

# Duluth-Superior I.L.A. Marine Association Pension Fund

## NOTICE OF FUNDED STATUS OF PENSION PLAN

August 10, 2009

TO: Participants, Beneficiaries, Contributing Employers

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### **BACKGROUND**

This Notice contains important information about the Duluth-Superior I.L.A. Marine Association Pension Plan, EIN No. 41-6043906. Based on funding criteria set forth in the *Pension Protection Act of 2006*, multiemployer plans were required – beginning with the 2008 plan year – to be certified 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”)

You are receiving this notice in conjunction with the Duluth-Superior I.L.A. Marine Association Pension Fund’s (the Plan’s) 2008-09 Annual Funding Notice which was mailed to you recently. The Annual Funding Notice informs you that the Plan was in Endangered status during the plan year 2008-09. In other words, the Plan was in the “Yellow Zone.” The Annual Funding Notice is based upon the Plan’s financial condition as of April 1, 2009, 2008 and, accordingly gives information about the Plan for the previous year.

The Plan’s actuary was required to review the Plan’s financial condition as of March 31, 2009 to evaluate its assets and its liabilities and to determine whether as of April 1, 2009 (for the plan year 2009), the Plan would be in the Green Zone, Yellow Zone or 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 in the Yellow or Red Zone must take actions, 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.

### **2008 PLAN YEAR CERTIFICATION**

On June 27, 2008, the Plan’s actuary certified the Plan’s funded status for the April 1, 2008 through March 31, 2009 plan year to be neither endangered nor critical (“Green Zone”).

### **2009 PLAN YEAR CERTIFICATION**

On June 25, 2009, for the April 1, 2009 through March 31, 2010 plan year, the Plan’s actuary has certified the Plan to be in endangered status (“Yellow Zone”). This is because the Plan is less than 80% funded, but was not projected to have an accumulated funding deficiency within six years.

## **ELECTION TO FREEZE THE 2008 PLAN YEAR ZONE STATUS FOR 2009**

Recognizing the impact of the current economic crisis, Congress passed the Worker, Retiree and Employer Recovery Act of 2008 (WRERA) which included provisions granting relief to defined benefit plans, such as the Plan, and giving plan sponsors the option to elect the prior plan year's zone certification.

In accordance with section 204 of WRERA, the Trustees have voted to "freeze" the Plan's 2008-09 plan year Green Zone status and have it continue to apply to the 2009-10 plan year. Therefore, because the Plan will be in the Green Zone for plan year 2009-10, the Plan will not be required to adopt a rehabilitation plan. The Trustees will, however, continue with implementation of the funding improvement plan. The Trustees are also working diligently to create positive changes to the Plan's financial condition.

Under current law, the freezing of the Plan's 2008-09 plan year Green Zone status does not extend beyond March 31, 2010. Within 90 days after April 1, 2010, the Plan's actuary must again certify its funded status and zone classification. You will receive a new Annual Funding Notice similar to this one within 30 days after the date of certification explaining the Plan's zone status and actions that the Trustees may be required to take under the law to improve the funded status of the Plan.

### **WHAT'S NEXT?**

We understand that legally required notices like this one can create concern about the Plan's future. Be assured that the Board of Trustees takes very seriously its obligation to preserve the financial viability of the Plan. With the assistance of the Plan's actuary, legal counsel and other professionals, and working with the contributing employers and the Union, the Trustees will continue to work towards strengthening the funded position of the Plan. Since the Plan 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 Plan's status and any future corrective actions needed. At each of its meetings, the Board of Trustees will continue to review the Plan's progress with its professional advisors.

### **QUESTIONS?**

For more information about this Notice or the Plan, contact the Plan Administrator, Mr. Martin Lasley, Sturm & Associates 4220 West 76th Street, Edina, MN 55435, (952) 835-3035.

Sincerely,

Board of Trustees

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