

FILED

APR 03 2020

LABOR AND INDUSTRIAL
RELATIONS COMMISSION

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

In the Matter of: Objection to Annual Wage Order No. 27 and General 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, and General Wage Order No. 27 issued in March 2020 by the Missouri Division of Labor Standards, and for its Objection 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. Iron County is subject to the Missouri Prevailing Wage Law.
3. New Madrid County is subject to the Missouri Prevailing Wage Law.
4. Stoddard County is subject to the Missouri Prevailing Wage Law.
5. Madison County is subject to the Missouri Prevailing Wage Law.

IRON COUNTY – MISSOURI - BUILDING

6. A review of the hours submitted on a project by a contractor working in Iron County, Missouri reveals that the rates in proposed Annual Wage Order No. 27 are incorrect in that they do not take into consideration BHI Energy's building hours worked in Operating Engineer – Group 2 work in Iron County, Missouri.

- a. The rate in proposed Annual Wage Order No. 27 for the "Operating Engineer" Occupational Title in Iron County is \$22.69. 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, 1,827 hours of work designated as "Operating Engineer – Group 2" construction work was performed by BHI Energy's employees within Iron County.
- c. During the period of January 1, 2019 through December 31, 2019, BHI Energy paid Operating Engineers – Group 2 at the hourly rate of \$29.16 in wages and \$28.72 in fringe benefits for 420.75 hours.
- d. During the period of May 1, 2019 through December 31, 2019, BHI Energy paid Operating Engineers – Group 2 at the hourly rate of \$30.31 in wages and \$28.84 in fringe benefits for 1,406.25 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 Iron County.

NEW MADRID COUNTY – MISSOURI - BUILDING

7. A review of the hours submitted on a project by a contractor working in New Madrid County, Missouri reveals that rates in proposed Annual Wage Order No. 27 are incorrect in that they do not take into consideration Goettle's building hours worked in Operating Engineer – Group 2 work in New Madrid County, Missouri.

- a. The rate in proposed Annual Wage Order No. 27 for the "Operating Engineer" Occupational Title in New Madrid County is \$21.53.
- b. In 2020, 3,673.5 hours of work designated as "Operating Engineer – Group 2" construction work was performed by Goettle employees within New Madrid County.
- c. During the period of May 1, 2019 through April 30, 2019, Goettle paid Operating Engineers – Group 2 at the hourly rate of \$30.31 in wages and \$24.14 in fringe benefits for 3,673.5 hours.
- d. All hours were submitted pursuant to Goettle'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 New Madrid County.

STODDARD COUNTY – MISSOURI – BUILDING

8. A review of the hours submitted on a project by a contractor working in Stoddard County, Missouri reveals that rates in proposed Annual Wage Order No. 27 are incorrect in that they do not take into consideration Mingo Job Corps' building hours worked in Operating Engineer – Group 2 work in Stoddard County, Missouri.

- a. The rate in proposed Annual Wage Order No. 27 for the "Operating Engineer" Occupational Title in Stoddard County is \$21.43. 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, 2,080 hours of work designated as "Operating Engineer – Group" construction work was performed by Job Corps' employees within Stoddard County.
- c. During the period of January 1, 2019 through December 31, 2019, Job Corps' Operating Engineers – Group 2 employees worked at the hourly rate of \$32.96 in wages and \$28.79 in fringe benefits for 520 hours.
- d. During the period of January 1, 2019 through December 31, 2019, Job Corps' paid Operating Engineers – Group 2 employees worked at the hourly rate of \$34.36 in wages and \$28.91 in fringe benefits for 1,560 hours.
- e. All hours were submitted pursuant to Job Corps' 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 Stoddard County.

MADISON COUNTY – MISSOURI – HEAVY/HIGHWAY

9. A review of the hours submitted on a project by a contractor working in Madison County, Missouri reveals that rates in proposed General Wage Order No. 27 are incorrect in that they do not take into consideration Environmental Operations, Inc.'s heavy and highway hours worked in Operating Engineer – Group 1 work in Madison County, Missouri.

- a. The rate in proposed General Wage Order No. 27 for the "Operating Engineer" Occupational Title in Madison County is \$18.14. 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, 3,595.5 hours of work designated as "Operating Engineer – Group" construction work was performed by Environmental Operations, Inc.'s employees within Madison County.
- c. During the period of January 1, 2019 through December 31, 2019, Environmental Operations, Inc.'s Operating Engineers – Group 1 employees worked at the hourly rate of \$28.34 in wages and \$28.36 in fringe benefits for 814 hours.
- d. During the period of January 1, 2019 through December 31, 2019, Environmental Operations, Inc.'s paid Operating Engineers – Group 1 employees worked at the hourly rate of \$39.69 in wages and \$28.53 in fringe benefits for 2,781.5 hours.

