

FILED

APR -3 2020

**BEFORE THE
LABOR AND INDUSTRIAL RELATIONS COMMISSION
JEFFERSON CITY, MISSOURI**

LABOR AND INDUSTRIAL
RELATIONS COMMISSION

In the Matter of: **Objection to Annual Wage Order No. 27, Issued in March 2020, as it Pertains to the Occupational Title of "Operating Engineer" in multiple counties within Missouri, Which Counties are Within the Objector's Geographic Jurisdiction**

On Behalf of: **Local 513, International Union of Operating Engineers, Objector.**

OBJECTION

COMES NOW the **Local 513, International Union of Operating Engineers** ("Objector") and files its Objections to Annual Wage Order No. 27, issued in March 2020 by the Missouri Division of Labor Standards, and for its Objections states as follows:

1. Objector is an unincorporated association representing members who perform work in the construction trades and specifically under the Occupational Title "Operating Engineer," as defined in 8 C.S.R. 30-3.060, throughout the eastern half of the State of Missouri of the type covered by R.S.Mo. § 290.210, *et seq.* (the "Missouri Prevailing Wage Law"). These individual bargaining unit members also perform work of the type at issue in this Objection on a regular basis. Through well-established precedent, the Objector has historically been permitted to represent the interests of its members before the Labor and Industrial Relations Commission, as have other unincorporated associations, on matters of Objections to proposed Annual Wage Orders.
2. Boone County is subject to the Missouri Prevailing Wage Law.
3. Marion County is subject to the Missouri Prevailing Wage Law.
4. Callaway County is subject to the Missouri Prevailing Wage Law.

BOONE COUNTY - MISSOURI

5. A review of the hours submitted on a project by a contractor working in Boone County, Missouri reveals that the rates in proposed Annual Wage Order No. 27 are incorrect in that they do not take into consideration Scott's Crane Rental's hours worked in Operating Engineer – Group 1 work in Boone County, Missouri.

- a. The rate in proposed Annual Wage Order No. 27 for the "Operating Engineer" Occupational Title in Boone County is \$27.06. The Division of Labor Standards used this rate because fewer than 1,000 hours were submitted pursuant to RSMo. § 290.257.2.
- b. In 2020, 1,372.5 hours of work designated as "Operating Engineer – Group 1" construction work was performed by Scott's Crane Rental's employees within Boone County.
- c. During the period of January 1, 2019 through April 30, 2019, Scott's Crane Rental paid Operating Engineers – Group 1 at the hourly rate of \$29.16 in wages and \$27.17 in fringe benefits for 327 hours.
- d. During the period of May 1, 2019 through December 31, 2019, Scott's Crane Rental paid Operating Engineers – Group 1 at the hourly rate of \$30.31 in wages and \$27.29 in fringe benefits for 1,045.5 hours.
- e. All hours were submitted pursuant to Scott's Crane Rental's collective bargaining agreement with Objector which contained a mid-year increase at May 1 of each year. As such, all the aforementioned hours should be considered a single rate with the greater rate prevailing under RSMo. § 290.262.8. Objector

is prepared to present evidence in the forms of payroll and contractor surveys to establish the hours actually worked and the foregoing rate in Boone County.

MARION COUNTY - MISSOURI

6. A review of the hours submitted on a project by a contractor working in Marion County, Missouri reveals that rates in proposed Annual Wage Order No. 27 are incorrect in that they do not take into consideration Scott's Crane Rental's hours worked in Operating Engineer – Group 1 work in Marion County, Missouri.

- a. The rate in proposed Annual Wage Order No. 27 for the "Operating Engineer" Occupational Title in Marion County is \$54.86.
- b. In 2020, 3,151 hours of work designated as "Operating Engineer – Group 1" construction work was performed by Scott's Crane Rental employees within Marion County.
- c. During the period of January 1, 2019 through April 30, 2019, Scott's Crane Rental paid Operating Engineers – Group 1 at the hourly rate of \$29.16 in wages and \$27.17 in fringe benefits for 472 hours.
- d. During the period of May 1, 2019 through December 31, 2019, Scott's Crane Rental paid Operating Engineers – Group 1 at the hourly rate of \$30.31 in wages and \$27.29 in fringe benefits for 2,679 hours.
- e. All hours were submitted pursuant to Scott's Crane Rental's collective bargaining agreement with Objector which contained a mid-year increase at May 1 of each year. As such, all the aforementioned hours should be considered a single rate with the greater rate prevailing under RSMo. § 290.262.8. Objector

is prepared to present evidence in the forms of payroll and contractor surveys to establish the hours actually worked and the foregoing rate in Marion County.

