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 9985 11-9-11 jto

Safety Order and Notification of Penalty

To:

DM Masonry Inc.,
and its successors
2301 W. Jefferson Street
Attn: Frank Delbridge
Louisville, KY 40212

Inspection Site:

113 S. 5th Street
St. Joseph University Parish
Terre Haute, IN 47807

Inspection Number: 315677062

Inspection Date(s): 09/14/2011 - 09/27/2011

Issuance Date: 11/09/2011

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 11/09/2011. 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: 315677062
Inspection Dates: 09/14/2011 - 09/27/2011
Issuance Date: 11/09/2011

Safety Order and Notification of Penalty

Company Name: DM Masonry Inc.
Inspection Site: 113 S. 5th Street, St. Joseph University Parish, Terre Haute, IN 47807

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

29 CFR 1926.20(b)(1): The employer did not initiate and maintain programs as necessary to comply with this part:

Job site ---------- On September 14, 2011 and before the employer had not developed, initiated, and implemented an accident prevention safety program which included identification and evaluation of hazards, employee participation in safety meetings and inspections, and development of written safety rules which would enable employees to recognize and avoid unsafe conditions and hazards.

Date By Which Violation Must be Abated: **12/29/2011**
Proposed Penalty: **$1,500.00**

Safety Order 1 Item 2 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 September 14, 2011 and before, a competent person, capable of identifying hazards and able to take corrective measures, did not perform inspections of the job site where employees were using ladder jack scaffolding with no fall protection, using grinders with no guards, no hard hats or eye protection, no GFCI, cut & worn cords, and other hazards.

Date By Which Violation Must be Abated: **12/29/2011**
Proposed Penalty: **$1,500.00**

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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 1926.21(b)(2): The employer did not instruct each employer in the recognition and avoidance of unsafe condition(s) and the regulation(s) to his/her work environment to control or eliminate any hazard(s) or other exposure to illness or injury:

Job site ---------- On 09/14/11 and before, employees working on ladder jack scaffolding with no fall protection, not wearing eye or head protection, using grinders without guards, using worn extension cords with no GFCI and no strain relief, and exposed to other hazards, had not been instructed in the recognition and avoidance of unsafe condition(s) and the regulation(s) applicable to their work.

Date By Which Violation Must be Abated: **12/29/2011**
Proposed Penalty: **$1,500.00**

Safety Order 1 Item 3b 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 09/14/11 and before, the employees working from ladder jack scaffolding 11 to 23 feet high with no fall protection, platforms used to high, and other hazards had no training in the scaffold regulations or in recognizing hazards associated with scaffolds.

Date By Which Violation Must be Abated: **12/29/2011**
Proposed Penalty: **$0.00**

Indiana Department of Labor

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Safety Order 1 Item 3c 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 09/14/11 and before, employees who erected the 23 foot and 11 foot high ladder jack scaffolds without fall protection, ladders not secured and other hazards had not been trained in the scaffold regulations and on the nature of such hazards, proper erection, loading, and other requirements.

Date By Which Violation Must be Abated: **12/29/2011**
Proposed Penalty: **$0.00**

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

29 CFR 1926.95(a) : Protective equipment, including personal protective equipment for eyes, face, head, and extremities, protective clothing and protective shields and barriers, were not provided, used, and maintained whenever it was necessary by reason of hazards or processes encountered in a manner capable of causing injury :

Ground level on southwest side of church ---------- On 09/14/2011 an employee operating a Makita Power Scraper, Model # HK1810, chipping out mortar joints was not wearing eye or face protection.

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

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

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

Job site ---------- On 09/14/11 employees working below other employees on a ladder jack scaffold where they could be struck by falling objects were not wearing hard hats.

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

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

29 CFR 1926.303(c)(3): Portable abrasive wheel(s) used for external grinding were not provided with safety guards (protection hoods):

South side of church ---------- On 09/14/11 two Bosch 4 ½ inch grinders, # 005000400 and # 883004905, both equipped with diamond cutting/abrasive blades used to cut out mortar joints, did not have guards.

