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: 317/233-8509

Certified mail # 7003 1010 0003 5730 7302 4-7-10 gto

Safety Order and Notification of Penalty

To:

Tall Trees Timber Co., LLC,
and its successors
3 Alias Craig Road
Bedford, IN 47421

Inspection Site:

N 38° 34.35, W 86° 51.10;Martin County
Loogootee, IN 46158

Inspection Number: 313911869

Inspection Date(s): 01/21/2010 - 03/19/2010

Issuance Date: 04/7/2010

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 04/7/2010. 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.

Safety Order and Notification of Penalty

Company Name: Tall Trees Timber Co., LLC
Inspection Site: N 38° 34.35, W 86° 51.10;Martin County

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 1a Type of Violation: **Serious**

29 CFR 1910.266(d)(3)(v): For each vehicle or machine (equipped with ROPS or overhead guards), including any vehicle or machine provided by an employee, the employer did not assure that a seat belt was provided for each vehicle or machine operator:

N 38° 34.35, W 86° 51.10;Martin County - On Jan. 12, 2010 and for some time prior thereto, there was no seat belt in the Timberjack 240 cable log skidder. Logging employees used the skidder to push limbs and tops of trees into brush-piles.

Date By Which Violation Must be Abated: 05/03/2010
Proposed Penalty: $1,500.00

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

29 CFR 1910.266(f)(1)(i): The employer did not assure that each machine, including any machine provided by an employee, was maintained in serviceable condition:

a) N 38° 34.35, W 86° 51.10;Martin County - On Jan. 12, 2010 and for some time prior thereto, there was no handle on the outside of the small, secondary exit door on the right side of the Timberjack 240 cable log skidder. The missing door handle made operation of that door impossible from the "outside" of the cab. Logging employees used the skidder to push limbs and tops of trees into brush-piles.

b) N 38° 34.35, W 86° 51.10;Martin County - On Jan. 12, 2010 and for some time prior thereto, the brake system on the Timberjack 240 cable log skidder was leaking fluid and did not work reliably. The missing door handle made operation of that door impossible from the "outside" of the cab. Logging employees used the skidder to push limbs and tops of trees into brush-piles.

Date By Which Violation Must be Abated: 05/03/2010

Indiana Department of Labor

Occupational Safety and Health Administration

Inspection Number: 313911869

Inspection Dates: 01/21/2010 - 03/19/2010

Issuance Date: 04/7/2010

Safety Order and Notification of Penalty

Company Name: Tall Trees Timber Co., LLC

Inspection Site: N 38° 34.35, W 86° 51.10;Martin County

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

29 CFR 1910.266(f)(1)(ii): The employer did not assure that each machine, including any machine provided by an employee, was inspected before initial use during each workshift:

N 38° 34.35, W 86° 51.10;Martin County - On Jan. 12, 2010 and for some time prior thereto, machines used in logging operations such as but not limited to the Timberjack 240 cable log skidder were not inspected prior to use at the beginning of each workday to check for functionality and/or damaged or missing parts. Logging employees used the skidder to push limbs and tops of trees into brush-piles.

Date By Which Violation Must be Abated: 05/03/2010

Indiana Department of Labor

Occupational Safety and Health Administration

Inspection Number: 313911869

Inspection Dates: 01/21/2010 - 03/19/2010

Issuance Date: 04/7/2010

Safety Order and Notification of Penalty

Company Name: Tall Trees Timber Co., LLC

Inspection Site: N 38° 34.35, W 86° 51.10;Martin County

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 1910.266(e)(1)(i): The employer did not assure that each hand-tool and portable powered tool, including any tool provided by an employee, was maintained in serviceable condition:

a) N 38° 34.35, W 86° 51.10;Martin County - The blade cover on the 24" Stihl Magnum chainsaw was broken and missing, which exposed the sawyer's leg and foot to a 2.5" section of moving chain at the point where the chain (blade) passed around the drive sprocket. The sawyer used this saw on this jobsite to fell, limb and buck more than 150 trees.

b) N 38° 34.35, W 86° 51.10;Martin County - The blade brake 24" Stihl Magnum chainsaw was bent and damaged so that it did not work smoothly and would not reliably stop the blade if/when needed. The sawyer used this saw on this jobsite to fell, limb and buck more than 150 trees.

Date By Which Violation Must be Abated: **05/03/2010**
Proposed Penalty: **$1,050.00**

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

29 CFR 1910.266(e)(1)(ii): The employer did not assure that tool, including any tool provided by an employee, was inspected before initial use during each workshift:

N 38° 34.35, W 86° 51.10;Martin County - There were no daily inspections of hand tools including but not limited to the 24" Stihl Magnum chainsaw. The sawyer used this saw on this jobsite to fell, limb and buck more than 150 trees.

Date By Which Violation Must be Abated: **05/03/2010**

Indiana Department of Labor

Occupational Safety and Health Administration

Inspection Number: 313911869

Inspection Dates: 01/21/2010 - 03/19/2010

Issuance Date: 04/7/2010

Safety Order and Notification of Penalty

Company Name: Tall Trees Timber Co., LLC

Inspection Site: N 38° 34.35, W 86° 51.10;Martin County

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 3a Type of Violation: **Serious**

29 CFR 1910.266(f)(1)(iii): The employer did not assure that operating and maintenance instructions are available on the machine or in the area where the machine was being operated:

N 38° 34.35, W 86° 51.10;Martin County - On Jan. 12, 2010 and for some time prior thereto, there was no owner's operator's manual for the Timberjack 240 cable log skidder anywhere at this remote jobsite. Logging employees used that machine to push limbs and tops of trees into brush-piles.

