

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

BEFORE THE IOSHA BOARD OF  
SAFETY REVIEW

**F I L E D**

IN THE MATTER OF THE )  
COMMISSIONER OF LABOR, )

MAY 10 2012

Indiana Board of  
Safety Review

Complainant, )

CASE DOCKET NO. 11-012

v. )

B & T DRAINAGE, )  
AND ITS SUCCESSORS, )

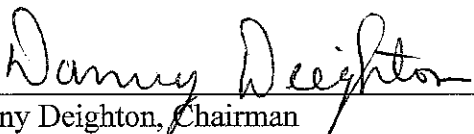
Respondent. )

**FINAL ORDER**

The parties to the above-referenced proceeding, through their duly authorized representatives, have filed with the Board their Agreed Entry. The Board, being duly advised, now accepts the Respondent's withdrawal of its Notice of Contest, and adopts the Safety Orders and penalty issued by the Commissioner of Labor, as modified by the Agreed Entry, as its final order in this matter.

IT IS ORDERED that the Respondent's withdrawal of its Notice of Contest is accepted and the Safety Orders and penalty issued by the Commissioner of Labor, as modified by the Agreed Entry, is adopted as a final order.

Dated: 10 May 2012

  
\_\_\_\_\_  
Danny Deighton, Chairman

Copies to:

Julie C. Alexander  
Legal Counsel  
Department of Labor  
402 W. Washington St., Rm. W195  
Indianapolis, IN 46204

James P. Casey  
Ziemer Stayman Weitzel & Shoulders  
20 N.W. First Street  
P. O. Box 916  
Evansville, IN 47706-0916

Dist.

IN THE STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

BEFORE THE IOSHA BOARD OF  
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CASE DOCKET NO. 11-012

IN THE MATTER OF:

COMMISSIONER OF LABOR, )  
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 Complainant, )  
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 v. )  
 )  
 B & T DRAINAGE, )  
 AND ITS SUCCESSORS, )  
 Respondent. )

**F I L E D**  
MAR 30 2012  
Indiana Board of  
Safety Review

**AGREED ENTRY**

The parties to the above-captioned proceeding, the Commissioner of the Indiana Department of Labor and B & T Drainage, through their duly authorized representatives, being desirous of entering into this Agreed Entry prior to hearing do hereby stipulate and agree as follows:

**PART I.**

1. From March 11, 2011 through March 14, 2011, authorized employees of the Indiana Department of Labor conducted an inspection at the Respondent's jobsite located at 670 Margaret Avenue, Indiana American Water Main Re-Location, Terre Haute, Indiana 47802.
2. On June 2, 2011, the Commissioner of Labor issued Safety Order No. 1 and Safety Order No. 2 (Indiana Department of Labor Inspection No. 315042002) alleging that B & T Drainage, had violated the Indiana Occupational Safety and Health Act (IC 22-8-1.1 *et seq.*) or the standards or rules thereunder. Safety Order No. 1 and Safety Order No. 2 are attached hereto as Exhibit A and are incorporated herein.
3. On July 5, 2011 Respondent duly and timely petitioned for review of Safety Order No. 1 and Safety Order No. 2

PART II.

4. The Petitioned for review Safety Order No. 1 consists of Item Nos. 1 through 9.
5. The Petitioned for review Safety Order No. 2 consists of Item No. 1 and No. 2.
6. Safety Order No. 1, Item No. 1 alleges a "Serious" violation of 29 CFR 1926.100(a) and assesses a total penalty of Two Thousand Dollars (\$2,000).
7. Safety Order No. 1, Item Nos. 2a, 2b, and 2c allege "Serious" violations of 29 CFR 1926.251(a)(1), 29 CFR 1926.251(b)(1), and IC 21-8-1.1-2, respectively, and assesses a total penalty of One Thousand Dollars (\$1,000).
8. Safety Order No. 1, Item No. 3 alleges a "Serious" violation of 29 CFR 1926.651(c)(2) and assesses a total penalty of Two Thousand Dollars (\$2,000).
9. Safety Order No. 1, Item No. 4 alleges a "Serious" violation of 29 CFR 1926.651(e) and assesses a total penalty of One Thousand Dollars (\$1,000).
10. Safety Order No. 1, Item No. 5 alleges a "Serious" violation of 29 CFR 1926.651(i)(3) and assesses a total penalty of Two Thousand Dollars (\$2,000).
11. Safety Order No. 1, Item No. 6 alleges a "Serious" violation of 29 CFR 1926.651(k)(2) and assesses a total penalty of Two Thousand Dollars (\$2,000).
12. Safety Order No. 1, Item No. 7 alleges a "Serious" violation of 29 CFR 1926.652(b)(2) and assesses a total penalty of Two Thousand Dollars (\$2,000).
13. Safety Order No. 1, Item No. 8 alleges a "Serious" violation of 29 CFR 1926.652(g)(1)(ii) and assesses a total penalty of One Thousand Dollars (\$ 1,000).
14. Safety Order No. 1, Item No. 9 alleges a "Serious" violation of 29 CFR 1926.652(g)(1)(iii) and assesses a total penalty of Two Thousand Dollars (\$2,000).
15. The total penalty for Safety Order No. 1 is Fifteen Thousand Dollars (\$15,000).
16. Safety Order No. 2, Item No. 1 alleges a "Knowing" or in the alternative a "Repeat"

violation of 29 CFR 1926.651(j)(2) and assesses a total penalty of Twenty-Eight Thousand Dollars (\$28,000).

