Indiana Department of Labor
Indiana Occupational Safety and Health Administration
402 West Washington Street
Room W195
Indianapolis, IN 46204-2751
Phone: 317/232-1979 Fax: 317/233-3790

Certified Mail #7003 1010 0003 5731 4904 1-31-11 jto

Safety Order and Notification of Penalty

To:

Thieneman Constructon, Inc.,
and its successors
3313 East 83rd Place
Att: Maggie Schultz
Merrillville, IN 46410

Inspection Site:

1515 North Lafayette Ave.
Lost Creek Lift Station and Forcemain Improvements
Terre Haute, IN 47804

Inspection Number: 314365057

Inspection Date(s): 12/20/2010 - 12/22/2010

Issuance Date: 01/31/2011

The violation(s) described in this Safety Order and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.

An inspection of your place of employment has revealed conditions which we believe do not comply with the provisions of the Indiana Occupational Safety and Health Act (Indiana Code Chapter 22-8-1.1) or the standards or rules adopted thereunder. Accordingly, enclosed please find safety order(s) and notification(s) of penalty describing such violation(s) with references to applicable standards, rules, or provisions of the statute and stating the amount of any penalty(ies).

Informal Conference - Please be advised that it may be possible to informally settle any potential dispute without initiating the more elaborate proceedings brought on by a petition for review. Prior to filing a petition for review, you may request an informal conference concerning any of the results of the inspection (safety orders, penalties, abatement dates, etc.) by contacting the Indiana Department of Labor/IOSHA, preferably by telephone, in a prompt manner. Please be advised that a request for an informal conference cannot extend the fifteen working day period for filing a petition for review. Informal conferences frequently resolve any possible disputes, and therefore you are urged to take advantage of this opportunity. Because of the limited time period and in order to facilitate scheduling, any requests for an informal conference should be made promptly upon your receipt of the safety order(s) and notification(s) of penalty.

Right to Contest - You are hereby also notified that you are entitled to seek administrative review of the safety order(s), penalty(ies), or both by filing a written petition for review at the above address postmarked within

fifteen working days of your receipt of the safety order(s) and notification(s) of penalty. ("Working days" means Mondays through Fridays, but does not include Saturdays, Sundays, legal holidays under a state statute or days on which the Indiana Department of Labor's offices are closed during regular business hours). If you do not file such a petition for review (contest), the safety order(s) and penalty(ies) shall be deemed final orders of the Board of Safety Review and not subject to review by any court or agency. The issuance of a safety order does not constitute a finding that a violation has occurred unless no petition for review is filed, or if a petition for review (contest) is filed, it must contain a statement of its basis and should reference the above inspection number. Upon receipt of your petition for review, we will affirm, amend or dismiss the safety order(s) and notification(s) of penalty. If we affirm, your petition for review will be granted (unless it was not timely) and the dispute will be certified by the Board of Safety Review for further proceedings. The Board of Safety Review is an independent agency appointed by the governor with authority to conduct hearings and to issue decisions concerning disputed safety order(s) and notification(s) of penalty. If we amend the safety order(s) or notification(s) of penalty, your petition for review shall be deemed moot. However, you will then be given an opportunity to file a petition for review concerning the amended safety order(s) and notification(s) of penalty.

Please be advised that an employee or representative of employees may file a petition for review to contest the reasonableness of the time stated in the safety order(s) for the abatement of any violation.

Posting - Upon receipt of any safety order(s) you are required to post such safety order(s), or a copy thereof, unedited, at or near each place an alleged violation referred to in the safety order(s) occurred. However, if your operations are such that it is not practicable to post the safety order(s) at or near each place of alleged violation, such safety order(s) shall be posted, unedited, in a prominent place where it will be readily observable by all affected employees. For example, if you are engaged in activities which are physically dispersed, the safety order(s) may be posted at the location from which the employees operate to carry out their activities. You must take steps to ensure that the safety order is not altered, defaced, or covered by other material. Posting shall be until the violation is abated, or for three working days, whichever is longer.

Penalties - Penalties are due within fifteen (15) working days of receipt of this notification unless contested. Abatement does not constitute payment of penalties.

Abatement - The conditions cited in the safety order(s) must be corrected (abated) on or before the date shown for each item on the safety order(s) and notification(s) of penalty unless:

(1) You file a petition for review concerning the violation, in which case the full abatement period shall commence from the issuance of a final decision by the Board of Safety Review or the courts which requires compliance with the safety order; or

(2) The abatement period is extended by the granting of a petition for modification of abatement date.