Date By Which Violation Must be Abated: **05/03/2010**
Proposed Penalty: **$1,050.00**

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

29 CFR 1910.266(i)(3)(ii): Employee safety training did not include elements such as safe use, operation and maintenance of tools, machines and vehicles the employees used or operated, including emphasis on understanding and following the manufacturer's operating and maintenance instructions, warnings and precautions:

N 38° 34.35, W 86° 51.10;Martin County - On Jan. 12, 2010 and for some time prior thereto, logging employees who operated machines such as but not limited to the Timberjack 240 cable log skidder were not trained on safe operating procedures, warnings and cautions provided by the manufacturer in the owner's/operator's manual. Logging employees used the skidder to push limbs and tops of trees into brush-piles.

Date By Which Violation Must be Abated: **05/03/2010**

Indiana Department of Labor

Occupational Safety and Health Administration

Inspection Number: 313911869

Inspection Dates: 01/21/2010 - 03/19/2010

Issuance Date: 04/7/2010

Safety Order and Notification of Penalty

Company Name: Tall Trees Timber Co., LLC

Inspection Site: N 38° 34.35, W 86° 51.10;Martin County

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

29 CFR 1910.266(i)(10)(i): The employer did not verify compliance with paragraph (i) of this section by preparing a written certification record:

N 38° 34.35, W 86° 51.10;Martin County - There were no written records of safety training for any of the logging employees who worked at this remote jobsite.

Date By Which Violation Must be Abated: 05/03/2010

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

29 CFR 1904.39(a): Within eight (8) hours after the death of any employee from a work-related incident or the inpatient hospitalization of three of more employees as a result of a work-related incident, the employer did not orally report the fatality or multiple hospitalization to OSHA:

N 38° 34.35, W 86° 51.10;Martin County - No report was filed regarding the fatal jobsite incident that occurred at this jobsite. On the afternoon of Jan. 12, 2010, a Timberjack 240 cable log skidder went into the White River and the operator drowned. That operator was pronounced dead several hours later at Jasper Memorial Hospital on Jan. 12, 2010 at 8:11 pm.

Date By Which Violation Must be Abated: 05/03/2010
Proposed Penalty: $1,500.00

Indiana Department of Labor

Occupational Safety and Health Administration

Inspection Number: 313911869

Inspection Dates: 01/21/2010 - 03/19/2010

Issuance Date: 04/7/2010

Safety Order and Notification of Penalty

Company Name: Tall Trees Timber Co., LLC

Inspection Site: N 38° 34.35, W 86° 51.10;Martin County

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 2 Item 2a Type of Violation: **Nonserious**

29 CFR 1910.266(d)(2)(i): The employer did not provide first-aid kits at each worksite where trees were being cut (e.g., felling, limbing, bucking), at each active landing, and on each employee transport vehicle:

N 38° 34.35, W 86° 51.10;Martin County - On Jan. 12, 2010 and for some time prior thereto, no first aid kits were present at the remote jobsite where loggers used tools and machines such as chainsaws, skidsteer loaders and cable log skidders to fell and process more than 150 trees.

Date By Which Violation Must be Abated: **05/03/2010**
Proposed Penalty: **$300.00**

Safety Order 2 Item 2b Type of Violation: **Nonserious**

29 CFR 1910.266(i)(7)(i): The employer did not assure that each employee, including supervisors, received or has previously received first aid and CPR training meeting at least the requirements specified in Appendix B:

N 38° 34.35, W 86° 51.10;Martin County - Logging employees at a remote job-site were not trained in basic first aid or CPR. Those employees felled more than 150 trees in the weeks prior to Jan. 12, 2010.

Date By Which Violation Must be Abated: **05/03/2010**

Indiana Department of Labor

Occupational Safety and Health Administration

Inspection Number: 313911869

Inspection Dates: 01/21/2010 - 03/19/2010

Issuance Date: 04/7/2010

Safety Order and Notification of Penalty

Company Name: Tall Trees Timber Co., LLC

Inspection Site: N 38° 34.35, W 86° 51.10;Martin County

Safety Order 2 Item 3 Type of Violation: **Nonserious**

29 CFR 1910.266(d)(4): The employer did not provide and maintain portable fire extinguishers on each machine and vehicles:

N 38° 34.35, W 86° 51.10;Martin County - On Jan. 12, 2010 and for some time prior thereto, there were no fire extinguishers onboard machines such as but not limited to the Timberjack 240 cable log skidder.

ABATEMENT NOTE: Among other methods, feasible means of abatement may include provision of portable fire extinguishers in accordance with Subpart L of part 1910.

Date By Which Violation Must be Abated: 05/03/2010
Proposed Penalty: $0.00

Safety Order 2 Item 4 Type of Violation: **Nonserious**

29 CFR 1910.266(i)(11): The employer did not hold safety and health meetings as necessary and at least each month for each employee:

N 38° 34.35, W 86° 51.10;Martin County - On Jan. 12, 2010 and for some time prior thereto, no safety meetings were held at a remote job-site where logging employees felled more than 150 trees.

Date By Which Violation Must be Abated: 05/03/2010
Proposed Penalty: $0.00

Robert A. Kattau
Director, Industrial 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: 317/233-8509

INVOICE/DEBT COLLECTION NOTICE

Company Name: Tall Trees Timber Co., LLC
Inspection Site: N 38° 34.35; W86° 51.10, Loogootee, IN 47553
Issuance Date: 04/07/2010

Summary of Penalties for Inspection Number 313911869

Safety Order 01, Serious	=	$3,600.00
Safety Order 02, Nonserious	=	$1,800.00
Total Proposed Penalties		$5,400.00

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 n 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).

Robert A. Kattau
Director, Industrial Compliance

4-7-10
Date