

**STATE OF ILLINOIS – DEPARTMENT OF LABOR  
HEARINGS DIVISION  
160 NORTH LASALLE STREET – SUITE C-1300  
CHICAGO, ILLINOIS 60601**

In the Matter of: )  
)  
Stanley Simrayh, as Member of the Int’l Union )  
Operating Engineers, Local 150, AFL-CIO and )  
the Int’l Union of Operating Engineers, Local )  
150 AFL-CIO )  
)  
and )  
)  
Associated General Contractors of Illinois, et al. )  
)  
    Petitioner(s), )  
)  
    v. )  
)  
Jane R. Flanagan, Acting Director of the )  
Illinois Department of Labor, and the )  
Illinois Department of Labor. )  
)  
    Respondent(s). )  
)  
and )  
)  
Martin Flanagan, as a Member of the Laborers )  
Int’l Union of North America, et al. )  
)  
and )  
)  
Brian Dunn, as a Member of the Technical )  
Engineering Division, Local 130 U.S.A. )  
)  
    Intervenors. )

State File No.: 2015-H-JN07-0853

**ORDER**

This matter coming on March 29, 2024 for final status and upon entry of the Consent Decree,

IT IS HEREBY ORDERED:

1. The following parties are hereby dismissed without prejudice:

- a. Underground Contractors Association of Illinois
- b. Advanced Asphalt Company
- c. Alfred Benesch & Company
- d. Ament, Inc.
- e. Andrews Engineering, Inc.
- f. ARC Design Resources, Inc.
- g. Bowman, Barrett & Associates, Inc.
- h. Chastain & Associates, L.L.C.
- i. Clark Dietz, Inc.
- j. Coombe-Bloxdorf, P.C.
- k. Crawford, Murphy & Tilly, Inc.
- l. Diamond Construction Company
- m. E.T. Simonds
- n. Farnsworth Group, Inc.
- o. Hartke Engineering and Surveying, Inc.
- p. Hermann & Associates, L.L.C.
- q. Kaskaskia Engineering Group, L.L.C.
- r. Klinger & Associates, P.C.
- s. Maurer-Stutz, Inc.
- t. McDonough-Whitlow, P.C.
- u. Oates Associates, Inc.
- v. Pi Surveying Group, P.C.
- w. Poepping, Stone, Bach & Associates, Inc.



STATE OF ILLINOIS – DEPARTMENT OF LABOR  
CONCILIATION/MEDIATION DIVISION  
160 N. LASALLE ST. STE. C-1300  
CHICAGO, IL 60601

IN THE MATTER OF: )  
)  
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 )  
)  
and ) State File No. 2015-H-JN07-0853  
)  
ASSOCIATED GENERAL CONTRACTORS )  
OF ILLINOIS, et al. ) Administrative Law Judge  
Petitioners, ) Moshe M. Liberman  
)  
)  
v. )  
)  
JANE R. FLANAGAN, as ACTING DIRECTOR )  
OF LABOR and the ILLINOIS DEPARTMENT )  
OF LABOR, )  
)  
Respondent(s) )  
)  
MARTIN FLANAGAN, as a member of )  
THE LABORERS INTERNATIONAL )  
UNION OF NORTH AMERICA, et al. )  
)  
)  
and )  
)  
BRIAN DUNN, as a MEMBER OF THE )  
TECHNICAL ENGINEERING DIVISION, )  
LOCAL 130 U.A., )  
)  
)  
Intervenors. )

**Consent Decree**

Respondents, Jane R. Flanagan, Director of Labor (“Director”) and the Illinois Department of Labor (“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”); Petitioners Objectors, the Associated General

Contractors of Illinois, American Council of Engineering Companies of Illinois, Illinois Society of Professional Engineers, Southern Illinois Builders Association, Illinois Professional Land Surveyors Association, and Illinois Road & Transportation Builders Association (“Coalition”); and the Intervenor 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 (“Chicago Laborers” or “LDC”); and Brian Dunn, as a member of the Technical Engineering Division Local 130, U.A. (“Tech Engineers”), resolve the above-captioned matter pursuant to 56 Ill. Admin. Code 120.540 as follows:

