



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

JUL 18 2006

Re:

EIN: /

Taxpayer =

This letter constitutes notice that conditional approval has been granted for your request for a 10-year extension for amortizing the unfunded liabilities for the above-named Plan which are described in section 412(b)(2)(B) of the Internal Revenue Code ("Code") and section 302(b)(2)(B) of the Employee Retirement Income Security Act of 1974 ("ERISA"). Specifically, this approval applies to the amortization base created as of May 1, by combining the amortization charge bases in the funding standard account as of that date in accordance with Proposed Regulation 1.412(b)-1(d); the extension is effective with the plan year beginning May 1,

This approval is subject to the following conditions:

- (1) For plan years beginning May 1, and May 1, the Schedule Bs (Form 5500) are amended and refiled, incorporating the extended amortization period and reflecting only those employer contributions attributable to hours worked within the applicable plan year. Copies of the amended Schedule Bs for the plan years beginning May 1, and May 1, are provided to of this office, at the address shown below. In addition, for all future plan years, the Schedule B for a given year will reflect only those employer contributions attributable to hours worked within that plan year.
- (2) A credit balance is maintained in the funding standard account that is at least as large as the "pseudo credit balance," for each year the agreement is in effect beginning with May 1, For this purpose, the "pseudo-credit balance"

means a hypothetical credit balance developed by determining the reduction in the net amortization charge for the extended base each year that is solely due to the difference between the valuation interest rate and the interest rate under section 6621(b) of the Code, and amortizing each such reduction over a period of 15 years using the valuation interest rate. The resulting amortization amounts are accumulated with interest at the valuation interest rate to derive the "pseudo credit balance" at each valuation date.

If the Plan is in reorganization within the meaning of section 418 of the Code in any future year, a "notional credit balance" is maintained, equal to the credit balance that would have existed in the funding standard account absent any reorganization charges. In this situation, the Plan is considered to meet this condition as long as the "notional credit balance" (rather than the actual credit balance) is at least as large as the "pseudo credit balance."

- (3) The Plan's funded ratio, calculated by dividing the Plan's market value of assets by its actuarial accrued liability (computed using the unit credit method and the Plan assumptions as of May 1, and counting only those employer contributions attributable to hours worked prior to the applicable valuation date) is:
- (a) no less than , for each valuation date from May 1, through May 1, inclusive; and
 - (b) for each valuation date subsequent to May 1, no less than , greater than the required funded ratio as of the previous valuation date. (For example, because the required funded ratio as of May 1, is the funded ratio must be at least as of May 1, and at least as of May 1, regardless of whether the actual funding ratio in any prior year is higher than the required rate for that year).
- (4) For each plan year that the extension remains in effect, starting with the plan year beginning May 1, a copy of the actuarial valuation report (including the development of the "pseudo credit balance" required at the end of the plan year) and the Schedule B (Form 5500) for each plan year are provided to the Service. This information is to be sent to (or other individual designated by the Service) by January 15 of the calendar year following the end of the plan year, by FAX at or to the following address:

You accepted these conditions by letter dated July 6, If any one of these conditions is not satisfied, the approval to extend the amortization periods for amortizing the unfunded liabilities would be retroactively null and void. However, the Service will consider modifications of these conditions, especially in the event that unforeseen circumstances beyond the control of the Fund may cause the actual experience of the Plan to fail the funded ratio condition (i.e., the third condition above). An example of such an unforeseen circumstance would be market fluctuations which affect the value of the Plan's assets. Of course, any request for a modification is considered another ruling request and would be subject to an additional user fee.

The extensions of the amortization periods of the unfunded liabilities of the Plan have been granted in accordance with section 412(e) of the Code and section 304(a) of ERISA. Section 412(e) of the Code and section 304(a) of ERISA authorize the Secretary to extend the period of time required to amortize any unfunded liability (described in section 412(b)(2)(B) of the Code and section 302(b)(2)(B) of ERISA) of a plan for a period of time (not in excess of 10 years) if the Secretary determines that such extension would carry out the purposes of ERISA and would provide adequate protection for participants under the plan and their beneficiaries and if the Secretary determines that the failure to permit such extension would (1) result in (A) a substantial risk to the voluntary continuation of the plan, or (B) a substantial curtailment of pension benefit levels or employee compensation, and (2) be adverse to the interests of plan participants in the aggregate.

