part of what you're saying you lost, at least, was
6 it 40 days of it or something was related to just the
7 stone?

8 MR. COUGHLIN: Well, what we're saying is we would
9 have come up with an additional 40 days in reduction. No,
10 we estimated the job using conventional backfill. And I
11 think Mort can speak to that. And then as we progressed,
12 we thought we found an opportunity to basically improve our
13 position as far as overall time by some 40 days.

14 MR. PARKER: And improve the job, you know.

15 MR. COUGHLIN: That's correct.

16 MR. MYRICK: The valve issue slowed us down. And we
17 were losing time. So we're trying to find an innovative
18 method to try and improve our time out there.

19 MR. CROFT: I want to speak to that just briefly.
20 John said they are not a claim contractor. And I agree.
21 And they try to keep the communication open, which is we
22 all like that to happen as well.

23 However, you know, if they don't agree at the project
24 level, to me, that's not being a claim hunter; that's just
25 good communication, to let somebody else know that either

1 this is a claim issue, that, you know, is going to cost
2 money later and give us an opportunity to address it and
3 come to an understanding.

4 And I hope that in future jobs -- you know, I don't
5 consider that jumping over somebody's head if you really --
6 you know, it's one thing if you try to work things out.
7 But if it's something that is going to surface later, you
8 know, in arbitration or a claim, you know, the time to
9 bring it to the table is then, not at the end of the job.

10 MR. PARKER: We will certainly do that. Again, our
11 hope is that we do. And most of the time we do resolve
12 these things at the field level, but we'll get you guys
13 involved much sooner, although I don't know that it would
14 have made any changes here.

15 MR. NUTBROWN: Okay. Yes, Freddie? Anything else?

16 MR. SIMMONS: I don't think so.

17 MR. NUTBROWN: Mr. Parker, have you completed your
18 presentation?

19 MR. PARKER: Yes, we have.

20 MR. NUTBROWN: Mr. Croft, have you completed your
21 presentation?

22 MR. CROFT: Yes, sir.

23 MR. NUTBROWN: Okay. Mr. Simmons, do you have any
24 other further questions or comments?

25 MR. SIMMONS: No.

1 MR. NUTBROWN: Mr. Burleson?

2 MR. BURLESON: No, sir.

3 MR. NUTBROWN: The hearing is hereby closed. The
4 board will meet and deliberate this matter, probably very
5 quickly because of the fact -- but we will not do anything
6 as far as working out an order once we've reached a
7 decision until after the transcript is presented to the
8 board.

9 And it will take from six weeks to 60 days to get it
10 done. And the board has a fairly heavy work load at this
11 time. And we'll get it done as promptly as possible.
12 Gentlemen, I'd like to thank you for your participation.
13 (Whereupon, the proceedings were concluded at 11:33 a.m.)

14

15

16

17

18

19

20

21

22

23

24

25

CERTIFICATE OF REPORTER

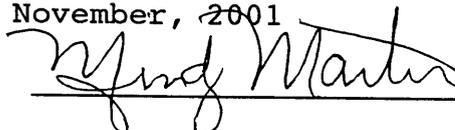
STATE OF FLORIDA)

COUNTY OF LEON)

I, MINDY MARTIN, Registered Professional Reporter, do hereby certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true and complete record of my stenographic notes.

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 attorneys or counsel connected with the action, nor am I financially interested in the action.

Dated this 8th day of November, 2001



Notary Public, State of Florida



Mindy Martin
MY COMMISSION # CC981578 EXPIRES
December 3, 2004
BONDED THRU TROY FAIN INSURANCE, INC.