

OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
(916) 274-5751
FAX (916) 274-5785

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OSH Appeals Board

APPEAL FORM

2012-R 2 D / -0739

314570177

Inspection Number on Citation

International Dioxide Inc.

Employer Name on Citation

Employer Legal Name or DBA (Optional)

40 Whitecap Drive

Address

North Kingstown, Rhode Island

02852

FIRST READ IMPORTANT INFORMATION ON THE REVERSE SIDE
THEN COMPLETE ONE APPEAL FORM FOR EACH CITATION

1. You only have 15 working days from receipt of a citation to appeal.

2. A copy of this form must be attached to each citation or notification appealed. Failure to file a completed form may result in dismissal of the appeal.

1. This is an Appeal from:

CITATION NO(s): 1 Item No(s): 1

NOTIFICATION OF FAILURE TO ABATE ALLEGED VIOLATION
CITATION NO(s): Item No(s):

SPECIAL ORDER/SPECIAL ACTION NO: Item No(s):

2. Specific ground(s) for this appeal are: (Check all that apply)

The safety order was not violated.

The classification (i.e. serious, willful, repeat) is incorrect.

The abatement requirements are unreasonable.

Required changes Time allowed to complete changes

The proposed penalty is unreasonable.

3. Explain any other reasons for appeal or issues to be raised on appeal. Affirmative defenses must be specifically stated.

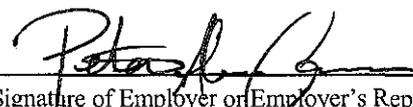
Some important affirmative defenses are listed on the OSHAB website at: <http://www.dir.ca.gov/OSHAB/oshab.html>

IDI is not a creating employer at the site or with respect to the incident. The incident was caused by the

intervening acts of the actual employer. Affirmative Defenses: Absence of employer knowledge;

Independent and/or unforeseeable act of "co-employer" at "multi-employer" worksite.

4.


(Signature of Employer or Employer's Representative)
{If there is any change in representation after you file your appeal, you must notify the Appeals Board in writing}

Peter A. Cownan

(Type or print name)

Attorney

(Title)

Glynn & Finley, LLP -- One Walnut Creek Center, 100 Pringle Ave., Suite 500

(Address) {Address where all communications from the Appeals Board will be sent}

Walnut Creek

California

94596

(City)

(State)

(Zip Code)

925-210-2800

PCowan@glynnfinley.com

Mar. 2, 2012

(Telephone)

(E-Mail Address)

(Date)

{All correspondence from the Appeals Board will be sent to the representative above at the address above. If there is any change in address, telephone number, and/or e-mail address after you file your appeal, you must notify the Appeals Board of the change(s). All such notifications must be in writing}

IMPORTANT INFORMATION

- A. Use this form to appeal a Citation, Notification of Failure to Abate Alleged Violation, or Special Order/Special Action.
- B. You must complete *a separate appeal form for each citation or notification* you wish to appeal and *attach a copy of the complete citation or notification that you are appealing.*
- C. If the citation or notification being appealed includes more than one item **do not use separate appeals forms for each item.** Instead, specify the items you are appealing in the space provided in No. 1 on the front of this form. (for example, "Citation No. 1, Item Nos. 2, 5, and 8)
- D. **Be sure to sign your appeal form and provide all the information requested in No. 4 above.**
- E. Your appeal form shall be deemed not completed unless you attach a copy of each citation or notification that you are appealing, and failure to file a completed appeal form may result in dismissal of the appeal.
- F. If you or your representative change address, telephone number, and/or e-mail address, it is your responsibility to notify the Appeals Board in writing of the change(s). Otherwise the Appeals Board will continue to use the address it has on file and you risk not receiving notices or other communications from the Appeals Board. Appeals Board regulations make it the employer's obligation to notify the Appeals Board of any changes to the employer's and/or representative's contact information.
- G. Mail each completed Appeal form and citation or notification to the Occupational Safety and Health Appeals Board, 2520 Venture Oaks Way, Suite 300, Sacramento, CA 95833.
- H. Late appeals will not be accepted unless good cause is shown.

