

NOTE FOR PUBLIC WORKS SUBCOMMITTEE OF FINANCE COMMITTEE

Supplementary information on 312DS - Strategic Sewage Disposal Scheme Stage I: construction supervision of the main works

INTRODUCTION

In considering paper PWSC (1999-2000)15 on **312DS** - Strategic Sewage Disposal Scheme Stage I: construction supervision of the main works at the Public Works Subcommittee meeting on 26 May 1999, Members enquired whether the two partners of joint venture tunnelling contractor would be suspended from tendering public works contracts as a result of their poor performance under the contracts for the SSDS Stage I sewage collection tunnels which had to be re-entered. In this regard, we undertook to provide further information for Members' reference.

THE ADMINISTRATION'S RESPONSE

Background

2. Under the SSDS Stage I, 6 sewage collection tunnels totalling about 24 km long are to be constructed at depths of more than 100 metres below ground for conveying sewage from upgraded existing sewage screening plants in 6 sewage catchments around the harbour to Stonecutters Island. At the newly built Stonecutters Island Sewage Treatment works, the sewage will receive chemically enhanced primary treatment prior to discharge to the sea through an interim outfall tunnel. The approximate alignments of the sewage collection tunnels are shown in attached plan.

3. The works for the 6 sewage collection tunnels were included in two contracts which are awarded to the same contractor (Campenon Bernard SGE and Maeda Corporation Joint Venture) at a total sum of about \$1.3 billion in 1994. Works commenced in January 1995 and were due for completion in May 1997. However, progress of works deteriorated significantly from early 1996 onwards. In June 1996, the contractor unilaterally suspended work in the 2 tunnels from Tseung Kwan O to Kwun Tong and from Tsing Yi to Stonecutters Island. Works in the other 4 tunnels also ceased in July 1996.

4. We held a number of meetings with the contractor's senior management. The contractor claimed that the water inflows encountered in the tunnels were unexpected and the work was impossible to complete in accordance with the contract. They then put forward proposals to change the engineering design, construction methods and payments terms which were unacceptable to Government. Despite the fact that only 2 tunnels had water seepage problems, the contractor chose to stop work in all 6 tunnels without any valid explanation.

5. We appointed external legal advisers and independent tunnelling experts to provide expert opinion and advice. As a result of investigations, we instructed certain changes to facilitate the resumption of the construction works. We also held several meetings with the contractor to discuss technical changes and any technical impediments to resuming the works in the tunnels. However, the contractor refused to co-operate and took no action to resume work but continued to seek re-negotiation of the terms of the contracts relating to both technical and financial matters. As a result of the contractor's failure to proceed with the works with due diligence, we were left with no alternatives but to consider that the contractor has forfeited the two relevant contracts and we re-entered all tunnels sites on 4 December 1996.

6. Upon forfeiture, we re-packaged the remaining works in three contracts with 2 tunnels in each contract. The contract for completing the western tunnels (i.e. the 2 tunnels running from Kwai Chung to Tsing Yi and from Tsing Yi to Stonecutters Island) was awarded in July 1997. The two other contracts for completing the eastern tunnels (i.e. the 4 tunnels running from Tseung Kwan O

and Chai Wan to Stonecutters Island) were awarded in January 1998. Whilst there

/were

were some initial problems (e.g. replacement of the mucking system) which the completion contractor for the western tunnels has now resolved, the current tunnelling progress is good. We have now completed about 40% of the excavation work for the tunnels and about 25% was completed in the first five months of this year. In fact, excavation for the tunnel from Kwai Chung to Tsing Yi has already been completed. It is our target to complete the SSDS Stage I as a whole in the year 2000.

7. We intend to pursue a claim against the original contractor for losses arising from forfeiture of the two tunnel contracts. In accordance with the terms of the contracts, the Engineer of the contracts will ascertain the losses after completion of the remaining tunnelling works. On 9 May 1997, the original contractor filed a notice for reference to arbitration disputing the validity and correctness of our re-entry action. The main hearings of the arbitration for determining liability for consequential losses incurred by Government will take place in 2000.

8. At the PWSC meeting on 26 May 1999, the Administration undertook to provide Members with further information on whether the two partners of the joint venture tunnelling contractor would be suspended from tendering public works contracts as a result of their poor performance under the contracts for the SSDS Stage I sewage collection tunnels which had to be re-entered. The relevant information is now provided in the paragraphs below.

Suspension of the Contractor

9. Contractors who intend to bid for works for Government construction contracts must first be included in a relevant Approved List. We have a set of transparent rules for the administration of contractors on the Approved Lists. This set of rules is widely distributed to all listed contractors and also any companies who wish to be included in the Lists. The poor performance of the original contractor in the construction of the sewage collection tunnels led to the suspension of the joint venture companies from tendering for public works contracts on 7 April and 1 May 1997. This suspension was made in accordance

/with

with the rules and representations from the companies had been invited and considered before the regulatory actions were taken. Pursuant to the requirement laid down in the rules, the period for review was set to be 6 months from the dates of the suspension.

