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 # 9171990 0005 2720 0046 5594 7-13-15 jb

Safety Order and Notification of Penalty

To:
R E Crosby Construction
2805 Freeman Street
Fort Wayne, IN 46802

Inspection Site:
2232 Hathaway Road
Fort Wayne, IN 46818

Inspection Number: 317863520
CSHO ID: U8836
Optional Report No.: 01015
Inspection Date(s): 3/12/2015 - 4/2/2015
Issuance Date: 7/13/2015

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 7/13/2015. 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: 317863520
Inspection Date(s): 3/12/2015 - 4/2/2015
Issuance Date: 7/13/2015
CSHO ID: U8836
Optional Report No.: 01015

Safety Order and Notification of Penalty

Company Name: R E Crosby Construction
Inspection Site: 2232 Hathaway Road, Fort Wayne, IN 46818

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 001a Type of Violation: **Serious**

29 CFR 1926.451(b)(1) Each platform on all working levels of the scaffold was not fully planked or decked between the front uprights and the guardrail supports:

Collection Box Interior East Wall - On or about March 12, 2015 the 11 feet high platform, was not fully planked, in that only 12 inches of the required 60 inch width was planked.

Date By Which Violation Must Be Abated: **Corrected During Inspection**
Proposed Penalty: **$1,750.00**

Indiana Department of Labor
Occupational Safety and Health Administration

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

29 CFR 1926.451(g)(1)(vii): Employee(s) on scaffold not otherwise specified in paragraphs 1926.451(g)(1) through (g)(1)(6)(vi) of this section were not protected by use of a personal fall arrest system of guardrail system:

Collector Box Interior East Wall - On or about March 12, 2015, guardrails were not installed on the 11 feet high work platform on the 12 feet high, five feet wide and seven feet long fabricated frame manually propelled mobile scaffold and no other form of fall protection was being used.

Date By Which Violation Must Be Abated: **Corrected During Inspection**
Proposed Penalty: **$0.00**

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 317863520
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Company Name: R E Crosby Construction
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Safety Order 01 Item 002 Type of Violation: **Serious**

29 CFR 1926.451(b)(2): Each scaffold platform or walkway was not at least 18 inches wide:

Collector Box Interior East Wall Scaffold - On or about March 12, 2015, the 11 feet high scaffold platform or walkway on the 12 feet high, 5 feet wide and 7 feet long manually propelled mobile scaffold was not at least 18 inches wide.

Date By Which Violation Must Be Abated: **Corrected During Inspection**
Proposed Penalty: **$1,750.00**

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 317863520
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Company Name: R E Crosby Construction
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Safety Order 01 Item 003 Type of Violation: **Serious**

29 CFR 1926.452(w)(1): Mobile scaffolds were not braced by cross horizontal or diagonal braces or a combination there of to prevent racking, or collapse, and to secure vertical members so as to automatically square and align them:

Collector Box Interior East Wall Scaffold - On or about March 12, 2015, the bottom diagonal cross brace is missing from the 12 feet tall, five feet wide and 7 feet long manually propelled mobile scaffold with a work platform at 11 feet.

Date By Which Violation Must Be Abated: **7/17/2015**
Proposed Penalty: **$1,750.00**

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 317863520
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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 004a Type of Violation: **Serious**

29 CFR 1926.454(a): The employer did not have each employee who performs work while on a scaffold, trained by a qualified person to recognize any hazard associated with the type of scaffold being used and to understand the procedures to control or minimize those hazards:

Job Site- On or about March 13, 2015, employees engaged in performing work, while on a scaffold, had not been trained by a qualified person.

Date By Which Violation Must Be Abated: **8/27/2015**
Proposed Penalty: **$1,050.00**

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 317863520
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Safety Order 01 Item 004b Type of Violation: **Serious**

29 CFR 1926.454(b): The employer did not have each employee who is involved in erecting, disassembling, moving, operating, repairing, maintaining, or inspecting a scaffold trained by a competent person to recognize any hazard associated with the work in question:

Job Site - On or about March 12, 2015, employees engaged in erecting the scaffolds had not been trained by a competent person.

Date By Which Violation Must Be Abated: **8/27/2015**
Proposed Penalty: **$0.00**

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 317863520
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Safety Order and Notification of Penalty

Company Name: R E Crosby Construction
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Safety Order 01 Item 005 Type of Violation: **Serious**

29 CFR 1926.501(b)(2)(i): Each employee who was constructing a leading edge 6 feet or more above a lower levels was not protected from falling by a guardrail systems, safety net systems, or personal fall arrest systems:

Collection Box - On or about March 13, 2015, employee engaged in the installation of a leading edge in the process of preparing concrete forms at a height of approximately 18 feet above the lower level, was not protected from falling.

Date By Which Violation Must Be Abated: **Corrected During Inspection**
Proposed Penalty: **$1,400.00**

Indiana Department of Labor
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Company Name: R E Crosby Construction
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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 1926.503(a)(1): The employers training program did not enable each employee to recognize the hazards of falling and was insufficient to train each employee in procedure to be followed in order to minimize fall hazards:

Job Site - On or about March 12, 2015, employees exposed to fall hazards were not provided with a sufficient fall training program.

Date By Which Violation Must Be Abated: **8/27/2015**
Proposed Penalty: **$1,050.00**

Indiana Department of Labor
Occupational Safety and Health Administration

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Company Name: R E Crosby Construction
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Safety Order 01 Item 006b Type of Violation: **Serious**

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

Collection Box - On March 12, 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: **8/27/2015**
Proposed Penalty: **$0.00**

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 317863520
Inspection Date(s): 3/12/2015 - 4/2/2015
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Company Name: R E Crosby Construction
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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 1926.651(k)(1): Daily inspections of excavations, the adjacent areas and protective systems were not made by a competent person for evidence of a situation that could result in possible cave-ins, indications of failure of protective systems, hazardous atmospheres, or other hazardous conditions:

Job Site – On or about March 12, 2015, daily inspections of the excavation was not made by a competent person in that the employer did not have a designated competent person on the site capable of performing such inspection.