1. This matter arises under the Illinois Prevailing Wage Act (“PWA”), as amended, 820 ILCS 130/0.01 *et seq.*
2. Pursuant to Sections 4 and 9 of the PWA, on or about July 31, 2014, Stanley Simrayh and Local 150 timely filed objections and a request for a hearing pertaining to the July 2014 prevailing wage schedule published by the Department which struck through the Survey Worker and Survey Foreman classification, and stated “not in effect,” in all counties in Illinois (“2014 request”).
3. On or about August 14, 2014, the LDC, filed a Petition to Intervene in the Operator’s 2014 request.
4. On August 20, 2014, the Coalition filed an Objection to prevailing wage determinations for the classification of survey worker and survey foreman in all counties of Illinois and a Petition to Intervene in the 2014 request.
5. On August 21, 2014, Joseph Costigan, former Director of the Department of Labor, issued an Order directing that the Coalition’s Objection be heard along with Petitioners’ Objection in this consolidated case.
6. On or about August 28, 2014, Brian Dunn, as a Member of the Technical Engineering Division Local Union 130, U.A (“Tech Engineers”) filed a Petition to Intervene.
7. On or about August 28, 2014, the Laborers’ International Union of North American Great Plains Laborers’ District Council, et al. and Midwest Region Laborers and Employers Cooperation and Education Trust (“Laborers Midwest Region”) filed a Petition to Intervene.
8. In Orders entered September 9 and September 26, 2014, Administrative Law Judge Michael Haggerty (“ALJ Haggerty”) granted all petitions to intervene and bifurcated the issues of “classification” and “rate,” with the issue of “classification” to be heard first.

**Hearing on Classification**

9. On October 14, 15, 16, 17, 23, and 24, 2014, all parties convened a formal hearing before ALJ Haggerty.

10. On December 12, 2014, ALJ Haggerty issued an order finding the classification of “survey worker” and “survey foreman” proper under the PWA. Pursuant to 56 Ill. Adm. Code 120.640, the Coalition and Laborers filed exceptions to the ALJ’s order, and the Coalition, Laborers, and Operators each filed responses to the exceptions. The Department also filed a Response to Exceptions Filed, arguing that the exceptions be stricken because there was no final administrative decision and order from the ALJ.
11. On January 9, 2015, the ALJ issued an Order finding the Exceptions were “not yet ripe for purposes of 56 Ill. Admin. Code 120.640,” and that the hearing would proceed on the issue of “rates” in all 102 counties of the State.
12. On or about January 28, 2015, Director Hugo Chaviano succeeded Joseph Costigan as Director of Labor.
13. On March 6, 2015, the Coalition, Operators, Laborers, and Tech Engineers filed a joint motion requesting that the ALJ issue a final Decision and Order on the issue of classification only.
14. On May 8, 2015, with no objection from the Illinois Department of Labor, ALJ Haggerty granted the joint motion.
15. On June 12, 2015, ALJ Haggerty issued a Decision and Order in accordance with 56 Ill. Admin. Code 120.640. (Exhibit A hereto).
16. The Decision and Order set forth the parties’ stipulation that “the position commonly referred to as ‘rod man’ is not in issue in these proceedings and will be treated in a manner consistent with its treatment prior to the [September] 2013 Consent Decrees.” The parties’ *Stipulation*, dated October 14, 2014, was entered as Exhibit 1 during the Hearing and further stated “The Department of Labor’s enforcement position is that ‘rodmen’ are inclusive within the Laborer’s classification.” (Exhibit B hereto).
17. The Decision and Order established a new classification of work under the PWA for “survey worker” and “survey foreman” with respect to both horizontal (“Highway”) and vertical (“Building”) construction as follows:
  - a. “Survey Worker”: operates survey equipment (such as levels, transits, data collectors, GPS and robotic total stations) for the purpose of performing construction layout and/or grade checking.
  - b. “Survey Foreman”: operates survey equipment (such as levels, transits, data collectors, GPS and robotic total stations) for the purpose of performing construction layout and/or grade checking; oversees survey crew operations; coordinates work of survey crews.
18. The Decision and Order transferred the matter to the Director of Labor, for purposes of 56 Ill. Admin. Code 120.640. The Coalition and Operators filed exceptions to the ALJ’s order, and the Coalition, Operators, Laborers, and Tech Engineers each filed responses to the exceptions.

