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Dwyer

IN THE STATE OF INDIANA)
)
COUNTY OF MARION)

BEFORE THE IOSHA BOARD OF
SAFETY REVIEW
CASE DOCKET NO. 11-020

IN THE MATTER OF:

COMMISSIONER OF LABOR,)
)
Complainant,)
)
v.)
)
S.J. LOUIS CONSTRUCTION, INC.,)
AND ITS SUCCESSORS,)
)
Respondent.)

FILED

MAR 08 2013

Indiana Board of
Safety Review

AGREED ENTRY

The parties to the above-captioned proceeding, the Commissioner of the Indiana Department of Labor and S.J. Louis Construction, Inc., through their duly authorized representatives, being desirous of entering into this Agreed Entry prior to hearing do hereby stipulate and agree as follows:

PART I.

1. From May 2, 2011 through June 21, 2011, authorized employees of the Indiana Department of Labor conducted an inspection at the Respondent's jobsite located at 2619 Rotherwood Avenue, Eastview Terrace Drainage Improvement Project, Evansville, Indiana 47711.

2. On September 8, 2011, the Commissioner of Labor issued Safety Order No. 1 (Indiana Department of Labor Inspection No. 315049734) alleging that S.J. Louis Construction, Inc., had violated the Indiana Occupational Safety and Health Act (IC 22-8-1.1 *et seq.*) or the standards or rules thereunder. Safety Order No. 1 is attached hereto as Exhibit A and is incorporated herein.

3. On October 3, 2011, Respondent duly and timely petitioned for review of Safety Order No. 1.

PART II:

4. The Petitioned for review Safety Order No. 1 consists of Item Nos. 1a, 1b, 2a, 2b, 3, 4a, 4b, 5a, 5b, 6, 7, 8, 9a, 9b, 10, 11, 12, 13, 14a, and 14b.

5. Safety Order No. 1, Item Nos. 1a and 1b allege "Serious" violations of 29 CFR 1926.21(b)(2) and 29 CFR 1926.1060(a), respectively, and assess a total penalty of Four Thousand Dollars (\$4,000).

6. Safety Order No. 1, Item Nos. 2a and 2b allege "Serious" violations of 29 CFR 1926.403(a) and 29 CFR 1926.416(e)(1), respectively, and assess a total penalty of Two Thousand Dollars (\$2,000).

7. Safety Order No. 1, Item No. 3, alleges a "Serious" violation of 29 CFR 1926.403(d)(1) and assesses a total penalty of Two Thousand Dollars (\$2,000).

8. Safety Order No. 1, Item Nos. 4a and 4b allege "Serious" violations of 29 CFR 1926.600(a)(6)(i) and 29 CFR 1926.600(a)(6)(iv), respectively, and assess a total penalty of Four Thousand Dollars (\$4,000).

9. Safety Order No. 1, Item Nos. 5a and 5b allege "Serious" violations of 29 CFR 1926.651(b)(3) and Indiana Code Section 22-8-1.1-2, respectively, and assess a total penalty of Four Thousand Dollars (\$4,000).

10. Safety Order No. 1, Item No. 6 alleges a "Serious" violation of 29 CFR 1926.651(c)(2), and assesses a total penalty of Four Thousand Dollars (\$4,000).

11. Safety Order No. 1, Item No. 7 alleges a "Serious" violation of 29 CFR 1926.651(k)(2), and assesses a total penalty of Four Thousand Dollars (\$4,000).

12. Safety Order No. 1, Item No. 8 alleges a "Serious" violation of 29 CFR 1926.652(a)(1), and assesses a total penalty of Four Thousand Dollars (\$4,000).

13. Safety Order No. 1, Item Nos. 9a and 9b allege "Serious" violations 29 CFR 1926.652(d)(1) and 29 CFR 1926.652(d)(2), respectively, and assess a total penalty of Four Thousand Dollars (\$4,000).

14. Safety Order No. 1, Item No. 10 alleges a "Serious" violation of 29 CFR 1926.652(d)(3), and assesses a total penalty of Four Thousand Dollars (\$4,000).

15. Safety Order No. 1, Item No. 11 alleges a "Serious" violation of 29 CFR 1926.652(g)(1)(i), and assesses a total penalty of Four Thousand Dollars (\$4,000).