17. Safety Order No. 2, Item No. 2 alleges a "Knowing" or in the alternative a "Repeat" violation of 29 CFR 1926.652(a)(1) and assesses a total penalty of Twenty-Eight Thousand Dollars (\$28,000).

18. The total penalty for Safety Order No. 2 is Fifty-Six Thousand Dollars (\$56,000).

### PART III.

19. Safety Order No. 1, Item No. 1 remains unchanged in its entirety including the penalty.

20. Safety Order Nos. 1, Item Nos. 2a, 2b, and 2c remain unchanged in their entirety including the penalty.

21. Safety Order No. 1, Item No. 3 remains unchanged in its entirety including the penalty.

22. Safety Order No. 1, Item No. 4 remains unchanged in its entirety including the penalty.

23. Safety Order No. 1, Item No. 5 remains unchanged in its entirety including the penalty.

24. Complainant amends Safety Order No. 1, Item 6 by deleting this item in its entirety including the penalty.

25. Safety Order No. 1, Item No. 7 and Item No. 8 are amended by grouping the two violations into Item No. 7a and Item No. 7b and the penalty is amended to Two Thousand (\$2,000) for both Item No. 7a and Item No. 7b.

26. Safety Order No. 1, Item No. 9 remains unchanged in its entirety including the penalty.

27. Safety Order No. 2, Item No. 1 remains a "Repeat" violation with a deletion of the alternative "Knowing" violation, but the penalty is reduced from Twenty-Eight Thousand Dollars (\$28,000) to Eighteen Thousand Dollars (\$18,000).

28. Complainant amends Safety Order No. 2, Item 2 by deleting this item in its entirety including the penalty.

29. Respondent agrees to train all employees in a ten (10) hour Construction Safety Class, to be completed within ninety (90) days of the Board of Safety Review's affirmation of this Agreed Entry.

30. Respondent agrees to train all supervisors and upper-level personnel in thirty (30) hour construction safety class to be completed the within ninety (90) days of the Board of Safety Review's affirmation of this Agreed Entry.

31. Respondent agrees to review Safety and Health programs with all employees within sixty (60) days of the Board of Safety Review's affirmation of this Agreed Entry.

32. Respondent agrees to allow IOSHA to monitor Respondent's work practices for six (6) months from the date of full execution by all parties of this Agreed Entry by reporting to IOSHA all locations of work, so IOSHA may conduct three (3) random inspections.

33. Respondent agrees to submit all training and work locations in Indiana to the Construction Safety Division of IOSHA for six (6) months starting from the date of full execution by all parties of this Agreed Entry.

34. The AGREED total penalty for all violations and all subparts thereunder subject to this Agreed Entry is Thirty Thousand Dollars (\$30,000).

35. Respondent confirms Complainant's right to reinspect its workplaces, in accordance with the Act and to verify abatement of the alleged violations.

36. Respondent hereby withdraws its petition for review previously filed in this matter.

#### PART IV.

37. Nothing contained in this Agreed Entry shall be construed to affect the Commissioner's interpretation of the Act or any standard or regulation enforced pursuant thereto or the applicable classification thereof.

38. It is understood and agreed by the Respondent and Complainant that this Agreed Entry

and attachments will constitute a final, enforceable OSHA Safety Order(s) and penalties for the purposes of the Indiana Occupational Safety and Health Act ("Act").

39. Except for these proceedings, and matters arising out of these proceedings and any other subsequent OSHA proceedings between the parties, none of the foregoing agreements, statements, findings, and actions taken by the Respondent shall be deemed an admission. The agreements, statements, findings, and actions taken herein are made in order to compromise and settle this matter economically and amicably, and they shall not be used for any other purpose, except as herein stated.

40. The invalidity or unenforceability of any section, subsection, clause or provision of this Agreed Entry does not affect the remaining sections, subsections, clauses, or provisions of this Agreed Entry.

41. Respondent, upon full execution of this Agreed Entry, will post this Agreed Entry for three (3) working days or until abatement is completed, whichever period is longer, pursuant to Board of Safety Review Rules of Procedure, 615 IAC 1-2-18(b)(3).