19. On October 16, 2015, Hugo Chaviano former Director of the Illinois Department of Labor issued a letter declaring the Decision and Order of ALJ Michael Haggerty as null and void. The letter further requested the parties submit information in accordance with Section 4(e) of the PWA to the Manager of the Conciliatory Mediation Division in order to conduct an investigatory hearing.
20. On November 9, 2015, the Operators filed a Complaint for a Temporary Restraining Order and injunctive relief to enjoin the Director from initiating a new hearing, in the Circuit Court of Cook County (*Simrayh v. Chaviano*, 15 CH 16443). The Operators filed an Amended Complaint for Injunctive Relief, Prohibition, Administrative Review, and Mandamus on November 19, 2015.
21. On November 13, 2015, the Laborers Midwest Region filed a Complaint for Declaratory and Injunctive Relief in the Circuit Court of St. Clair County (*Todd v. Chaviano*, 15 MR 414).
22. On August 18, 2016, the Cook County Court issued an order to stay the matter until final judgement in the *Todd v. Chaviano* case.
23. The St. Clair County Court granted summary judgement in favor of the Midwest Region Laborers on January 20, 2017. The Director/Department appealed. In an order published January 18, 2019, the Fifth District Court of Appeals reversed the Circuit Court's order and remanded the matter with directions to dismiss the Midwest Region's Complaint for lack of subject matter jurisdiction. *Todd v. Chaviano*, 2019 IL App (5th) 170081 (No. 15-17-0081, Jan. 18, 2019).
24. On June 14, 2019, the Operators filed a Second Amended Complaint for Administrative Review and Mandamus in the Circuit Court of Cook County.
25. In a September 14, 2020 Order, the Cook County Circuit Court found that Director Chaviano's October 16, 2015 Decision and Order was clearly erroneous, reversed the Director's decision, and remanded the matter to the Department of Labor to review ALJ Haggerty's June 15, 2015 Decision and Order in accordance with 56 Ill. Adm. Code 120.660. (*Simrayh v. Chaviano*, 15 CH 16443).
26. Subsequently, the Department issued the *Director's Final Decision and Order* dated July 28, 2021, ordering that a hearing take place to establish rates statewide for the classifications of "Survey Worker" and "Survey Foreman" as defined in ALJ Haggerty's June 12, 2015 decision with a clarification that the classifications do not cover survey work during the predesign, design, and land acquisition phases.
27. In a joint motion filed August 25, 2021, the Operators, Coalition, Tech Engineers and Laborers, requested the Director to clarify that the July 28, 2021 order was interlocutory and not subject to appeal until a hearing on rates was held and final administrative decision issued. The motion also requested the Department issue an "Interim Decision and Order."

28. Also on August 25, 2021, the Coalition filed a Complaint for Declaratory Judgement or, alternatively, Illinois Administrative Review in Cook County Circuit Court (21 CH 04248).
29. On September 30, 2022, the Court granted the Department's Motion to Dismiss the Coalition's complaint without prejudice.
30. On or about October 13, 2022, the Department issued an Order granting the *Joint Motion to Clarify the Director's Final Decision and Order to reflect that it is Interlocutory Pending the Determination of Rates*. (Exhibit C hereto).
31. The Department also issued the *Director's Interim Decision and Order*, dated October 12, 2022, which affirmed establishment of a new classification for "Survey Worker" and "Survey Foreman." It also ordered that a hearing take place to establish rates statewide for the classifications of "Survey Worker" and "Survey Foreman" as defined in ALJ Haggerty's June 12, 2015 decision with a clarification that the classifications do not cover survey work during the predesign, design, and land acquisition phases. (Exhibit D hereto).

#### **Hearing to Establish Rate**

32. In an Order dated November 4, 2022, this matter was reassigned to Administrative Law Judge Moshe Liberman to hear the case on the issue of rate.
33. In an Order dated March 8, 2023, ALJ Liberman granted the Laborers' Midwest Region Motion to Withdraw Without Prejudice.
34. Following the withdrawal of the Midwest Region Laborers from this matter, the remaining counties at issue in the rate hearing are the following: Cook, DuPage, Lake, Will, Grundy, Kendall, Kane, McHenry and Boone.

#### **Publication of Prevailing Wage Rates and Enforcement**

35. It is determined that in the counties of Cook, DuPage, Lake, Will, Grundy, Kendall, Kane, McHenry and Boone, the prevailing wage classification and rate determinations published (posted) by the Department shall include a new classification for "Survey Worker" and "Survey Worker Foreman."
36. The Department shall also publish the following description for the new classification:
  - a. "Survey Worker": operates survey equipment (such as levels, transits, data collectors, GPS and robotic total stations) for the purpose of performing construction layout and/or grade checking.
  - b. "Survey Foreman": operates survey equipment (such as levels, transits, data collectors, GPS and robotic total stations) for the purpose of performing construction layout and/or grade checking; oversees survey crew operations; and/or coordinates work of survey crews.