16. Safety Order No. 1, Item No. 12 alleges a "Serious" violation of 29 CFR 1926.652(g)(1)(ii), and assesses a total penalty of Four Thousand Dollars (\$4,000).

17. Safety Order No. 1, Item No. 13 alleges a "Serious" violation of 29 CFR 1926.652(g)(1)(iii), and assesses a total penalty of Four Thousand Dollars (\$4,000).

18. Safety Order No. 1, Item Nos. 14a and 14b allege "Serious" violations of 29 CFR 1926.1053(b)(15) and 29 CFR 1926.1053(b)(16), respectively, and assess a total penalty of Two Thousand Eight Hundred Dollars (\$2,800).

19. The total penalty for Safety Order No. 1 is Fifty Thousand Eight Hundred Dollars (\$50,800).

PART III

20. Safety Order No. 1, Item No. 1a is deleted in its entirety.

21. Safety Order No. 1, Item No. 1b remains unchanged in its entirety and the penalty remains Four Thousand Dollars (\$4,000).

22. Safety Order No. 1, Item No. 2a is deleted in its entirety.

23. Safety Order No. 1, Item No. 2b remains unchanged in its entirety and the penalty remains Two Thousand Dollars (\$2,000).

24. Safety Order No. 1, Item No. 3 remains unchanged in its entirety including the penalty.

25. Safety Order No. 1, Items 4a and 4b remain unchanged in their entirety including the penalty.

26. Safety Order No. 1, Item No. 5a is deleted in its entirety.

27. Safety Order No. 1, Item No. 5b remains unchanged in its entirety including the penalty and the penalty remains Four Thousand Dollars (\$4,000).

28. Safety Order No. 1, Item No. 6 remains unchanged in its entirety including the penalty.

29. Safety Order No. 1, Item No. 7 remains unchanged in its entirety including the penalty.

30. Safety Order No. 1, Item No. 8 remains unchanged in its entirety including the penalty.

31. Safety Order No. 1, Item Nos. 9a, 9b, and 10 are amended grouping the Items and the total penalty is reduced from Eight Thousand Dollars (\$8,000) to Four Thousand Dollars (\$4,000).

32. Safety Order No. 1, Item Nos. 11 and 12 are amended by grouping the Items and the total penalty is reduced from Eight Thousand Dollars (\$8,000) to Four Thousand Dollars (\$4,000).

33. Safety Order No. 1, Item No. 13 remains unchanged in its entirety including the penalty.

34. Safety Order No. 1, Item Nos. 14a and 14b remain unchanged in their entirety including the penalty.

35. The AGREED total penalty for all violations and all subparts thereunder subject to this Agreed Entry is Forty-Two Thousand, Eight Hundred Dollars (\$42,800).

36. Respondent agrees to refresh any and all Indiana worksite employees who have a safety responsibility regardless of previous training, in an OSHA Limited Scope Construction Trenching and Excavation, Ladder and Electrical Safety refresher course along with Competent Person training within twelve (12) months of filing the Agreed Entry with the Board of Safety Review.

37. Respondent agrees to forward any and all agendas and class sign-in sheets to IDOL within thirty (30) days of completion of any such refresher training course(s).

38. Respondent hereby withdraws its petition for review previously filed in this matter.

PART IV:

39. Nothing contained in this Agreed Entry shall be construed to affect the Commissioner's interpretation of the Act or any standard or regulation enforced pursuant thereto or the applicable classification thereof.

40. It is understood and agreed by the Respondent and Complainant that this Agreed Entry and attachments will constitute a final, enforceable OSHA Safety Order(s) and penalties for the purposes of the Indiana Occupational Safety and Health Act ("Act").

41. Except for these proceedings, and matters arising out of these proceedings and any other subsequent OSHA proceedings between the parties, none of the foregoing agreements, statements, findings, and actions taken by the Respondent shall be deemed an admission. The

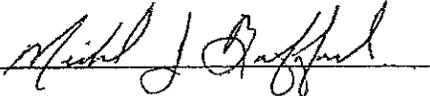
agreements, statements, findings, and actions taken herein are made in order to compromise and settle this matter economically and amicably, and they shall not be used for any other purpose, except as herein stated.