Section 101 of Reorganization Plan No. 4 of 1978, 1979-1 C.B. 480, transferred the authority for issuing rulings under section 304(a) of ERISA from the Secretary of Labor to the Secretary of the Treasury. Accordingly, the amortization periods for the unfunded liabilities of the Plan are extended as described above under section 412(e) of the Code and section 304(a) of ERISA.

The Plan is a multiemployer defined benefit plan. The interest rate applicable for the remaining amortization period of the amortization base for which the extension would be granted is the rate determined under section 6621(b) for each plan year during which the extension is in effect.

As of May 1, the market value of Plan assets was approximately equal to of the present value of accrued benefits under the Plan. The Plan experienced substantial investment losses in the three years preceding May 1, coupled with a decline in active plan membership. As a result, employer contributions have been insufficient to cover the normal cost and net amortization charges in the Plan's funding standard account, and the Plan's credit balance was exhausted by April 30, Schedules B filed for the and plan years would have shown deficiencies in the funding standard account for both years had the actuary not reported contributions that were based on hours worked in later years.

The following steps have been taken in response to Plan's funding issues:

- The Plan was amended to freeze the existing benefit formula (based on a percentage of employer contributions) effective as of August 31, and replace it with a less costly formula (\$ per hour worked in covered employment). Since this amendment was done on a "wear-away" basis, it essentially eliminated future benefit accruals for virtually all existing participants. No other plan was established or enhanced to replace these benefit accruals.
- Employer contributions were significantly increased, from \$ per hour worked as of May 1, to \$ per hour worked effective May 1, representing a increase in a 5-year period.
- Benefit levels in the Health & Welfare Fund were significantly reduced effective October 1, with the intention of using the resulting cost savings to help fund the pension Plan.

According to information submitted with the request, if the extension is not granted, the potential increases in employer contributions necessary to avoid funding deficiencies, and the excise taxes that would result if funding deficiencies are not avoided, could lead to a loss of jobs for the employees covered by the Plan. The work done by these employees is project-based, and the Plan's representative believes it would be relatively easy for employers to find other sources of labor if the hourly cost (including Plan contributions) becomes too expensive. This would result in a reduction of the employer contributions to the Plan and a substantial risk to the voluntary continuation of the Plan. Also, it would be adverse to the interest of Plan participants, not only because of the loss of employment but also because a further reduction in pension benefits and/or other drastic measures would need to be implemented to correct the Plan's funding situation.

Accordingly, extensions would not be adverse to the participants in the aggregate. Moreover, the Fund's authorized representative has submitted a projection of pension funding under a scenario which incorporates a 10-year amortization extension and 15 years to amortize the decreases that occur each year in the minimum contribution requirements resulting solely from differences between the valuation rate and the 6621(b) rate, as well as a possible increase in the employer contribution rate to \$ per hour effective May 1, This scenario meets the conditions mentioned above. However, because the prospects for recovery are uncertain and because the Plan is under-funded, we are granting these extensions subject to the conditions listed above.

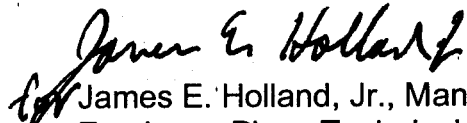
Your attention is called to section 412(f) of the Code and section 304(b) of ERISA which describe the consequences that would result in the event the Plan is amended to increase benefits, change the rate in the accrual of benefits or to change the rate of vesting, while the amortization extension remains in place. Please note that any

amendment that increases liabilities for a profit sharing plan or any other retirement plans (whether qualified or unqualified) maintained by the Trustees for the Plan and covering participants of the Plan to which this ruling applies, would be considered an amendment for purposes of section 412(f) of the Code and section 304(b) of ERISA. Similarly, the establishment of a new profit sharing plan or any other retirement plan (whether qualified or unqualified) maintained by the Trustees for the Plan and covering participants of the Plan to which this ruling applies, would be considered an amendment for purposes of section 412(f) of the Code and section 304(b) of ERISA.

We have sent a copy of this letter to the Manager, EP Classification in _____ to the Manager, EP Compliance Unit in _____ and to your authorized representative pursuant to a power of attorney on file in this office.

If you require further assistance in this matter, please contact

Sincerely yours,


James E. Holland, Jr., Manager
Employee Plans Technical