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Demitrios M. Moschos, Esq.  
Mirick, O'Connell, DeMallie & Lougee  
1700 Bank of Boston Tower  
100 Front Street  
Worcester, MA 01608-1477

Re: Prevailing Wage Rate for Pneumatic Compactor Operators

Dear Demitrios:

As you are aware, we have been investigating Hudson Liquid Asphalts, Inc.'s ("Hudson") contention that none of the prevailing wage rates currently issued by the Commissioner of the Department of Labor and Industries (the "Department" or "DLI") applies to operators of pneumatic compactors (also called "rubber-tire rollers").

Since our meeting of February 16, 1995, I have had numerous conversations concerning this matter with various individuals in the industry who are familiar with pneumatic compactors and liquid chip-sealing operations. Based on all of the information we received, it is the determination of the Department that the prevailing wage classification entitled "roller operator" is applicable to pneumatic compactor operators. Some of the factors which influenced our decision are set forth below.

Pursuant to Mass. Gen. Laws ch. 149, § 26, in setting the prevailing wage rate, the Commissioner of DLI must look to, among other things, wage rates which have been established "by collective bargaining agreements or understandings in the private construction industry between organized labor and employers." The prevailing wage rate issued by the Commissioner for "roller operator" reflects the rates contained in a collective bargaining agreement between International Union of Operating Engineers,

Local 4, and various employers (the "Agreement").

Hudson's claim that the term "roller operator" contained in the Agreement does not contemplate pneumatic compactor operators does not appear to be accurate. DLI has been informed that members of Local 4 have been employed to operate pneumatic compactors on various construction projects. In those cases, pursuant to the Agreement, employers were required to pay the roller operator rate. The majority of the Local 4 pneumatic compactor operators are hired to perform earth compaction operations as opposed to liquid chip-sealing operations. However, the level of skill required by the operator and the complexity of the process itself are quite similar for the two operations.

The Department is unpersuaded by Hudson's argument that pneumatic compactors are so different from traditional steel-drum rollers that a new category of rates is warranted. Hudson places much emphasis on its claim that pneumatic compactors are equipped with a steering wheel while steel-drum rollers utilize levers to steer. However, we have been informed that many of the newly manufactured steel-drum rollers are also equipped with steering wheels.

Moreover, the close kinship between the pneumatic compactors and the steel-drum rollers is highlighted by the fact that a hybrid roller is currently being marketed which utilizes a rubber-coated metal drum on the front and rubber tires in the rear. Apparently, at some point in the evolution of rollers, it was determined that replacing the metal drums with rubber tires enhances the performance of the roller in certain types of operations. This fact does not, however, mean that a new category of equipment was created at the time that rubber tires were first installed.

Finally, we believe that Hudson's contention that operating a pneumatic compactor requires no more skill than that which is necessary to drive an automobile is significantly overstated. As is the case with any piece of heavy machinery, permitting an untrained worker to operate a pneumatic compactor could pose a danger to both himself and other workers employed on the work site. In addition, on liquid chip-sealing operations specifically, the operator must ensure optimum tire pressure so that the material applied to the road surface is adequately compacted but is not over-rolled or crushed.

I thank you and the representatives of Hudson again for taking the time to meet with us at our offices. If you have any

questions regarding this matter, do not hesitate to call me.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Spencer C. Demetros", written in a cursive style.

Spencer C. Demetros  
General Counsel  
Dept. of Labor and Industries

cc: Robert Prezioso  
DLI, Director of Statistics