

Department of Industrial Relations

**OCCUPATIONAL SAFETY
AND HEALTH APPEALS BOARD**

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



October 23, 2013

Karin Nardi, Attorney
ARNOLD & PORTER LLP
10th Floor, Three Embarcadero Center
San Francisco, CA 94111-4024

Efren Gomez, District Manager
DOSH – Bakersfield
7718 Meany Avenue
Bakersfield, CA 93308

Amy Martin, Chief Legal Counsel
DOSH- Oakland Legal Unit
1515 Clay Street, Suite 1901
Oakland, California 94612

**RE: Notice of Additional Documents Received by the Employer,
not to be included in the Appeal Packet
PAPICH CONSTRUCTION COMPANY INC
Docket Number: 2013-R4D7-3241-3244
IMIS #: 313388621**

To all Parties:

The Employer submitted completed Appeal Form(s) and copies of citations to be appealed. The Employer also submitted with the completed Appeal Form(s) either "attachments," additional documents, photos or other things. These items are not part of the "Docketed Appeal." (Title 8, Cal. Code. Regs., section 347(j).) These attachment(s), documents or other things are not being served with the Docketed Appeal. These items will be retained by the Board outside of the record until such time and they are made part of the record in accordance with the Rules of Practice and Procedure. (Title 8, Cal. Code of Regulations sections 345 – 397.)

To the Employer: If you wish to explain your position about the citation(s) to CAL OSHA, prior to a formal appeal hearing being held at the Appeals Board, please write or speak directly to the Cal OSHA office that issued the citation(s).

Sincerely,

CAL OSHA APPEALS BOARD

cc: ALJ C. Hill-Williams

DEPARTMENT OF INDUSTRIAL RELATIONS

OCCUPATIONAL SAFETY
AND HEALTH APPEALS BOARD2520 VENTURE OAKS WAY, SUITE 300
SACRAMENTO, CA 95833
(916) 274-5751
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October 23, 2013

Karin Nardi, Attorney
ARNOLD & PORTER LLP
10th Floor, Three Embarcadero Center
San Francisco, CA 94111-4024Re: PAPICH CONSTRUCTION COMPANY INC
13-R4D7-3241/3244

DOCKETED: 10/22/2013

Dear Ms. Nardi:

Enclosed are the docketed copies of each Appeal form that you filed with the Board. The above listed docket numbers should appear on all future correspondence. A copy of any correspondence with the Appeals Board must be served on the Division of Occupational Safety and Health DOSH and any other party to the proceeding.

You are obligated to notify any affected employees or their representative that an appeal is pending and that they have a right to participate in the proceeding. You are required to post a copy of the docketed Appeal form and a Participation Notice (similar to the sample enclosed) at or near the site of the violation or in a conspicuous place where it will be readily observable by employees. In addition to posting, a copy of the Appeal form and the Participation Notice must be served on the following: 1) any authorized employee representative; and 2) any employee (or their representative) who was seriously injured or killed in an accident related to this appeal. Proof, such as a brief letter, that the forms were posted must be sent to the DOSH District Manager whose address appears on the citation.

Please direct any request for information dealing with the **filing** of your appeal to the above address and/or telephone number. All other communications prior to the hearing will be handled by the assigned Administrative Law Judge (ALJ) **Clara L. Hill-Williams** (626) 332-1145.

Any written motion, such as a request for subpoena, consolidation of cases, or request for party or intervenor status must be made by written motion to the ALJ named above at **2520 Venture Oaks Way, Suite 300, Sacramento, CA 95833**.

Sincerely,


Office Techniciancc: Accounting
DOSH District Manager-Bakersfield
DOSH Legal Unit-Oakland
DOSH Legal Unit-Los Angeles
IMIS# 313388621

9/17/13

OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

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RECEIVED
SEP 25 2013

APPEAL FORM OSH Appeals Board

2013-R4D7 - 3241

313388621

Inspection Number on Citation

(Leave blank-Appeals Board will fill in.)

PAPICH CONSTRUCTION COMPANY INC

Employer Name on Citation

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

Employer Legal Name or DBA (Optional)

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.

800 FARROLL AVE

Address

GROVER BEACH, CA 93433

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

1. This is an Appeal from:

CITATION NO(s): 1 Item No(s): 1,2,3

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>

Papich Construction Company Inc. reserves the right to submit additional documentation and information

in support of its appeal.

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}

Karin Nardi

(Type or print name)

Arnold & Porter LLP

(Title)

10th Floor , Three Embarcadero Center

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

San Francisco

CA.