AGREED this \_\_\_\_ day of \_\_\_\_\_, 2012

**B & T DRAINAGE**

By: John Beyer

Title: Asent

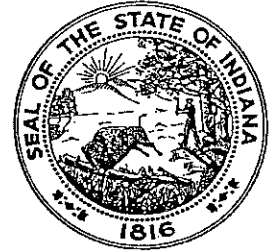
By: James P. Casey  
Counsel for Respondent

**COMMISSIONER OF LABOR**

By: Jeffrey Carter  
Deputy Commissioner  
IOSHA

By: Julie C. Alexander  
Deputy Attorney General

Indiana Department of Labor  
Indiana Occupational Safety and Health Administration  
402 West Washington Street  
Room W195  
Indianapolis, IN 46204-2751  
Phone: 317/232-1979 Fax: 317/233-3790



*certified mail # 7003 10100003 5731 7561 6-2-11 JJA*

## Safety Order and Notification of Penalty

**To:** B&T Drainage,  
and its successors  
P.O. Box 293  
Attn: John Boyer  
Marshall, IL 62441

**Inspection Number:** 315042002  
**Inspection Date(s):** 03/11/2011 - 03/14/2011  
**Issuance Date:** 06/02/2011

**Inspection Site:**

670 Margaret Avenue  
Indiana American Water Main Re-Location  
Terre Haute, IN 47802

*The violation(s) described in this Safety Order and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.*

An inspection of your place of employment has revealed conditions which we believe do not comply with the provisions of the Indiana Occupational Safety and Health Act (Indiana Code Chapter 22-8-1.1) or the standards or rules adopted thereunder. Accordingly, enclosed please find safety order(s) and notification(s) of penalty describing such violation(s) with references to applicable standards, rules, or provisions of the statute and stating the amount of any penalty(ies).

**Informal Conference** - Please be advised that it may be possible to informally settle any potential dispute without initiating the more elaborate proceedings brought on by a petition for review. Prior to filing a petition for review, you may request an informal conference concerning any of the results of the inspection (safety orders, penalties, abatement dates, etc.) by contacting the Indiana Department of Labor/IOSHA, preferably by telephone, in a prompt manner. Please be advised that a request for an informal conference cannot extend the fifteen working day period for filing a petition for review. Informal conferences frequently resolve any possible disputes, and therefore you are urged to take advantage of this opportunity. Because of the limited time period and in order to facilitate scheduling, any requests for an informal conference should be made promptly upon your receipt of the safety order(s) and notification(s) of penalty.

**Right to Contest** - You are hereby also notified that you are entitled to seek administrative review of the safety order(s), penalty(ies), or both by filing a written petition for review at the above address postmarked within



fifteen working days of your receipt of the safety order(s) and notification(s) of penalty. ("Working days" means Mondays through Fridays, but does not include Saturdays, Sundays, legal holidays under a state statute or days on which the Indiana Department of Labor's offices are closed during regular business hours). If you do not file such a petition for review (contest), the safety order(s) and penalty(ies) shall be deemed final orders of the Board of Safety Review and not subject to review by any court or agency. The issuance of a safety order does not constitute a finding that a violation has occurred unless no petition for review is filed, or if a petition for review (contest) is filed, it must contain a statement of its basis and should reference the above inspection number. Upon receipt of your petition for review, we will affirm, amend or dismiss the safety order(s) and notification(s) of penalty. If we affirm, your petition for review will be granted (unless it was not timely) and the dispute will be certified by the Board of Safety Review for further proceedings. The Board of Safety Review is an independent agency appointed by the governor with authority to conduct hearings and to issue decisions concerning disputed safety order(s) and notification(s) of penalty. If we amend the safety order(s) or notification(s) of penalty, your petition for review shall be deemed moot. However, you will then be given an opportunity to file a petition for review concerning the amended safety order(s) and notification(s) of penalty.

Please be advised that an employee or representative of employees may file a petition for review to contest the reasonableness of the time stated in the safety order(s) for the abatement of any violation.

**Posting** - Upon receipt of any safety order(s) you are required to post such safety order(s), or a copy thereof, unedited, at or near each place an alleged violation referred to in the safety order(s) occurred. However, if your operations are such that it is not practicable to post the safety order(s) at or near each place of alleged violation, such safety order(s) shall be posted, unedited, in a prominent place where it will be readily observable by all affected employees. For example, if you are engaged in activities which are physically dispersed, the safety order(s) may be posted at the location from which the employees operate to carry out their activities. You must take steps to ensure that the safety order is not altered, defaced, or covered by other material. Posting shall be until the violation is abated, or for three working days, whichever is longer.

**Penalties** - Penalties are due within fifteen (15) working days of receipt of this notification unless contested. Abatement does not constitute payment of penalties.