37. The classifications defined in paragraph 36 do not cover survey work during the predesign, design and land acquisition phases. Only such survey workers as are directly employed by contractors or subcontractors in actual construction work on the site of the building or construction shall be covered.
38. No provision of this Consent Decree is intended to conflict with any provision of the PWA.
39. For purposes of enforcement, the position commonly referred to as “rod man” is consistent with work covered under the existing classification of Laborer.
40. The prevailing wage and fringe benefit rates applicable to the Survey Worker and Survey Worker Foreman classifications for Building construction in the counties of Cook, Lake, Will, and DuPage shall be those rates as set forth in the area-wide collective bargaining agreement known as the Technical Engineers Agreement between the Mid-America Regional Bargaining Association and the Technical Engineering Division Local Union 130, UA and June 1, 2023 Wage and Benefits Sheet (collectively, “Technical Engineers Agreement”, attached hereto as Exhibit E).
41. The Department shall publish rates for the Survey Worker/Survey Worker Foreman classifications for Building construction in accordance with the rates established pursuant to the Technical Engineers Agreement. The following rates are effective June 1, 2023 for the counties of Cook, Lake, Will, and DuPage:

		Base	Fore-man	OT M-F	OT Sa	OT Su	OT Hol	H/W	Pen	Vac	Trng	Ot her Ins
Survey Worker	BLD	55.00	56.00	82.50	82.50	110.00	110.00	17.00	13.35	0.00	1.49	

The total rates in this paragraph 41 will increase by \$3.05 and will be allocated to wages and benefits covered by the PWA on or before June 1, 2024. Future increases to be negotiated.

42. The prevailing wage and fringe benefit rates applicable to the Survey Worker and Survey Worker Foreman classifications for Highway construction in the counties of Cook, Lake, Will, and DuPage shall be those rates as set forth in the Technical Engineers Agreement.
43. The Department shall publish rates for the Survey Worker/Survey Worker Foreman classifications for Highway construction in accordance with the rates established pursuant to the Technical Engineers Agreement. The following rates are effective June 1, 2023 for the counties of Cook, Lake, Will, and DuPage:

		Base	Fore-man	OT M-F	OT Sa	OT Su	OT Hol	H/W	Pen	Vac	Trng	Ot her Ins
Survey Worker	HW Y	55.00	56.00	82.50	82.50	110.00	110.00	17.00	13.35	0.00	1.49	

The total rates in this paragraph 43 will increase by \$3.05 and will be allocated to wages and benefits covered by the PWA on or before June 1, 2024. Future increases to be negotiated.

44. The prevailing wage and fringe benefit rates applicable to the Survey Worker and Survey Worker Foreman classifications for Building construction in the counties of Grundy, Kendall, Kane, McHenry and Boone shall be those rates as set forth in the area-wide collective bargaining agreement known as the Building Agreement between the Chicagoland Associated General Contractors, represented by the Mid-America Regional Bargaining Association, and the Construction and General Laborers' District Council of Chicago and Vicinity and June 1, 2023 Wage Card (collectively, "Building Agreement" attached hereto as Exhibit F).
45. The Department shall publish rates for the Survey Worker/Survey Worker Foreman classifications for Building construction in accordance with the rates established pursuant to the Building Agreement. The following rates are effective June 1, 2023 for the counties of Kendall, Kane, McHenry and Boone:

		Base	Fore-man	OT M-F	OT Sa	OT Su	OT Hol	H/W	Pen	Vac	Trng	Other Ins
Survey Worker	BLD	48.90	49.65	73.35	73.35	97.80	97.80	15.28	18.00	0.00	.91	0.00

The total rates in this paragraph 45 will increase by \$2.60 and will be allocated to wages and benefits covered by the PWA on or before June 1, 2024, and will increase by an additional \$2.65 that will be allocated to wages and benefits covered by the PWA on or before June 1, 2025. Future increases to be negotiated.

46. The Department shall publish rates for the Survey Worker/Survey Worker Foreman classifications for Building construction in accordance with the rates established pursuant to the Building Agreement. The following rates are effective June 1, 2023 for the county of Grundy:

		Base	Fore-man	OT M-F	OT Sa	OT Su	OT Hol	H/W	Pen	Vac	Trng	Other Ins
Survey Worker	BLD	48.90	49.65	73.35	73.35	97.80	97.80	17.37	15.91	0.00	.91	0.00

The total rates in this paragraph 46 will increase by \$2.60 and will be allocated to wages and benefits covered by the PWA on or before June 1, 2024, and will increase by an additional \$2.65 that will be allocated to wages and benefits covered by the PWA on or before June 1, 2025. Future increases to be negotiated.

