

STATE OF ILLINOIS – DEPARTMENT OF LABOR  
160 N. LASALLE ST., STE. C-1300  
CHICAGO, ILLINOIS 606011

IN THE MATTER OF:	)	
	)	
INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL #318,	)	STATE FILE NO. 2018-H-AS09-1971
	)	
Petitioner(s),	)	
	)	DATE OF NOTICE: <u>9/21/2017</u>
v.	)	
	)	
JOSEPH BEYER, DIRECTOR OF THE ILLINOIS DEPARTMENT OF LABOR and the ILLINOIS DEPARTMENT OF LABOR,	)	CERT. MAIL/RETURN RECEIPT:
	)	<u>7017 1458 0000 6514 6115</u>
	)	
Respondent.	)	
	)	

**NOTICE OF HEARING**

**PLEASE TAKE NOTICE** that Joseph Beyer, Director of the Illinois Department of Labor, and the Illinois Department of Labor [hereinafter, "Respondents"] have received from International Union of Operating Engineers, Local #318 [hereinafter, "Petitioner(s)"] written objections to the prevailing wage determinations posted by the Department on its website on August 15, 2017, and a request for hearing on those objections pursuant to Section 9 of the Prevailing Wage Act [hereinafter, "IPWA" or "Act"], 820 ILCS 130/0.01 et seq.

Pursuant to the PWA, Article 10 of the Illinois Administrative Procedure Act, 5 ILCS 100/10-5 et seq., and 56 Ill. Admin. Code 120.100 et seq., Respondents will convene a hearing on:

**DATE:** OCTOBER 19, 2017  
**TIME:** 9:00 A.M.  
**PLACE:** ILLINOIS DEPARTMENT OF LABOR  
160 NORTH LASALLE STREET, SUITE C-1300  
CHICAGO, ILLINOIS 60601

**ADMINISTRATIVE LAW JUDGE:**

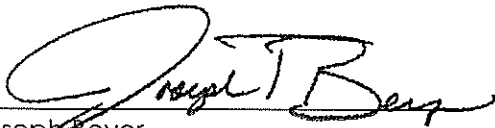
**CLAUDIA D. MANLEY**  
**CHIEF ADMINISTRATIVE LAW JUDGE**  
**ILLINOIS DEPARTMENT OF LABOR**  
**160 NORTH LASALLE STREET, SUITE C-1300**  
**CHICAGO, ILLINOIS 60601**

The hearing involves the written objections and hearing request filed by Petitioner(s), attached hereto and made a part hereof (Exhibit A).

The parties and their respective representatives must be prepared to proceed at the hearing. The parties must present all information, documents, records or witnesses necessary to substantiate their position(s) at the hearing.

Pursuant to 56 Illinois Administrative Code 120.640, the administrative law judge shall issue a Decision and Order. In the event no timely or proper exceptions are filed, the findings, conclusions, recommendations and order of the administrative law judge shall automatically become the decision and order of the Director of Labor.

The proceedings are subject to judicial review in accordance with the provisions of the Administrative Review Law, 735 ILCS 5/3-101 et seq. The Director of Labor's determination on the objections is final and binding unless a party to this proceeding applies for and obtains judicial review of the final administrative decision in accordance with the provisions of the Administrative Review Law.

A handwritten signature in black ink, appearing to read "Joseph Beyer", written over a horizontal line.

Joseph Beyer  
Director of Labor

STATE OF ILLINOIS – DEPARTMENT OF LABOR  
CONCILIATION/MEDIATION DIVISION  
160 N. LASALLE ST., STE. C-1300  
CHICAGO, ILLINOIS 606011

IN THE MATTER OF:

INTERNATIONAL UNION OF OPERATING )  
ENGINEERS, LOCAL #318, )

Petitioner, )

v. )

JOSEPH BEYER, DIRECTOR OF THE )  
ILLINOIS DEPARTMENT OF LABOR and )  
the ILLINOIS DEPARTMENT OF LABOR, )

Respondent. )