State of California

Division of Occupational Safety and Health
RID 0950621 Index 4021
2424 Arden Way, Suite 165
Sacramento, CA 95825

Inspection Number: 314570177
Inspection Dates: 08/24/2011 - 02/14/2012
Issuance Date: 02/14/2012
CSHO ID: T5112
Optional Inspection Nbr: 18-12



Phone: (916) 263-2800 Fax: (916) 263-2798

Citation and Notification of Penalty

Company Name: International Dioxide Inc
Inspection Site: 1376 Lemen Ave, Woodland, CA 95776

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OSH Appeals Board

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

T8 CCR 3328(g): Machinery and Equipment. (g) Machinery and equipment in service shall be maintained in a safe operating condition.

Violation: International Dioxide Inc, the creating employer at the Pacific Coast Producers multi-employer worksite at 1376 Lemen Ave, Woodland, failed to maintain the Unpeeled Flume System at the processing plant in a safe operating condition on August 14, 2011.

The employer's field service technician "fixed the contactor" on the unpeeled system's flume on August 14, 2011. After a chlorine dioxide release inside the plant on August 21, 2011, from the Unpeeled Flume System resulted in overexposures to 47 employees who were sent to hospitals for treatment, an investigation found that the pump safety switch contactor had been bypassed (jumped). The switch was properly wired and the hazard abated and verified on August 24, 2011.

This is a Serious, Accident Related Citation.

Date By Which Violation Must be Abated:

Abated

Proposed Penalty:

\$ 18000.00

Compliance Officer/District Manager

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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OSH Appeals Board

State of California
Division of Occupational Safety and Health
Cal/OSHA District Office
2424 Arden Way, Suite 165
Sacramento, CA 95825
Phone: (916) 263-2800 Fax (916) 263-2798

NOTICE OF PROPOSED PENALTIES

Company Name: International Dioxide Inc
Inspection Site: 1376 Lemen Ave, Woodland, CA 95776
Mailing Address: 40 Whitecap Dr, North Kingstown, RI 02852

Issuance Date: 02/14/2012

Reporting ID: 0950621
Index Code: 4021

Summary of Penalties for Inspection Number 314570177

Citation 1, Serious = \$ 18000.00
TOTAL PROPOSED PENALTIES = \$ 18000.00

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

If you are paying by credit (MasterCard and Visa): Please have this 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 to ensure that the payment is accurately posted to your account. Please go to www.dir.ca.gov/dosh to access the secure payment processing site.

If you are paying by check: Mail this Notice of Proposed Penalties, the Penalty Remittance Form, along with a copy of the Citation and Notification of Penalty 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.

State of California
Division of Occupational Safety and Health
Cal/OSHA District Office
2424 Arden Way, Suite 165
Sacramento, CA 95825
Phone: (916) 263-2800 Fax: (916) 263-2798

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Citation and Notification of Penalty Appeals Board

To:
International Dioxide Inc
and its successors
40 Whitecap Dr
North Kingstown, RI 02852

Inspection Number: 314570177
Inspection Date(s): 08/24/2011 02/14/2012
Issuance Date: 02/14/2012
CSHO ID: T5112
Optional Report #: 18-12
Reporting ID: 0950621

Inspection Site:
1376 Lemen Ave
Woodland, CA 95776

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 (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.

NOTICE OF VERIFICATION OF ABATEMENT OF SERIOUS VIOLATIONS

International Dioxide Inc
40 Whitecap Dr
North Kingstown, RI

During the course of an inspection or reinspection at a place located at:

1376 Lemen Ave
Woodland, RI 95776

The Division has verified abatement of the following Citation(s) alleging a serious violation or Special Order(s) or Order(s) to Take Special Action:

Citation or Order No.	Number of Instances	Date Division Verified Abatement
1	1	The bypassed (jumped) pump safety switch contactor at Pacific Coast Producer's multi-employer worksite at 1376 Lemen Ave, Woodland, CA, was properly wired and the hazard abated and verified on August 24, 2011.

Signature: _____



Safety Engineer/Industrial Hygienist

Date of Issuance: _____

02/14/2012

This notice is provided to the employer in accordance with the provisions of California Labor Code Section 6318(b). The employer is required to post this notice for three (3) working days at or near the location of the alleged violation.

2	1	314570177	T5112	18-12
Region	District	Inspection No.	Identification No.	Cal/OSHA Rpt. No. & Fiscal Year