

State of California  
Division of Occupational Safety and Health  
Cal/OSHA Field Office  
381 Hemsted Drive  
Redding, CA 96002  
Phone: (530) 224-4743 Fax: (530) 224-4747

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## Citation and Notification of Penalty

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To:  
Gateway Pacific Contractors Inc  
and its successors  
8055 Freeport Blvd.  
Sacramento, CA 95832

Inspection Number: 120200902  
Inspection Date(s): 11/07/2009 04/29/2010  
Issuance Date: 04/29/2010  
CSHO ID: E6402  
Optional Report #: 040-10  
Reporting ID: 0950621

Inspection Site:  
Outfall Replacement Project (River Rd)  
Chico, CA 95827

*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*

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*This Citation and Notification of Penalty* (hereinafter Citation) is being issued in accordance with California Labor Code Section 6317 for violations that were found during the inspection/investigation. *This Citation or a copy must be prominently posted upon receipt by the employer at or near the location of each violation until the violative condition is corrected or for three working days, whichever is longer.* Violations of Title 8 of the California Code of Regulations or of the California Labor Code may result in some instances in prosecution for a misdemeanor.

**YOU HAVE A RIGHT** to contest this Citation and Notification of Penalty by filing an appeal with the Occupational Safety and Health Appeals Board. To initiate your appeal, you **must** contact the Appeals Board, in writing or by telephone, within 15 working days from the date of receipt of this Citation. If you miss the 15 working day deadline to appeal, the Citation and Notification of Penalty becomes a final order of the Appeals Board, not subject to review by any court or agency.

*Informal Conference* - You may request an informal conference with the Manager of the District Office which issued the Citation within 10 working days after receipt of the Citation. However, if the citation is appealed, you may request an informal conference at any time prior to the day of the hearing. Employers are encouraged to schedule a conference at the earliest possible time to assure an expeditious resolution of any issues. At the informal conference, you may discuss the existence of the alleged violation, classification of the violation, abatement date or proposed penalty.

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 agreement which resolves this matter without litigation or contest.

## *APPEAL RIGHTS*

The Occupational Safety and Health Appeals Board (Appeals Board) consists of three members appointed by the Governor. The Appeals Board is a separate entity from the Division of Occupational Safety and Health (Division) and employs experienced attorneys as administrative law judges to hear appeals fairly and impartially. To initiate an appeal from a Citation and Notification of Penalty, you must contact the Appeals Board, in writing or by telephone, within 15 working days from the date of receipt of a Citation. After you have initiated your appeal, you must then file a completed appeal form with the Appeals Board, at the address listed below, for each contested citation. Failure to file a completed appeal form with the Appeals Board may result in dismissal of the appeal. Appeal forms are available from district offices of the Division, or from the Appeals Board:

Occupational Safety and Health Appeals Board  
2520 Venture Oaks Way, Suite 300  
Sacramento, CA 95833  
Telephone: (916) 274-5751  
Fax: (916) 274-5785

If the Citation you are appealing alleges more than one item, you must specify on the appeal form which items you are appealing. You must also attach to the appeal form a legible copy of the Citation you are appealing.

Among the specific grounds for an appeal are the following: the safety order was not violated, the classification of the alleged violation (e.g., serious, repeat, willful) is incorrect, the abatement requirements are unreasonable or the proposed penalty is unreasonable.

***Important:*** You must notify the Appeals Board, not the Division, of your intent to appeal within 15 working days from the date of receipt of the Citation. Otherwise, the Citation and Notification of Penalty becomes a final order of the Appeals Board not subject to review by any court or agency. An informal conference with the Division does not constitute an appeal and does not stay the 15 working day appeal period. If you have any questions concerning your appeal rights, call the Appeals Board, (916) 274-5751.

## *PENALTY PAYMENT OPTIONS*

Penalties are due within 15 working days of receipt of this Citation and Notification of Penalty unless contested. If you are appealing any item of the citation, remittance is still due on all items that are not appealed. Enclosed for your use is a Penalty Remittance Form for payment.

If you are paying by credit card (MasterCard and Visa), please have the Penalty Remittance Form on-hand when you are ready to make your payment. The company name, index code, reporting ID, and Citation number(s) will be required in order to ensure that the payment is accurately posted to your account. Please go to [www.dir.ca.gov/dosh](http://www.dir.ca.gov/dosh) to access the secure payment processing site.