42. The invalidity or unenforceability of any section, subsection, clause or provision of this Agreed Entry does not affect the remaining sections, subsections, clauses, or provisions of this Agreed Entry.

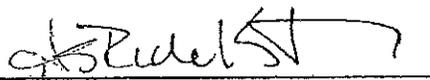
43. Respondent, upon full execution of this Agreed Entry, will post this Agreed Entry for three (3) working days or until abatement is completed, whichever period is longer, pursuant to Board of Safety Review Rules of Procedure, 615 IAC 1-2-18(b)(3).

AGREED this 4 day of March, 2013.

S.J. LOUIS CONSTRUCTION, INC.

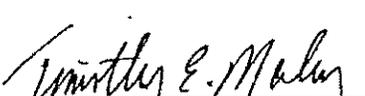
By: 

Title: Safety Manager

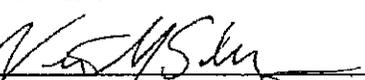
By: 

**Anthony S. Ridolfo
Counsel for Respondent**

COMMISSIONER OF LABOR

By: 

**Timothy E. Maley
Deputy Commissioner
IOSHA**

By: 

**Nicole M. Schuster
Deputy Attorney General**

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 # 7603 1010 00035731 9220 9-8-11 JTD

Safety Order and Notification of Penalty *AMENDED SAFETY ORDERS*

To:

S.J.Louis Construction, Inc.,
and its successors
P. Box 459
Attn: Michael Boufford
Rockville, MN 56369

Inspection Number: 315049734
Inspection Date(s): 05/02/2011 - 06/21/2011
Issuance Date: 09/08/2011

Inspection Site:

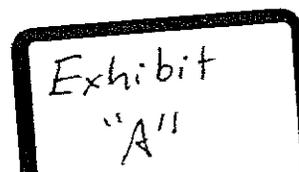
2619 Rotherwood Ave
Eastview Terrace Drainage Improvement Project
Evansville, IN 47711

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



seven 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.



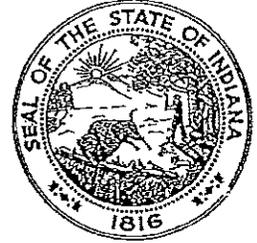
NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with IOSHA to discuss the safety order(s) issued on 09/08/2011. 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
Occupational Safety and Health Administration

Inspection Number: 315049734
Inspection Dates: 05/02/2011 - 06/21/2011
Issuance Date: 09/08/2011



Safety Order and Notification of Penalty

Company Name: S.J.Louis Construction, Inc.
Inspection Site: 2619 Rotherwood Ave, Eastview Terrace Drainage Improvement Project, Evansville, IN 47711

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

Job site ----- On May 02, 2011 and before, employees working in trenches/excavations without proper cave-in protection and other hazards, using damaged trench boxes, damaged ladders, working with excavation equipment which contacted overhead power lines, working in areas where electrical disconnect boxes were not supported, and who were exposed to other hazards, had not been instructed or sufficiently instructed in the regulations applicable to their work and on recognizing hazards related to such so they could eliminate these types of hazards.

Date By Which Violation Must be Abated: 10/26/2011
Proposed Penalty: \$4,000.00

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

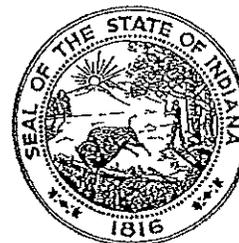
29 CFR 1926.1060(a): The employer did not provide a training program for each employee using ladders and stairways which would train each employee in the procedures to be followed to minimize hazards related to ladders and stairways:

Job site ----- On May 02, 2011 and before, employees using damaged ladders had not been trained on recognizing hazards related to ladders.

Date By Which Violation Must be Abated: 10/26/2011

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 315049734
Inspection Dates: 05/02/2011 - 06/21/2011
Issuance Date: 09/08/2011



Safety Order and Notification of Penalty

Company Name: S.J.Louis Construction, Inc.
Inspection Site: 2619 Rotherwood Ave, Eastview Terrace Drainage Improvement Project, Evansville, IN 47711

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 1926.403(a): All electrical conductors and equipment were not approved:

Job site ----- On May 02, 2011 and before, several damaged areas in the 440 volt, P-7 K-254013 MSHA and FT-2 K-12303 MSHA, conductor cables supplying power for de-watering disconnect boxes, had been taped up and were not approved.