**Abatement** - The conditions cited in the safety order(s) must be corrected (abated) on or before the date shown for each item on the safety order(s) and notification(s) of penalty unless:

(1) You file a petition for review concerning the violation, in which case the full abatement period shall commence from the issuance of a final decision by the Board of Safety Review or the courts which requires compliance with the safety order; or

(2) The abatement period is extended by the granting of a petition for modification of abatement date.

**PMAs** - The petition for modification of abatement date is a manner in which you may seek additional time to correct (abate) a violation without having to file a petition for review concerning the safety order, or after the expiration of the time period to file such a petition for review when it becomes apparent that you need extra time to abate the violation. A petition for modification of abatement date shall be in writing and shall include the

following information:

- (1) All steps you have taken, and the dates of such actions, in an effort to achieve compliance during the prescribed abatement period.
- (2) The specific additional abatement time necessary in order to achieve compliance.
- (3) The reasons such additional time is necessary, including the unavailability of professional or technical personnel or of materials and equipment, or because necessary construction or alteration of facilities cannot be completed by the original abatement date.
- (4) All available interim steps being taken to safeguard employees against the cited hazard during the abatement period.
- (5) A certification that a copy of the petition has been posted, and if appropriate, served on the authorized representative of affected employees, and a certification of the date upon which such posting and service was made.

A petition for modification of abatement date shall be filed with the Indiana Department of Labor/IOSHA no later than the close of the next working day following the date on which abatement was originally required. A later-filed petition shall be accompanied by the employer's statement of exceptional circumstances explaining the delay. A copy of such petition shall be posted in a conspicuous place where all affected employees will have notice thereof or near such location where the violation occurred. The petition shall remain posted until the time period for the filing of a petition for review of the Commissioner's granting or denying the petition expires. Where affected employees are represented by an authorized representative, said representative shall be served a copy of such petition.

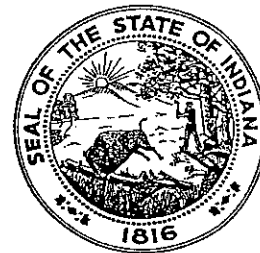
**Notification of Corrective Action** - Correction of the alleged violations which have an abatement period of thirty (30) days or less should be reported in writing to us promptly upon correction. A "Letter of Abatement" form and an "Abatement Photographs" worksheet are enclosed for your assistance in providing adequate documentation of abatement. Reports of corrections should show specific corrective action on each alleged violation and the date of such action. On alleged violations with abatement periods of more than thirty (30) days, a written progress report should be submitted, detailing what has been done, what remains to be done, and the time needed to fully abate each such violation. When the alleged violation is fully abated, we should be so advised. Timely correction of an alleged violation does not affect the initial proposed penalty.

**Followup Inspections** - Please be advised that a followup inspection may be made for the purpose of ascertaining that you have posted the safety order(s) and corrected the alleged violations. Failure to correct an alleged violation may result in additional penalties for each day that the violation has not been corrected.

**Employer Discrimination Unlawful** - The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under this Act. An employee who believes that he/she has been discriminated against may file a complaint no later than 30 days after the discrimination occurred with the Indiana Department of Labor/IOSHA at the address shown above.

**Notice to Employees** - The law gives an employee or his/her representative the opportunity to object to any abatement date set for a violation if he/she believes the date to be unreasonable. The contest must be mailed to the Indiana Department of Labor/IOSHA at the address shown above within fifteen (15) working days (excluding weekends and State holidays) or receipt by the employer of this safety order and penalty.

If you wish additional information, you may direct such requests to us at the address or telephone number stated above.



## NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

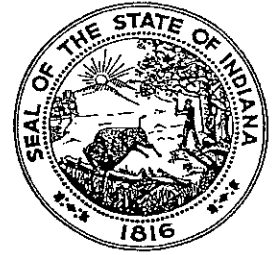
An informal conference has been scheduled with IOSHA to discuss the safety order(s) issued on 05/20/2011. The conference will be held at the IOSHA office located at 402 West Washington Street, Room W195, Indianapolis, IN 46204 on \_\_\_\_\_ at \_\_\_\_\_.

Employees and/or representatives of employees have a right to attend an informal conference.

**Indiana Department of Labor**

Indiana Occupational Safety and Health  
Administration

Inspection Number: 042002  
Inspection Dates: 03/11/2011 - 03/14/2011  
Issuance Date: 06/10/2011



**Safety Order and Notification of Penalty**

**Company Name:** B&T Drainage  
**Inspection Site:** 670 Margaret Avenue, Indiana American Water Main Re-Location,  
Terre Haute, IN 47802

**Safety Order 1 Item 1** Type of Violation: **Serious**

29 CFR 1926.100(a): Employees were not protected by protective helmets while working in areas where there was a possible danger of head injury from impact, or from falling or flying objects, or from electrical shock and burns:

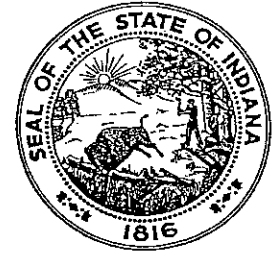
Job site/trench ----- On March 11, 2011 two (2) employees working in a 10 foot deep unprotected trench with undermined asphalt & sidewalk above them and who were working under the load of a John Deere excavator where the possibility of head injury existed, were not wearing hard hats.