94111-4024

(City)

(State)

(Zip Code)

1-415-471-3301

karen.nardi@aporter.com

09/18/2013

(Telephone)

(E-Mail Address)

(Date)

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- 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
Bakersfield District Office (0950647; 4029)
7718 Meany Avenue
Bakersfield, CA 93308-5110

Inspection Number: 313388621
Inspection Dates: 03/06/2013 - 09/04/2013
Issuance Date: 09/04/2013
CSHO ID: C5017
Optional Inspection Nbr: 033-13



RECEIVED
SEP 25 2013

Citation and Notification of Penalty

Company Name: PAPICH CONSTRUCTION COMPANY INC
Inspection Site: 13505 CARISSA HWY 58, SANTA MARGARITA, CA 93453

OSH Appeals Board

Citation 1 Item 1 Type of Violation: General

T8CCR Section 1509(a). Injury and Illness Prevention Program.

(a) Every employer shall establish, implement and maintain an effective Injury and Illness Prevention Program in accordance with section 3203 of the General Industry Safety Orders.

Ref: T8CCR Section 3203(a). Injury and Illness Prevention Program.

(a) Effective July 1, 1991, every employer shall establish, implement and maintain an effective Injury and Illness Prevention Program (Program). The Program shall be in writing and, shall, at a minimum:

- (1) Identify the person or persons with authority and responsibility for implementing the Program.
- (2) Include a system for ensuring that employees comply with safe and healthy work practices. Substantial compliance with this provision includes recognition of employees who follow safe and healthful work practices, training and retraining programs, disciplinary actions, or any other such means that ensures employee compliance with safe and healthful work practices.
- (3) Include a system for communicating with employees in a form readily understandable by all affected employees on matters relating to occupational safety and health, including provisions designed to encourage employees to inform the employer of hazards at the worksite without fear of reprisal. Substantial compliance with this provision includes meetings, training programs, posting, written communications, a system of anonymous notification by employees about hazards, labor/management safety and health committees, or any other means that ensures communication with employees.

EXCEPTION: Employers having fewer than 10 employees shall be permitted to communicate to and instruct employees orally in general safe work practices with specific instructions with respect to hazards unique to the employees' job assignments as compliance with subsection (a)(3).

- (4) Include procedures for identifying and evaluating work place hazards including scheduled periodic inspections to identify unsafe conditions and work practices. Inspections shall be made to identify and evaluate hazards.

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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SEP 25 2013

OSH Appeals Board

Citation and Notification of Penalty

Company Name: PAPICH CONSTRUCTION COMPANY INC
Inspection Site: 13505 CARISSA HWY 58, SANTA MARGARITA, CA 93453

(A) When the Program is first established;

EXCEPTION: Those employers having in place on July 1, 1991, a written Injury and Illness Prevention Program complying with previously existing section 3203.

(B) Whenever new substances, processes, procedures, or equipment are introduced to the workplace that represent a new occupational safety and health hazard; and

(C) Whenever the employer is made aware of a new or previously unrecognized hazard.

(5) Include a procedure to investigate occupational injury or occupational illness.

(6) Include methods and/or procedures for correcting unsafe or unhealthy conditions, work practices and work procedures in a timely manner based on the severity of the hazard:

(A) When observed or discovered; and,

(B) When an imminent hazard exists which cannot be immediately abated without endangering employee(s) and/or property, remove all exposed personnel from the area except those necessary to correct the existing condition. Employees necessary to correct the hazardous condition shall be provided the necessary safeguards.

(7) Provide training and instruction:

(A) When the program is first established;

EXCEPTION: Employers having in place on July 1, 1991, a written Injury and Illness Prevention Program complying with the previously existing Accident Prevention Program in Section 3203.

(B) To all new employees;

(C) To all employees given new job assignments for which training has not previously been received;

(D) Whenever new substances, processes, procedures or equipment are introduced to the workplace and represent a new hazard;

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Issuance Date: 09/04/2013
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SEP 25 2013

Citation and Notification of Penalty

Company Name: PAPICH CONSTRUCTION COMPANY INC
Inspection Site: 13505 CARISSA HWY 58, SANTA MARGARITA, CA 93453

OSH Appeals Board

(E) Whenever the employer is made aware of a new or previously unrecognized hazard; and,

(F) For supervisors to familiarize themselves with the safety and health hazards to which employees under their immediate direction and control may be exposed.