Date By Which Violation Must be Abated: **Corrected During Inspection**
Proposed Penalty: **\$2,000.00**

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

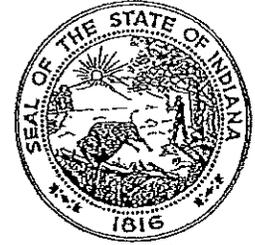
29 CFR 1926.416(e)(1): Worn or frayed electric cords or cables were used:

Job site ----- On May 02, 2011 and before, the insulation in several areas of the 440 volt, P-7 K-254013 MSHA and FT-2 K-12303 MSHA, conductor cables supplying power for de-watering disconnect boxes, was cut, worn, and damaged.

Date By Which Violation Must be Abated: **Corrected During Inspection**

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 315049734
Inspection Dates: 05/02/2011 - 06/21/2011
Issuance Date: 09/08/2011



Safety Order and Notification of Penalty

Company Name: S.J.Louis Construction, Inc.
Inspection Site: 2619 Rotherwood Ave, Eastview Terrace Drainage Improvement Project, Evansville, IN 47711

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

29 CFR 1926.403(d)(1): Electric equipment was not firmly secured to the surface on which it was mounted:

Job site ----- On May 02, 2011 and before, the 480 volt electrical disconnect boxes for the de-watering pumps were laying on the ground and were not supported or mounted.

Date By Which Violation Must be Abated:	Corrected During Inspection
Proposed Penalty:	\$2,000.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 315049734
Inspection Dates: 05/02/2011 - 06/21/2011
Issuance Date: 09/08/2011



Safety Order and Notification of Penalty

Company Name: S.J.Louis Construction, Inc.
Inspection Site: 2619 Rotherwood Ave, Eastview Terrace Drainage Improvement Project, Evansville, IN 47711

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 4a Type of Violation: **Serious**

29 CFR 1926.600(a)(6)(i): Equipment working or being moved in the vicinity of power lines did not maintain a minimum clearance between the lines and any part of the equipment or machinery for lines rated 50 kV and below:
(a) 2717 S. Rotherwood Ave. ----- On April 12, 2011 an excavator performing excavation work came into contact with a 7,500 volt power line and a minimum of 10 foot clearance was not maintained.

(b) Rotherwood Ave. and Culverson Ave. ----- On May 03, 2011 the CAT excavator, Model # 385B, Product ID # CAT 0385BLRCD00188, came in contact with a 7,500 volt power line and did not maintain a minimum 10 foot clearance between the equipment and power line.

Date By Which Violation Must be Abated: **Corrected During Inspection**
Proposed Penalty: **\$4,000.00**

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

29 CFR 1926.600(a)(6)(iv): A person was not designated to observe clearance between power lines and equipment and given timely warning for all operations where it was difficult for the operator to maintain desired safe clearances by visual means:

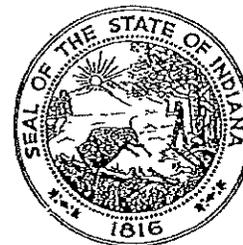
(a) 2717 S. Rotherwood Ave. ----- On April 12, 2011 a spotter was not present to assist the operator of an excavator which came into contact with a 7,500 volt power line.

(b) Rotherwood Ave. and Culverson Ave. ----- On May 03, 201, a spotter was not used to assist the operator and give timely warning of approach clearances with power lines, where a CAT excavator, Model # 385B, Product ID # CAT 0385BLRCD00188, came into contact with a 7,500 volt power line.

Date By Which Violation Must be Abated: **Corrected During Inspection**

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 315049734
Inspection Dates: 05/02/2011 - 06/21/2011
Issuance Date: 09/08/2011



Safety Order and Notification of Penalty

Company Name: S.J.Louis Construction, Inc.
Inspection Site: 2619 Rotherwood Ave, Eastview Terrace Drainage Improvement Project, Evansville, IN 47711

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 1926.651(b)(3): When excavation operations approached the estimated location of underground installations, the exact location of the installations was not determined by safe and acceptable means:

(a) 2713 S: Rotherwood Ave ----- On April 18, 2011 a natural gas line was struck by a bulldozer and the exact location of the line was not determined by safe and acceptable means.

