

The Commonwealth of Massachusetts
DEPARTMENT OF LABOR AND INDUSTRIES

DIVISION OF OCCUPATIONAL STATISTICS
100 CAMBRIDGE STREET, 11TH FLOOR
BOSTON, MASSACHUSETTS 02202-0003

ROBERT J. PREZIOSO
Director

TEL: (617) 727-3593
FAX: (617) 727-0726

August 30, 1994

Arty Eachus, Project Manager
Pittsburg Tank & Tower
6535 Cairo-Dixie Rd.
Corydon, KY 42406

RE: Construction of chemical storage tanks, East Boston, Massachusetts.

Dear Mr. Eachus:

Mr. Jerry Williams, Assistant Business Manager for the Boilermakers Local Lodge #29, has petitioned the Department of Labor and Industries (the "Department") to determine whether the assembly of three chemical storage tanks by Pittsburg Tank and Tower in East Boston, Massachusetts is subject to the prevailing wage requirements of Mass. Gen. Laws, ch. 149, §§ 26-27D. The tanks are being erected in East Boston and will be barged to Deer Island to be used as part of the M.W.R.A. (Massachusetts Water Resources Authority) wastewater treatment plant.

The Department's authority to make determinations on the applicability of the Commonwealth's prevailing wage requirements to specific work operations is contained in ch. 149, § 27. The Department has investigated the above-referenced work process by, among other things, interviewing representatives of Pittsburg Tank and Tower, Walsh Contractors, ICF Kaiser Engineers, the Boilermakers Local #29 and the M.W.R.A. In addition, representatives of the Department have reviewed a copy of the purchase order for the tanks and have visited the site of the work.

The Department has determined that the work in question is part of the Deer Island public works project and, therefore, all employees working on the erection of the chemical storage tanks at the East Boston location are required to be paid wages as prescribed by this Department for the Deer Island project.

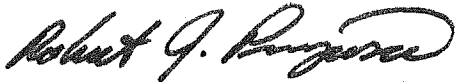
The primary facts upon which the Department's determination was based are as follows:

- 1) Due to the lack of space available on Deer Island, Pittsburg Tank & Tower has leased land in East Boston (246 Border St.) to erect the tanks. The tanks are not normally constructed in a factory or at a manufacturing site; rather, they are normally erected "in place." The special circumstances of this situation (lack of space) require that they be built nearby and barged to their permanent place on Deer Island.
- 2) The completed tanks do not resemble "manufactured items" as the purchase order tends to indicate. Each standing approximately 40 feet tall and having a circumference of approximately 30 feet, these tanks are free-standing structures.
- 3) The East Boston operation does not resemble the final assembly of manufactured items. Plate steel is being welded to form the floors, the sides and the tops.
- 4) Pittsburg Tank & Tower will be hiring three sub-contractors to complete the tanks: one to install rubber linings, one to paint and one to insulate. The use of such contractors more closely resembles construction than manufacturing.

Compliance with the prevailing wage law will require that Pittsburg Tank & Tower pay all of its employees at the East Boston site prevailing wages retroactive to the start of the project and continue to pay all employees in the same manner for the duration of the project. All sub-contractors are subject to the same provisions.

If I can assist you further, please do not hesitate to contact me.

Sincerely,



Robert J. Prezioso

cc: Spencer Demetros, General Counsel
Department of Labor & Industries

Brian Burke, Assistant Attorney General
Office of the Attorney General

**Jerry Williams, Assistant Business Manager
Boilermakers Local #29**

**Claude Lancome and/or Carl Tower
ICF Kaiser Engineers**

**Jack Dugan, Project Manager
Walsh Contractors**

**Robert Wagner, Associate General Counsel
Mass. Water Resources Authority**

By facsimile transmission to (502) 533-9982 and by mail.