



The Commonwealth of Massachusetts
Department of Labor and Workforce Development
Division of Occupational Safety

ANGELO BUONOPANE
Director

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Deputy Director

April 3, 1998

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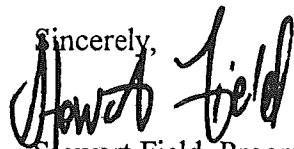
Dear Mr. Kelly:

This letter responds to your letter dated March 30th asserting the right to an appeal under M.G.L. c. 149, s. 27A. However, since the project is on-going, it would be inappropriate to hold a hearing at this time. Moreover, my understanding of this situation is that there is no material dispute upon which to hold a hearing. The issue of whether ready-mix drivers who transport ready-mix concrete to a public works construction site is settled.

The Supreme Judicial Court in Construction Industries of Massachusetts v. Commissioner of Labor and Industries (CIM) held that haulers of bituminous concrete who have a "significant nexus" to the job site were subject to the prevailing wage law. Using the court's justification in the CIM case, the Department of Labor and Industries (currently the Division of Occupational Safety) held in its Lakeville decision that ready-mix drivers who have a "significant nexus" to a work site were subject to the prevailing wage law.

Let me assure you that DOS has never wavered from those guiding cases, and the position that haulers of ready-mix concrete are subject to predetermined wage rates as established by this office.

If you need further assistance please, call me directly at (617) 727-3492.

Sincerely,

Stewart Field, Program Manager
Mass. Div. of Occupational Safety