PMAs - The petition for modification of abatement date is a manner in which you may seek additional time to correct (abate) a violation without having to file a petition for review concerning the safety order, or after the expiration of the time period to file such a petition for review when it becomes apparent that you need extra time to abate the violation. A petition for modification of abatement date shall be in writing and shall include the

following information:

(1) All steps you have taken, and the dates of such actions, in an effort to achieve compliance during the prescribed abatement period.

(2) The specific additional abatement time necessary in order to achieve compliance.

(3) The reasons such additional time is necessary, including the unavailability of professional or technical personnel or of materials and equipment, or because necessary construction or alteration of facilities cannot be completed by the original abatement date.

(4) All available interim steps being taken to safeguard employees against the cited hazard during the abatement period.

(5) A certification that a copy of the petition has been posted, and if appropriate, served on the authorized representative of affected employees, and a certification of the date upon which such posting and service was made.

A petition for modification of abatement date shall be filed with the Indiana Department of Labor/IOSHA no later than the close of the next working day following the date on which abatement was originally required. A later-filed petition shall be accompanied by the employer's statement of exceptional circumstances explaining the delay. A copy of such petition shall be posted in a conspicuous place where all affected employees will have notice thereof or near such location where the violation occurred. The petition shall remain posted until the time period for the filing of a petition for review of the Commissioner's granting or denying the petition expires. Where affected employees are represented by an authorized representative, said representative shall be served a copy of such petition.

Notification of Corrective Action - Correction of the alleged violations which have an abatement period of thirty (30) days or less should be reported in writing to us promptly upon correction. A "Letter of Abatement" form and an "Abatement Photographs" worksheet are enclosed for your assistance in providing adequate documentation of abatement. Reports of corrections should show specific corrective action on each alleged violation and the date of such action. On alleged violations with abatement periods of more than thirty (30) days, a written progress report should be submitted, detailing what has been done, what remains to be done, and the time needed to fully abate each such violation. When the alleged violation is fully abated, we should be so advised. Timely correction of an alleged violation does not affect the initial proposed penalty.

Followup Inspections - Please be advised that a followup inspection may be made for the purpose of ascertaining that you have posted the safety order(s) and corrected the alleged violations. Failure to correct an alleged violation may result in additional penalties for each day that the violation has not been corrected.

Employer Discrimination Unlawful - The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under this Act. An employee who believes that he/she has been discriminated against may file a complaint no later than 30 days after the discrimination occurred with the Indiana Department of Labor/IOSHA at the address shown above.

Notice to Employees - The law gives an employee or his/her representative the opportunity to object to any abatement date set for a violation if he/she believes the date to be unreasonable. The contest must be mailed to the Indiana Department of Labor/IOSHA at the address shown above within fifteen (15) working days (excluding weekends and State holidays) or receipt by the employer of this safety order and penalty.

If you wish additional information, you may direct such requests to us at the address or telephone number stated above.

NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with IOSHA to discuss the safety order(s) issued on 01/31/2011. The conference will be held at the IOSHA office located at 402 West Washington Street, Room W195, Indianapolis, IN 46204 on _____ at _____. Employees and/or representatives of employees have a right to attend an informal conference.

Indiana Department of Labor

Indiana Occupational Safety and Health Administration

Inspection Number: 314365057
Inspection Dates: 12/20/2010 - 12/22/2010
Issuance Date: 01/31/2011

Safety Order and Notification of Penalty

Company Name: Thieneman Constructon, Inc.
Inspection Site: 1515 North Lafayette Ave., Lost Creek Lift Station and Forcemain Improvements, Terre Haute, IN 47804

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

29 CFR 1926.20(b)(2): Inspections of the job site, materials, and equipment were not made by a competent person designated by the employer:

Job site ---------- On December 20, 2010 and before, the employers designated competent person on site, failed to identify existing and predictable hazards and/or take the necessary measures to correct hazards where employees worked from fabricated frame scaffolds with no fall protection, missing braces, planks not lapped properly, bent members, and other hazards and where LP tanks were not guarded from vehicular traffic, fire extinguishers were not provided, no fall protection worn while working from top of shoring, and where other hazards existed.

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

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

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

29 CFR 1926.150(c)(1)(i): A fire extinguisher, rated not less than 2A, was not provided for each 3,000 square feet of the protected building area, or major fraction thereof:

Job site---------- On December 20, 2010 and before, fire extinguishers or other portable types of fire protection were not provided for the job site.

