

STATE OF ILLINOIS – DEPARTMENT OF LABOR
CONCILIATION/MEDIATION DIVISION
1 W. OLD STATE CAPITOL PLAZA, 3RD FLOOR
SPRINGFIELD, ILLINOIS 62701

IN THE MATTER OF:)
)
BOB MARKHAM, and the INTERNATIONAL)
UNION OF OPERATING ENGINEERS,)
LOCAL 649,)
)
Petitioner(s),)
)
v.) STATE FILE NO. 2010-H-TW06-1272
)
CATHERINE M. SHANNON, DIRECTOR OF) DATE OF NOTICE: JULY 15, 2010
LABOR and the ILLINOIS DEPARTMENT OF)
LABOR,) CERT.MAIL/RETURN RECEIPT:
)
Respondent.) 7002 2410 0002 2829 8894
)

NOTICE OF CONSOLIDATED HEARING

PLEASE TAKE NOTICE that pursuant to section(s) 4 and 9 and of the Illinois Prevailing Wage Act [hereinafter, "PWA" or "Act"], 820 ILCS 130/4 and 9, the Illinois Department of Labor [hereinafter, "Respondent"] has received written objections filed by, Bob Markham and the International Union of Operating Engineers, Local 46 and Bob Markham and the International Union of Operating Engineers, Local 649 ["Petitioners"] and will convene a consolidated hearing in accordance with Article 10 of the Illinois Administrative Procedure Act, 5 ILCS 100/10-5-10-70 and the procedures stated in Respondent's rules at 56 Illinois Administrative Code 120.100 – 120.670.

DATE: AUGUST 12, 2010
TIME: 1:00 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 consolidated hearing request (Exhibits A) filed by Petitioner(s) involving Respondent's determination of the classification(s) and/or reclassification(s) of craft(s), or type of laborer(s), worker(s) or mechanic(s), engaging in work on public works projects in the Operating Engineer Classifications I-III in the following counties: Peoria, Fulton, Mason, Tazewell, McLean, Woodford, Marshall, Putnam, Stark, Henderson, McDonough, Hancock, Warren, Henry and Knox counties located within the State of Illinois and the prevailing rate of wages for the classification(s). The hearing request further seeks to create a new classification(s) of Class IV, Level A, B, C and D.

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 120.650, the Director of Labor shall render a decision and issue an order on the objections pursuant to 820 ILCS 130/9, 56 Illinois Administrative Code 120.100 – 120.670. A certified copy of the final administrative decision shall be filed with the Secretary of State, and a copy served personal service or certified/registered mail on all parties to the proceeding.

The proceedings under this hearing are subject to judicial review in accordance with the provisions of the Administrative Review Law, 735 ILCS 5/3-101 - 3-113. 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, 735 ILCS 5/3-101-113.

A handwritten signature in black ink that reads "Catherine M. Shannon". The signature is written in a cursive style with a horizontal line underneath the name.

Catherine M. Shannon
Director of Labor



"keeping it fair, for contractors and workers"

June 28, 2010

Ms. Catherine Shannon
Director of the Department of Labor
Illinois Department of Labor
Office of Administrative Hearings
160 North LaSalle, 13th Floor
Chicago, IL 60601

Re: Request for a Section 9 hearing to establishing new Prevailing Wage classifications for the various Operating Engineer classifications in the following Counties: Peoria, Fulton, Mason, Tazwell, McLean, Woodford, Marshall, Putnam (W. of River), W. ½ of Putnam, Stark, Henderson, McDonough, Hancock, Warren, E. ½ of Henry, and Knox.

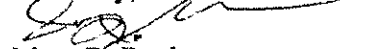
Dear Ms. Shannon:

As you are aware, I am the Executive Director and Counsel for the Indiana, Illinois and Iowa Foundation for Fair Contracting ("III FFC"). The III FFC represents Bob Markham and the International Union of Operating Engineers, Local 649, AFL-CIO in the above referenced matter. Please send all future correspondence to my attention. Enclosed please find an original and one (1) copy of the above Section 9 hearing request in each of the following counties for filing with your office: Peoria, Fulton, Mason, Tazwell, McLean, Woodford, Marshall, Putnam (W. of River), W. ½ of Putnam, Stark, Henderson, McDonough, Hancock, Warren, E. ½ of Henry, and Knox.

Please contact me if you have any questions.