(b) 1701 S. Rotherwood ----- On April 29, 2011 a natural gas line was struck by and the exact location of the line was not determined by safe and acceptable means.

(c) 2709 S. Rotherwood ----- On May 24, 2011 a natural gas line was struck by a track hoe and the exact location of the line was not determined by safe and acceptable means.

Date By Which Violation Must be Abated:
Proposed Penalty:

Corrected During Inspection
\$4,000.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 315049734
Inspection Dates: 05/02/2011 - 06/21/2011
Issuance Date: 09/08/2011



Safety Order and Notification of Penalty

Company Name: S.J.Louis Construction, Inc.
Inspection Site: 2619 Rotherwood Ave, Eastview Terrace Drainage Improvement Project, Evansville, IN 47711

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

IC 22-8-1.1 Section 2: The employer did not furnish employment and a place of employment which was free from recognized hazards that were causing or likely to cause death or serious physical harm to employees:

(a) 2713 S. Rotherwood Ave ----- On April 18, 2011 employees were exposed to fire and/or explosion hazards when a natural gas line was broken during excavation operations underground utilities. Among other methods, a feasible and acceptable abatement method to correct these hazards would be to follow IC 8-1-26-20(a)(2) which states that persons responsible for the excavation, maintain a clearance of at least 2 feet between an underground facility and the cutting edge or point of mechanized equipment or exposure of the underground facility may be accomplished only by the use of hand excavation, air cutting, or vacuum excavation.

(b) 1701 S. Rotherwood ----- On April 29, 2011 employees excavating in an area with underground utilities, were exposed to fire and/or explosion hazards when a natural gas line was broken during excavation activities, a hazard which could result in serious physical harm. Among other methods, a feasible and acceptable abatement method to correct this hazard would be to follow IC 8-1-26-20(a)(2) which states that persons responsible for the excavation, maintain a clearance between an underground facility, as marked by the operator, and the cutting edge or point of mechanized equipment of not less than two (2) feet on either side of the outer limits of the physical plant or exposure of the underground facility may be accomplished only by the use of hand excavation, air cutting, or vacuum excavation.

(c) 2709 S. Rotherwood ----- On May 24, 2011 employees were exposed to fire and/or explosion hazards when a natural gas line was broken during excavation activities. Among other methods, a feasible and acceptable abatement method to correct these hazards would be to follow IC 8-1-26-20(a)(2) which states to maintain a clearance between an underground facility and the cutting edge or point of mechanized equipment of not less than two (2) feet on either side of the outer limits of the physical plant or to expose the lines by hand excavation, air cutting, or vacuum excavation.

Date By Which Violation Must be Abated:

Corrected During Inspection

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 315049734
Inspection Dates: 05/02/2011 - 06/21/2011
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Safety Order and Notification of Penalty

Company Name: S.J.Louis Construction, Inc.
Inspection Site: 2619 Rotherwood Ave, Eastview Terrace Drainage Improvement Project, Evansville, IN 47711

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

29 CFR 1926.651(c)(2): A stairway, ladder, ramp or other safe means of egress was not located in trench excavations that were 4 feet (1.22m) or more in depth so as to require no more than 25 feet (7.62m) of lateral travel for employees:

Trench ----- On May 19, 2011 no ladder, ramp or other acceptable means of egress was provided for the employees working in 9.5 foot deep, 12 foot wide, 20 foot long trench.

Date By Which Violation Must be Abated: **Corrected During Inspection**
Proposed Penalty: **\$4,000.00**

Safety Order 1 Item 7 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 cave-in, 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:

(a) Rotherwood & Culverson/Trench ----- On May 02, 2011 and before, the competent person failed to perform the duties as required, in that he did not remove employees from the 25 foot deep trench/excavation with inadequate cave-in protection, did not follow the companies trench site safety specifications, and did not examine trench shields for damage and other hazardous conditions.

(b) Rotherwood & Rheinhardt/Trench ----- On May 19, 2011 and before, the competent person failed to perform the duties as required, in that he did not remove employees from the approximately 9.5 foot deep trench with no cave-in protection and with no ladder used for access.

