



In the Matter of:

**AETNA BRIDGE HOLDING  
COMPANY, General Contractor**

**ARB CASE NO. 97-095**

**and**

**(Formerly ARB Case No. 96-122)  
(Formerly WAB Case No. 96-06)**

**COLETTA'S DOWNTOWN AUTO  
SERVICES INC.**

**DATE: September 9, 1997**

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

**ORDER DENYING SUPPLEMENTAL PETITION FOR REVIEW**

On October 29, 1996, the Administrative Review Board found that tow truck drivers who assist motorists and tow disabled vehicles from travel lanes on a bridge undergoing repair financed in part with funds under the Federal-Aid Highway Act (FHWA) were not laborers or mechanics covered by the Davis-Bacon Act or its Related Act, the FHWA. The bridge repair contractor, Aetna Bridge Holding Company, seeks in this Supplemental Petition for Review award of prejudgment interest on progress payment funds withheld in 1993 by the Rhode Island Department of Transportation at the request of the Department of Labor's Wage and Hour Division after its investigation.

The Petition is denied.<sup>1</sup> The cases cited and principles discussed in Aetna's Supplemental Petition are inapposite. The ARB simply has no statutory authority to waive sovereign immunity and award interest. *See Mast Construction, Inc.*, WAB (Wage Appeals Board) Case No. 84-22 (March 14, 1986); *Library of Congress v. Shaw*, 478 U.S. 310, 314-15 (1986). Accordingly, this matter is **DISMISSED**.

**SO ORDERED.**

**DAVID A. O'BRIEN**  
Chair

**KARL J. SANDSTROM**  
Member

**JOYCE D. MILLER**  
Alternate Member

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<sup>1</sup> Although there was some delay, about six months, in referring this matter to the Office of Administrative Law Judges for a hearing, the remainder of the time from that referral to the Board's decision was accounted for by the regular hearing and review process. We note that Aetna did not file its Supplemental Petition until seven months after the Board's decision.