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

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

29 CFR 1926.150(c)(1)(vi): A fire extinguisher, rated not less than 10B, was not provided within 50 feet of wherever more than 5 gallons of flammable or combustible liquids or 5 pounds of flammable gas were being used on the job site:

North side of job site---------- On December 20, 2010 and before, fire extinguishers were not provided near or around the 500 gallon diesel fuel tank, or the 1000 gallon LP propane tank.

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

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

29 CFR 1926.153(o):When damage to LP-Gas systems from vehicular traffic was a possibility, precautions against such damage were not taken:

North side of job site ---------- On December 20, 2010 a CAT all-terrain forklift, Model # CATTH460B, S/N: 0100286 was parked and operated in front of a 1000 gallon propane tank that is not guarded or otherwise protected from being struck by the forklift or other vehicular traffic.

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

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

29 CFR 1926.350(a)(9): Compressed gas cylinder(s) were not secured in an upright position:

South side of job next to trailer --------- On 12/20/10 one oxygen compressed gas cylinder was laying down on the ground and was not secured in an upright position.

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

Indiana Department of Labor

Indiana Occupational Safety and Health Administration

Inspection Number: 314365057

Inspection Dates: 12/20/2010 - 12/22/2010

Issuance Date: 01/31/2011

Safety Order and Notification of Penalty

Company Name: Thieneman Constructon, Inc.

Inspection Site: 1515 North Lafayette Ave., Lost Creek Lift Station and Forcemain Improvements, Terre Haute, IN 47804

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 5a Type of Violation: **Serious**

29 CFR 1926.451(b)(4): Each end of a platform, not cleated or otherwise restrained by hooks or equivalent means, did not extend over the centerline of its supports at least 6 inches (15 cm):

Scaffold on South East side of job site ---------- On 12/20/10 one end of the 17 foot 6 inch high work platform consisting of two 2 inch by 10 inch planks on side brackets of the 5 feet wide, 61 feet long, 25 feet 8 inch high fabricated frame scaffold, only overlapped the scaffold frame support 2 1/2 inches and was not otherwise restrained.

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

Safety Order 1 Item 5b Type of Violation: **Serious**

29 CFR 1926.451(b)(5)(ii) : Each end of a platform greater than 10 feet in length extended over its support by more than 18 inches and did not have guardrails blocking access to the cantilevered end :

Scaffold on South East side of job site ---------- On 12/20/10 one end of the 17 foot 6 inch high work platform consisting of two 2 inch by 10 inch planks on side brackets of the 5 feet wide, 61 feet long, 25 feet 8 inch high fabricated frame scaffold, extended approximately 30 inches past the side bracket support and did not have guardrails blocking access to the cantilevered end.

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

Safety Order 1 Item 5c Type of Violation: **Serious**

29 CFR 1926.451(g)(4)(i) : Guardrail systems were not installed along all open sides and ends of platforms :

Scaffold on South East side of job site ---------- On 12/20/10 standard guardrails were not installed on all open ends and sides of the 17 foot 6 inch high and 19 foot 3 inch high work platforms on the 5 feet wide, 61 feet long, 25 feet 8 inch high fabricated frame scaffold, and no other form of fall protection was provided.

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

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

29 CFR 1926.451(e)(1) : Access was not provided to scaffold platforms more than two feet above or below points of access by ladders, stairways, stair towers, ramps, walkways, integral prefabricated scaffold access frames, or by direct access from another scaffold:

(a) South East side of job site ------- On December 20, 2010 employees were climbing the end frames/bucks of the 5 feet wide, 61 feet long, 25 feet 8 inch high fabricated frame scaffold to reach the 19 foot 3 inch high and 17 feet 6 inch work platforms and no ladder or other safe access to the work platforms was provided.

(b) Southwest side of job ----- On December 20, 2010 and before, employees were climbing shoring on the second floor to access the top level of the shoring/formwork and no ladder or other safe access was provided.

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

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Safety Order 1 Item 7 Type of Violation: **Serious**

29 CFR 1926.451(f)(3) : Scaffold and scaffold components were not inspected for visible defects by a competent person before each work-shift :

Job site ---------- On December 20, 2010 and before, the 5 feet wide, 61 feet long, 25 feet 8 inch high fabricated frame scaffold with 17 foot 6 inch high and 19 feet 3 inch high work platforms with missing guardrails, missing braces, planks not lapped properly, bent scaffold frame, frames not pinned together, no safe access and other deficiencies had not been inspected prior to work by a competent person.

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

Safety Order 1 Item 8 Type of Violation: **Serious**

29 CFR 1926.451(f)(4) : Parts of scaffolding damaged or weakened were not immediately repaired, replaced, or removed from service :

South side of job site ---------- On December 20, 2010 one 6 foot 4 inch frame on the 5 feet wide, 61 feet long, 25 feet 8 inch high fabricated frame scaffold was bent and damaged and was not replaced or removed form service.