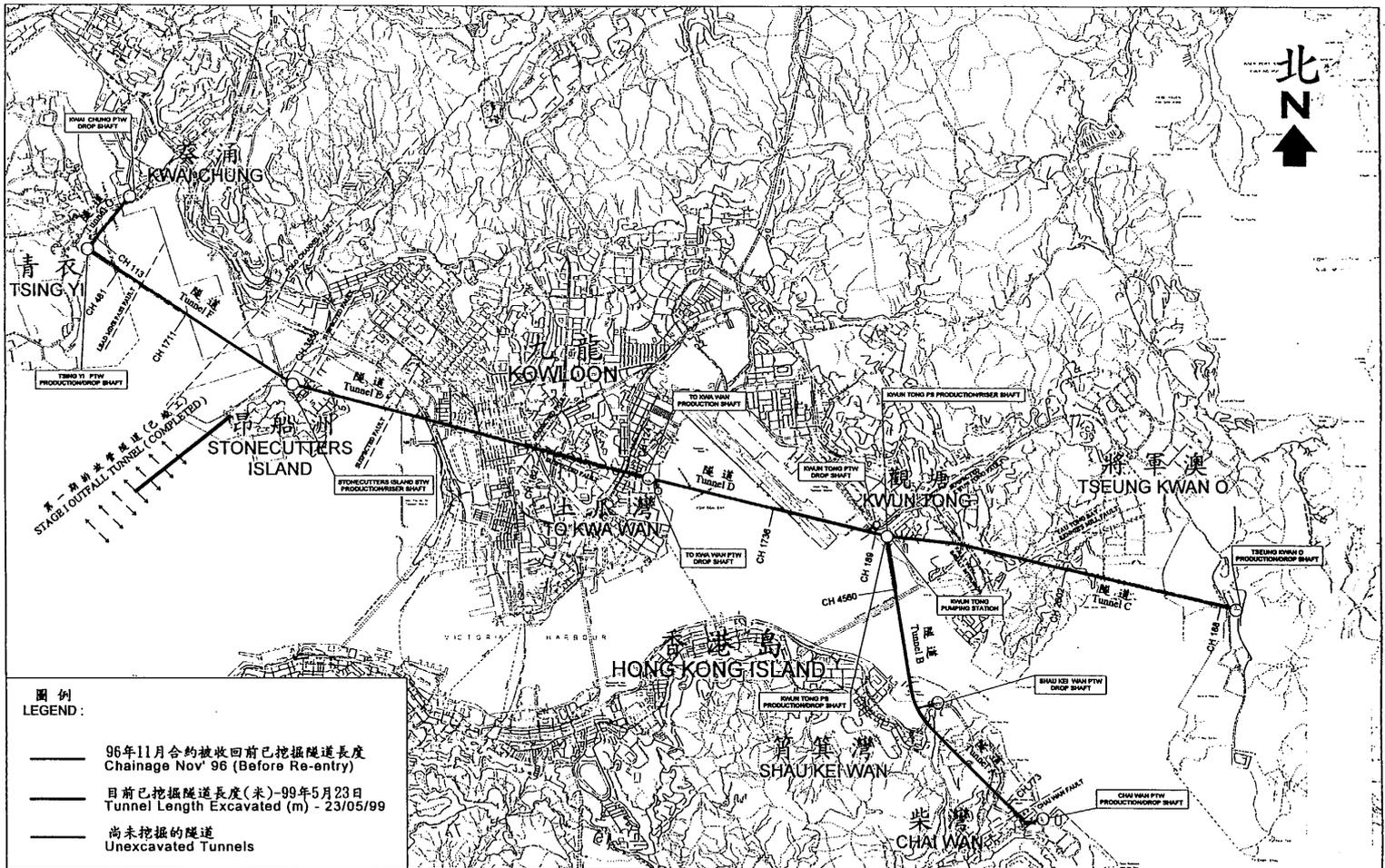
10. The suspension of the two companies was lifted in late 1997 after review. As a major consideration for lifting the suspension, we paid special regard to the contractor's contention on the impossibility of completing the work for which they had filed a notice for reference to arbitration. We considered that it would be more equitable for the contractor's contentions to be fully heard and determined in a proper arbitration proceeding before imposing any further serious regulatory actions against the contractor. We were also aware during the review that whilst Campenon Bernard SGE did not have any on-going contract with the Government, the performance of Maeda Corporation in other Government contracts was satisfactory.

Rules of Administration of the Approved Lists

11. As already indicated, we have a set of comprehensive rules for the administration of the contractors on the Approved Lists. These rules cover regulatory action on removal, suspension or downgrading of contractors. Application of the rules in each case shall follow the established procedures. We will take into consideration all relevant factors including the contractor's representations before imposing any regulatory action. We would seek legal advice in complicated cases. For the case in question, we will monitor closely the developments of the arbitration and keep the situation under review. Should the arbitration proceeding conclude that the contractor was involved in any deliberate non-compliance with the requirements of the contracts, we will take immediate action as appropriate to suspend the contractors from tendering, downgrade or even remove the contractors from the Approved Lists.

Works Bureau

May 1999



合約編號
CONTRACT NO. DC/93/18, DC/96/17, DC/96/18 & DC/96/20
策略性污水排放計劃第一期 - 污水隧道系統
STRATEGIC SEWAGE DISPOSAL SCHEME STAGE I - SEWAGE TUNNEL SYSTEM

日期 25.05.99 圖號 DSS/99/001F

渠務署
DRAINAGE SERVICES
DEPARTMENT