STATE FILE NO. 2018-H-AS09-1971

**RECEIVED**  
SEP - 8 2017

Illinois Department of Labor  
CHICAGO OFFICE  
HEARINGS SECTION

**OBJECTIONS AND REQUEST FOR SECTION 9 HEARING**

Petitioner, International Union of Operating Engineers Local 318 (“Local 318”), by and through its attorney, Matthew J. Gierse, of the law firm of Hartnett Gladney Hetterman, LLC, seeks to formally object to the Prevailing Wage determination published by the Illinois Department of Labor (“the Department”) on its website on August 15, 2017, and requests a hearing on these objections pursuant to Sections 4 and 9 of the Illinois Prevailing Wage Act (820 ILCS § 130/4, 9). In support, Local 318 states as follows:

1. Local 318 is a labor organization which has and does bargain on behalf of and represents operating engineer workers in 14 Illinois Counties, which are as follows: Alexander, Franklin, Gallatin, Hamilton, Hardin, Jackson, Johnson, Massac, Pope, Pulaski, Saline, Union, White, and Williamson (collectively “the Objected to Counties”).

2. Local 318 members perform the work mentioned in all four Operating Engineer classifications in both the “All” category (which covers Building, Heavy and Highway

**EXHIBIT A**

Construction) and in the Oil and Chip Resealing category (also known as “O&C”), in the Objected to Counties, and are therefore affected by the prevailing wage rate schedule established by the Department.

3. Because the vast majority of workers performing this work in these Operating Engineer classifications have historically been covered by Local 318’s collective bargaining agreements in the Objected to Counties, these collective bargaining agreements have historically set the prevailing rate for all of the Operating Engineer classifications in the Objected to Counties.

4. In the Prevailing Wage schedules for the Objected to Counties that the Department published on August 15, 2017, the Department recognized a classification of “Operating Engineer 4” for both the “All” and “O&C” categories.

5. The Operating Engineer 4 classification recognized by the Department in the Objected to Counties for both the “All” and “O&C” categories encompasses the following job duties:

Class 4. Air-Track Drill (one), Belt Drag Machine, Power Broom, Mechanical Plaster Applicator, Trac-Air, Air Compressor (220 cu. Ft. or over) One, Air Compressor (under 220 cu. Ft) four, Automatic Bin, Bulk Cement Plant w/Built-in Compressor running off same motor or electric motor, Fireman or Switchman, Self-Propelled Form Tamper, Light Plants (4), Welding Machines (4), Pumps (4), or Combination of four (4) Pumps, Light Plants, Welding Machines, Air-Compressors (under 200 cu. Ft.), Mudjacks or Wood Chipper, Mixers – less than 21 cu. Ft. Mortar Mixer w/ Skip or Pump, Pipeline Tract Jack. One Operating Engineer may operate and maintain any combination of the following pieces of equipment, not to exceed four (4) which shall be within a reasonable distance, such combination may include any equipment in this classification: (Compressors, Light Plants, Generators, Welding Machines, Pumps or Conveyors), One Well – Point Pump, Two Motor Driven Heaters, One Air Compressor (under 220 cu. Ft.), One Engine-Drive Conveyor, One Motor Driven Heater, One Light Plant, One Pump, One Welding Machine, One Ulmac or Equal Spreader, Oilers, and one Generator 10 kw or greater.

6. Virtually all of the above-described work for the Operating Engineer 4 classification is performed by employees in the Operating Engineer Class C classification as set

forth in Article XX of the collective bargaining agreements that Local 318 has with contractors in Alexander, Franklin, Gallatin, Hamilton, Hardin, Jackson, Johnson, Massac, Pope, Pulaski, Saline, Union, White, and Williamson counties.

7. As of April 1, 2017, Class C Operating Engineers who perform heavy and highway, building, and construction work in the Objected to Counties receive \$25.60 an hour in wages, with a total benefit package of \$24.10 an hour. The Foreman performing this work in this classification receives \$35.90 an hour in wages with a total benefit package of \$24.10 an hour.

8. As of April 1, 2017, Class C Operating Engineers who perform oil and chip repaving work in the Objected to Counties receive \$19.20 an hour in wages, with a total benefit package of \$24.10 an hour.

9. In Alexander County the Department has set for the Operating Engineer 4 classification for both "All" and "O&C" a wage rate of \$21.40 an hour with a total hourly benefit package of \$12.85. The Department has not set a Foreman rate for the Operating Engineer 4 classification for "All" in Alexander County.

