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 # 70090960 0000 5928 8810 8-4-09 JB

Safety Order and Notification of Penalty

To:

Sheehan Pipeline Construction Co.,
and its successors
2431 East 61st. Street
Attn: Kenny Dean
Tulsa, OK 74136-1234

Inspection Site:

400 W (Earl Vaughn Rd.) & Divion Road
Near by Union Elementary School
Bargersville, IN 46106

Inspection Number: 312652522

Inspection Date(s): 03/20/2009 - 03/25/2009

Issuance Date: 08/04/2009

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 08/04/2009. 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: 312652522

Inspection Dates: 03/20/2009 - 03/25/2009

Issuance Date: 08/04/2009

Safety Order and Notification of Penalty

Company Name: Sheehan Pipeline Construction Co.

Inspection Site: 400 W (Earl Vaughn Rd.) & Divion Road, Near by Union Elementary School, Bargersville, IN 46106

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

29 CFR 1926.102(a)(2): Eye protection worn by employees did not meet the requirements as specified in American National Standards Institute (ANSI) Z87.1-1968:

Job site - On Marsh 20, 2009, the goggles worn by an employee did not meet the requirements of (ANSI) Z87.1-1968, in that there was no markings to show manufacturer and shade numbers of filter lenses.

Date By Which Violation Must be Abated: **08/28/2009**
Proposed Penalty: **$1,800.00**

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

29 CFR 1926.151(a)(3): Smoking was not prohibited at or in the vicinity of operations which constituted a fire hazard, and were not conspicuously posted "No Smoking Or Open Flame":

Job site- On Marsh 20, 2009, smoking was not prohibited and signs were not posted stating "no smoking or open flame" in the vicinity of flammable compress gas tanks.

Date By Which Violation Must be Abated: **08/28/2009**
Proposed Penalty: **$4,500.00**

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

29 CFR 1926.351(e): Arc welding or cutting operation(s) were not shielded by noncombustible or flame proof screens to protect employees and other persons working in the vicinity from the direct rays of the arc:

Job site - On Marsh 20, 2009, no shield was provided to shield employees working in the vicinity from the direct rays of the arc.

Date By Which Violation Must be Abated: 08/28/2009
Proposed Penalty: $1,800.00

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

29 CFR 1926.651(h)(1): Employees were working in excavations in which there was accumulated water, or excavations in which water was accumulating, and adequate precautions had not been taken to protect employees against the hazards posed by water accumulation:

Job site- On Marsh 20, 2009, water was allowed to accumulate in a trench/excavation even though attempts to control or remove it were in progress and no special support or shield system being used.

Date By Which Violation Must be Abated: 08/28/2009
Proposed Penalty: $4,500.00

Indiana Department of Labor

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Inspection Number: 312652522

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Safety Order 1 Item 5 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 cavein, 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:

Job site- On Marsh 20, 2009, the competent person failed to perform the duties as required, in that he did not correct conditions, and did not prevent employees from being exposed to, or cause them to be removed from, the hazards of a cave in, in a trench-excavation 14 feet deep.

Date By Which Violation Must be Abated: 09/21/2009
Proposed Penalty: $4,500.00

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

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):

Job site- On Marsh 20, 2009, 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).

Date By Which Violation Must be Abated: 08/28/2009
Proposed Penalty: $4,500.00

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: Sheehan Pipeline Construction Co.
Inspection Site: 400 W (Earl Vaughn Rd.) & Divion Road, Near by Union Elementary School, Bargersville, IN 46106
Issuance Date: 08/04/2009

Summary of Penalties for Inspection Number 312652522

Safety Order 01, Serious	=	$21,600.00
Total Proposed Penalties		$21,600.00

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 Compliance

8.4.09
Date