**Date By Which Violation Must be Abated:** **Corrected During Inspection**  
**Proposed Penalty:** **\$2,000.00**

**Indiana Department of Labor**

Indiana Occupational Safety and Health  
Administration

Inspection Number: 042002  
Inspection Dates: 03/11/2011 - 03/14/2011  
Issuance Date: 06/02/2011



**Safety Order and Notification of Penalty**

**Company Name:** B&T Drainage  
**Inspection Site:** 670 Margaret Avenue, Indiana American Water Main Re-Location,  
Terre Haute, IN 47802

The alleged violations below have been grouped because they involve similar or related hazards that may increase the potential for illness or injury resulting from an accident.

**Safety Order 1 Item 2a** Type of Violation: **Serious**

29 CFR 1926.251(a)(1): Defective rigging equipment was not removed from service:

Job site ----- On March 11, 2011 a 5/8 inch diameter, 8 foot long, four legged bridle sling being used to lift a trench box has a damaged thimble, and the sling was not removed from service.

**Date By Which Violation Must be Abated:** **Corrected During Inspection**  
**Proposed Penalty:** **\$1,000.00**

**Safety Order 1 Item 2b** Type of Violation: **Serious**

29 CFR 1926.251(b)(1): Welded alloy steel chain sling(s) did not have permanently affixed durable identification stating size, grade, rated capacity, and sling manufacturer:

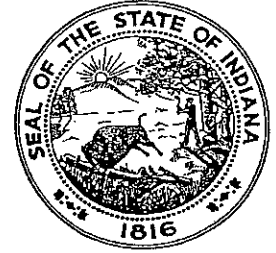
Job site ----- On March 11, 2011 a small steel chain equipped with a hook and run through the lifting eye of the bucket on the John Deere excavator being used with a 10 foot long endless sling to lift a section of pipe did not have an identification tag giving size, grade, capacity, or manufacturer.

**Date By Which Violation Must be Abated:** **06/28/2011**  
**Proposed Penalty:** **\$0.00**

**Indiana Department of Labor**

Indiana Occupational Safety and Health  
Administration

Inspection Number: 313042002  
Inspection Dates: 03/11/2011 - 03/14/2011  
Issuance Date: 06/02/2011



**Safety Order and Notification of Penalty**

**Company Name:** B&T Drainage  
**Inspection Site:** 670 Margaret Avenue, Indiana American Water Main Re-Location,  
Terre Haute, IN 47802

**Safety Order 1 Item 2c Type of Violation: **Serious****

IC 22-8-1.1 SEC 2: The employer did not furnish employment and a place of employment which were free from recognized hazards that were causing or likely to cause death or serious physical harm to employees in that employees were expose to:

(a) Southeast side of job site ----- On March 11, 2011 the hook on the small steel chain run through the lifting eye of the bucket on the John Deere excavator, Model # 225 LC, S/N: FF225LX500625, being used with a 10 foot long endless sling to lift a section of pipe, did not have a safety latch and the load was not secured from displacement to eliminate the hazard of struck by. Among other methods, feasible and acceptable abatement methods to correct this hazard would be to follow ANSI A10.42-2000 Section 4.3 (a) and (b) which states (a) materials being hoisted shall be rigged to prevent unintentional displacement and (b) hooks with self-closing safety latches or their equivalent shall be used to prevent components from slipping out of the hook and/or to follow 29 CFR 1910.181(j)(2)(ii) which states safety latch type hooks shall be used whenever possible.

(b) East side of job site ----- On March 11, 2011 the hooks on the 5/8 inch, 8 foot long, 4-legged bridle sling, used to hoist a trench box, are not equipped with a safety latches and the load is not secured from displacement to eliminate the hazard of struck by. Among other methods, feasible and acceptable abatement methods to correct this hazard would be to follow ANSI A10.42-2000 Section 4.3 (a) and (b) which states (a) materials being hoisted shall be rigged to prevent unintentional displacement and (b) hooks with self-closing safety latches or their equivalent shall be used to prevent components from slipping out of the hook and/or to follow 29 CFR 1910.181(j)(2)(ii) which states safety latch type hooks shall be used whenever possible.