CALLAWAY COUNTY - MISSOURI

7. A review of the hours submitted on a project by a contractor working in Callaway County, Missouri reveals that rates in proposed Annual Wage Order No. 27 are incorrect in that they do not take into consideration BHI Energy's hours worked in Operating Engineer – Group 1 work in Callaway County, Missouri.

- a. The rate in proposed Annual Wage Order No. 27 for the "Operating Engineer" Occupational Title in Callaway County is \$26.10. The Division of Labor Standards used this rate because fewer than 1,000 hours were submitted pursuant to RSMo. § 290.257.2.
- b. In 2020, 11,604 hours of work designated as "Operating Engineer – Group 1" construction work was performed by BHI Energy's employees within Callaway County.
- c. During the period of January 1, 2019 through April 30, 2019, BHI Energy's Operating Engineers – Group 1 employees worked at the hourly rate of \$29.16 in wages and \$27.17 in fringe benefits for 9,513.5 hours.
- d. During the period of May 1, 2019 through December 31, 2019, BHI Energy's paid Operating Engineers – Group 1 employees worked at the hourly rate of \$30.31 in wages and \$27.29 in fringe benefits for 2,090.5 hours.
- e. All hours were submitted pursuant to BHI Energy's collective bargaining agreement with Objector which contained a mid-year increase at May 1 of each year. As such, all the aforementioned hours should be considered a single rate

with the greater rate prevailing under RSMo. § 290.262.8. Objector is prepared to present evidence in the forms of payroll and contractor surveys to establish the hours actually worked and the foregoing rate in Callaway County.

8. These rates, as described, are not only the appropriate rates, there are also workmen ready, willing and able to perform work in Boone County, Marion County, and Callaway County at such rates. Such workmen, in fact, have performed such work at such rates, as evidenced in the attached contractor surveys. Workers performed at these rates in these localities to a greater extent than work performed at the published rate in the objected to proposed Annual Wage Order, and such work has been performed to a greater extent at all times pertinent to the Annual Wage Order at issue. These hours are reflective of the objected hours that prevail in the geographic jurisdiction at issue and performed under an appropriate collective bargaining agreement.

WHEREFORE, it is respectfully requested that the Labor and Industrial Relations Commission consider favorably the Objection of Objector and revise the prevailing wage rates in Boone County, Marion County, and Callaway County for the "Operating Engineer – Group 1" classification, as described herein, to reflect the prevailing practices throughout the geographic jurisdiction in question, and for such other changes as are deemed appropriate.

Respectfully submitted,

HARTNETT REYES-JONES, LLC



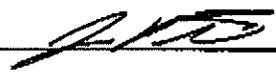
 JAMES P. FAUL, No. 58799
 4399 Laclede Avenue
 St. Louis, Missouri 63108
 Telephone: 314-531-1054
 Facsimile: 314-531-1131
jfaul@hrjlaw.com

Attorneys for Objector

CERTIFICATE OF SERVICE

An original and two (2) copies of the foregoing were served on the Administrative Secretary, Labor and Industrial Relations Commission, 3315 West Truman Boulevard, P.O. Box 599, Jefferson City, MO 65102-0599, *via facsimile* at 573-751-7806 and by UPS, and copies were served on the following by placing same, postage prepaid, in the U. S. Mail this 3rd day of April, 2020:

Taylor Burks, Director
 Division of Labor Standards
 3315 West Truman Boulevard
 P.O. Box 449
 Jefferson City, MO 65102-0449





MISSOURI DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
CONTRACTOR'S WAGE SURVEY

PROJECT INFORMATION	
Contractor's Name, Address, and Phone Number Scott's Crane Rental 109 E. Center Street Holts Summit, MO 65043	Project Name: BASF County <u>Marion</u>
Dates of Work Reported Below Beginning <u>01 / 01 / 2019</u> Ending <u>04 / 30 / 2019</u>	Description <u>Chemical Plant</u> Type of Construction: <input checked="" type="checkbox"/> Building <input type="checkbox"/> Heavy and Highway
Email _____	Website _____

Occupational Title(s)	Total Hours	Basic Hourly Rate	Hourly Fringe Benefits Payments						
			H & W	Pension	Vacation	App. Tr.	Suppl.	Holiday	Other
Operating Engineer - Group 1	472	29.16	9.36	12.00		1.11			4.70

The Contractor's Wage Survey must be submitted to the Division of Labor Standards by January 31.

Certification

I am the Contractor for the above-named project. To the best of my knowledge, information and belief, I hereby certify that the number of hours, basic hourly rate, and fringe benefit payments listed above are true and correct and that the type of work performed by the number of employees identified above, relative to the Occupational Title(s) reported, is consistent with CSR 30-3.060. I further recognize that any false statement or declaration made herein is punishable under Sections 290.340, 570.090, 575.050, and 575.060, RSMo.

