

December 19, 2000

Mauricio Arze, P.E.  
Consul-Tech Engineering, Inc.  
21000 Boca Rio Road, #A31  
Boca Raton, Florida 33433

Dear Mauricio:

Attached is the recommendation of the Disputes Review Board for dispute pertaining to Changed Site Conditions on the Turnpike Project, Boca Raton to Delray Beach.

You have fifteen (15) days to accept or reject the recommendation.

Sincerely,



Jimmy Lairscey, Chairman  
1961 N.W. Girl Scout Road  
Arcadia, Florida 34266

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**Recommendation of Dispute Review Board**

**Florida's Turnpike Widening  
S.P.N. 97931-3357  
Palm Beach County  
Boca Raton to Delray**

**Changed Site Condition Dispute**

**Hearing Date - December 11, 2000  
Hubbard Construction Company**

**Dispute:**

**Hubbard Construction requested compensation for stabilization material to replace the base and stabilization which was not available beneath the existing shoulder. Hubbard regarded this a changed site condition.**

**The Department of Transportation did not agree with a changed site condition and felt that there was no merit to the request for additional compensation.**

**Contractor Position:**

**The Contractor had to remove the existing outside shoulders and construct additional lane with new shoulders.**

**The Contractor found the existing shoulder composition to be 6.5 to 9 inches of asphalt with no limerock base on a stabilizing material.**

**The Contractor expected, and based his bid, on a shoulder composition of 1.5 inches of asphalt with limerock base on a stabilized subbase.**

page 2. Contractor Position contd.

The Contractor claimed this was a changed site condition because he now had to bring in additional limerock for stabilization of the new shoulder composition.

The Contractor based his claim on notes or other information from the following Plan Sheets.

**HUBBARD CONSTRUCTION COMPANY**

**SPN 97931-3357**

**CHANGED SITE CONDITION-EXISTING SHOULDER COMPOSITION**

**ATTACHMENT SUMMARY FOR HCC LETTER NO. 70007-104**

**NOVEMBER 28, 2000**

**PLAN SHEET 8**

The typical section note 3 indicates that all existing limerock base be incorporated into the stabilized portion of the subgrade.

**PLAN SHEET 14**

Pay Item 300-1-1 has been included in the contract to prime areas of existing limerock base exposed during the milling operation.

**PLAN SHEET 46**

This sheet shows the location of soil boring TB-SS-3, sta. 1806+00 1 ft. right of the base line survey of Florida's Turnpike. This would place the boring on the existing outside shoulder within our limits of widening.

**PLAN SHEET 89**

This sheet provides a detail of the composition of the existing inside shoulder. (Pavement & Limerock Base).

**PLAN SHEET S-22**

This sheet shows the information obtained from soil boring TB-SS-3 located at station 1806+00 1 ft. right of the base line survey of Florida's Turnpike. The boring indicates that the existing shoulder is constructed of Asphalt, Limerock Base and Stabilization.

page 3 contd.

### **Departments Position**

The contract documents do not provide any information pertaining to the composition of existing pavement. Therefore for a changed site condition to exist, the physical conditions encountered on the project have to be different from those indicated in contract documents.

HCC, having worked on Turnpike projects in Palm Beach County is aware that there are no typical shoulders.

On Sheet 89 the detail is for inside shoulder.

On Sheet 8 Typical Note Number 3 pertaining to existing limerock being used for stabilizing does not indicate where, if any, limerock base exists within the project. Also this is a standard note on all plans.

All Bidders are required to examine the site of the proposed work.

The soil boring on Plan Sheet 22 was to provide subsurface information for the design and construction of a sign base.

### **D.R.B. Recommendation**

Both sides agreed that the existing shoulders did not have a limerock base. The only place in the plans that indicated 3.75 inches of asphalt with a white sandy limerock base was on Sheet 22. While this core was not intended to give a composition of existing shoulders, someone doing a detailed review of plans could have concluded that the asphalt was 3.5 inches thick with an undetermined base thickness.

The Designer should have indicated the composition of the shoulders, by review of previous construction plans or cores taken during the Design period. Bidders could not be expected to do their own coring on a heavily traveled Turnpike.

The Contractor was aware that the Turnpike shoulders were constructed differently in Palm Beach County, but this only made him have to guess how to bid this project.

page 4 D.R.B. contd.

The Owner, Department of Transportation, is required to give enough information to make every bidder equal in knowledge of what is to be built.

Notes such as the one on Sheet 8 pertaining to limerock base should not be used without back up information to assure that there will be base available for use.

The Department did a good job in its analysis of the Contractors positions. However, there are three (3) things that must be considered when determining Differing Site Conditions.

1. If physical conditions are encountered differing materially from that indicated in the contract.
2. If conditions differ materially from what is ordinarily encountered and recognized as inherent in the work.
3. If either of the above causes an increase in cost or time to perform the work than the Engineer will make an adjustment in the contract.

The Department was correct in asserting that the contract did not provide any information pertaining to the composition of existing pavement, but this does not negate the owners responsibility to provide as much information as possible to all bidders.

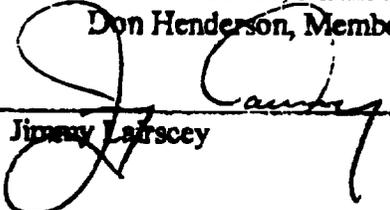
With no clear information we must look at the Second Condition and we feel that any Contractor in Florida would ordinarily expect to find a shoulder composition of about 1.5 inches of asphalt with about 4 inches of Limerock base.

The Board feels that the Second Condition was met and therefore the Contractor did encounter a Differing Site Condition.

It is our further recommendation that the Department, with the Contractor, determine if the differing Site Condition caused an increase in cost or time to complete the work.

Recommendation had the concurrence of all three (3) Dispute Review Members.

Jimmy Lairscey, Chairman  
 Dallas Wolford, Member  
 Don Henderson, Member

Signed by:  , Chairman  
 Jimmy Lairscey