If you are paying by check, return one copy of the Citation, along with the Notice of Proposed Penalties Sheet and the Penalty Remittance Form and mail to:

Department of Industrial Relations  
Cashier, Accounting Office  
P. O. Box 420603  
San Francisco, CA 94142-0603

CAL/OSHA does not agree to any restrictions, 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 Division of Occupational Safety and Health promptly by letter that you have taken appropriate corrective action within the time frame set forth on this Citation and Notification of Penalty. Please inform the District Office listed on the Citation by submitting the CAL/OSHA Form 160 and/or 161 with the abatement steps you have taken and the date the violation was abated, together with adequate supporting documentation, e.g., drawings or photographs of corrected conditions, purchase/work orders related to abatement actions, air sampling results, etc. The adjusted penalty for serious and general violations *has already been* reduced by 50% on the presumption that the employer will correct the violations by the abatement date." *If the CAL/OSHA Form 161 is not received in the District Office within 10 days following the abatement date, the abatement credit is revoked, causing the penalty to double.*

*Note. Return the CAL/OSHA Form 160/161 to the Field Office listed on the Citation and as shown below:*

Division of Occupational Safety and Health  
381 Hemsted Drive  
Redding, CA 96002  
Telephone: (530) 224-4743

## EMPLOYEE RIGHTS

***Employer Discrimination Unlawful*** - The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under Labor Code Section 6310 or 6311. An employee who believes that he/she has been discriminated against may file a complaint no later than six (6) months after the discrimination occurred with the Division of Labor Standards Enforcement.

***Employee Appeals*** - An employee or authorized employee's representative may, within 15 working days of the issuance of a citation, special order, or order to take special action, appeal to the Occupational Safety and Health Appeals Board the reasonableness of the period of time fixed by the Division of Occupational Safety and Health (Division) for abatement. An employee appeal may be filed with the Appeals Board or with the Division. No particular format is necessary to initiate the appeal, but the notice of appeal must be in writing.

If an Employee Appeal is filed with the Division, the Division shall note on the face of the document the date of receipt, include any envelope or other proof of the date of mailing, and promptly transmit the document to the Appeals Board. The Division shall, no later than 10 working days from receipt of the Employee Appeal, file with the Appeals Board and serve on each party a clear and concise statement of the reasons why the abatement period prescribed by it is reasonable.

Employee Appeal Forms are available from the Appeals Board, or from a District Office of the Division.

***Employees Participation in Informal Conference.*** Affected employees or their representatives may notify the District Manager that they wish to attend the informal conference. If the employer objects, a separate informal conference will be held.

## DISABILITY ACCOMMODATION

Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the programs of the Division of Occupational Safety and Health, should contact the Disability Accommodation Coordinator at the local district office or the Statewide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The Statewide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing or conference.

*State of California*

Division of Occupational Safety and Health

RID 0950621 Index 4023

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*Inspection Number:* 120200902

*Inspection Dates:* 11/07/2009 - 04/29/2010

*Issuance Date:* 04/29/2010

*CSHO ID:* E6402

*Optional Inspection Nbr:* 040-10

*Citation and Notification of Penalty*

*Company Name:* Gateway Pacific Contractors Inc

*Inspection Site:* Outfall Replacement Project (River Rd), Chico, CA 95827

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Citation 1 Item 1 Type of Violation: **Regulatory**

T8CCR 341.4 Posting of Permit.

Any employer issued a permit pursuant to this Article shall post a copy or copies of the permit at or near each place of employment. If such posting is impracticable at the site of an excavation, the permit shall be made available at such site at all times, or, in the case of a mobile unit, the permit shall be made available at all times at the employer's head office in the district.

On 11/09/09, at a construction site, the employer did not post a copy of the permit at the job trailer, located at 4827 Chico River Rd, Chico, CA. The posting was not impractical at the job trailer, and this was not a mobile crew.

Date By Which Violation Must be Abated:	05/09/2010
Proposed Penalty:	\$ 1250.00

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

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Citation 1 Item 2 Type of Violation: **Regulatory**

T8CCR 341.1(h)(2)B Issuance of Annual Permits.