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

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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 7a Type of Violation: **Serious**

29 CFR 1926.404(b)(1)(i): Employer did not use either ground-fault circuit interrupters as specified in paragraph (b)(1)(ii) of this section, or an assured equipment grounding conductor program as specified in paragraph (b)(1)(iii) of this section to protect employees on construction sites:

Northwest side of church ---------- On 09/14/2011 two 15/20 amp 120 volt receptacle outlets inside of the west wall of the church being used with extension cords and a Metabo 4 ½ inch grinder and a Makita Power Scraper, were not ground fault circuit interrupter protected and an assured equipment grounding conductor program was not in place.

Date By Which Violation Must be Abated: **Corrected During Inspection**
Proposed Penalty: **$1,500.00**

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

29 CFR 1926.405(a)(2)(ii)(I): Protection was not provided to avoid damage to flexible cords and cables used for temporary wiring which passed through doorways or other pinch points:

a) Door on Northwest side of church ---------- On 09/14/2011 three extension cords used with portable power tools were being pinched by the entrance door of the church and no protection was offered to avoid damage to the cords.

b) Door on South side entrance of church ---------- On 09/14/2011 the 100 foot long 12/3 SJTW yellow extension cord was being pinched by two doors and the cord was not protected.

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

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

29 CFR 1926.405(g)(2)(iv): Flexible cords were not connected to devices and fittings so that strain relief is provided to prevent pull from being directly transmitted to joints or terminal screws:

South side of church ---------- On 09/14/2011 the insulation was pulled loose from the female attachment plug on the 100 foot long 12/3 SJTW extension cord and was pulled loose from the male attachment plug on a green/yellow extension cord and no strain relief was provided.

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

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

29 CFR 1926.416(e)(1): Worn or frayed electric cords or cables were used:

South side of church ---------- On 09/14/11 the insulation on the100 foot long 12/3 SJTW yellow extension cord providing power to two Bosch 4 ½ inch grinders, was worn and cut.

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

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

29 CFR 1926.451(g)(1)(i) : Each employee on a ladder jack scaffold more than 10 feet above a lower level was not protected from falling to that lower level by a personal fall arrest system :

a) West side of church ---------- On 09/14/2011 two employees working off of a ladder jack scaffold approximately 23 feet high were not using any type of fall protection.

b) South side of church ---------- On 09/14/2011 one employee working off of a ladder jack scaffold approximately 11 feet high was not protected from falling by any means.

Date By Which Violation Must be Abated: **Corrected During Inspection**
Proposed Penalty: **$1,500.00**

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

29 CFR 1926.452(k)(1) : Platforms on ladder jack scaffolds exceeded 20 feet in height:

West side of church ---------- On 09/14/2011 the work platform on the ladder jack scaffold was 23 feet high exceeding the 20 foot maximum height.

Date By Which Violation Must be Abated: **Corrected During Inspection**
Proposed Penalty: **$1,500.00**

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

29 CFR 1926.452(k)(4): Ladder(s) used to support ladder jacks were used without being fastened, or equipped with devices to prevent slipping:

West side of church ---------- On 09/14/2011 the Green Bull and Louisville extension ladders being used to support the 23 foot high platform for the ladder jack scaffold were not tied or otherwise secured to prevent slipping.

Date By Which Violation Must be Abated: **Corrected During Inspection**
Proposed Penalty: **$1,500.00**

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: DM Masonry Inc.
Inspection Site: 113 S. 5th Street, St. Joseph University Parish, Terre Haute, IN 47807
Issuance Date: 11/09/2011

Summary of Penalties for Inspection Number 315677062

Safety Order 01, Serious	=	$12,750.00
Total Proposed Penalties		$12,750.00

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 Lander
Director Construction Safety Compliance

11/9/11
Date