EXHIBIT A

Sincerely,



Marc R. Poulos
Executive Director and
Counsel for the Indiana,
Illinois and Iowa Foundation
for Fair Contracting

cc: Bob Markham
Michael Haggerty

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"keeping it fair, for contractors and workers"

June 28, 2010

Ms. Catherine Shannon
Director of the Department of Labor
Illinois Department of Labor
1 W. Old State Capitol Plaza, Room 300
Springfield, IL 62701

Re: Request for a consolidated Section 9 hearing to establish and reclassify various Prevailing Wage classifications for Operating Engineers

Dear Ms. Shannon:

I am representing Bob Markham a member of the International Union of Operating Engineers, Local 649, AFL-CIO ("Local 649"). Local 649 members, including Mr. Markham, perform the work mentioned herein and are capable of performing this work in the Counties mentioned herein and are therefore affected by the absence or misclassification of such classifications.

For decades, Local 649 has had collective bargaining agreements that prevailed in various counties for multiple classifications or work.

Currently, the Local 649 Heavy and Highway Construction contract ("HHUA") prevails for Operating Engineer classifications I – III in the following counties: Peoria, Fulton, Mason, Tazwell, McLean, Woodford, Marshall, Putnam (W. of River), W. ½ of Putnam, Stark, Henderson, McDonough, Hancock, Warren, E. ½ of Henry, and Knox. However, there are discrepancies between the prevailing wages posted in those Counties and the collective bargaining agreement listed.

Namely, the prevailing wage rate for HHUA in all Counties listed is missing the following description for Class I pieces of equipment: "Overhead Crane;"; "360 degree Swing Excavator (shears, grapples, movacs, etc.);"; "Concrete and all recycle machines;"; Multiple Unit Earth Movers - \$.90 per hour for each scoop over (1) and will increase 10 cents each contract anniversary;"; "Material Crusher;"; "Screening Plants;"; "Tunnel Boring Machine;"; Starting Engineer on Pipeline or Construction (11 or more pieces);";

“Creter Crane;”; Concrete Pump Truck;”; “Laser Screed;”; “Span Saw;”; “Dredge Leverman;”; “Dredge Engineer;”; “Lull or similar type;”; “Hydro-Boom Truck;”; “Guard Rail Machine;”; and “Foreman”. In addition, the description should also contain the following descriptive language: “Cranes - an additional \$.05 per hour, per foot, over 90 feet including jib; an additional \$1.00 per hour when the crane or derrick boom is positioned 50 feet or more above adjacent ground level or water level; an additional \$.02 per hour, per ton – over 50-ton capacity.” “Boom Pay and Capacity Pay shall not be pyramided.” On the other hand, the term “F.W.D.” should be removed from the HHUA Class I description. The prevailing wage rate for HHUA in all Counties listed is missing the following description for Class II pieces of equipment: “Carts, Powered Haul Unit for a Boring Machine;”; Truck Mounted Power Saws;”; Curb Cutters;”; Self-Propelled Sweepers;”; Articulating End Dump Vehicles;”; “Starting Engineer (6 to 10 pieces);”. On the other hand the following terms should be removed from the HHUA Class II descriptions: “Boring Machine;”; “Hydro-Boom;”; “to 27E”.

The prevailing wage rate for HHUA in all Counties listed is missing the following description for Class III pieces of equipment: “Straight Framed Truck and Truck Mounted Vac Unit (separately powered);”; “Starting Engineer (3 to 5 pieces);”. On the other hand the following terms should be removed from the HHUA Class III descriptions: “articulating end dump vehicles”; Herman Nelson heater, Dravo Warner, Silent Glo and similar types;”; “Pumps;”; “Light Plant;”; “Generator;”; “Air Compressor (1) or (2);”; “Conveyor;”; “Welding Machine;”; “Mixer – 3 bags and under;”.

In addition, the term “Starting Engineer” appears in each of the three classifications discussed above. Namely, Class I: “Starting Engineer on Pipeline or Construction (11 or more pieces);”; Class II: Starting Engineer (6 to 10 pieces);”; and, Class III: “Starting Engineer (3 to 5 pieces);”. Each of these terms refer to a work process that is required on the following pieces of equipment listed within the HHUA as follows: “Air compressor (trailer mounted); All forced air heaters (regardless of size); Water pumps (greater than 4 ½” or total discharge over 4 ½”); Light plants; Generators (trailer mounted – excluding decontamination trailer); Welding machines (any size or mode of power); Conveyor; Mixer (any size); Stud welder; Power Pac, etc.; Ground Heater (trailer mounted).” Thus, this terminology must be referenced in the descriptions either as a separate description of the term “Starting Engineer” or within each of the three classification descriptions.

Furthermore, Local 649 is requesting the following new classifications for each of the Counties mentioned in accordance with the HHUA mentioned-above. Namely, When a Federal or State agency requires the use of Level A, B, C or D Hazardous Materials personal protective equipment the following should apply: Class IV. Level A – add \$4.00 to the appropriate Group rate; Class V. Level B – add \$3.00 to the appropriate Group rate; Class VI. Level C – add \$3.00 to the appropriate Group rate; Class VII. Level D – add \$2.00 to the appropriate Group rate.