Annual Permits shall be issued subject to all of the following conditions:

The permit holder shall notify the Division district office that has jurisdiction over the site of the project at least 24 hours prior to the activity which is the subject of the notification. Notification shall be given by mail, personal delivery, fax transmission or electronic mail, and shall provide the location of the project and the date and time the work activity is to commence.

On 11/09/09, at the Outfall Replacement Project(River Road), Chico, CA, on a construction site, the employer did not notify the Division district office that has jurisdiction over the site of the project at least 24 hours prior to the activity which is the subject of the notification.

The company was performing excavation operations, at a depth of 18 feet, after 10/29/09 which required notification. Notification expired on 10/29/09, and the company did not re-notify the Division until 11/11/09 of the location of the project and the date and time work activity was to commence.

Date By Which Violation Must be Abated: 05/09/2010  
Proposed Penalty: \$ 1250.00

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Citation 1 Item 3 Type of Violation: **General**

T8CCR 1541(b)(1)D General Requirements.

Employees who are involved in the excavation operation and exposed to excavation operation hazards shall be trained in the excavator notification and excavation practices required by this section and Government Code Sections 4216 through 4216.9.

On 11/06/09, at the Outfall Replacement Project(River Road), Chico, CA, on a construction site, the employee who was involved in the excavation operation and exposed to excavation operations hazards was not trained in the excavator notification or excavation practices required by this section and Government Code Sections 4216 through 4216.9. No Underground Services Alert (USA) number was given prior to the excavation.

Date By Which Violation Must be Abated: 05/09/2010  
Proposed Penalty: \$ 1125.00

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Citation 1 Item 4 Type of Violation: **General**

T8CCR 1541(c) (2) Means of egress from trench excavations.

A stairway, ladder, ramp or other safe means of egress shall be located in trench excavations that are 4 feet or more in depth so as to require no more than 25 feet of lateral travel for employees.

On 11/09/09, at the Outfall Replacement Project (River Road), Chico, CA, on a construction site, the Division observed 2 employees in a trench excavation at a depth of 18 feet with no egress at 25 feet of lateral travel for the employees.

Date By Which Violation Must be Abated:	05/09/2010
Proposed Penalty:	\$ 1125.00

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*Citation and Notification of Penalty*

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Citation 2 Item 1 Type of Violation: **Serious**

T8CCR 1541(e) Exposure to falling loads.

No employee shall be permitted underneath loads handled by lifting or digging equipment. Employees shall be required to stand away from any vehicle being loaded or unloaded to avoid being struck by any spillage or falling materials. Operators may remain in the cabs of vehicles being loaded or unloaded when the vehicles are equipped, in accordance with Section 1591(e), to provide adequate protection for the operator during loading and unloading operations.

On 11/09/09, at the Outfall Replacement Project(River Road), Chico, CA, on a construction site, the Division observed an employee that was permitted to stand underneath a load handled by a Volvo excavator (digging equipment). The employee did not stand away from the excavator bucket while being unloaded to avoid being struck by any spillage or falling material.

Date By Which Violation Must be Abated: 05/09/2010  
Proposed Penalty: \$ 9000.00

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*Citation and Notification of Penalty*

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Citation 3 Item 1 Type of Violation: **Serious**

T8CCR 1541(j)(1) Protection of employees from loose rock or soil.

Adequate protection shall be provided to protect employees from loose rock or soil that could pose a hazard by falling or rolling from an excavation face. Such protection shall consist of scaling to remove loose material; installation of protective barricades at intervals as necessary on the face to stop and contain falling material; or other means that provide equivalent protection.

On 11/09/09, at the Outfall Replacement Project (River Road), Chico, CA, on a construction site, the Division observed 2 employees that were not provided adequate protection to protect the employees from loose rock or soil that posed a hazard by falling or rolling from the excavation face. Such protection did not consist of scaling to remove loose material; installation of protective barricades at intervals as necessary on the face to stop and contain falling material; or other means that provide equivalent protection. Depth of excavation 18 feet.

Date By Which Violation Must be Abated: 05/09/2010  
Proposed Penalty: \$ 9000.00

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*Citation and Notification of Penalty*

*Company Name:* Gateway Pacific Contractors Inc  
*Inspection Site:* Outfall Replacement Project (River Rd), Chico, CA 95827

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Citation 4 Item 1 Type of Violation:  **Serious**

T8CCR 1541(h)(1) Protection from hazards associated with water accumulation.

