OPERATING ENGINEERS TRUST FUNDS

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OPERATING ENGINEERS PENSION PLAN
NOTICE OF CRITICAL STATUS

October 28, 2010

TO: PARTICIPANTS, BENEFICIARIES, CONTRIBUTING EMPLOYERS AND LOCAL UNION(S)

FROM: BOARD OF TRUSTEES OF THE OPERATING ENGINEERS PENSION PLAN

This is to inform you that on September 28, 2010 the actuary for the Operating Engineers Pension Plan (the "Plan") certified to the U.S. Department of the Treasury, and to the Board of Trustees that the Plan is in critical status (the "red zone") for the Plan Year beginning July 1, 2010. Federal law requires that you receive this notice.

BACKGROUND

Beginning with the 2008 plan year, using funding criteria set forth in the Internal Revenue Code, the Pension Protection Act of 2006 ("PPA") required multiemployer defined benefit pension plans to be certified by their actuaries as being in one of three funded status zones:

- Neither Endangered nor Critical (unofficially called the "Green Zone")
- Endangered (unofficially called the "Yellow Zone")
- Critical (unofficially called the "Red Zone")

While trustees of Green Zone plans must continue to exercise diligence to protect the funded position of their plans, the law does not require them to take any specific actions or adopt particular programs to maintain or improve plan funding. On the other hand, trustees of plans that are not in the Green Zone must take specific actions spelled out in the law, including the adoption of a "Funding Improvement Plan" for plans in endangered status or a "Rehabilitation Plan" for plans in critical status that are designed to restore the plans to Green Zone status over a period of time. For example, a plan in critical status may reduce or eliminate adjustable benefits, collect an employer surcharge, or require the bargaining parties to negotiate for additional employer contributions.

CRITICAL STATUS

The Plan is considered to be in critical status because it has funding problems. More specifically, the Plan's Actuary has determined that the Plan is in critical status based on the failure of three separate tests, failure of any one of which would have resulted in the Plan's certification in critical status.

1. The Plan is projected to have an accumulated funding deficiency within four years.
2. The sum of the Plan's normal cost and interest on the unfunded actuarial accrued liability exceeds the expected contributions for the 2010-2011 Plan Year; the present value of vested benefits of inactive participants is greater than the present value of vested benefits of active participants; and within the next five Plan Years, the Plan is projected to have an accumulated funding deficiency.
3. The Plan has a funded percentage of less than 65% and is projected to have an accumulated funding deficiency within five years.

REHABILITATION PLAN

Federal law requires pension plans in critical status to adopt a rehabilitation plan aimed at restoring the financial health of the plan. For the 2009-2010 Plan Year, the Plan was also in critical status, but the Trustees elected to "freeze" the Plan's "green zone" status as permitted under the Worker, Retiree, and Employer Recovery Act of 2008 (WRERA). In October 2009 you received a notice regarding the Trustees' election under WRERA. That election is not available for the 2010-2011 Plan Year.

The law permits pension plans to reduce or even eliminate benefits called "adjustable benefits" as part of a rehabilitation plan. If the Trustees of the Plan determine that benefit reductions are necessary, you will receive a separate notice in the future identifying and explaining the effect of those reductions. Any reduction of adjustable benefits (other than a repeal of a recent benefit increase) will not reduce the level of a participant's basic benefit payable at normal retirement age, and can only apply to participants and beneficiaries whose benefit commencement date follows a notice explaining what reductions, if any, will be made in adjustable benefits.

Plans in critical status are not permitted to pay lump sum benefits greater than $5,000 or any other payment in excess of the monthly amount paid under a single life annuity. The Operating Engineers Plan does not pay lump sums over $5,000. However, the Plan's Level Income Option does provide accelerated payments (greater than a single life annuity) in the initial years of retirement. Therefore, effective as of the date of this notice, the Level Income Option will not be available to new retirees while the Plan is in critical status. This restriction applies whether or not the Plan reduces adjustable benefits in the future.

ADJUSTABLE BENEFITS

The Plan offers the following adjustable benefits that may be reduced or eliminated as part of any rehabilitation plan the Trustees may adopt:

- Subsidies for Early Retirement Pensions and Service Pensions;
- Disability Pensions not already in pay status as of the date of this notice;
- The Plan's 120-month guarantee on the single life form of payment;
- All pre-retirement death benefits for non-spouse beneficiaries;
- For surviving spouses in the event of pre-retirement death, all death benefits other than a qualified pre-retirement survivor annuity equal to 50% of the unsubsidized amount that would have been payable to the participant under the Husband and Wife Pension;
- Any subsidies in the Plan's adjustment factors for joint and survivor forms of payment.

The Rehabilitation Plan will offer the Trustees a choice between a default schedule under which all adjustable benefits are eliminated, and certain alternate schedules. One of the alternate schedules will provide that no adjustable benefits will be reduced or eliminated. You will be notified when the Trustees have decided which schedule to implement.

EMPLOYER SURCHARGE

The law requires that all contributing employers pay to the Plan a surcharge to help correct the Plan's financial situation. The surcharge begins 30 days after the contributing employers are notified that the Plan is in critical status. The surcharge ends when a Collective Bargaining Agreement (CBA) consistent with one of the schedules in the rehabilitation plan takes effect.

The surcharge - determined as a percentage of an employer's negotiated contribution rate - is 5% for the remainder of the first Plan Year for which the Plan is in critical status, increasing to 10% for each subsequent Plan Year in which the Plan is in critical status and a new CBA reflecting the rehabilitation plan has not yet taken effect.

Since the Trustees elected to maintain the Plan's "green" status under WRERA for the 2009-2010 Plan Year, the 2010-2011 Plan Year is considered the first Plan Year that the Plan is in critical status..

WHAT'S NEXT

We understand that legally required notices like this one can create concern about the Fund's future. Be assured that the Board of Trustees takes very seriously its obligation to preserve the financial viability of the Fund. With the assistance of the Fund's actuary, legal counsel and other professionals, and working with the contributing employers and the Union, the Trustees will develop a rehabilitation plan that addresses these issues. You should know that both contribution increases and benefit reductions may be necessary to improve the Fund's serious financial condition. As a final note, since the Pension Fund is influenced by economic and financial variables beyond our control (such as market volatility and changes in employment and/or the number of contributing employers), unexpected developments can affect the Fund's status and any future corrective actions needed. Each year the Board of Trustees will be reviewing the Fund's progress with its professional advisors, and which may lead to future changes in the recommended contribution and benefit schedules.

WHERE TO GET MORE INFORMATION

For more information about this notice or the Fund, contact the Fund Office at the address or phone listed at the top of this letter. You have a right to receive a copy of the rehabilitation plan from the Plan.

As required by law, this notice is being provided to the Pension Benefit Guaranty Corporation (PBGC) and the Department of Labor.