

Indiana Department of Labor

Indiana Occupational Safety and Health Administration
402 West Washington St - Room W195
Indianapolis, IN 46204
Phone: 317-232-1979 FAX: (317)233-3790



Certified Mail #91719000052720 00498509

10-2-2015 JH

Safety Order and Notification of Penalty

To:

Menno Lengacher Construction
11109 Notestine Road
Grabill, IN 46741

Inspection Number: 317869568
CSHO ID: F6081
Optional Report No.: 01516
Inspection Date(s): 8/5/2015 - 8/10/2015
Issuance Date: 10/2/2015

Inspection Site:

11959 Firekat Cove
Fort Wayne, IN 46845

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.

Indiana Department of Labor

NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with IOSHA to discuss the safety order(s) issued on 10/2/2015. 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
Occupational Safety and Health Administration

Inspection Number: 317869568
Inspection Date(s): 8/5/2015 - 8/10/2015
Issuance Date: 10/2/2015
CSHO ID: F6081
Optional Report No.: 01516

Safety Order and Notification of Penalty

Company Name: Memmo Lengacher Construction
Inspection Site: 11959 Firekat Cove, Fort Wayne, IN 46845

Safety Order 01 Item 001 Type of Violation: **Serious**

29 CFR 1926.20(b)(2): The employer did not initiate and maintain a safety program which provides for frequent and regular inspections of jobsites, materials, and equipment to be made by a competent person:

Job Site ----- On or about August 5, 2015, a competent person was not on site to make frequent and regular inspections where the employees were exposed to hazards such as falls and stuck-by.

Date By Which Violation Must Be Abated: 11/4/2015
Proposed Penalty: \$1,500.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 317869568
Inspection Date(s): 8/5/2015 - 8/10/2015
Issuance Date: 10/2/2015
CSHO ID: F6081
Optional Report No.: 01516

Safety Order and Notification of Penalty

Company Name: Menno Lengacher Construction
Inspection Site: 11959 Firekat Cove, Fort Wayne, IN 46845

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

Safety Order 01 Item 002a Type of Violation: **Serious**

29 CFR 1926.21(b)(2): The employer did not instruct each employee in the recognition and avoidance of unsafe conditions and the regulations applicable to his/her environment to control or eliminate any hazards or other exposure to illness or injury:

Job Site ----- On or about August 5, 2015, employees were not instructed in the recognition and avoidance of unsafe conditions applicable to their work environment such as but not limited to those connected with personal protective equipment, scaffolds, fall protection, and ladders.

Date By Which Violation Must Be Abated: 11/4/2015
Proposed Penalty: \$1,500.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 317869568
Inspection Date(s): 8/5/2015 - 8/10/2015
Issuance Date: 10/2/2015
CSHO ID: F6081
Optional Report No.: 01516

Safety Order and Notification of Penalty

Company Name: Menno Lengacher Construction
Inspection Site: 11959 Firekat Cove, Fort Wayne, IN 46845

Safety Order 01 Item 002e Type of Violation: **Serious**

29 CFR 1926.1060(a): The employer did not provide a training program for each employee using ladders and stairways, as necessary, which would train each employee in the procedures to be followed to minimize hazards related to ladders and stairways:

Job site ----- On or about August 5, 2015, the employer did not provide such a program and train each employee in the use of and hazards related to ladders.

Date By Which Violation Must Be Abated: 11/4/2015
Proposed Penalty: \$0.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 317869568
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Optional Report No.: 01516

Safety Order and Notification of Penalty

Company Name: Menno Lengacher Construction
Inspection Site: 11959 Firekat Cove, Fort Wayne, IN 46845

Safety Order 01 Item 003

Type of Violation: **Serious**

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

-Job site, Southeast side of building ----- On or about August 5, 2015, four (4) employees working from scaffolding and roofing where pneumatic tools were in use were not provided and/or wearing protective helmets.

