

September 9, 2010

Henry Buckalew, Trails Program Coordinator  
Hood River County Forestry Department  
918 18<sup>th</sup> Street  
Hood River, OR 97031

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Law*  
Project: Repair and Maintenance of OHV Trails  
Requested by: Hood River County Forestry Department

Dear Mr. Buckalew:

On September 7, 2010, you submitted a request asking if the Prevailing Wage Rate law would apply to two contracts awarded as part of the annual project to repair and maintain off-highway vehicle trails in Hood River County. Sufficient information to make a determination was received on September 9, 2010, and therefore, the commissioner issues the following determination:

#### **FINDINGS OF FACT**

1. Hood River County Forestry Department (“HRCFD”) operates and maintains recreational trails throughout the county that are used for off-highway vehicles (“OHV”).
2. HRCFD applied for and received an ATV Grant for \$121,610.00 from Oregon Parks and Recreation Department for the operation and maintenance of OHV trails in the county.
3. The project term dates are July 1, 2010 through June 30, 2011, and will include the following work: remove trail blockages; armor trails; repair trail tread; repair water bars, drain dips and mud holes; construct reroutes; repair signage; repair OHV bridges; repair vault toilets; and install water control structures.
4. HRCFD will award two identical contracts for the maintenance and repair work. Each contract will be for \$23,740.20. In the spring of 2011, HRCFD may award a third contract for maintenance and repair work.

5. The total project amount is \$152,591.39, with HRCFD providing \$30,981.39 toward the project. Part of the total project amount includes HRCRD salaries and labor, and the use of existing agency equipment. After subtracting the costs of these items, the total project cost will be \$91,133.20.

## **CONCLUSIONS OF LAW**

1. The project to repair and maintain OHV trails in Hood River County involves construction and reconstruction, is being carried on and contracted for by a public agency, and serves the public interest. Therefore, the project is a “public works” under ORS 279C.800(6)(a)(A).
2. The total project cost exceeds \$50,000, and none of the other exemptions from the prevailing wage rate law provided for in ORS 279C.810(2) apply to this project.

## **DETERMINATION**

Based on the foregoing, the Prevailing Wage Rate laws, ORS 279C.800 to ORS 279C.870, and OAR Chapter 839, Division 025, will apply to all work contracted for as part of the project to repair and maintain OHV trails in Hood River County.

This determination is based on the agency’s file as of the date of this determination. The commissioner may make a different determination if any of the project information is incorrect, or if the project or project documents are modified or supplemented after the date of this determination.

## **REQUEST FOR A RECONSIDERATION**

After the commissioner issues a determination, the requestor or any public agency served with a copy of the determination may request that the commissioner reconsider the determination. A request for reconsideration must be submitted in writing to the Prevailing Wage Rate Unit, must include the reason or reasons for the request and any documents in support of the request, and must be received within 15 calendar days of the date the determination was mailed. A request for reconsideration does not toll the time period for requesting a contested case hearing on the determination.

## **RIGHT TO A HEARING**

The requestor and any person adversely affected or aggrieved by this determination are entitled to a hearing as provided by the Administrative Procedures Act (ORS 183.413 to 183.470) and ORS 279C.817. If you want a hearing, the Bureau of Labor and Industries, Wage and Hour Division must receive your written request for hearing within 21 days from the date this notice was mailed. Hearing requests should be addressed and delivered to:

Administrator  
Wage and Hour Division

Bureau of Labor and Industries  
800 NE Oregon St., Suite 1045  
Portland, Oregon 97232

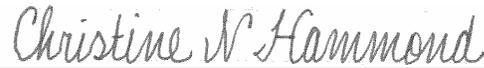
If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived.

If you request a hearing, you will be notified of the date, time and place of the hearing. You have the right to be represented by legal counsel at a hearing. However, if you are a government agency, corporation, partnership, or unincorporated association, you must be represented by either legal counsel or an authorized representative. If you request a hearing, you will receive information on Contested Case Rights and Procedures before the hearing. After the hearing, an order confirming, modifying, or reversing this determination will be issued. This determination shall remain in effect until the final order is issued.

If you request a hearing, but fail to appear at any scheduled hearing, you will have waived your right to hearing, and the commissioner may issue a final order by default. If the commissioner issues a final order by default, the agency file on this matter shall serve as the record for purposes of proving a prima facie case. You are not entitled to judicial review of this determination order unless you have made a timely request for a hearing.

Date: September 9, 2010

Brad Avakian, Commissioner  
Bureau of Labor and Industries



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Christine N. Hammond, Administrator  
Wage and Hour Division  
Bureau of Labor and Industries

## **Certificate of Service**

On September 9, 2010, I mailed the Prevailing Wage Rate Determination for the Repair and Maintenance of OHV Trails project to the requestor and public agency associated with this project, as follows:

Henry Buckalew, Trails Program Coordinator  
Hood River County Forestry Department  
918 18<sup>th</sup> Street  
Hood River, OR 97031

ATV Grant Contracts Coordinator  
Oregon Parks and Recreation Department  
725 Summer Street NE, Suite C  
Salem, OR 97301

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Susan Wooley  
PWR Technical Assistance Coordinator  
Wage and Hour Division  
Bureau of Labor and Industries