

CONCILIATION/MEDIATION DIVISION
160 NORTH LASALLE ST., STE. C-1300
CHICAGO, ILLINOIS 60601

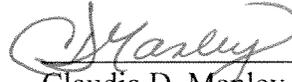
IN THE MATTER OF:)
)
STANLEY SIMRAYH, as MEMBER OF THE)
INTERNATIONAL UNION OF OPERATING)
ENGINEERS, LOCAL #150, AFL-CIO, and the)
INTERNATIONAL UNION OF OPERATING) STATE FILE NO.: 2015-H-JN08-0852
ENGINEERS, LOCAL #150, AFL-CIO, and the)
ASSOCIATED GENERAL CONTRACTORS OF) Chief Administrative Law Judge
ILLINOIS, SOUTHERN ILLINOIS BUILDERS) Claudia Manley
ASSOCIATION, AMERICAN COUNSEL OF)
ENGINEERING COMPANIES, DIAMOND)
CONSTRUCTION CO., UNITED)
CONTRACTORS OF MIDWEST, INC.,)
ADVANCED ASPHALT CO., INC., SOUTHERN)
ILLINOIS ASPHALT CO., INC., KLINGNER)
& ASSOC., P.C., ANDREWS ENGINEERING)
GROUP, L.L.C., SCI ENGINEERING, INC., and)
JUNEAU ASSOCIATES, INC., P.C.)
)
Petitioner(s),)
)
v.)
)
JOSEPH COSTIGAN, DIRECTOR OF)
LABOR and the ILLINOIS DEPARTMENT OF)
LABOR,)
)
Respondent,)
)
LABORERS' INTERNATIONAL UNION OF)
NORTH AMERICA, GREAT PLAINS)
LABORERS' DISTRICT COUNCIL and their)
affiliated local unions, MARTIN FLANAGAN, as)
a Member of the Laborers International Union of)
North America, CONSTRUCTION & GENERAL)
LABORERS' DISTRICT COUNCIL OF)
CHICAGO & VICINITY, and the LABORERS')
DISTRICT COUNCIL LABOR MANAGEMENT)
COOPERATION COMMITTEE,)
)
Intervenors.)

DECISION AND ORDER

This cause coming to be heard on objections to and requests for hearing on the Illinois Department of Labor's prevailing wage determinations under Section 9 of the Prevailing Wage Act, 820 ILCS 130/0.01 *et seq.*, and due notice having been given:

IT IS HEREBY DECIDED AND ORDERED, that upon review of the terms and conditions contained in the January 13, 2015 Consent Decree between all parties to this proceeding, the Consent Decree is accepted and resolves the above-captioned dispute.

DATE: 1-15-15



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, Illinois 60601
V: 312-793-1805
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CONCILIATION/MEDIATION DIVISION
160 NORTH LASALLE ST., STE. C-1300
CHICAGO, ILLINOIS 60601

IN THE MATTER OF:)

STANLEY SIMRAYH, as MEMBER OF THE)
INTERNATIONAL UNION OF OPERATING)
ENGINEERS, LOCAL #150, AFL-CIO, and the)
INTERNATIONAL UNION OF OPERATING)
ENGINEERS, LOCAL #150, AFL-CIO, and the)
ASSOCIATED GENERAL CONTRACTORS OF)
ILLINOIS, SOUTHERN ILLINOIS BUILDERS)
ASSOCIATION, AMERICAN COUNSEL OF)
ENGINEERING COMPANIES, DIAMOND)
CONSTRUCTION CO., UNITED)
CONTRACTORS OF MIDWEST, INC.,)
ADVANCED ASPHALT CO., INC., SOUTHERN)
ILLINOIS ASPHALT CO., INC., KLINGNER)
& ASSOC., P.C., ANDREWS ENGINEERING)
GROUP, L.L.C., SCI ENGINEERING, INC., and)
JUNEAU ASSOCIATES, INC., P.C.)

STATE FILE NO.: 2015-H-JN08-0852

Chief Administrative Law Judge
Claudia Manley

Petitioner(s),)

v.)

JOSEPH COSTIGAN, DIRECTOR OF)
LABOR and the ILLINOIS DEPARTMENT OF)
LABOR,)

Respondent,)

LABORERS' INTERNATIONAL UNION OF)
NORTH AMERICA, GREAT PLAINS)
LABORERS' DISTRICT COUNCIL and their)
affiliated local unions, MARTIN FLANAGAN, as)
a Member of the Laborers International Union of)
North America, CONSTRUCTION & GENERAL)
LABORERS' DISTRICT COUNCIL OF)
CHICAGO & VICINITY, and the LABORERS')
DISTRICT COUNCIL LABOR MANAGEMENT)
COOPERATION COMMITTEE,)

Intervenors.)