Date 3/26/2020
 Signature /S/ *Willie Scott*
 Printed Name Willie Scott
 Title Vice President

Email completed form to: prevailingwage@labor.mo.gov
 Or
 Mail or fax completed form to:
 Missouri Department of Labor and Industrial Relations
 DIVISION OF LABOR STANDARDS
 Attn: Prevailing Wage Section
 P.O. Box 449
 Jefferson City, MO 65102-0449

Contact Information:
 Phone: 573-751-3403
 Fax: 573-751-3721
 Email: prevailingwage@labor.mo.gov
 Website: www.labor.mo.gov/DLS



MISSOURI DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
CONTRACTOR'S WAGE SURVEY

PROJECT INFORMATION	
Contractor's Name, Address, and Phone Number Scott's Crane Rental 109 E. Center Street Holts Summit, MO 65043	Project Name: BASF County <u>Marion</u>
Dates of Work Reported Below Beginning <u>05 / 01 / 2019</u> Ending <u>12 / 31 / 2019</u>	Description <u>Chemical Plant</u> Type of Construction: <input checked="" type="checkbox"/> Building <input type="checkbox"/> Heavy and Highway
Email _____	Website _____

Occupational Title(s)	Total Hours	Basic Hourly Rate	Hourly Fringe Benefits Payments						
			H & W	Pension	Vacation	App. Tr.	Suppl.	Holiday	Other
Operating Engineer - Group 1	2,679	30.31	9.46	12.00		1.13			4.70

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MISSOURI DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
CONTRACTOR'S WAGE SURVEY

PROJECT INFORMATION	
Contractor's Name, Address, and Phone Number Scott's Crane Rental 109 E. Center Street Holts Summit, MO 65043	Project Name: MIZZOU South Endzone Expansion County <u>Boons</u>
Dates of Work Reported Below Beginning <u>01 / 01 / 2019</u> Ending <u>04 / 30 / 2019</u>	Description <u>Football Stadium Expansion</u> Type of Construction: <input checked="" type="checkbox"/> Building <input type="checkbox"/> Heavy and Highway
Email _____	Website _____

Occupational Title(s)	Total Hours	Basic Hourly Rate	Hourly Fringe Benefits Payments						
			H & W	Pension	Vacation	App. Tr.	Suppl.	Holiday	Other
Operating Engineer - Group 1	327	29.16	9.36	12.00		1.11			4.70

The Contractor's Wage Survey must be submitted to the Division of Labor Standards by January 31.

Certification

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 Signature /S/ *Willie Scott*
 Printed Name Willie Scott
 Title Vice President

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MISSOURI DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
CONTRACTOR'S WAGE SURVEY

PROJECT INFORMATION	
Contractor's Name, Address, and Phone Number Scott's Crane Rental 109 E. Center Street Holts Summit, MO 65043	Project Name: MIZZOU South Endzone Expansion County <u>Boone</u>
Dates of Work Reported Below Beginning <u>05 / 01 / 2019</u> Ending <u>12 / 31 / 2019</u>	Description <u>Football Stadium Expansion</u> Type of Construction: <input checked="" type="checkbox"/> Building <input type="checkbox"/> Heavy and Highway
Email _____	Website _____

Occupational Title(s)	Total Hours	Basic Hourly Rate	Hourly Fringe Benefits Payments						
			H. & W	Pension	Vacation	App. Tr.	Suppl.	Holiday	Other
Operating Engineer - Group 1	1,045.5	30.31	9.46	12.00		1.13			4.70

The Contractor's Wage Survey must be submitted to the Division of Labor Standards by January 31.

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CONTRACTOR'S WAGE SURVEY

PROJECT INFORMATION	
Contractor's Name, Address, and Phone Number BHI Energy 2005 Newpoint Pkwy Lawrenceville, GA 30043	Project Name: Ameren Nuclear Generation Station County <u>Callaway</u>
Dates of Work Reported Below Beginning <u>05 / 01 / 2019</u> Ending <u>12 / 31 / 2019</u>	Description <u>Nuclear Power Plant</u> Type of Construction: <input checked="" type="checkbox"/> Building <input type="checkbox"/> Heavy and Highway
Email _____	Website _____

Occupational Title(s)	Total Hours	Basic Hourly Rate	Hourly Fringe Benefits Payments						
			H. & W	Pension	Vacation	App. Tr.	Suppl.	Holiday	Other
Operating Engineer - Group 1	2,090.5	30.31	9.46	12.00		1.13			4.70

The Contractor's Wage Survey must be submitted to the Division of Labor Standards by January 31.

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Date 4/3/20
 Signature /S/ Michelle Siegenthaler
 Printed Name Michelle Siegenthaler
 Title Union Financial Analyst UMW

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