Date By Which Violation Must be Abated: **Corrected During Inspection**
Proposed Penalty: **\$4,000.00**

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 315049734
Inspection Dates: 05/02/2011 - 06/21/2011
Issuance Date: 09/08/2011



Safety Order and Notification of Penalty

Company Name: S.J.Louis Construction, Inc.
Inspection Site: 2619 Rotherwood Ave, Eastview Terrace Drainage Improvement Project, -Evansville, IN 47711

Safety Order 1 Item 8 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). 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):

(a) Trench ----- On May 02, 2011 and before, inadequate cave-in protection was provided for employees working in a 25.5 feet deep, 39 feet wide, and 50 feet long excavation/trench which had portions of vertical sidewalls and where damaged and improper shields were being used. . that has vertical sidewalls.

(b) Trench ----- On May 19, 2011 inadequate cave-in protection was provided for employees working in a 9.5 deep, 14.5 wide, 20 foot long excavation/trench.

Date By Which Violation Must be Abated: Corrected During Inspection
Proposed Penalty: \$4,000.00

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 315049734
Inspection Dates: 05/02/2011 - 06/21/2011
Issuance Date: 09/08/2011



Safety Order and Notification of Penalty

Company Name: S.J.Louis Construction, Inc.
Inspection Site: 2619 Rotherwood Ave, Eastview Terrace Drainage Improvement Project, Evansville, IN 47711

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 9a Type of Violation: **Serious**

29 CFR 1926.652(d)(1): Materials and equipment used for protective systems were not free from damage or defects that might impair their proper function:

Trench ----- On May 02, 2011 and before, a Shore-Tech trench shield, Model # 8H1024 NKE, S/N: T138, B24T48 with bent spreaders, and bent sidewalls, being used in the 25 foot deep trench, was not free from damage or defects that might impair the trench shields proper function.

Date By Which Violation Must be Abated: **Corrected During Inspection**
Proposed Penalty: **\$4,000.00**

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

29 CFR 1926.652(d)(2): Manufactured materials and equipment used for protective systems were not maintained in a manner that was consistent with the recommendations of the manufacturer:

Trench ----- On May 02, 2011 and before, a Shore-Tech trench shield, Model # 8H1024 NKE, S/N: T138, B24T48 was not maintained in accordance with the manufactures recommendations as the shield had bent spreaders, and bowed sidewalls.

Date By Which Violation Must be Abated: **Corrected During Inspection**

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 315049734
Inspection Dates: 05/02/2011 - 06/21/2011
Issuance Date: 09/08/2011



Safety Order and Notification of Penalty

Company Name: S.J.Louis Construction, Inc.
Inspection Site: 2619 Rotherwood Ave, Eastview Terrace Drainage Improvement Project, Evansville, IN 47711

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

29 CFR 1926.652(d)(3): When material or equipment used for protective systems was damaged, a competent person did not examine the material or equipment and evaluate its suitability for continued use:

Trench ----- On May 02, 2011 and before, a competent person did not examine and/or evaluate the 24 foot long, 12 foot wide, and 10 foot tall Shore-Tech trench shield, Model # 8H1024 NKE, S/N: T138, B24T48, which had bent spreaders and bowed sidewalls and was used as a trench shield in the 25 foot deep trench/excavation

Date By Which Violation Must be Abated: **Corrected During Inspection**
Proposed Penalty: **\$4,000.00**

Safety Order 1 Item 11 Type of Violation: **Serious**

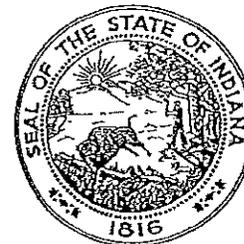
29 CFR 1926.652(g)(1)(i): Shield systems were subjected to loads exceeding those which the system was designed to withstand:

Trench ----- On May 02, 2011 and before, the Shore-Tech trench shields, Model # 8H1024 NKE, S/N: T138, B24T48, and Model # 8H1024 NKE, S/N: T138, B24T48, rated at 1581 PSF, were being used in the 25 foot deep trench/excavation with maximum pressures of 1650 PSF, and were subjected to loads exceeding the maximum pressures of the shield.