Consent Decree

Respondents, Joseph Costigan, Director of Labor (the "Director"), and the Illinois Department of Labor (the "Department"), Petitioners, Stanley Simrayh, 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 (collectively, the "Operators"), the Associated General Contractors of Illinois, American Council of Engineering Companies, Southern Illinois Builders Association, Diamond Construction Company, United Contractors of Midwest, Inc., Advanced Asphalt Company, E.T. Simonds, The Killian Corporation, Asphalt Sales and Products, Inc., Tarlton Corporation, Stark Excavating, Inc., Bush Construction Company, Inc., Foley Construction Company, Southern Illinois Asphalt Co., Inc., Klinger & Associates, P.C., Andrews Engineering, Inc., Bowman, Barrett & Associates, Inc., Oates Associates, Inc., Kaskaskia Engineering Group, L.L.C., SCI Engineering, Inc., and Juneau Associates, Inc., P.C. (collectively, the "Coalition"), and Intervenors, Laborers' International Union of North America, Great Plains Laborers' District Council and their affiliated local unions, Martin Flanagan, as a Member of the Laborers' International Union of North America, the Construction & General Laborers' District Council of Chicago and Vicinity, and the Laborers' District Council Labor Management Cooperation Committee (collectively, the "Laborers"), 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, on July 8, 2013 and July 31, 2014, the Operators filed written objections (the "Operators' Objection") to the prevailing wage rates published by the Department for the classifications of Material Tester/Inspector I and Material Tester/Inspector II in the Illinois counties of Jo Daviess, Stephenson, Henry (West), Mercer, Livingston, Whiteside, Rock Island, Bureau, Putnam, and LaSalle.
3. Pursuant to a July 8, 2014 Settlement Agreement entered into between Associated General Contractors of Illinois, Diamond Construction Company, and United Contractors Midwest, Inc., as plaintiffs, and the Director and the Department, as defendants, on August 20, 2014, the Coalition filed written objections (the "Coalition's Objection") to the Department's prevailing wage determinations for the classifications of Material Tester/Inspector I and Material Tester/Inspector II for all Illinois counties for which the classifications were published.
4. On August 21, 2014, the Director entered an order consolidating the Operators' Objection and the Coalition's Objection, and for purposes of this Consent Decree, the consolidated objections shall be referred to as the "Objection."
5. On August 28, 2014, a petition to intervene was filed by the Laborers' International Union of North America, the Great Plains Laborers' District Council and their affiliated local unions.

6. On September 11, 2014, a petition to intervene was filed by Martin Flanagan, as a Member of the Laborers' International Union of North America, the Construction & General Laborers' District Council of Chicago and Vicinity, and the Laborers' District Council Labor Management Cooperation Committee.
7. On October 2, 2014, Chief Administrative Law Judge Manley entered an order granting the Laborers' petitions to intervene.
8. On October 14, 2014, Chief Administrative Law Judge Manley issued an order stating that, based upon the Objection, a hearing would be held regarding the classifications of Material Tester I and Material Tester II in the Illinois counties of Boone, Carroll, Cook, DeKalb, DuPage, Grundy, Kane, Kankakee, Kendall, Lake, Lee, McHenry, Ogle, Will, Winnebago, Jo Daviess, Stephenson, Henry (West), Mercer, Livingston, Whiteside, Rock Island, Bureau, Putnam, and LaSalle.
9. It is determined that the Department shall continue to post the classifications of Material Tester I and Material Tester II as part of the Department's prevailing wage schedules for the Illinois counties of Boone, Carroll, Cook, DeKalb, DuPage, Grundy, Kane, Kankakee, Kendall, Lake, Lee, McHenry, Ogle, Will, and Winnebago,
10. It is determined that for the Illinois counties of Boone, Carroll, Cook, DeKalb, DuPage, Grundy, Kane, Kankakee, Kendall, Lake, Lee, McHenry, Ogle, Will, and Winnebago, the Department shall continue to post the following explanations for the classifications of Material Tester I and Material Tester II:

Material Tester I	Hand coring and drilling for testing of materials; field inspection of uncured concrete and asphalt.
Material Tester II	Field inspection of welds, structural steel, fireproofing, masonry, soil, facade, reinforcing steel, formwork, cured concrete, and concrete and asphalt batch plants; adjusting proportions of bituminous mixtures.

11. It is determined that for the Illinois counties of Boone, Kane, Kendall, and McHenry, the current prevailing wage and benefit rates for the Material Tester I and Material Tester II classifications shall be as follows:

	Wage Rate	Fringe Benefits
Material Tester I	\$28.00	H&W: \$13.42 Pension: \$10.48 Vacation: \$0.00 Training: \$0.50

Material Tester II	\$33.00	H&W: \$13.42 Pension: \$10.48 Vacation: \$0.00 Training: \$0.50
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12. It is determined that for the Illinois counties of Cook, DuPage, Grundy, Lake, and Will, the current prevailing wage and benefit rates for the Material Tester I and Material Tester II classifications shall be as follows:

	Wage Rate	Fringe Benefits
Material Tester I	\$28.00	H&W: \$13.78 Pension: \$10.12 Vacation: \$0.00 Training: \$0.50
Material Tester II	\$33.00	H&W: \$13.78 Pension: \$10.12 Vacation: \$0.00 Training: \$0.50