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

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Safety Order 1 Item 9 Type of Violation: **Serious**

29 CFR 1926.452(c)(2) : Frames and panels on fabricated frame scaffolds were not braced by cross, horizontal, or diagonal braces, or a combination there of which secured vertical members together laterally :

Scaffold on South East side of job site ---------- On 12/20/10 six (6) cross braces were missing from the 5 feet wide, 61 feet long, 25 feet 8 inch high fabricated frame scaffold with work platforms at 17 feet 6 inches and 19 feet 3 inches high.

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

Safety Order 1 Item 10 Type of Violation: **Serious**

29 CFR 1926.452(c)(4) : Where uplift could occur on fabricated frame scaffolds which would displace scaffold end frames or panels, the end frames or panels were not locked together vertically by pins or other equivalent means :

South side of job-site ---------- On December 20, 2010 none of the fabricated frame scaffold end frames or on the 61 foot long, 19 feet 3 inches high end frames were not locked together vertically by pins or other equivalent means to prevent uplift.

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

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Safety Order 1 Item 11 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:

Job site ---------- On December 20, 2010 and before, one employee working from the 5 feet wide, 61 feet long, 25 feet 8 inch high fabricated frame scaffold with work platforms at 17 feet 6 inches and 19 feet 3 inches high with missing guardrails, missing braces, scaffold planks extended to far, planks not overlapped correctly, scaffold frames not pinned together, and other hazards had not been 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.

Date By Which Violation Must be Abated: **03/18/2011**
Proposed Penalty: **$3,500.00**

Safety Order 1 Item 12 Type of Violation: **Serious**

29 CFR 1926.501(b)(1) : Each employee on a walking/working surface with an unprotected side or edge which was 6 feet or more above a lower level was not protected from falling by the use of guardrails, safety nets, or a personal fall arrest system :

Job site --------- On December 20, 2010 two employees working up on top of scaffold shoring/formwork with open/unprotected edges approximately 18 feet 8 inches high, were not protected from falling by any means.

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

Indiana Department of Labor

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Safety Order 1 Item 13 Type of Violation: **Serious**

29 CFR 1926.503(c)(3) : The employer did not retrain each employee when use of fall protection equipment indicated that the employee had not retained the requisite understanding or skill :

Job site ---------- On December 20, 2010 employees working from shoring and formwork approximately 18 feet 8 inches high were not wearing fall protection and the employer had not retrained employees on the use of fall protection systems and the hazards associated with falls.

Date By Which Violation Must be Abated: **03/18/2011**
Proposed Penalty: **$3,500.00**

Indiana Department of Labor

Indiana Occupational Safety and Health Administration

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Company Name: Thieneman Constructon, Inc.
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Safety Order 2 Item 1 Type of Violation: **Nonserious**

29 CFR 1910.178(l)(6) : The employer did not certify that each operator of a powered industrial truck had been trained and evaluated by completing a certification record with the name of the operator, the dates of the training and evaluation, and the name of the person conducting the training :

Job site -------- On December 20, 2010 and before, no such certification record was being maintained by the employer.

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

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

29 CFR 1926.503(b)(1): The employer did not prepare a written certification record of fall protection training which contained the name or other identity of the employee trained, the dates of the training, and the signature of the person who conducted the training:

Job site ---------- On December 20, 2010 certification records regarding fall protection training were not prepared for all employees on the job site.

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

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: Thieneman Constructon, Inc.
Inspection Site: 1515 North Lafayette Ave., Lost Creek Lift Station and Forcemain Improvements, Terre Haute, IN 47804
Issuance Date: 01/31/2011

Summary of Penalties for Inspection Number 314365057

Safety Order 01, Serious	=	$34,300.00
Safety Order 02, Nonserious	=	$0.00
Total Proposed Penalties		$34,300.00

Penalties are due within fifteen (15) working days of receipt of this notification unless contested. Make your check or money order payable to: "Indiana DOL/IOSHA". Please indicate IOSHA's Inspection Number (indicated above) on the remittance.

IOSHA does not agree to any restrictions or conditions or endorsements put on any check or money order for less than full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

Corrective action, taken by you for each alleged violation should be submitted to this office on or about the abatement dates indicated on the Safety Order and Notification of Penalty.

A work sheet has been provided to assist in providing the required abatement information. A completed copy of this work sheet should be posted at the worksite with the safety order(s).

Jerry Lander
Director Construction Safety Compliance

1/31/2011
Date