

CERTIFICATE OF SERVICE

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

CONSENT DECREE AND ORDER

prior to 4:30 p.m. on November 7, 2014, to the following addresses shown below via U.S. Mail and placed on the Illinois Department of Labor's official website at <http://www.illinois.gov/idol/Laws-Rules/legal/Pages/Hearings.aspx>:

Melissa Binetti
IIIFFC
6170 Joliet Rd., Ste. 200
Countryside, IL 60525

Ed Hogan
Hogan Marren
321 N. Clark St., Ste. 1301
Chicago, IL 60654

Ed Hogan/Nick Hudalla
Hogan Marren, Ltd.
321 N. Clark St., Ste. 1301
Chicago, IL 60654

Ellen Schanzle-Haskins/Dan Wright
Brown Hay & Stephens
204 S. Fifth St., Ste. 700
P.O. Box 2459
Springfield, IL 62705-2459

Via messenger:

Valerie Puccini
Assistant General Counsel
Illinois Department of Labor
160 N. LaSalle St., Ste. C-1300
Chicago, IL 60601

Ann Harrison

RECEIVED

NOV 07 2014

Illinois Department of Labor
CHICAGO OFFICE

**STATE OF ILLINOIS – DEPARTMENT OF LABOR
CONCILIATION/MEDIATION DIVISION
1 WEST OLD STATE CAPITAL PLAZA, 3RD FLOOR
SPRINGFIELD, ILLINOIS 62701**

IN THE MATTER OF:)
)
 ALLEN BINGHAM, as a Member of the)
 International Union of Operating Engineers,)
 Local #150, AFL-CIO, and the)
 INTERNATIONAL UNION OF OPERATING)
 ENGINEERS, LOCAL #150, AFL-CIO,)
)
 Petitioners,)
)
 JOSEPH COSTIGAN, Director of Labor,)
 and ILLINOIS DEPARTMENT OF LABOR,)
)
 Respondent,)
)
 MARTIN FLANAGAN, as a Member of the)
 Laborers’ International Union of North America,)
 the CONSTRUCTION AND GENERAL)
 LABORERS’ DISTRICT COUNCIL OF)
 CHICAGO AND VICINITY, and LABORERS’)
 DISTRICT COUNCIL LABOR-MANAGEMENT)
 COOPERATION COMMITTEE,)
)
 and)
)
 LABORERS’ INTERNATIONAL UNION OF)
 NORTH AMERICA GREAT PLAINS)
 LABORERS’ DISTRICT COUNCIL and)
 affiliated unions,)
)
 Intervenors.)

State File No.:
15-H-JN07-0808

Order

This matter coming to be heard on an objection to the Illinois Department of Labor’s prevailing wage determinations and request for hearing under Section 9 of the Prevailing Wage Act, 820, ILCS 130/01 *et seq.*, and due notice having been given:

IT IS HEREBY ORDERED, that upon review of the Consent Decree and the terms and conditions entered into between the parties the Consent Decree is accepted and resolves the dispute between the parties.

DATE: 11/7/14



Claudia D. Manley
Chief Administrative Law Judge

Claudia D. Manley
Chief Administrative Law Judge
Illinois Department of Labor
160 N. LaSalle St., Ste. C-1300
Chicago, IL 60601
V: 312-793-1805
F: 312-793-5257

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NOV 07 2014

Illinois Department of Labor
CHICAGO OFFICE

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CONCILIATION/MEDIATION DIVISION
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Intervenors.)

State File No.:
15-H-JN07-0808

Consent Decree

Respondents, Joseph Costigan, Director of Labor, and the Illinois Department of Labor (“Respondent”), Petitioners, Allen Bingham, as a Member of the International Union of Operating Engineers, Local 150, AFL-CIO (“Bingham”), and the International Union of Operating Engineers, Local 150, AFL-CIO (“Local 150”) (collectively, Bingham and Local 150 referred to as the “Operators”), and Intervenors, Martin Flanagan, as a Member of the Laborers’ International Union of North America (“Flanagan”), the Construction & General Laborers’ District Council of Chicago and Vicinity (the “LDC”), and the Laborers’ District Council Labor Management