13. It is determined that for the Illinois counties of Carroll, DeKalb, Kankakee, Lee, Ogle, and Winnebago, the current prevailing wage and benefit rates for the Material Tester I and Material Tester II classifications shall be as follows:

	Wage Rate	Fringe Benefits
Material Tester I	\$33.56	H&W: \$8.24 Pension: \$16.39 Vacation: \$0.00 Training: \$0.80
Material Tester II	\$33.56	H&W: \$8.24 Pension: \$16.39 Vacation: \$0.00 Training: \$0.80

14. The Parties agree that the Objection is hereby withdrawn as it relates to the Illinois counties of Jo Daviess, Stephenson, Henry (West), Mercer, Livingston, Whiteside, Rock Island, Bureau, Putnam, and LaSalle.
15. The Operators, the Coalition, and the Laborers each agree that, for three (3) years from the date on which this Consent Decree is fully executed, they: (a) will not seek to challenge the propriety of coverage of or otherwise seek to limit or expand the above explained classifications for Material Tester I and/or Material Tester II in the Illinois counties of Boone, Carroll, Cook, DeKalb, DuPage, Grundy, Kane, Kankakee, Kendall, Lake, Lee, McHenry, Ogle, Will, and Winnebago; and (b) will not file any objections pursuant to Section 9 of the IPWA, or otherwise attempt to,

expand the classification of or Illinois prevailing wage rates for Material Tester I and/or Material Tester II work into any other Illinois county.

16. Notwithstanding the foregoing paragraph 15, in the event that an objection is filed pursuant to Section 9 of the IPWA related to the classifications of Material Tester I and/or Material Tester II, each of the Parties hereto retains the right to participate fully and raise any argument or defense in any hearing or other proceeding related to such objection.
17. The Parties agree that the Decision and Order disposing of this proceeding is entered into without prejudice to future proceedings and shall have the same force and effect as an Order made after a full hearing.
18. 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 13th day of January, 2015



Joseph Costigan
Director of Labor, Illinois Department of Labor

Andrew J. Martone
Matthew B. Robinson
HesseMartone, P.C.
Attorney for Petitioners

Associated General Contractors of Illinois, American Council of Engineering Companies, Southern Illinois Builders Association, Diamond Construction Company, United Contractors of Midwest, Inc., Advanced Asphalt Company, E.T. Simonds, The Killian Corporation, Asphalt Sales and Products, Inc., Tarlton Corporation, Stark Excavating, Inc., Bush Construction Company, Inc., Foley Construction Company, Southern Illinois Asphalt Co., Inc., Klinger & Associates, P.C., Andrews Engineering, Inc., Bowman, Barrett & Associates, Inc., Oates Associates, Inc., Kaskaskia Engineering Group, L.L.C., SCI Engineering, Inc., and Juneau Associates, Inc., P.C.

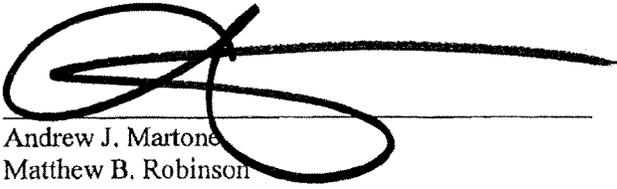
Marc R. Poulos
Melissa L. Binetti
Attorneys for Petitioners
Stanley Simrayh, and

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18. 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 13th day of January, 2015

Joseph Costigan
Director of Labor, Illinois Department of Labor



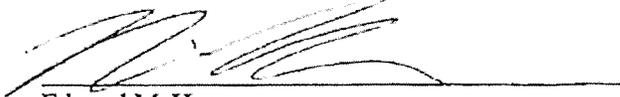
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Attorney for Petitioners

Associated General Contractors of Illinois, American Council of Engineering Companies, Southern Illinois Builders Association, Diamond Construction Company, United Contractors of Midwest, Inc., Advanced Asphalt Company, E.T. Simonds, The Killian Corporation, Asphalt Sales and Products, Inc., Tarlton Corporation, Stark Excavating, Inc., Bush Construction Company, Inc., Foley Construction Company, Southern Illinois Asphalt Co., Inc., Klinger & Associates, P.C., Andrews Engineering, Inc., Bowman, Barrett & Associates, Inc., Oates Associates, Inc., Kaskaskia Engineering Group, L.L.C., SCI Engineering, Inc., and Juneau Associates, Inc., P.C.



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The International Union of Operating Engineers, Local 150



Edward M. Hogan

Nicholas M. Hudalla

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Attorney for Intervenors

Laborers' International Union of North America,

Great Plains Laborers' District Council and their affiliated local unions,

Martin Flanagan

Construction & General Laborers' District Council of Chicago and Vicinity, and

Laborers' District Council Labor Management Cooperation Committee

CERTIFICATE OF SERVICE

I hereby certify that I caused to be served a copy of the foregoing:

Decision and Order

prior to 4:30 p.m. on January 16, 2015, to the following addresses shown below

via email, 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>:

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Via messenger:

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