

STATE OF ILLINOIS – DEPARTMENT OF LABOR
160 N. LASALLE ST., STE. C-1300
CHICAGO, ILLINOIS 606011

| | | |
|----------------------------------|---|----------------------------------|
| IN THE MATTER OF: |) | |
| |) | |
| INTERNATIONAL UNION OF OPERATING |) | |
| ENGINEERS, LOCAL #318, |) | STATE FILE NO. 2018-H-PK07-1916 |
| |) | |
| Petitioner(s), |) | |
| |) | DATE OF NOTICE: <u>7-17-2017</u> |
| v. |) | |
| |) | |
| JOSEPH BEYER, DIRECTOR OF THE |) | CERT. MAIL/RETURN RECEIPT: |
| ILLINOIS DEPARTMENT OF LABOR and |) | |
| the ILLINOIS DEPARTMENT OF |) | <u>7017 0530 0000 1521 1892</u> |
| LABOR, |) | |
| |) | |
| Respondent. |) | |
| |) | |

NOTICE OF HEARING

PLEASE TAKE NOTICE that Joseph Beyer, Director of the Illinois Department of Labor, and the Illinois Department of Labor [hereinafter, "Respondents"] have received from International Union of Operating Engineers, Local #318 [hereinafter, "Petitioner(s)"] written objections to the prevailing wage determinations posted by the Department on its website on May 26, 2017, and a request for hearing on those objections pursuant to Section 9 of the Prevailing Wage Act [hereinafter, "IPWA" or "Act"], 820 ILCS 130/0.01 et seq.

Pursuant to the PWA, Article 10 of the Illinois Administrative Procedure Act, 5 ILCS 100/10-5 et seq., and 56 Ill. Admin. Code 120.100 et seq., Respondents will convene a hearing on:

DATE: **AUGUST 2, 2017**
TIME: **3:00 P.M.**
PLACE: **ILLINOIS DEPARTMENT OF LABOR**
 160 NORTH LASALLE STREET, SUITE C-1300
 CHICAGO, ILLINOIS 60601

ADMINISTRATIVE LAW JUDGE:

CLAUDIA D. MANLEY
CHIEF ADMINISTRATIVE LAW JUDGE
ILLINOIS DEPARTMENT OF LABOR
160 NORTH LASALLE STREET, SUITE C-1300
CHICAGO, ILLINOIS 60601

The hearing involves the written objections and hearing request filed by Petitioner(s), attached hereto and made a part hereof (Exhibit A).

The parties and their respective representatives must be prepared to proceed at the hearing. The parties must present all information, documents, records or witnesses necessary to substantiate their position(s) at the hearing.

Pursuant to 56 Illinois Administrative Code 120.640, the administrative law judge shall issue a Decision and Order. In the event no timely or proper exceptions are filed, the findings, conclusions, recommendations and order of the administrative law judge shall automatically become the decision and order of the Director of Labor.

The proceedings are subject to judicial review in accordance with the provisions of the Administrative Review Law, 735 ILCS 5/3-101 et seq. The Director of Labor's determination on the objections is final and binding unless a party to this proceeding applies for and obtains judicial review of the final administrative decision in accordance with the provisions of the Administrative Review Law.

A handwritten signature in blue ink, appearing to read "Joseph T. Beyer", is written over a horizontal line.

Joseph Beyer
Director of Labor

Kersey, Paul

From: Linda Ulery <LUlery@hghllc.net>
Sent: Friday, June 30, 2017 5:12 PM
To: Kersey, Paul
Cc: Matthew J. Gierse
Subject: [External] Prevailing Wage Schedule - Request for
Attachments: Request for Section 9 Hearing and Objection to Prevailing Wage Schedule.pdf

Mr. Kersey,

Attached please find our Request for a Section 9 Hearing and Objection to Prevailing Wage Schedule for several Illinois Counties. Thank you for your attention to this matter.

Linda

Linda K. Ulery for Matthew J. Gierse
Hartnett Gladney Hetterman, L.L.C.
4399 Laclede Avenue
St. Louis, Missouri 63108
Telephone: 314-531-1054
Facsimile: 314-531-1131
E-Mail: lulery@hghllc.net

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EXHIBIT A

LAW OFFICES

HARTNETT GLADNEY HETTERMAN, L.L.C.

