

OSHA FAX Baton Rouge Area Office Team LA' OSHA



Pages Sent: 1

TO: Name: Morgan Turrell

Fax #: 202 314-6154

Office # _____

Date: 4/25/07

From: Name: Dorinda Felse

U.S. Department of Labor-OSHA
9100 Bluebonnet Centre, Suite 201
Baton Rouge, LA 70809

Office #: (225) 298-5458 ext: 105
Fax #: (225) 298-5409

IF YOU RECEIVED THIS FAX IN ERROR, PLEASE CALL (225) 298-5458

Comments: _____

U.S. Department of Labor
Occupational Safety and Health Administration
Region VI **Baton Rouge Area Office**



9100 Bluebonnet Centre, Ste. 201
Baton Rouge, LA 70809-2985
Phone: (225) 298-5458
Fax: (225) 298-5457

April 25, 2007

Morgan Turrell
National Transportation & Safety Board
Office of Marine Safety
Washington, D.C.

Mr. Turrell:

In response to your email, please be aware that the Baton Rouge Area Office of the Occupational Safety and Health Administration (OSHA) conducted an inspection of Athena Construction, LLC regarding the fire/explosion of 10/12/06 which resulted in multiple deaths. This inspection involved the gathering of documents, interviews and a physical walk around at the Morgan City yard where the burned barges now reside. As the result of that inspection, OSHA issued a citation to Athena Construction on 03/29/07. A copy of this citation is attached. OSHA entered into an Informal Settlement Agreement with the company on 4/20/07. Once OSHA has received payment of penalties due and a Letter of Corrective Action the case will be closed. If you should have additional questions, you may contact our office at (225) 298-5458.

Sincerely,


GREG HONAKER
Area Director

Enclosure

U.S. Department of Labor

Occupational Safety and Health Administration

Suite 201

9100 Bluebonnet Centre

Baton Rouge, LA 70809-2985

Phone: (225)298-5458 FAX: (225)298-5457



Citation and Notification of Penalty

To:
Athena Construction, LLC
and its successors
P.O.Box 0
Morgan City, LA 70381

Inspection Number: 310249578
Inspection Date(s): 03/06/2007 -
Issuance Date: 03/29/2007

Inspection Site:
1105 Levee Rd.
Morgan City, LA 70380

The violation(s) described in this Citation 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.

This Citation and Notification of Penalty (this Citation) describes violations of the Occupational Safety and Health Act of 1970. The penalty(ies) listed herein is (are) based on these violations. You must abate the violations referred to in this Citation by the dates listed and pay the penalties proposed, unless within 15 working days (excluding weekends and Federal holidays) from your receipt of this Citation and Notification of Penalty you mail a notice of contest to the U.S. Department of Labor Area Office at the address shown above. Please refer to the enclosed booklet (OSHA 3000) which outlines your rights and responsibilities and which should be read in conjunction with this form. Issuance of this Citation does not constitute a finding that a violation of the Act has occurred unless there is a failure to contest as provided for in the Act or, if contested, unless this Citation is affirmed by the Review Commission or a court.

Posting - The law requires that a copy of this Citation and Notification of Penalty be posted immediately in a prominent place at or near the location of the violation(s) cited herein, or, if it is not practicable because of the nature of the employer's operations, where it will be readily observable by all affected employees. This Citation must remain posted until the violation(s) cited herein has (have) been abated, or for 3 working days (excluding weekends and Federal holidays), whichever is longer. The penalty dollar amounts need not be posted and may be marked out or covered up prior to posting.

Informal Conference - An informal conference is not required. However, if you wish to have such a conference you may request one with the Area Director during the 15 working day contest period. During such an informal conference you may present any evidence or views which you believe would support an adjustment to the citation(s) and/or penalty(ies).

If you are considering a request for an informal conference to discuss any issues related to this Citation and Notification of Penalty, you must take care to schedule it early enough to allow time to contest after the informal conference, should you decide to do so. You may request one with the Area Director during the 15 working day contest period. During such an informal conference you may present any evidence or views which you believe would support an adjustment to the citation(s) and/or penalty(ies).

If you are considering a request for an informal conference to discuss any issues related to this Citation and Notification of Penalty, you must take care to schedule it early enough to allow time to contest after the informal conference, should you decide to do so. Please keep in mind that a written letter of intent to contest must be submitted to the Area Director within 15 working days of your receipt of this Citation. The running of this contest period is not interrupted by an informal conference.

