

**Notice of Election to Freeze Pension Protection Act Status
For
Operating Engineers Local #101 Pension Plan**

April 15, 2009

This notice, which federal law requires, includes important information about the funding level of the Operating Engineers Local #101 Pension Plan (“Fund”), Plan Number 001, Employer Identification Number 43-6059213 (Plan and Plan Sponsor). In 2006 the Pension Protection Act (“PPA”) was enacted. Beginning with the 2008 Plan Year, that law requires the annual certification of the Plan’s funding status as critical, endangered or neither, generally referred to as red, yellow or green, respectively.

For the 2008 Plan Year, the Fund’s actuary certified that the Plan was in the green zone – the best of the three zones. The Plan was considered to be in the green zone because the funded percentage was 104% on January 1, 2008 and there were no projected funding deficiencies in any of the six subsequent Plan Years. The funded percentage is the percentage of earned benefits that could be funded with existing Plan Assets. A projected funding deficiency is a sign that the anticipated liabilities of the Fund are outpacing its assets.

On March 31, 2009, the Fund’s actuary certified the Plan’s funding status as yellow for the 2009 Plan Year. The Plan is considered to be in the yellow zone because there are projected funding deficiencies starting at the end of the 2014 Plan Year, even though the Fund’s actuary determined that the funded percentage was 95%. The decline in these results is largely a result of the current crisis in the financial markets. Federal law requires pension plans in the yellow zone to adopt a funding improvement plan aimed at restoring the financial health of the Plan.

Section 204 of the Worker, Retiree, and Employer Recovery Act of 2008 (WRERA) allows the Board of Trustees to freeze the PPA funding status from the prior year, so the Fund will be treated as though it were certified green for the 2009 Plan Year. An election to freeze the PPA funding status does not restrict the Board of Trustees’ ability to improve the Plan’s funding status.

During April 2009, the Board of Trustees notified the Internal Revenue Service of its election to freeze the 2008 certification of green for the Plan Year beginning on January 1, 2009. It is the intent of the Trustees to develop and begin implementing such a plan informally right now. You will receive future notices regarding this effort. The Board of Trustees remains committed to the proper funding of your pension benefits and assures you that they will take appropriate actions to meet this goal.

The decision to freeze the PPA funding status applies only for the 2009 Plan Year. If the Plan is certified to be in yellow or red zone for the 2010 Plan Year, the Board of Trustees will provide notice of the Plan’s status on or before April 30, 2010, and additional steps will be taken to improve the Plan’s funding, which may include additional increases in contributions and/or reductions in benefits.

Where to Get More Information

For more information about this Notice, you may contact the Plan Administrator of the Operating Engineers Local #101 Pension Plan at (816) 737-5959 or 6601 Winchester Avenue, Suite 250, Kansas City, MO, 64133-4657.