10. In Franklin, Gallatin, Hamilton, Hardin, Jackson, Johnson, Massac, Pope, Pulaski, Saline, Union, White, and Williamson counties the Department has set for the Operating Engineer 4 classification for "All", a wage rate of \$21.40 an hour with a total hourly benefit package of \$12.85. The Department has set a Foreman rate for the Operating Engineer 4 classifications for "All" in these counties with a wage rate of \$27.80 an hour with a total hourly benefit package of \$12.85. For the Operating Engineer 4 classification for "O&C" in these counties, the Department has set a wage rate of \$16.05 with a benefit package of \$12.85.

11. In the Prevailing Wage schedules for the Objected to Counties that the Department published on August 15, 2017, the Department recognized a classification of “Operating Engineer 3” for both the “All” and “O&C” categories.

12. The Operating Engineer 3 classification recognized by the Department in the Objected to Counties for both the “All” and “O&C” categories encompasses the following job duties:

Class 3. Air Compressor w/Valve driving piling, Boom or Winch Type Truck,<sup>1</sup> Two Conveyors, Self-Propelled Concrete Saw, Form Grader, Truck Crane Oiler, Self-Propelled Vibrator, Rubber Tired Farm Type Tractor w/Blade/Bulldozer/Auger/hi-lift - 1/2 yd. or less, Elevator Operator, Man Lift (scissor lift) when lifting materials.

13. Virtually all of the above-described work for the Operating Engineer 3 classification is performed by employees in the Operating Engineer Class B classification as set forth in Article XX of the collective bargaining agreements that Local 318 has with contractors in Alexander, Franklin, Gallatin, Hamilton, Hardin, Jackson, Johnson, Massac, Pope, Pulaski, Saline, Union, White, and Williamson counties.

14. As of April 1, 2017, Class B Operating Engineers who perform heavy and highway, building, and construction work in the Objected to Counties receive \$33.00 an hour in wages, with a total benefit package of \$24.10 an hour. The Foreman performing this work in this classification receives \$35.90 an hour in wages with a total benefit package of \$24.10 an hour.

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<sup>1</sup> Boom or winch type truck is actually paid at the same rate as the Operating Engineer Class A classification as set forth in Article XX of the collective bargaining agreements that Local 318 has with contractors in the Objected to Counties, which is set at the same wage and benefit package as the Operating Engineer Class 1 classification in the Prevailing Wage determination posted on the Department’s website on August 15, 2017, for the Objected to Counties. Thus, this piece of equipment in these Objected to Counties should be paid at the same rate as the Operating Engineer Class 1 classification.

15. As of April 1, 2017, Class B Operating Engineers who perform oil and chip repaving work in the Objected to Counties receive \$24.75 an hour in wages, with a total benefit package of \$24.10 an hour.

16. In Alexander, Franklin, Gallatin, Hamilton, Hardin, Jackson, Johnson, Massac, Pope, Pulaski, Saline, Union, White, and Williamson counties the Department has set for the Operating Engineer 3 classification for “All”, a wage rate of \$25.60 an hour with a total hourly benefit package of \$24.10. For the Operating Engineer 3 classification for “O&C” in these counties, the Department has set a wage rate of \$19.20 with a benefit package of \$24.10.

17. In the Prevailing Wage schedules for the Objected to Counties that the Department published on August 15, 2017, the Department set the Foreman Wage rate at \$0.00 for Operating Engineer classifications 1, 2, and 3, for “O&C.”

18. Therefore, because Local 318 has and does establish the prevailing rate of wages and benefits for workers who perform work in the Operating Engineer 4 and Operating Engineer 3 classifications in both the “All” and “O&C” categories, the wage rates and benefit packages set by the Department for these Classifications, is grossly below the prevailing wage rate set by Local 318 in its collective bargaining agreements.

19. In summary, Local 318 seeks the following:

- A. The Operating Engineer 4 classification for “All” in the Objected to Counties should be the same as the Class C Operating Engineer in the Union’s collective bargaining agreement with a wage rate of \$25.60 an hour and with a total benefit package of \$24.10 an hour (\$9.60/Welfare, \$10.75/Pension, \$3.75/Apprenticeship & Training).