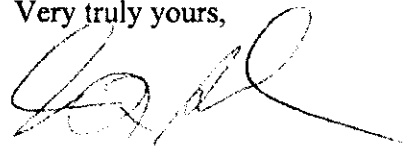
Finally, for each of the explanations' listed above attached is a description showing equipment pieces that should be removed with a strikethrough each equipment piece and equipment pieces to be added shown in bold and underlined. Included in the sample explanations are the new classifications Local 649 is requesting for each of the agreements with the current prevailing wage rate listed.

The classifications mentioned-above are construction work as defined in sections 2 and 3 of the Illinois Prevailing Wage Act (hereinafter "IPWA") (820 ILCS 130/2), because the equipment mentioned herein and workers operating the various pieces of equipment are directly employed by contractors or subcontractors in actual construction work on the site of the building or construction job, and engage in the transportation of materials and equipment to or from the site (820 ILCS 130/3).

Accordingly, on behalf of Mr. Markham, Local 649 and the Local 649 membership, in accordance with Section 4 and 9 of the IPWA (820 ILCS 130/4; 820 ILCS 130/9), I am requesting an investigatory hearing to establish new Prevailing Wage classifications or a reclassification of classifications for the equipment mentioned herein.

Thank you for your attention to this matter. Please contact me if there are any further questions.

Very truly yours,



Marc R. Poulos

Cc: Bob Markham
Michael Haggerty

Class 1¹. Cranes; **Overhead Crane**; Hydro Crane; Shovels; Crane Type Backfiller; Tower Cranes - Mobile & Crawler & Stationary; Derricks & Hoists(3 Drum); Draglines; Drott Yumbo & similar types considered as Cranes; **360° Swing Excavator (shears,grapples,movacs, etc.)**; Back Hoe; Derrick Boats; Pile Driver and Skid Rigs; Clam Shell; Locomotive - Cranes; Road Pavers - Single Drum - Dual Drum - Tri Batcher; Motor Patrols & Power Blades - Dumore - Elevating & Similar Types; Mechanics; Central Concrete Mixing Plant Operator; Asphalt Batch Plant Operators and Plant ngeineers; Gradall; Caisson Rigs; Skimmer Scoop - Koering Scooper; Dredges (all types); Hoptoe; All Cherry Pickers; Work Boat; Ross Carrier; Helicopter; Dozer; Tournadozer; Tournapulls - all and similar types; **Concrete and all recycle machines**; Multiple Unit Earth Movers - **\$.90 per hour for each scoop over (1) and will increase 10¢ each contract anniversary**; Scoops (all sizes); Pushcats; Endloaders (all types); Asphalt Surfacing Machine; Slip Form Paver; Rock Crusher; **Material Crusher**; **Screening Plants**; **Tunnel Boring Machine**; Heavy Equipment Greaser (top greaser on spread); CMI, Auto Grade, CMI Belt Placer & 3 Track and similar types; Side Booms; Starting Engineer on Pipeline **or Construction (11or more pieces)**; Asphalt Heater & Planer Combination (used to plane streets); Wheel Tractors (with dozer, hoe or endloader attachments); F.W.D. **CAT Earthwork Compactors** and Similar types; Blaw Knox Spreader and Similar types; Trench Machines; Pump Crete – Belt Crete - Squeeze Crete - screw type pumps and gypsum (operator will clean); **Creter Crane**; **Concrete Pump Truck**; Formless Finishing Machines; Flaherty Spreader or similar types; Screed Man on Laydown Machine; Vermeer Concrete Saw; **Laser Screed**; **Span Saw**; **Dredge Leverman**; **Dredge Engineer**; **Lull or similar type**; **Hydro-Boom Truck**; **Guard Rail Machine and Foreman**. Cranes - **an additional \$.05 per hour, per foot, over 90 feet including jib; an additional \$1.00 per hour when the crane or derrick boom is positioned 50 feet or more above adjacent ground level or water level; an additional \$.02 per hour, per ton – over 50-ton capacity. Boom Pay and Capacity Pay shall not be pyramided.** **Starting Engineer Machines include: Air compressor (trailer mounted); All forced air heaters (regardless of size); Water pumps (greater than 4 ½” or total discharge over 4 ½”); Light plants; Generators (trailer mounted – excluding decontamination trailer); Welding machines (any size or mode of power); Conveyor; Mixer (any size); Stud welder; Power Pac, etc.; Ground Heater (trailer mounted).**