ATTORNEYS AND COUNSELORS

JEFFREY E. HARTNETT
RONALD C. GLADNEY **
PAUL C. HETTERMAN *
JAMIE L. REYES-JONES **
JAMES P. FAUL *
MICHAEL A. EVANS *
MATTHEW J. GIERSE *
NATALIA MELKO ***
SAM K. GLADNEY

4399 LACLEDE AVENUE
ST. LOUIS, MISSOURI 63108
314-531-1054
Fax 314-531-1131

1750 New York Avenue, N.W., Suite 130
Washington, D.C. 20006

William H. Bartley 1937-2004
Jerome T. Bollato, Retired

* ALSO LICENSED IN ILLINOIS
** ALSO LICENSED IN WASHINGTON, D.C.
*** LICENSED IN NEW YORK

PLEASE RESPOND TO ST. LOUIS OFFICE

June 30, 2017

Via Certified Mail

2018-H-PR07-1916

Mr. Joe Beyer
Acting Director of the Department of Labor
Illinois Department of Labor
900 S. Spring Street
Springfield, IL 62704

Via Certified Mail

Illinois Department of Labor
Administrative Hearings
160 N. LaSalle Suite C-1300
Chicago, IL 60601

Re: Request for a Section 9 Hearing and Objection to Prevailing Wage Schedule for the following Illinois counties: Alexander, Franklin, Gallatin, Hamilton, Hardin, Jackson, Johnson, Massac, Pope, Pulaski, Saline, Union, White, and Williamson

Dear Mr. Beyer:

Our firm represents the International Union of Operating Engineers Local 318 ("Local 318"). The purpose of this correspondence is to submit written objections and a request for a hearing pursuant to Section 4 and 9 of the Illinois Prevailing Wage Act (820 ILCS 130/4, 9). Local 318 has and does establish the prevailing rate of wages and benefits for workers who perform work in all four Operating Engineer classifications in both the "all" category (which covers Building, Heavy and Highway Construction) and in the Oil and Chip Resealing category (also known as "O&C"), as well as for Operating Engineer River classifications 1 and 2 ("OE River 1" and "OE River 2"), in the above referenced counties.

Local 318 members perform the work mentioned in all four Operating Engineer classifications in both of these categories as well as in both Operating Engineer river classifications, and are therefore affected by the prevailing wage rate schedule established by the Illinois Department of Labor ("the Department"). Because the vast majority of workers performing this work in these Operating Engineer classifications have historically been covered by Local 318's collective bargaining agreements in these aforementioned counties, these collective

bargaining agreements have historically set the prevailing rate for the all of the Operating Engineer classifications.

In summary, Local 318 objects to the following:

1. In the Prevailing Wage schedules for the above referenced counties that the Department published on June 5, 2017, the Department recognized a classification of “Operating Engineer 4” for both the “All” and “O&C” categories.
2. The Operating Engineer 4 classification recognized by the Department in these counties for both the “All” and “O&C” categories encompasses the following job duties:
 - a. Air-Track Drill (one), Belt Drag Machine, Power Broom, Mechanical Plaster Applicator, Trac-Air, Air Compressor (220 cu. Ft. or over) One, Air Compressor (under 220 cu. Ft) four, Automatic Bin, Bulk Cement Plant w/Built-in Compressor running off same motor or electric motor, Fireman or Switchman, Self-Propelled Form Tamper, Light Plants (4), Welding Machines (4), Pumps (4), or Combination of four (4) Pumps, Light Plants, Welding Machines, Air-Compressors (under 200 cu. Ft.), Mudjacks or Wood Chipper, Mixers – less than 21 cu. Ft. Mortar Mixer w/ Skip or Pump, Pipeline Tract Jack. One Operating Engineer may operate and maintain any combination of the following pieces of equipment, not to exceed four (4) which shall be within a reasonable distance, such combination may include any equipment in this classification: (Compressors, Light Plants, Generators, Welding Machines, Pumps or Conveyors), One Well – Point Pump, Two Motor Driven Heaters, One Air Compressor (under 220 cu. Ft.), One Engine-Drive Conveyor, One Motor Driven Heater, One Light Plant, One Pump, One Welding Machine, One Ulmac or Equal Spreader, Oilers, and one Generator 10 kw or greater.
3. Virtually all of the above-described work is performed by employees in the Operating Engineer Class C classification as set forth in Article XX of the collective bargaining agreements that Local 318 has with contractors in Alexander, Franklin, Gallatin, Hamilton, Hardin, Jackson, Johnson, Massac, Pope, Pulaski, Saline, Union, White, and Williamson counties.
4. As of April 1, 2017, Class C Operating Engineers who perform heavy and highway, building, and construction work in these counties receive \$25.60 an hour in wages, with a total benefit package of a \$24.10 an hour. The Foreman performing this work in this classification receives \$35.90 an hour in wages with a total benefit package of \$24.10 an hour.
5. As of April 1, 2017, Class C Operating Engineers who perform oil and chip repaving work in these counties receive \$19.20 an hour in wages, with a total benefit package of \$24.10 an hour.
6. In Alexander County the Department has set for the Operating Engineer 4 classification for both “All” and “O&C” a wage rate of \$21.40 an hour with a total hourly benefit package of \$12.85.