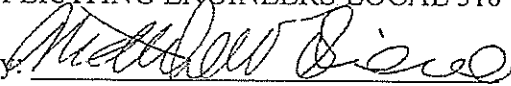
- B. The Operating Engineer 4 Foreman classification for “All” in the Objected to Counties should be set at a wage rate of \$35.90 an hour and with a total benefit package of \$24.10 an hour (\$9.60/Welfare, \$10.75/Pension, \$3.75/Apprenticeship & Training).
- C. The Operating Engineer 4 classification for “O&C” in the Objected to Counties should be the same as the Class C Operating Engineer in the Union’s collective bargaining agreement with a wage rate of \$19.20 an hour and with a total benefit package of \$24.10 an hour (\$9.60/Welfare, \$10.75/Pension, \$3.75/Apprenticeship & Training).
- D. The Operating Engineer 3 classification for “All” in the Objected to Counties should be the same as the Class B Operating Engineer in the Union’s collective bargaining agreement with a wage rate of \$33.00 an hour and with a total benefit package of \$24.10 an hour (\$9.60/Welfare, \$10.75/Pension, \$3.75/Apprenticeship & Training).
- E. The Operating Engineer 3 classification for “O&C” in the Objected to Counties should be the same as the Class B Operating Engineer in the Union’s collective bargaining agreement with a wage rate of \$24.75 an hour and with a total benefit package of \$24.10 an hour (\$9.60/Welfare, \$10.75/Pension, \$3.75/Apprenticeship & Training).
- F. The Foreman wage rate for Operating Engineer classifications 1, 2, and 3, for “O&C” in the Objected to Counties should at least be set at the same rate as the base wage, instead of \$0.00.



For the reasons set forth above, the Petitioner, International Union of Operating Engineers Local 318, objects to the Prevailing Wage determination posted on the Department's official website on August 15, 2017, and respectfully requests a hearing on these objections pursuant to 820 ILCS § 130/4, 9.

Respectfully submitted,

INTERNATIONAL UNION OF  
OPERATING ENGINEERS LOCAL 318

By: 

One of its attorneys

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CERTIFICATE OF SERVICE

THE UNDERSIGNED hereby certifies that a copy of the foregoing was served via U.S.

Mail, expedited delivery, on September 8, 2017, to the following:

Illinois Department of Labor  
c/o Joe Beyer, Director  
160 N. LaSalle St., Ste. C-1300  
Chicago, IL 60601

Mr. Joe Beyer  
Director of the Department of Labor  
Illinois Department of Labor  
160 N. LaSalle St., Ste. C-1300  
Chicago, IL 60601

Mr. Joe Beyer  
Director of the Department of Labor  
Illinois Department of Labor  
900 S. Spring Street  
Springfield, IL 62704

Benno Weisberg  
General Counsel  
Illinois Department of Labor  
160 N. LaSalle St., Ste. C-1300  
Chicago, IL 60601



CERTIFICATE OF SERVICE

Under penalties as provided by law, including pursuant to Section 1-109 of the Code of Civil Procedure, I Ann Harrison, a non-attorney, affirm, certify or on oath state, that I served notice of the attached Notice of Hearing upon all parties to this case, or their agents appointed to receive service of process, by enclosing a copy of the Notice of Hearing in Case No. 2018-H-AS09-1971 and a copy of the Certificate of Service in an envelope addressed to each party or party's agent at the respective address shown on the Certificate of Service, having caused each envelope to be served by U.S. mail certified mail return receipt requested and at 100 W. Randolph Street, Chicago, Illinois on the 21 day of September, 2017 prior to 4:30 p.m. and placed on the Illinois Department of Labor's official website at and placed on the Illinois Department of Labor's official website at [www.state.il.us/agency/idol/](http://www.state.il.us/agency/idol/)

Matthew Gierse  
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Via messenger:

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Benno Weisberg  
General Counsel  
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160 N. LaSalle St., Ste. C-1300  
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Ann Harrison, Executive Secretary II

Subscribed and Sworn to this 21 day of September, 2017

  
Notary Public