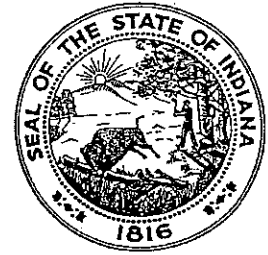
**Date By Which Violation Must be Abated:**  
**Proposed Penalty:**

**06/28/2011**  
**\$0.00**

**Indiana Department of Labor**

Indiana Occupational Safety and Health  
Administration

Inspection Number: 042002  
Inspection Dates: 03/11/2011 - 03/14/2011  
Issuance Date: 6/2/2011



**Safety Order and Notification of Penalty**

Company Name: B&T Drainage  
Inspection Site: 670 Margaret Avenue, Indiana American Water Main Re-Location,  
Terre Haute, IN 47802

JUN

**Safety Order 1 Item 3 Type of Violation: **Serious****

29 CFR 1926.651(c)(2): A stairway, ladder, ramp or other safe means of egress was not located in trench excavations that were 4 feet (1.22m) or more in depth so as to require no more than 25 feet (7.62m) of lateral travel for employees:

Trench ----- On March 11, 2011 no ladder or other safe means of access was provided for two employees working in a 10 foot deep, 14 foot wide, and 24 foot long trench.

Date By Which Violation Must be Abated: **Corrected During Inspection**  
Proposed Penalty: **\$2,000.00**

**Safety Order 1 Item 4 Type of Violation: **Serious****

29 CFR 1926.651(e): Employee was not prohibited to be underneath loads handled by lifting or digging equipment:

Trench ----- On March 11, 2011 two employees were not prevented from working under the load of the John Deere Excavator, Model # 225 LC, S/N: FF225LX500625 with a 30 inch bucket, that is being used to lower ductile pipe into the trench.

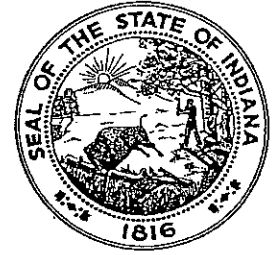
Date By Which Violation Must be Abated: **Corrected During Inspection**  
Proposed Penalty: **\$1,000.00**



**Indiana Department of Labor**

Indiana Occupational Safety and Health  
Administration

Inspection Number: 515042002  
Inspection Dates: 03/11/2011 - 03/14/2011  
Issuance Date: 6/2/2011 JW



**Safety Order and Notification of Penalty**

Company Name: B&T Drainage  
Inspection Site: 670 Margaret Avenue, Indiana American Water Main Re-Location,  
Terre Haute, IN 47802

**Safety Order 1 Item 5 Type of Violation: **Serious****

29 CFR 1926.651(i)(3): Sidewalks, pavements, or appurtenant structures had been undermined and a support system or another method was not provided to protect employees from the possible collapse of such structures:

Trench- North and South ends ----- On March 11, 2011 employees working in the 10 foot deep unprotected trench were not protected from the possible collapse of loose undermined concrete sidewalk and loose undermined asphalt pavement and neither were supported by any means.

**Date By Which Violation Must be Abated: Corrected During Inspection**  
**Proposed Penalty: \$2,000.00**

**Safety Order 1 Item 6 Type of Violation: **Serious****

29 CFR 1926.651(k)(2): Where the competent person found evidence of a situation that could result in a possible cave-in, indications of failure of protective systems, hazardous atmospheres, or other hazardous conditions, exposed employees were not removed from the hazardous area until the necessary precautions had been taken to ensure their safety:

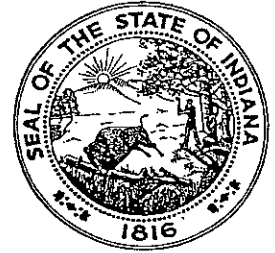
Trench ----- On March 11, 2011 the competent person did not prevent employees from being exposed to, and did not remove them from, a 10 feet deep, 14 feet wide, 24 feet long unprotected trench where employees were outside of a trench box and where employees were exposed to a possible cave-ins and other hazards associated with the trench.

**Date By Which Violation Must be Abated: Corrected During Inspection**  
**Proposed Penalty: \$2,000.00**

**Indiana Department of Labor**

Indiana Occupational Safety and Health  
Administration

Inspection Number: 042002  
Inspection Dates: 03/11/2011 - 03/14/2011  
Issuance Date: 6/2/2011  
*JW*



**Safety Order and Notification of Penalty**

Company Name: B&T Drainage  
Inspection Site: 670 Margaret Avenue, Indiana American Water Main Re-Location,  
Terre Haute, IN 47802

**Safety Order 1 Item 7 Type of Violation: **Serious****

29 CFR 1926.652(b)(2): Maximum allowable slopes and configurations for sloping and benching systems were not determined in accordance with the conditions and requirements as set forth in appendices A and B of this subpart:

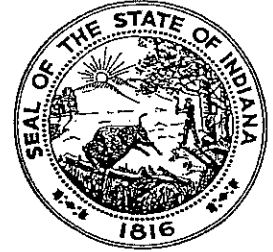
Trench/Job Site ----- On March 11, 2011 the sidewalls of the 10 foot deep trench were not sloped, supported, or shielded to a height at least 18 inches above the vertical side as the 8 foot high trench box was approximately 23 inches below grade and the vertical sides above the trench box were not sloped or otherwise supported.