Cooperation Committee (the “LMCC”) (collectively, Flanagan, the LDC, and the LMCC referred to as the “Chicago Laborers”), and the Laborers’ International Union of North America Great Plains Laborers’ District Council and their affiliated local unions (collectively Great Plains Laborers’ District Council), hereby resolve the above-referenced matter pursuant to 56 Ill. Admin. Code 120.540 as follows:

1. This matter arises under the Illinois Prevailing Wage Act (“IPWA”), as amended, 820 ILCS 130/0.01 *et seq.*
2. Pursuant to Sections 4 and 9 of the IPWA, the Operators timely filed written and specific objections (the “Objection”) to the July 2014 prevailing wage rates published by the Illinois Department of Labor (“IDOL”) on its website for various counties mentioned herein, and requested a hearing to establish new sub-classifications for Remotely Operated Underwater Vehicle (ROV) Pilots, ROV Tenders, Divers, and Wet Tenders under the existing classification of Operating Engineer.
3. Pursuant to Section 9 of the IPWA, Respondent scheduled a hearing on the Objection, issued a Notice of Hearing, and provided notice of the hearing to the public by posting the date, time, location, and other pertinent information regarding the Section 9 hearing on IDOL’s official website.
4. On or about August 1, 2014, the Great Plains Laborers’ District Council filed a Petition to Intervene, which was granted by Chief Administrative Law Judge Manley by order dated August 15, 2014.
5. The Great Plains Laborers’ District Council is the representative for the local unions of the Laborers’ International Union of North America through the Illinois counties of Rock Island, Carroll, DeKalb, Jo Daviess, Mercer, Ogle, Stephenson, Whiteside and Winnebago.
6. On August 13, 2014, the Chicago Laborers filed a Petition to Intervene, which was granted by Chief Administrative Law Judge Manley by order dated August 15, 2014.
7. The LDC is the representative for the local unions of the Laborers’ International Union of North America through the Illinois counties of Cook, Will, DuPage, Lake, Kane, Kendall, Boone, Grundy and McHenry.
8. For the following counties: Cook, Lake and Will, the IDOL shall list **Operating Engineer Class 6 – FLT** as part of the Operating Engineer classification, described as follows:

Operating Engineer Class 6 - FLT	ROV Pilot, ROV Tender
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9. For the following counties: Cook, Lake and Will, the IDOL shall list the prevailing wage and benefit rates for **Operating Engineer Class 6 - FLT** as follows:

	Wage Rate	Fringe Benefits
Operating Engineer Class 6 - FLT	\$35.00	H&W: \$16.60 Pension: \$11.05 Vacation: \$1.90 Training: \$1.25

10. For the following counties: DuPage, Kane, Kendall, Boone, Grundy and McHenry, the IDOL shall list **Operating Engineer - FLT** as part of the Operating Engineer classification, described as follows:

Operating Engineer - FLT	Diver, Diver Wet Tender, Diver Tender, ROV Pilot, ROV Tender
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11. For the following counties: DuPage, Kane, Kendall, Boone, Grundy and McHenry, the IDOL shall list the prevailing wage and benefit rates for **Operating Engineer - FLT** as follows:

	Wage Rate	Fringe Benefits
Operating Engineer - FLT	\$35.00	H&W: \$16.60 Pension: \$11.05 Vacation: \$1.90 Training: \$1.25

12. For enforcement purposes, the IDOL shall use the following descriptions for Cook, Will, DuPage, Lake, Kane, Kendall, Boone, Grundy and McHenry counties:

Diver – performs diving operations.

Diver Wet Tender - assists Diver and is a standby Diver, fully equipped and immediately available to perform diving operations.

Diver Tender - assists Diver and tends devices supporting Diver (e.g. air supply, electrical, communication, etc.).

ROV Pilot - operates underwater remote operated vehicles (ROVs).

ROV Tender - assists the ROV Pilot and tends devices supporting ROV (e.g. electrical, communication, etc.).