If you decide to request an informal conference, call this office between 8:00 a.m. and 4:30 p.m. for an appointment, then complete, remove and post the page 4 Notice to Employees next to this Citation and Notification of Penalty as soon as the time, date, and place of the informal conference have been determined. Be sure to bring to the conference any and all supporting documentation of existing conditions as well as any abatement steps taken thus far. If conditions warrant, we can enter into an informal settlement agreement which amicably resolves this matter without litigation or contest.

Right to Contest - You have the right to contest this Citation and Notification of Penalty. You may contest all citation items or only individual items. You may also contest proposed penalties and/or abatement dates without contesting the underlying violations. Unless you inform the Area Director in writing that you intend to contest the citation(s) and/or proposed penalty(ies) within 15 working days after receipt, the citation(s) and the proposed penalty(ies) will become a final order of the Occupational Safety and Health Review Commission and may not be reviewed by any court or agency.

Penalty Payment - Penalties are due within 15 working days of receipt of this notification unless contested. (See the enclosed booklet and the additional information provided related to the Debt Collection Act of 1982.) Make your check or money order payable to "DOL-OSHA". Please indicate the Inspection Number on the remittance.

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

Notification of Corrective Action - For violations which you do not contest, you should notify the U.S. Department of Labor Area Office promptly by letter that you have taken appropriate corrective action within the time frame set forth on this Citation. Please inform the Area Office in writing of the abatement steps you have taken and of their dates, together with adequate supporting documentation, e.g., drawings or photographs of corrected conditions, purchase/work orders related to abatement actions, air sampling results, etc. Attached is a fill-in-the-blank form letter for your use to assist you in meeting this requirement.

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 U.S. Department of Labor Area Office at the address shown above.

Employer Rights and Responsibilities - The enclosed booklet (OSHA 3000) outlines additional employer rights and responsibilities and should be read in conjunction with this notification.

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 U.S. Department of Labor Area Office at the address shown above and postmarked within 15 working days (excluding weekends and Federal holidays) of the receipt by the employer of this Citation and Notification of Penalty.

Abatement Methods - The employer is not limited to abatement methods suggested by OSHA; i.e. methods explained are general and may not be effective in all cases. Other methods of abatement may be equally or more appropriate. Ultimate responsibility for determining the most appropriate abatement method rests with the employer, given its superior knowledge of the specific conditions at its worksite.

Inspection Activity Data - You should be aware that OSHA publishes information on its inspection and citation activity on the Internet under the provisions of the Electronic Freedom of Information Act. The information related to your inspection will be available 7 calendar days after the Citation Issuance Date. You are encouraged to review the information concerning your establishment at WWW.OSHA.GOV. If you have any dispute with the accuracy of the information displayed, please contact this office.

U.S. Department of Labor
Occupational Safety and Health Administration



NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with OSHA to discuss the citation(s) issued on 03/29/2007. The conference will be held at the OSHA office located at Suite 201, 9100 Bluebonnet Centre, Baton Rouge, LA, 70809-2985 on _____ at _____.

Employees and/or representatives of employees have a right to attend an informal conference.

U.S. Department of Labor
Occupational Safety and Health Administration

Inspection Number: 310249578
Inspection Dates: 03/06/2007 -
Issuance Date: 03/29/2007



Citation and Notification of Penalty

Company Name: Athena Construction, LLC
Inspection Site: 1105 Levee Rd., Morgan City, LA 70380

Citation 1 Item 1 Type of Violation: Serious

Section 5(a)(1) of the Occupational Safety and Health Act of 1970: The employer did not furnish to each of his employees a place of employment which was free from recognized hazards that were causing or likely to cause death or serious physical harm to employees in that employees were exposed to the hazard of fire and explosion related to the release of a spud that was not pinned on a spud barge while spud barge was being moved.

Among other methods, one feasible and acceptable method to correct this hazard is to ensure before the spud barge is moved that the spud winch peddle brakes are set and that any dogs for the winch are engaged in to brake position and that the spud is pinned in the up position.

DISCLAIMERS:

1. You are not limited to the abatement methods suggested above.
2. The methods explained are general and may not be effective in all cases.
3. The employer is responsible for selecting and carrying out an appropriate method.

Date By Which Violation Must be Abated:	04/04/2007
Proposed Penalty:	\$ 4200.00


GREG HONAKER
Area Director

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.