Date By Which Violation Must Be Abated:

10/8/2015

Proposed Penalty:

\$1,500.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 317869568
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Safety Order and Notification of Penalty

Company Name: Menno Lengacher Construction
Inspection Site: 11959 Firekat Cove, Fort Wayne, IN 46845

Safety Order 01 Item 004 **Type of Violation: Serious**

29 CFR 1926.102(a)(1): Eye and face protective equipment were not used when machines or operations presented potential eye or face injury from physical, chemical, or radiation agents.

Job site, roof ----- On or about August 5, 2015, eye and face protection was not provided for the employees working with or near pneumatic tools.

Date By Which Violation Must Be Abated: **10/8/2015**
Proposed Penalty: **\$1,500.00**

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 317869568
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Safety Order and Notification of Penalty

Company Name: Menno Lengacher Construction
Inspection Site: 11959 Firekat Cove, Fort Wayne, IN 46845

Safety Order 01 Item 005

Type of Violation: **Serious**

29 CFR 1926.451(a)(6): Scaffolds were not designed by a qualified person:

Job Site, Southeast side of building ----- On or about August 5, 2015, the employer did not have scaffolds designed by a qualified person.

Date By Which Violation Must Be Abated: 11/4/2015
Proposed Penalty: \$1,500.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 317869568
Inspection Date(s): 8/5/2015 - 8/10/2015
Issuance Date: 10/2/2015
CSHO ID: F6081
Optional Report No.: 01516

Safety Order and Notification of Penalty

Company Name: Menno Lengacher Construction
Inspection Site: 11959 Firekat Cove, Fort Wayne, IN 46845

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

Safety Order 01 Item 006a Type of Violation: **Serious**

29 CFR 1926.451(b)(1): Each platform on all working levels of scaffolds was not fully planked or decked between the front uprights and the guardrail supports as specified in paragraphs 1926.451(b)(1)(i)-(ii):

Job site, Southeast side of building ----- On or about August 5, 2015, the 7-1/3 feet and 17 feet high platforms, were not fully planked, in that only 7-1/4 inches of the required 18 inches width was planked.

Date By Which Violation Must Be Abated: **10/8/2015**
Proposed Penalty: **\$1,500.00**

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 317869568
Inspection Date(s): 8/5/2015 - 8/10/2015
Issuance Date: 10/2/2015
CSHO ID: F6081
Optional Report No.: 01516

Safety Order and Notification of Penalty

Company Name: Menno Lengacher Construction
Inspection Site: 11959 Firekat Cove, Fort Wayne, IN 46845

Safety Order 01 Item 006b

Type of Violation: **Serious**

29 CFR 1926.451(b)(2): Except as provided in paragraphs (b)(2)(i) and (b)(2)(ii) of this section, each scaffold platform and/or walkway was not at least 18 inches (46 cm) wide:

Job site, southeast side of building ----- On or about August 5, 2015, the 7-1/3 feet and 17 feet high scaffold platforms on the carpenter's bracket scaffolds was 7-1/4 inches wide and was not at least 18 inches wide.

Date By Which Violation Must Be Abated:
Proposed Penalty:

10/8/2015
\$0.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 317869568
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Safety Order and Notification of Penalty

Company Name: Menno Lengacher Construction
Inspection Site: 11959 Firekat Cove, Fort Wayne, IN 46845

Safety Order 01 Item 006c

Type of Violation: **Serious**

29 CFR 1926.451(c)(2)(i): Footings were not level, sound, rigid, and capable of supporting the loaded scaffold without settling or displacement:

Job site, Southeast side of building ----- On or about August 5, 2015, on supported scaffolds the anchorage for scaffolds was not level.

Date By Which Violation Must Be Abated: 10/8/2015
Proposed Penalty: \$0.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 317869568
Inspection Date(s): 8/5/2015 - 8/10/2015
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CSHO ID: F6081
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Safety Order and Notification of Penalty

Company Name: Menno Lengacher Construction
Inspection Site: 11959 Firekat Cove, Fort Wayne, IN 46845

Safety Order 01 Item 006d

Type of Violation: **Serious**

29 CFR 1926.451(f)(16): Scaffold platforms or planks deflected more than 1/60 of their span when loaded:

Job site, Southeast side of building ----- On or about August 5, 2015, scaffold planks deflected more than 1/60 of their span when loaded.

