Internal Revenue Service

Department of the Treasury

200121076

Washington, DC 20224

Significant Index No. 0412.06-00

Third Party contact: Participants, Labor Union

Contact Person:

Telephone Number:

In Reference to:
T:EP:RA:T:A1

Date: FEB 27 2001

In re:

This letter constitutes notice that with respect to the above-named defined benefit pension plan we have granted a conditional waiver of the minimum funding standard for the plan year ending July 31, 2000.

This conditional waiver for the plan year ended July 31, 2000, has been granted in accordance with § 412(d) of the Internal Revenue Code and § 303 of the Employee Retirement Income Security Act of 1974 (ERISA). The waived amount is the contribution which would otherwise be required to reduce the balance in the funding standard account to zero as of the end of the plan year for which this conditional waiver has been granted.

The sponsor has an August 1-July 31 fiscal year. For its fiscal years ended July 31, 1998 and 2000 the employer had net operating losses (it had a de minimis profit for the fiscal year ended July 31, 1999). The employer contributed 59% of the amount required to satisfy the minimum funding requirement for the plan year ended July 31, 2000. However, cash flow was not sufficient both to meet routine operating expenses such as payroll, install legally mandated equipment in its plants and to contribute the full amount of the minimum funding requirement. The employer expects that lower fuel and utility costs combined with increased operating efficiencies will improve cash flow and profitability. Still, there is some uncertainty as to the likelihood of these expectations.

As of August 1, 1999, the plan assets were equal to 72% of the plan's current liability. Because of the recovery prospects of the employer are uncertain and the plan is underfunded, the waiver is granted subject to the following condition:

> The contributions required to satisfy the minimum funding standard for the plan years ended July 31, 2001 and 2002, are to be timely made as defined in Code § 412(c)(10), without an additional funding waiver for those years.

If this condition is not satisfied, the waiver is retroactively null and void. You agreed to this condition in your letter dated February 26, 2001.

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Your attention is called to Code § 412(f) and § 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 any portion of the waived funding deficiency remains unamortized. Please note that any amendment to other retirement plans (covering employees covered by this plan) maintained by the employer to increase the liabilities of those plans would be considered an amendment for purposes of Code § 412(f) and § 304(b) of ERISA.

This ruling is directed only to the taxpayer that requested it. Code § 6110(k)(3) provides that it may not be used or cited by others as precedent.

When filing Form 5500 for the plan year ended July 31, 2000, the date of this letter should be entered on Schedule B (Actuarial Information). A copy of this letter should also be sent to the enrolled actuary for the plan. We have sent a copy of this letter to the Employee Plans Area Manager for the Area Office in

Sincerely,

James E. Holland, Jr., Manager
Employee Plans Actuarial Group 1
Tax Exempt and Government Entities
Division

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