Date By Which Violation Must Be Abated: **8/27/2015**
Proposed Penalty: **$1,050.00**

Indiana Department of Labor
Occupational Safety and Health Administration

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Company Name: R E Crosby Construction
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Safety Order 01 Item 007b Type of Violation: **Serious**

29 CFR 1926.1053(b)(15): Ladders were not inspected by a competent person for visible defects on a periodic basis and after any occurrence that could affect their safe use:

Collection Box - On or about March 12, 2015, the competent person did not inspect the two 24 feet fiberglass ladders which had visible defects of split rails on a periodic basis or after an occurrence that could affect the safe use.

Date By Which Violation Must Be Abated: **7/17/2015**
Proposed Penalty: **$0.00**

Indiana Department of Labor
Occupational Safety and Health Administration

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Company Name: R E Crosby Construction
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Safety Order 01 Item 008 Type of Violation: **Serious**

29 CFR 1926.651(l): Guardrails that comply with Sec. 1926.502(b) were not provided where walkways are 6 feet or more above lower levels:

Collector Box West Wall – On or about March 12, 2015, employees were crossing over an excavation 8 feet deep, and the walkway or bridge was not provided with guardrails.

Date By Which Violation Must Be Abated: **Corrected During Inspection**
Proposed Penalty: **$1,050.00**

Indiana Department of Labor
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Inspection Number: 317863520
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Company Name: R E Crosby Construction
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Safety Order 01 Item 009 Type of Violation: **Serious**

29 CFR 1926.1053(b)(16): Portable ladders 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 immediately marked in a manner that readily identifies them as defective, or be tagged with "Do Not Use" or similar language, and were not withdrawn from service until repaired:

Collection Box - On or about March 12, 2015, the two 24 feet long fiberglass ladders had structural defects of split rails and were used as access/egress to the Collection Box and had not been identified as defective, tagged do not use, or removed from service.

Date By Which Violation Must Be Abated: **7/17/2015**
Proposed Penalty: **$1,400.00**

Indiana Department of Labor
Occupational Safety and Health Administration

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Company Name: R E Crosby Construction
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Safety Order 01 Item 010 Type of Violation: **Serious**

29 CFR 1926.1402(b): The equipment was assembled and used while ground conditions were not firm, drained and graded to sufficient extent so that, in conjunction (if necessary) with the use of supporting materials, the equipment manufacturers specifications for adequate support and degree of level of the equipment were not met:

Crane – On or about March 12, 2015, the wooden cribbing used to support the pads on the legs of the Potain, IGO 36, serial number 98672, would not support the intended load.

Date By Which Violation Must Be Abated: **Corrected During Inspection**
Proposed Penalty: **$3,500.00**

Indiana Department of Labor
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Company Name: R E Crosby Construction
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Safety Order 01 Item 011 Type of Violation: **Serious**

29 CFR 1926.1422: Hand signal charts were not either posted on the equipment or conspicuously posted in the vicinity of hoisting operations:

Crane – On or about March 12, 2015, such signals for use with a crane were not posted.

Date By Which Violation Must Be Abated: **7/17/2015**
Proposed Penalty: **$3,500.00**

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 317863520
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Safety Order and Notification of Penalty

Company Name: R E Crosby Construction
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Safety Order 01 Item 012 Type of Violation: **Serious**

29 CFR 1926.1424(a)(2)(ii): The employer did not erect and maintain control lines, warning lines, railings or similar barriers to mark the boundaries of the hazard areas; additionally the employer did not train each employee to understand what these markings signify:

Crane - On or about March 12, 2015, the 2005 Petain crane, model number IGO 36, serial number 98672, in use was not barricaded protecting the entire circumference of the rotating superstructure.

Date By Which Violation Must Be Abated: **7/17/2015**
Proposed Penalty: **$3,500.00**

Indiana Department of Labor
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Safety Order 01 Item 013 Type of Violation: **Serious**

29 CFR 1926.1427(k)(2(ii): Where an employee assigned to operate machinery does not have the required knowledge or ability to operate the equipment safely the employer must train the employee prior to operating the equipment to ensure that each operator is evaluated to confirm that he/she understands the information provided in the training:

Crane – On or about March 12, 2015 the employee operating the 2005 Potain, model number IGO 36, serial number 987672 said employee had not been trained or evaluated to prove such information was understood.

Date By Which Violation Must Be Abated: **8/27/2015**
Proposed Penalty: **$3,500.00**

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Safety Order 01 Item 014 Type of Violation: **Serious**

29 CFR 1926.1428(a)(3) The employer did not make the documentation for whichever option is used available at the site while the signal person is employed by the employer. The documentation did not specify each type of signaling (e.g. hand signals, radio signals, etc.) for which the signal person meets the requirements of paragraph (c) of this section:

Crane - On or about March 12, 2015, documentation certifying the signal persons training was not available for the employee signaling the crane operator while at the site or maintained by the company.

Date By Which Violation Must Be Abated: **8/27/2015**
Proposed Penalty: **$3,500.00**

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: R E Crosby Construction
Inspection Site: 2232 Hathaway Road, Fort Wayne, IN 46818
Issuance Date: 7/13/2015

Summary of Penalties for Inspection Number: 317863520

Safety Order 1, Serious	**= $29,750.00**
TOTAL PENALTIES	**= $29,750.00**

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

7 · 13 · 15
Date