Date By Which Violation Must Be Abated: 10/8/2015
Proposed Penalty: \$0.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 317869568
Inspection Date(s): 8/5/2015 - 8/10/2015
Issuance Date: 10/2/2015
CSHO ID: F6081
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Safety Order and Notification of Penalty

Company Name: Menno Lengacher Construction
Inspection Site: 11959 Firekat Cove, Fort Wayne, IN 46845

Safety Order 01 Item 006e

Type of Violation: **Serious**

29 CFR 1926.451(g)(1)(vii): Each employee on a scaffold, not otherwise specified in paragraphs (g)(1)(i) through (g)(1)(vi) of this section, more than 10 feet (3.1 m) above lower level was not protected from falls by the use of personal fall arrest systems or guardrail systems meeting the requirements of paragraph (g)(4) of this section:

Job site, Southeast side of building ----- On or about August 5, 2015, the employer had not installed a guardrail system along all open sides and ends of work platforms of the 29 inches wide, approximately 14 feet long and 17 feet high carpenter's bracket scaffold.

Date By Which Violation Must Be Abated: 10/8/2015
Proposed Penalty: \$0.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 317869568
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Safety Order and Notification of Penalty

Company Name: Menno Lengacher Construction
Inspection Site: 11959 Firekat Cove, Fort Wayne, IN 46845

Safety Order 01 Item 006f

Type of Violation: **Serious**

29 CFR 1926.452(g)(1): Each bracket, except those for wooden bracket-form scaffolds, shall be attached to the supporting formwork or structure by means of one or more of the following: nails; a metal stud attachment device; welding; hooking over a secured structural supporting member, with the form wales either bolted to the form or secured by snap ties or tie bolts extending through the form and securely anchored; or, for carpenters' bracket scaffolds only, by a bolt extending through to the opposite side of the structure's wall:

Job site, Southeast side of building ----- On or about August 5, 2015, on carpenter's bracket scaffolds, each bracket was not attached by a bolt extending through to the opposite side of the structure's wall.

Date By Which Violation Must Be Abated:
Proposed Penalty:

10/8/2015
\$0.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 317869568
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Optional Report No.: 01516

Safety Order and Notification of Penalty

Company Name: Menno Lengacher Construction
Inspection Site: 11959 Firekat Cove, Fort Wayne, IN 46845

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

Safety Order 01 Item 007a Type of Violation: **Serious**

29 CFR 1926.501(b)(11): Each employee on a steep roof with unprotected sides and edges 6 feet (1.8 m) or more above lower levels was not protected from falling by guardrail systems with toeboards, safety net systems, or personal fall arrest systems:

Job site, roof ----- On or about August 5, 2015, the employer did not protect the employees with a guardrail system, safety net system or personal fall arrest system on an unprotected side or edge greater than 6 feet from a lower level.

Date By Which Violation Must Be Abated: **10/8/2015**
Proposed Penalty: **\$1,500.00**

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 317869568
Inspection Date(s): 8/5/2015 - 8/10/2015
Issuance Date: 10/2/2015
CSHO ID: F6081
Optional Report No.: 01516

Safety Order and Notification of Penalty

Company Name: Menno Lengacher Construction
Inspection Site: 11959 Firekat Cove, Fort Wayne, IN 46845

Safety Order 01 Item 007b Type of Violation: **Serious**

29 CFR 1926.501(b)(14): Each employee working on, at, above, or near wall openings (including those with chutes attached), where the outside bottom edge of the wall opening was 6 feet (1.8 m) or more above lower levels and the inside bottom edge of the wall opening is less than 39 inches (1.0 M) above the walking/working surface, is not protected from falling by the use of a guardrail system, a safety net system, or a personal fall arrest system:

Job Site, building second floor ----- On or about August 5, 2015, the window opening with a fall distance of approximately 12 feet to the outside ground below, was not guarded by standard railings and other type of fall protection was not provided.

