UNITED STATES DISTRICT COURT DISTRICT OF MINNESOTA

Operating Engineers Local #49 Health and Welfare Fund, Central Pension Fund of the International Union of Operating Engineers and Participating Employers, Local #49 International Union of Operating Engineers and Associated General Contractors of Minnesota Apprenticeship and Training Program and their Trustees.

Civil No. 10-03955 (JNE/JSM)

Plaintiffs, ORDER

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Mesabi Bituminous, Inc.

Defendant.

The above matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Janie S. Mayeron dated January 4, 2011. No objections have been filed to that Report and Recommendation in the time period permitted.

Based on the Report and Recommendation of the Magistrate Judge, upon all of the files, records and proceedings herein, the Court now makes and enters the following Order.

IT IS HEREBY ORDERED that:

- 1. Plaintiffs' Motion for Entry of Judgment is hereby DENIED without prejudice.
- 2. Plaintiffs may renew their motion after Mitchell Brunfelt or other legal counsel for MBI enters a notice of appearance and files a document signifying MBI's

acknowledgment of service of the Complaint, decision not to answer the Complaint, and

lack of opposition to the entry of judgment. Alternatively, pursuant to Fed. R. Civ. P.

4(m), plaintiffs shall serve their Complaint within sixty (60) days of this Order, and if MBI

does not interpose an answer within the time allowed, apply for and obtain an Entry of

Default Judgment from the Clerk of Court and then renew their motion for entry of

judgment.

Dated: 2-23-2011

s/ Joan N. Ericksen

JOAN N. ERICKSEN

United States District Judge

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