Class 2. Bulker & Pump; Power Launches; Boring Machine & Pipe Jacking Machine; Dinkeys; **Carts, Powered Haul Unit for a Boring Machine**; P-H One Pass Soil Cement Machines and similar types; Wheel Tractors (Industry or farm type - other); Back Fillers; Euclid Loader; Fork Lifts; Jeep w/Ditching Machine or other attachments; Tunneluger; Automatic Cement & Gravel Batching Plants; Mobile Drills - Soil Testing and similar types; Pugmill with pump; All (1) and (2) Drum Hoists; Dewatering System; Straw Blower; Hydro-Seeder; ~~Boring Machine~~; ~~Hydro-Boom~~; Bump Grinders (self-propelled); Assistant Heavy Equipment Greaser; Apsco Spreader; Tractors (track-type) without Power Units Pulling Rollers on Asphalt - Brick or Macadam; Concrete Breakers; Concrete Spreaders; Cement Strippers; Cement Finishing Machines & CMI Texture & Reel Curing

¹ Regular text refers to text already in existence within the current prevailing wages for the referenced Counties, bold and underlined text refers to proposed new language, and strike-through text refers to existing language which is proposed to be deleted.

Machines; Vibro-Tampers (all similar types self-propelled); Mechanical Bull Floats; Self-propelled Concrete Saws; **Truck Mounted Power Saws; Curb Cutters;** Mixers-over three (3) bags to 27E; Winch and Boom Trucks; Tractor Pulling Power Blade or Elevating Grader; Porter Rex Rail; Clary Screed; Mule Pulling Rollers; Pugmill without Pump; Barber Greene or similar Loaders; Track Type Tractor w/Power Unit attached (minimum); Fireman; Spray Machine on Paving; Curb Machines; Paved Ditch Machine; Power Broom; **Self-Propelled Sweepers;** Self-Propelled Conveyors; Power Subgrader; Oil Distributor; Straight Tractor; Truck Crane Oiler; Truck Type Oilers; Directional boring Machine; Horizontal Directional Drill; **Articulating End dump Vehicles; Starting Engineer (6 to 10 pieces).** **Starting Engineer Machines include: Air compressor (trailer mounted); All forced air heaters (regardless of size); Water pumps (greater than 4 ½" or total discharge over 4 ½"); Light plants; Generators (trailer mounted – excluding decontamination trailer); Welding machines (any size or mode of power); Conveyor; Mixer (any size); Stud welder; Power Pac, etc.; Ground Heater (trailer mounted).**

Class 3. Straight Framed ~~articulating end dump vehicles~~ **Truck and Truck Mounted Vac Unit (separately powered); Starting Engineer (3 to 5 pieces);** Trac Air Machine (without attachments); ~~Herman Nelson Heater, Dravo Warner, Silent Glo & similar types;~~ Rollers - five ton and under on earth and gravel; Form Graders; Pumps; Light Plant; Generator; Air Compressor (1) or (2); Conveyor; ~~Welding Machine; Mixer—3 bags and under;~~ Bulk Cement Plant; Oilers. **Starting Engineer Machines include: Air compressor (trailer mounted); All forced air heaters (regardless of size); Water pumps (greater than 4 ½" or total discharge over 4 ½"); Light plants; Generators (trailer mounted – excluding decontamination trailer); Welding machines (any size or mode of power); Conveyor; Mixer (any size); Stud welder; Power Pac, etc.; Ground Heater (trailer mounted).**

Class 4. Level A – add \$4.00 to the appropriate Group rate. When a Federal or State agency requires the use of Level A Hazardous Materials personal protective equipment.

Class 5. Level B – add \$3.00 to the appropriate Group rate. When a Federal or State agency requires the use of Level B Hazardous Materials personal protective equipment.

Class 6. Level C – add \$3.00 to the appropriate Group rate. When a Federal or State agency requires the use of Level C Hazardous Materials personal protective equipment.

Class 7. Level D – add \$2.00 to the appropriate Group rate. When a Federal or State agency requires the use of Level D Hazardous Materials personal protective equipment.

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing:

1: NOTICE OF HEARING

prior to 4:30 p.m. on 7/15, 2010, to the following addresses shown below

via certified U.S. Mail:

Marc R. Poulos
Indiana-Illinois-Iowa Foundation for Fair Contracting
6170 Joliet Rd., Ste. 200
Countryside, IL 60525

Via messenger:

Michael Haggerty
Illinois Department of Labor
160 N. LaSalle St., Ste. C-1300
Chicago, IL 60601

Zelanda Costello

Subscribed and sworn to before me this 15 day of July, 2010.

Ann Harrison
Notary Public
My Commission Expires April 5, 2012