Date By Which Violation Must be Abated: **Corrected During Inspection**  
Proposed Penalty: **\$2,000.00**

**Indiana Department of Labor**

Indiana Occupational Safety and Health  
Administration

Inspection Number: 515042002  
Inspection Dates: 03/11/2011 -  
03/14/2011  
Issuance Date: 6/2/2011  
JW



**Safety Order and Notification of Penalty**

Company Name: B&T Drainage  
Inspection Site: 670 Margaret Avenue, Indiana American Water Main Re-Location,  
Terre Haute, IN 47802

Safety Order 1 Item 8 Type of Violation: **Serious**

29 CFR 1926.652(g)(1)(ii): Shields were not installed in a manner to restrict lateral or other hazardous movement of the shield in the event of the application of sudden lateral loads:

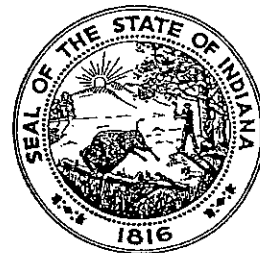
Trench ----- On March 11, 2011 the Kundel trench shield installed in the 10 feet deep, 14 feet wide, and 24 feet long trench was not installed so as to prevent lateral movement.

Date By Which Violation Must be Abated: **Corrected During Inspection**  
Proposed Penalty: **\$1,000.00**

**Indiana Department of Labor**

Indiana Occupational Safety and Health  
Administration

Inspection Number: 042002  
Inspection Dates: 03/11/2011 - 03/14/2011  
Issuance Date: 6/2/2011  
JW



**Safety Order and Notification of Penalty**

**Company Name:** B&T Drainage  
**Inspection Site:** 670 Margaret Avenue, Indiana American Water Main Re-Location,  
Terre Haute, IN 47802

**Safety Order 1 Item 9** Type of Violation: **Serious**

29 CFR 1926.652(g)(1)(iii): Employees were not protected from the hazard of cave-ins when entering or exiting the area protected by shields:

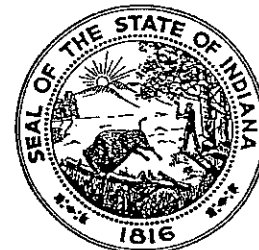
Trench ----- On March 11, 2011 employees entering and exiting the Kundel trench shield installed in the 10 feet deep, 14 feet wide, and 24 feet long trench were not protected from cave-ins as the sidewalls at the ends outside the box were not properly sloped or otherwise supported.

**Date By Which Violation Must be Abated:** Corrected During Inspection  
**Proposed Penalty:** \$2,000.00

**Indiana Department of Labor**

Indiana Occupational Safety and Health  
Administration

Inspection Number: J-15042002  
Inspection Dates: 03/11/2011 - 03/14/2011  
Issuance Date: 4/2/2011 JEW



**Safety Order and Notification of Penalty**

Company Name: B&T Drainage  
Inspection Site: 670 Margaret Avenue, Indiana American Water Main Re-Location, Terre Haute, IN 47802

**Safety Order 2 Item 1 Type of Violation: **Knowing****

29 CFR 1926.651(j)(2): Protection was not provided by placing and keeping excavated or other materials or equipment at least 2 feet (.61m) from the edge of excavations, or by the use of retaining devices that were sufficient to prevent materials or equipment from falling or rolling into excavations, or by a combination of both if necessary:

Trench ----- On March 11, 2011 the excavated spoil pile which consists of sand and dirt piled 2 to 6 feet high, is placed directly at the edge of the 10 feet deep, 14 feet wide, and 24 feet long trench, and was not at least 2 feet from the edge.

**IN THE ALTERNATIVE**

Type of Violation: **Repeat**

29 CFR 1926.651(j)(2): Protection was not provided by placing and keeping excavated or other materials or equipment at least 2 feet (.61m) from the edge of excavations, or by the use of retaining devices that were sufficient to prevent materials or equipment from falling or rolling into excavations, or by a combination of both if necessary:

Trench ----- On March 11, 2011 the excavated spoil pile which consists of sand & dirt is piled 2 to 6 feet high, is placed directly on the edge of the trench, and was not at least 2 feet from the edge.

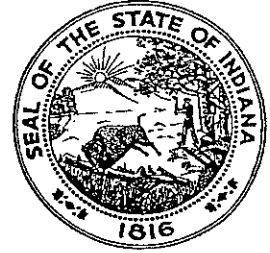
B&T Drainage was previously cited for a violation of this Occupational Safety and Health Standard or its equivalent Standard 1926.651(j)(2), which was contained in OSHA inspection number 312885817, citation number 2, item number 1, issued on 03/23/2009, with respect to a workplace located at Hawkeye Drive, Paris, IL 61944.