- e. All hours were submitted pursuant to Environmental Operations, Inc.'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 Madison County.

10. These rates, as described, are not only the appropriate rates, there are also workmen ready, willing and able to perform work in Iron County, New Madrid County, Stoddard County, and Madison 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 General Wage Order, and such work has been performed to a greater extent at all times pertinent to the Annual Wage Order and General Wage Orders 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 Iron County, New Madrid County, Stoddard County, and Madison for the "Operating" 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



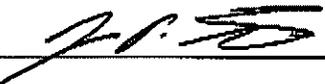
 JAMES P. FAUL, No. 58799
 4399 Laclede Avenue
 St. Louis, Missouri 63108
 Telephone: 314-531-1054
 Facsimile: 314-531-1131
jfaul@hrilaw.com

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





**DIVISION OF
LABOR
STANDARDS**

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

PROJECT INFORMATION	
Contractor's Name, Address, and Phone Number BHI ENERGY 110 PROSPERITY BOULEVARD PIEDMONT, SC 29673	Project Name: TAUM SAUK County <u>IRON</u>
Dates of Work Reported Below Beginning <u>01 / 01 / 2019</u> Ending <u>12 / 31 / 2019</u>	Description _____ Type of Construction: <input checked="" type="checkbox"/> Building <input type="checkbox"/> Heavy and Highway
Email _____	Website <u>www.bhienergy.com</u>

Occupational Title(s)	Total Hours	Basic Hourly Rate	Hourly Fringe Benefits Payments						
			H & W	Pension	Vacation	App. Tr.	Suppl.	Holiday	Other
Operating Engineer - Group 2	420.75	29.16	9.36	12.00	1.55	1.11	2.50%		4.70
Operating Engineer - Group 2	1,406.25	30.31	9.46	12.00	1.55	1.13	4.00%		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 8 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.

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

Date 03/25/2020
 Signature /s/ Michelle Siegenthaler
 Printed Name Michelle Siegenthaler
 Title Union Financial Analyst Manager

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 GOETTLE 12071 HAMILTON AVENUE CINCINNATI, OHIO 45231	Project Name: NEW MADRID POWER HOUSE County <u>NEW MADRID</u>
Dates of Work Reported Below Beginning <u>05 / 01 / 2019</u> Ending <u>12 / 31 / 2019</u>	Description _____ 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 2	3,673.5	30.31	9.46	12.00	1.55	1.13	4.00%		

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

Certification

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Date 03/27/2020
 Signature /S/ Barbarette Lamphier
 Printed Name BARBARETTE LAMPHIER
 Title PAYROLL

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

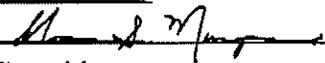
PROJECT INFORMATION	
Contractor's Name, Address, and Phone Number MINGO JOB CORPS 4253 MISSOURI T PUXICO, MO 63960 573/222-3537	Project Name: MINGO County <u>STODDARD</u>
Dates of Work Reported Below Beginning <u>01 / 01 / 2019</u> Ending <u>12 / 31 / 2019</u>	Description _____ Type of Construction: <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 2	520.0	32.96	9.36	12.00	1.55	1.18	2.50%		4.70
Operating Engineer - Group 2	1,560.0	34.36	9.46	12.00	1.55	1.20	4.00%		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 8 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 03/31/2020
 Signature /S/ 
 Printed Name Sharon Mumpower
 Title National Director

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

PROJECT INFORMATION	
Contractor's Name, Address, and Phone Number ENVIRONMENTAL OPERATIONS, INC. 1530 SOUTH SECOND ST., STE 200 ST. LOUIS, MO 63104	Project Name: MISSOURI COBALT LLC County <u>MADISON</u> Description _____ Type of Construction: <input type="checkbox"/> Building <input checked="" type="checkbox"/> Heavy and Highway
Dates of Work Reported Below Beginning <u>01 / 01 / 2019</u> Ending <u>12 / 31 / 2019</u>	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	814.0	28.34	9.36	12.00	1.30	1.00	2.50%		4.70
Operating Engineer - Group 1	2,781.5	29.69	9.46	12.00	1.30	1.02	4.00%	0.05	4.70

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

Certification

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 Attn: Prevailing Wage Section
 P.O. Box 449
 Jefferson City, MO 65102-0449

Date 03/26/2020
 Signature /S/ Bridget Dunn
 Printed Name Bridget Dunn
 Title Accounting Mgr.
 Contact Information:
 Phone: 573-751-3403
 Fax: 573-751-3721
 Email: prevailingwage@labor.mo.gov
 Website: www.labor.mo.gov/DLS