Date By Which Violation Must Be Abated:
Proposed Penalty:

Corrected During Inspection
\$0.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 317869568
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Issuance Date: 10/2/2015
CSHO ID: F6081
Optional Report No.: 01516

Safety Order and Notification of Penalty

Company Name: Menno Lengacher Construction
Inspection Site: 11959 Firekat Cove, Fort Wayne, IN 46845

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

Safety Order 01 Item 008a Type of Violation: **Serious**

29 CFR 1926.1053(b)(1): Where portable ladders were used for access to an upper landing surface and the ladder's length allows, the ladder side rails did not extend at least 3 feet (.9 m) above the upper landing surface being accessed:

Job site, southeast side of building ----- On or about August 5, 2015, the 24 feet extension ladder extended only to the landing and not at least 3 feet above the 17 feet high scaffold being accessed and no other grasping device was provided.

Date By Which Violation Must Be Abated: **10/8/2015**
Proposed Penalty: **\$1,500.00**

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 317869568
Inspection Date(s): 8/5/2015 - 8/10/2015
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Safety Order and Notification of Penalty

Company Name: Menno Lengacher Construction
Inspection Site: 11959 Firekat Cove, Fort Wayne, IN 46845

Safety Order 01 Item 008b

Type of Violation: **Serious**

29 CFR 1926.1053(b)(16): Portable ladder(s) with structural defects, such as, but not limited to, broken or missing rungs, cleats, or steps, broken or split rails, corroded components, or other faulty or defective components, were not either immediately marked in a manner that readily identifies them as defective, or tagged with "Do Not Use" or similar language, and withdrawn from service until repaired:

Job site, southeast side of building ----- On or about August 5, 2015, the 24 feet long aluminum extension ladder had structural defects of bent rungs and bent side rails and was used as access/egress to the 17 feet high scaffold and had not been identified as defective, tagged do not use, or removed from service.

Date By Which Violation Must Be Abated: 10/8/2015
Proposed Penalty: \$0.00

Indiana Department of Labor
Occupational Safety and Health Administration

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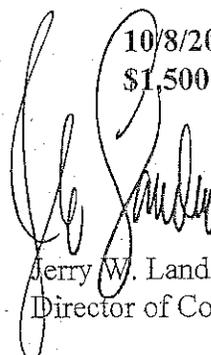
Safety Order 01 Item 009

Type of Violation: **Serious**

29 CFR 1926.1053(b)(4): Ladder(s) were used for purposes other than the purpose for which they were designed:

Job site, southeast side of building ----- On or about August 5, 2015, The 6 feet high step ladder, was not folded out and was leaning against the wall and employees were using the ladder to access the roof 4 feet above an asphalt shingled roof.

Date By Which Violation Must Be Abated:
Proposed Penalty:

10/8/2015
\$1,500.00

Jerry W. Lander
Director of Construction Safety

Indiana Department of Labor

Indiana Occupational Safety and Health Administration
402 West Washington St - Room W195
Indianapolis, IN 46204
Phone: (317)232-1979 FAX: (317)233-3790



INVOICE/DEBT COLLECTION NOTICE

Company Name: Menno Lengacher Construction
Inspection Site: 11959 Firekat Cove, Fort Wayne, IN 46845
Issuance Date: 10/2/2015

Summary of Penalties for Inspection Number: 317869568

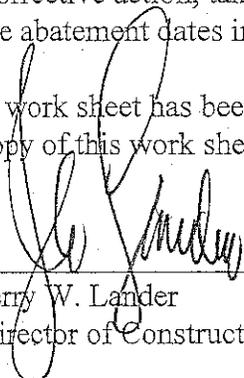
Safety Order 1, Serious = \$13,500.00
TOTAL PENALTIES = \$13,500.00

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 W. Lander
Director of Construction Safety

Date

10 2 15