Date By Which Violation Must be Abated: **Corrected During Inspection**
Proposed Penalty: **\$4,000.00**

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 315049734
Inspection Dates: 05/02/2011 - 06/21/2011
Issuance Date: 09/08/2011



Safety Order and Notification of Penalty

Company Name: S.J.Louis Construction, Inc.
Inspection Site: 2619 Rotherwood Ave, Eastview Terrace Drainage Improvement Project, Evansville, IN 47711

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

29 CFR 1926.652(g)(1)(ii): Shields were not installed in a manner to restrict lateral or other hazardous movement of the shield in the event of the application of sudden lateral loads:

Trench ----- On May 04, 2011 the Shore-Tech, Model # 8H1024 NKE, S/N: T138, B24T48, trench shield stacked on another trench box, with the area above the shield not properly sloped was not installed to prevent movement of the shield from a sudden lateral load.

Date By Which Violation Must be Abated: **Corrected During Inspection**
Proposed Penalty: **\$4,000.00**

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

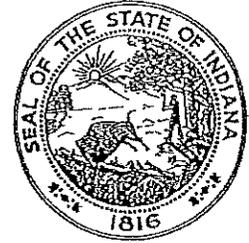
29 CFR 1926.652(g)(1)(iii): Employees were not protected from the hazard of cave-ins when entering or exiting the area protected by shields:

Trench ----- On April 29, 2011 and before, employees working in a 25.5 feet deep, 39 feet wide, 50 feet long excavation/trench were not protected from cave-ins when entering or exiting the trench shield being used.

Date By Which Violation Must be Abated: **Corrected During Inspection**
Proposed Penalty: **\$4,000.00**

Indiana Department of Labor
Occupational Safety and Health Administration

Inspection Number: 315049734
Inspection Dates: 05/02/2011 - 06/21/2011
Issuance Date: 09/08/2011



Safety Order and Notification of Penalty

Company Name: S.J.Louis Construction, Inc.
Inspection Site: 2619 Rotherwood Ave, Eastview Terrace Drainage Improvement Project, Evansville, IN 47711

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 14a 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 an occurrence that could affect their safe use:

Job site/Trench ----- On May 02, 2011 and before, a damaged 14 foot aluminum extension ladder which had visible defects such as a broken rung, bent side-rail, and a missing foot was not inspected by a competent person and/or the competent person failed to identify these hazards.

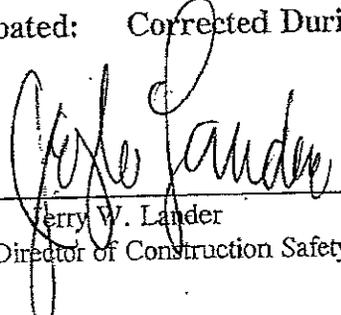
Date By Which Violation Must be Abated: **Corrected During Inspection**
Proposed Penalty: **\$2,800.00**

Safety Order 1 Item 14b 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 either immediately marked in a manner that readily identified them as defective, or tagged with "Do Not Use" or similar language, and were not withdrawn from service until repaired:

Job site/Trench ----- On May 02, 2011 and before, a 14 foot aluminum extension ladder with a broken rung, bent side rail, and a missing foot was not tagged out of service or removed from service.

Date By Which Violation Must be Abated: **Corrected During Inspection**



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: S.J.Louis Construction, Inc.
Inspection Site: 2619 Rotherwood Ave, Eastview Terrace Drainage Improvement Project, Evansville, IN 47711
Issuance Date: 09/08/2011

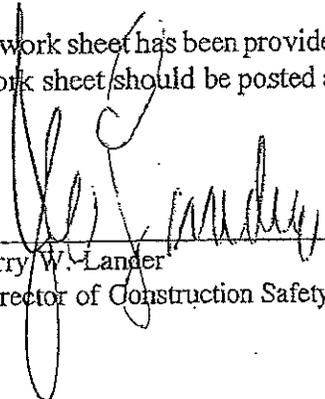
Summary of Penalties for Inspection Number	315049734
Safety Order 01, Serious	= \$50,800.00
Total Proposed Penalties	\$50,800.00

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

Date 9-8-11