47. The prevailing wage and fringe benefit rates applicable to the Survey Worker and Survey Worker Foreman classifications for Highway construction in the counties of Grundy, Kendall, Kane, McHenry and Boone shall be those rates as set forth in the area-wide collective bargaining agreement known as the Road Building Agreement between the Illinois Road and Transportation Builders Association, represented by the Mid-America Regional Bargaining Association, and the Construction and General Laborers' District Council of Chicago and

Vicinity and June 1, 2023 Wage Card (collectively, “Road Building Agreement” attached hereto as Exhibit G).

48. The Department shall publish rates for the Survey Worker/Survey Worker Foreman classifications for Highway construction in accordance with the rates established pursuant to the Road Building Agreement. The following rates are effective June 1, 2023 for the counties of Kendall, Kane, McHenry and Boone:

		Base	Fore-man	OT M-F	OT Sa	OT Su	OT Hol	H/W	Pen	Vac	Tm g	Other Ins
Survey Worker	HWY	48.90	49.65	73.35	73.35	97.80	97.80	15.28	18.00	0.00	.91	0.00

49. The Department shall publish rates for the Survey Worker/Survey Worker Foreman classifications for Highway construction in accordance with the rates established pursuant to the Road Building Agreement. The following rates are effective June 1, 2023 for the county of Grundy:

		Base	Fore-man	OT M-F	OT Sa	OT Su	OT Hol	H/W	Pen	Vac	Tm g	Other Ins
Survey Worker	HWY	48.90	49.65	73.35	73.35	97.80	97.80	17.37	15.91	0.00	.91	0.00

50. The rate determination shall prospectively apply effective upon publication by the Department, no later than April 15, 2024.
51. Survey workers participating in an applicable apprenticeship and training program approved by and registered with the United States Department of Labor Office of Apprenticeship shall be paid a progression of wages in accordance with the applicable collective bargaining agreement.
52. The Coalition, Operators, LDC, and Tech Engineers each agree that for three (3) years from the date on which the above rates are published by the Department none of them will:
- a. Initiate any IDOL proceeding to expand or limit the survey worker or survey foreman classification descriptions;
  - b. Seek publication of the survey worker or survey foreman classifications in any county beyond Cook, DuPage, Lake, Will, Grundy, Kendall, Kane, McHenry and Boone; and
  - c. File any objections to, or actions to challenge, the rates or any increase in the rates set forth in Paragraphs 40 – 49 of this Consent Decree.
53. If an objection or request for hearing is filed pursuant to Sections 4 or 9 of the PWA by an individual or entity other than Coalition, Operators, LDC, and Tech Engineers related to the classification of Survey Worker, 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. Absent such a proceeding, the Department of Labor will not publish the survey worker or

survey foreman classifications in any county other than Cook, DuPage, Lake, Will, Grundy, Kendall, Kane, McHenry and Boone.

54. During the three (3) year period set forth in paragraph 52 and under the provision set forth in paragraph 53, upon submission of rates effective under the applicable CBA(s), the Department shall publish updated rates submitted through the Prevailing Wage Portal for the counties Cook, DuPage, Lake, Will, Grundy, Kendall, Kane, McHenry and Boone.

55. The Decision and Order disposing of this proceeding shall have the same force and effect as an Order made after a full hearing.

56. 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 or the Decision and Order entered in accordance herewith.

Dated this 2nd day of April 2024.

Nicholas Bedenk  
Illinois Department of Labor

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Kara M. Principe  
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Stanley Simrayh and the International Union of Operating Engineers, Local 150, AFL-CIO

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Greg Hosé  
Gregorio, Stec, Klein & Hosé  
Attorney for Intervenors, Brian Dunn, as a member of the Technical Engineering Division Local 130, U.A.

STATE OF ILLINOIS        )  
  )  
  )  
COUNTY OF COOK        )

**CERTIFICATE OF SERVICE**

Under penalties as provided by law, including pursuant to Section 1-109 of the Code of Civil Procedure, I Karen Lewis, a non-attorney, affirm, certify or on oath state, that I served notice of the attached Order and Consent Decree upon all parties to this case, or their agents appointed to receive service of process, by enclosing a copy of the Order and Consent Decree in State File No. **2015-H-JN07-0853** and a copy of the Certificate of Service in an envelope addressed to each party or party's agent at the respective address having caused each envelope to be served by **U.S. regular mail** with postage prepaid at 555 W. Monroe, Chicago, Illinois 60661 on the **3rd** of **April, 2024** and/or by email prior to 4:30 p.m.

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/s/Karen Lewis  
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Illinois Department of Labor