7. In Franklin, Gallatin, Hamilton, Hardin, Jackson, Johnson, Massac, Pope, Pulaski, Saline, Union, White, and Williamson counties the Department has set for the Operating Engineer 4 classification for "All", a wage rate of \$21.40 an hour with a total hourly benefit package of \$12.85. For the Operating Engineer 4 classification for "O&C" in these counties, the Department has set a wage rate of \$16.05 with a benefit package of \$12.85.
8. Therefore, because Local 318 has and does establish the prevailing rate of wages and benefits for workers who perform work in the Operating Engineer 4 classification in both the "All" and "O&C" categories (in addition to River), the wage rates and benefit packages set by the Department for these Classifications, is grossly below the prevailing wage rate set by Local 318 in its collective bargaining agreements.
9. Furthermore, the Prevailing Wage schedules that the Department published on June 5, 2017, for Alexander, Franklin, Gallatin, Hamilton, Hardin, Jackson, Johnson, Massac, Pope, Pulaski, Saline, Union, White, and Williamson counties the Department has set the wage rate for the Operating Engineer classifications 1, 2, and 3, for both "All" and "O&C", and for Operating Engineer River classifications 1 and 2, by using the wage rates and fringe benefit packages that went into effect on April 1, 2016, pursuant to the Union's collective bargaining agreements with contractors in these above referenced counties. However, as of April 1, 2017, these rates have since increased for all of the Operating Engineer classifications and thus, the wage rates and benefit packages set by the Department for these Classifications, is grossly below the prevailing wage rate set by Local 318 in its collective bargaining agreements. Therefore, the Prevailing Wage rate schedules should be updated to reflect the current prevailing wage rate that is set forth in the collective bargaining agreements, effective April 1, 2017.

In conclusion, Local 318 seeks the following:

- A. The Operating Engineer 4 classification for "All" in the aforementioned counties should be the same as the Class C Operating Engineer in the Union's collective bargaining agreement with a wage rate of \$25.60 an hour and with a total benefit package of a \$24.10 an hour (\$9.60/Welfare, \$10.75/Pension, \$3.75/Apprenticeship & Training).
- B. The Operating Engineer 4 Foreman classification for "All" in the aforementioned counties should be set at a wage rate of \$35.90 an hour and with a total benefit package of a \$24.10 an hour (\$9.60/Welfare, \$10.75/Pension, \$3.75/Apprenticeship & Training).
- C. The Operating Engineer 4 classification for "O&C" should be the same as the Class C Operating Engineer in the Union's collective bargaining agreement with a wage rate of \$19.20 an hour and with a total benefit package of a \$24.10 an hour (\$9.60/Welfare, \$10.75/Pension, \$3.75/Apprenticeship & Training).
- D. The wage rates and benefit packages set by the Department of Labor for the four Operating Engineer classifications in both the "All" and "O&C" categories, and for Operating Engineer River classifications 1 and 2, for the above referenced counties should be updated to reflect the rates that are

currently provided for since April 1, 2017, in the collective bargaining agreements that the Union has with contractors in the above referenced counties.

Thank you for your attention to this matter. Please contact me if you have any questions and to schedule a date for the hearing.

Sincerely,

A handwritten signature in black ink that reads "Matthew J. Gierse". The signature is written in a cursive style with a large, prominent initial "M".

MATTHEW J GIERSE

Cc: Dee Stahlhut, Business Manager, IUOE Local 318
Benno Weisberg, IDOL General Counsel
Paul Kersey (via e-mail at Paul.Kersey@illinois.gov)

CERTIFICATE OF SERVICE

Under penalties as provided by law, including pursuant to Section 1-109 of the Code of Civil Procedure, I Ann Harrison, a non-attorney, affirm, certify or on oath state, that I served notice of the attached Notice of Hearing upon all parties to this case, or their agents appointed to receive service of process, by enclosing a copy of the Notice of Hearing in Case No. 2018-H-PK07-1916 and a copy of the Certificate of Service in an envelope addressed to each party or party's agent at the respective address shown on the Certificate of Service, having caused each envelope to be served by U.S. mail certified mail return receipt requested and at 100 W. Randolph Street, Chicago, Illinois on the ____ day of July, 2017 prior to 4:30 p.m. and placed on the Illinois Department of Labor's official website at and placed on the Illinois Department of Labor's official website at www.state.il.us/agency/idol/

Matthew Gierse
Harnett Gladney Hetterman L.L.C.
4399 Laclede Ave.
St. Louis, MO 63108
mgierse@hghllc.net

Via messenger:

Benno Weisberg
General Counsel
160 N. LaSalle St., Ste. C-1300
Chicago, IL 60601

Subscribed and Sworn to this 17th day of July, 2017

Laura Kotelman
Notary Public