**Date By Which Violation Must be Abated:** **Corrected During Inspection**  
**Proposed Penalty:** **\$28,000.00**

**Indiana Department of Labor**

Indiana Occupational Safety and Health  
Administration

Inspection Number: 515042002  
Inspection Dates: 03/11/2011 - 03/14/2011  
Issuance Date: 6/9/2011  
JW



**Safety Order and Notification of Penalty**

**Company Name:** B&T Drainage  
**Inspection Site:** 670 Margaret Avenue, Indiana American Water Main Re-Location,  
Terre Haute, IN 47802

**Safety Order 2 Item 2 Type of Violation: **Knowing****

29 CFR 1926.652(a)(1): Each employee in an excavation was not protected from cave-ins by an adequate protective system designed in accordance with 29 CFR 1926.652(c). The employer had not complied with the provisions of 29 CFR 1926.652(b)(1)(i) in that the excavation was sloped at an angle steeper than one and one-half horizontal to one vertical (34 degrees measured from the horizontal):

Trench ----- On March 11, 2011 employees working in a 10 foot deep, 14 feet wide, 24 feet long trench were not provided with adequate cave-in protection.

**IN THE ALTERNATIVE**

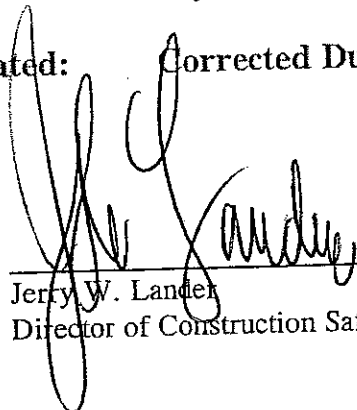
Type of Violation: **Repeat**

29 CFR 1926.652(a)(1): Each employee in an excavation was not protected from cave-ins by an adequate protective system designed in accordance with 29 CFR 1926.652(c). The employer had not complied with the provisions of 29 CFR 1926.652(b)(1)(i) in that the excavation was sloped at an angle steeper than one and one-half horizontal to one vertical (34 degrees measured from the horizontal):

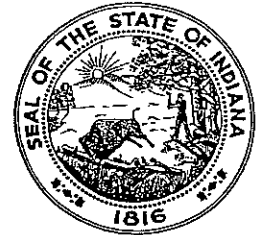
Trench ----- On March 11, 2011 employees working in a 10 foot deep, 14 feet wide, 24 feet long trench were not provided with adequate cave-in protection.

B&T Drainage was previously cited for a violation of this Occupational Safety and Health Standard or its equivalent Standard 1926.651(j)(2), which was contained in OSHA inspection number 312885817, citation number 2, item number 2, issued on 03/23/2009, with respect to a workplace located at Hawkeye Drive, Paris, IL 61944.

**Date By Which Violation Must be Abated:** **Corrected During Inspection**  
**Proposed Penalty:** **\$28,000.00**

  
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Jerry W. Lander  
Director of Construction Safety Compliance

**Indiana Department of Labor**  
Indiana Occupational Safety and Health Administration  
402 West Washington Street  
Room W195  
Indianapolis, IN 46204-2751  
Phone: (317) 232-1979 FAX: (317) 233-3790



## INVOICE/DEBT COLLECTION NOTICE

**Company Name:** B&T Drainage  
**Inspection Site:** 670 Margaret Avenue, Indiana American Water Main Re-Location, Terre Haute, IN 47802  
**Issuance Date:** 6/2/2011  
*JLW*

**Summary of Penalties for Inspection Number** 315042002

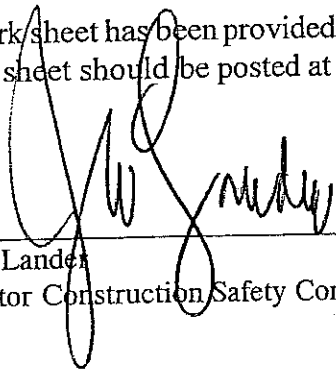
Safety Order 01, Serious	=	\$15,000.00
Safety Order 02, Knowing/Repeat	=	\$56,000.00
Total Proposed Penalties		\$71,000.00

Penalties are due within fifteen (15) working days of receipt of this notification unless contested. Make your check or money order payable to: "Indiana DOL/IOSHA". Please indicate IOSHA's Inspection Number (indicated above) on the remittance.

IOSHA does not agree to any restrictions or conditions or endorsements put on any check or money order for less than full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

Corrective action, taken by you for each alleged violation should be submitted to this office on or about the abatement dates indicated on the Safety Order and Notification of Penalty.

A work sheet has been provided to assist in providing the required abatement information. A completed copy of this work sheet should be posted at the worksite with the safety order(s).

  
\_\_\_\_\_  
Jerry Lander  
Director Construction Safety Compliance

  
\_\_\_\_\_  
Date