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 1010 0003 5731 7561 6-2-11 jb

Safety Order and Notification of Penalty

To:

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

Inspection Site:

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

Inspection Number: 315042002

Inspection Date(s): 03/11/2011 - 03/14/2011

Issuance Date: 06/02/2011

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: 315042002
Inspection Dates: 03/11/2011 - 03/14/2011
Issuance Date: 06/20/2011

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:	315042002
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:	315042002
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:	**06/28/2011**
Proposed Penalty:	**$0.00**

Indiana Department of Labor

Indiana Occupational Safety and Health Administration

Inspection Number: 315042002
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 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: 315042002
Inspection Dates: 03/11/2011 - 03/14/2011
Issuance Date: 6/7/2011 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, 2011employees 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: 315042002
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: 315042002
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: 315042002
Inspection Dates: 03/11/2011 - 03/14/2011
Issuance Date: 6/27/2011 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: 315042002
Inspection Dates: 03/11/2011 - 03/14/2011
Issuance Date: 4/2/2011 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 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: 315042002
Inspection Dates: 03/11/2011 - 03/14/2011
Issuance Date: 6/27/2011 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**

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

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

6/2/11
Date