Employees shall not work in excavations in which there is accumulated water, or in excavations in which water is accumulating, unless adequate precautions have been taken to protect employees against the hazards posed by water accumulation. The precautions necessary to protect employees adequately vary with each situation, but could include special support or shield systems to protect from cave-ins, water removal to control the level of accumulating water, or use of a safety harness and lifeline.

This Company violated this standard in the following 2 instances:

On 11/06/09, at the Outfall Replacement Project (River Road), Chico, CA, on a construction site, an employee was allowed to work in an excavation at a depth of 18 feet, where water was accumulating without the proper precautions necessary to protect the employee from cave-ins, to include a special support or trench shield or use of a safety harness and lifeline. The trench collapsed burying the employee causing a serious injury.

On 11/09/09, at the Outfall Replacement Project (River Road), Chico, CA, on a construction site, the Division observed 2 employees that were allowed to work in an excavation at a depth of 18 feet, where water was accumulating without the proper precautions necessary to protect the employees from cave-ins, to include a special support or trench shield or use of a safety harness and lifeline.

Date By Which Violation Must be Abated: 05/09/2010  
Proposed Penalty: \$ 9000.00

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*Citation and Notification of Penalty*

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*Inspection Site:* Outfall Replacement Project (River Rd), Chico, CA 95827

Citation 5 Item 1 Type of Violation: **Serious**

T8CCR 1541.1(g)(2) Requirements for Protective Systems. Shield systems.

Additional requirements for shield systems used in trench excavations. The sides of the shield shall extend a minimum of 18 inches above the vertical walls of compound excavations as shown in Appendix B, figures B-1, B-1.2 and B-1.3. On vertically cut trenches, the shield shall extend to at least the catch point of the trench. Excavations of earth material to a level not greater than 2 feet below the bottom of a shield shall be permitted, but only if the shield is designed to resist the forces calculated for the full depth of the trench, and there are no indications while the trench is open of a possible loss of soil from behind or below the bottom of the shield.

On 11/06/09, at the Outfall Replacement Project (River Road), Chico, CA, on a construction site, the sides of the shield did not extend a minimum of 18 inches above the vertical walls of the excavation as shown in Appendix B, figures B-1, B-1.2, and B-1.3. On vertical cut trenches, the shield did not extend to at least the catch point of the trench. Depth of the trench was 18 feet.

Date By Which Violation Must be Abated:	05/09/2010
Proposed Penalty:	\$ 9000.00

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

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Citation 6 Item 1 Type of Violation: **Serious**

T8CCR 1541.1(a)(1) Requirements for Protective Systems.

Protection of employees in excavations.

Each employee in an excavation shall be protected from cave-ins by an adequate protective system designed in accordance with Section 1541.1(b) or (c).

On 11/06/09, at the Outfall Replacement Project (River Road), Chico, CA, on a construction site, an employee was allowed to work in an excavation at a depth of 18 feet, where water was accumulating without the proper precautions necessary to protect the employee from cave-ins, to include a special support or trench shield or use of a safety harness and lifeline. The trench collapsed burying the employee causing a serious injury. This is an accident Related citation.

Date By Which Violation Must be Abated: 05/09/2010  
Proposed Penalty: \$ 18000.00

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*Citation and Notification of Penalty*

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*Inspection Site:* Outfall Replacement Project (River Rd), Chico, CA 95827

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Citation 7 Item 1 Type of Violation: **Serious Willful**

T8CCR 1541.1(a)(1) Requirements for Protective Systems.

Protection of employees in excavations.

Each employee in an excavation shall be protected from cave-ins by an adequate protective system designed in accordance with Section 1541.1(b) or (c).

On 11/09/09, at the Outfall Replacement Project (River Road), Chico, CA, on a construction site, the Division observed two (2) employees working in same excavation at a depth of 18 feet that were not protected from cave-ins by an adequate protective system designed in accordance with Section 1541.1(b) or (c). This is a serious willful citation.

Date By Which Violation Must be Abated:	05/09/2010
Proposed Penalty:	\$ 70000.00

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William Estakhri  
Compliance Officer/District Manager

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