13. For enforcement purposes, the IDOL shall use the following description in Cook, Will, DuPage, Lake, Kane, Kendall, Boone, Grundy and McHenry counties:

Tender

Other than Diver Wet Tender, Diver Tender and ROV Tender as described under Operating Engineer – Floating, the work of a tender performed at a construction area, including a floating barge, falls under the existing classification for laborer. This work includes fire watch, hole watch, confined space entry watch, and safety and deck monitoring, except when such work is performed during repairs on marine equipment or heavy equipment operated by an operating engineer, in which case such work is covered under the classification of operating engineer. The work of a tender covered under the laborer classification also includes lock tending, cage tending, chuck tending and cable tending, as well as the drying of plaster, concrete, mortar or other aggregate by any drying process, the aging and curing of concrete, mortar and other materials to be applied during construction, the firestopping and fireproofing of all beams, ceilings, walls and floors, and the unloading, handling and distributing of all materials, fixtures, furnishings, furniture and appliances, crated or uncrated, from point of delivery to stockpiles and from stockpiles to point of installation. The work of a tender covered under the laborer classification also includes all work associated with the preparation, handling and conveying of materials to be used during construction, whether such preparation, handling or conveyance is done by hand, mixer, bucket, hod, wheelbarrow, buggy or other motorized unit, with the exception of such handling or conveyance when done by heavy equipment operated by an operating engineer, in which case such work is covered under the classification of operating engineer. Cleaning and clearing is also the work of a tender covered under the laborer classification, which includes the cleaning and clearing of debris and recycled material, the scraping of floors and removal of surplus materials, the sweeping, cleaning, washdown and wiping of construction facilities, equipment and furnishings, the removal and loading or burning of all debris, and the cleanup, washing, mopping, waxing and polishing of any wall, partition, ceiling, floor, window, bathroom, kitchen, laboratory, or other construction area, with the exception of the cleaning and clearing of heavy equipment operated by an operating engineer, in which case such cleaning and clearing is covered under the classification of operating engineer.

14. The descriptions set forth in paragraphs 12 and 13 shall not be part of the wage schedules published by IDOL.
15. The objections pertaining to Remotely Operated Underwater Vehicle (ROV) Pilots, ROV Tenders, Divers, and Wet Tenders in Carroll, DeKalb, Jo Daviess, Kankakee, LaSalle, Lee, Livingston, Mercer, Ogle, Rock Island, Stephenson, Whiteside and Winnebago counties are withdrawn, without prejudice.

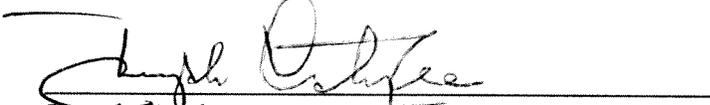
16. The parties agree that:

- a. The Decision and Order disposing of this proceeding shall have the same force and effect as an Order made after a full hearing; and
- b. The entire record of this hearing shall consist solely of the Notice of Hearing, this Consent Decree, and the subsequent Decision and Order.
- c. The rates discussed herein shall be posted no later than December 1, 2014.

17. The parties waive:

- a. Further procedural steps before the Administrative Law Judge; and
- b. Any right to challenge or contest the validity of this Consent Decree.

Dated this 5th day of November, 2014



Joseph Costigan
Director of Labor, Illinois Department of Labor

Marc R. Poulos
Attorney for Petitioners
Allen Bingham, and the International Union of
Operating Engineers, Local 150

Edward M. Hogan
Attorney for Intervenors
Martin Flanagan, Construction & General Laborers'
District Council of Chicago and Vicinity, and
Laborers' District Council Labor Management Cooperation Committee

Ellen Schanzle-Haskins
Attorney for Intervenors
Laborers' International Union of North America
Great Plains Laborers' District Council

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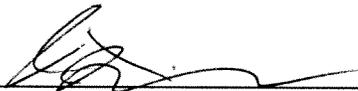
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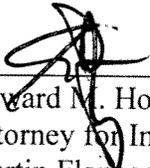
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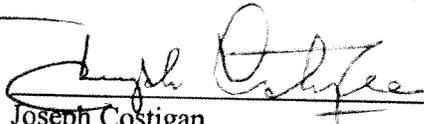
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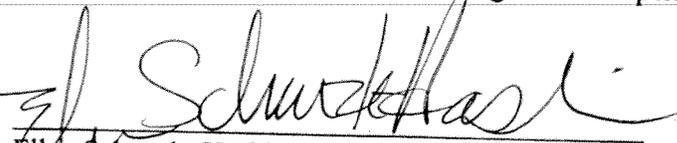
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