During and/or prior to the time of the inspection, the employer did not implement and/or maintain the following procedures as described in their IIPP:

- a. The employer did not effectively identify and evaluate work place hazards of employees disturbing soil contaminated with coccidioides fungal spores during their work activities and did not identify and evaluate unsafe and unhealthy conditions and work practices which could result in employees contracting Valley Fever from breathing coccidioides fungal spores present in the soil which could become airborne as a result of the employees work activities. (Ref: T8CCR Section 3203(a)(4))
- b. The employer did not follow their procedure to investigate occupational injury as described in their IIPP. According to the employer's IIPP "All injuries and illnesses must be investigated and documented on the Company's injury reporting forms." The employer did not investigate known cases of Valley Fever after the illnesses were reported. (Ref: T8CCR Section 3203(a)(5))
- c. The employer did not effectively correct unsafe or unhealthy conditions, work practices or procedures involving employees disturbing soil contaminated with coccidioides fungal spores during their work activities which could result in employees contracting Valley Fever from breathing coccidioides fungal spores present in the soil which could become airborne as a result of the employees work activities. (Ref: T8CCR Section 3203(a)(6))

Date By Which Violation Must be Abated: 10/07/2013
Proposed Penalty: \$ 185.00

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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Issuance Date: 09/04/2013
CSEHO ID: C5017
Optional Inspection Nbr: 033-13



RECEIVED

SEP 25 2013

OSH Appeals Board

Citation and Notification of Penalty

Company Name: PAPICH CONSTRUCTION COMPANY INC
Inspection Site: 13505 CARISSA HWY 58, SANTA MARGARITA, CA 93453

Citation 1 Item 2 Type of Violation: General

T8CCR Section 3395(f)(3). Heat Illness Prevention.

(f) Training.

(3) The employer's procedures for complying with each requirement of this standard required by subsections (f)(1)(B), (G), (H), and (I) shall be in writing and shall be made available to employees and to representatives of the Division upon request.

Reference: T8CCR Section 3395(f)(1)(B), (G), (H), and (I):
(f) Training.

(I) Employee training. Effective training in the following topics shall be provided to each supervisory and non-supervisory employee before the employee begins work that should reasonably be anticipated to result in exposure to the risk of heat illness:

(B) The employer's procedures for complying with the requirements of this standard.

(G) The employer's procedures for responding to symptoms of possible heat illness, including how emergency medical services will be provided should they become necessary.

(H) The employer's procedures for contacting emergency medical services, and if necessary, for transporting employees to a point where they can be reached by an emergency medical service provider.

(I) The employer's procedures for ensuring that, in the event of an emergency, clear and precise directions to the work site can and will be provided as needed to emergency responders. These procedures shall include designating a person to be available to ensure that emergency procedures are invoked when appropriate.

During and/or prior to the time of the inspection, the employer's written heat illness prevention procedures for employees conducting outdoor work activities did not include procedures for the following:

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SEP 25 2013

Citation and Notification of Penalty

Company Name: PAPICH CONSTRUCTION COMPANY INC
Inspection Site: 13505 CARISSA HWY 58, SANTA MARGARITA, CA 93453

OSH Appeals Board

- a. The employer's procedures for complying with the requirements of this standard. (Ref: T8CCR Section 3395(f)(1)(B))
- b. The employer's procedures for responding to symptoms of possible heat illness, including how emergency medical services will be provided should they become necessary. (Ref: T8CCR Section 3395(f)(1)(G))
- c. The employer's procedures for contacting emergency medical services, and if necessary, for transporting employees to a point where they can be reached by an emergency medical service provider. (Ref: T8CCR Section 3395(f)(1)(H))
- d. The employer's procedures for ensuring that, in the event of an emergency, clear and precise directions to the work site can and will be provided as needed to emergency responders. These procedures shall include designating a person to be available to ensure that emergency procedures are invoked when appropriate. (Ref: T8CCR Section 3395(f)(1)(I))

Date By Which Violation Must be Abated:
Proposed Penalty:

10/07/2013
\$ 185.00

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

State of California
Division of Occupational Safety and Health
Bakersfield District Office (0950647; 4029)
7718 Meany Avenue
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CSHO ID: C5017
Optional Inspection Nbr: 033-13



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SEP 25 2013

Citation and Notification of Penalty

Company Name: PAPICH CONSTRUCTION COMPANY INC
Inspection Site: 13505 CARISSA HWY 58, SANTA MARGARITA, CA 93453

OSH Appeals Board

Citation 1 Item 3 Type of Violation: General

T8CCR Section 5144(e)(1). Respiratory Protection.

(e) Medical evaluation. Using a respirator may place a physiological burden on employees that varies with the type of respirator worn, the job and workplace conditions in which the respirator is used, and the medical status of the employee. Accordingly, this subsection specifies the minimum requirements for medical evaluation that employers must implement to determine the employee's ability to use a respirator.

(1) General. The employer shall provide a medical evaluation to determine the employee's ability to use a respirator, before the employee is fit tested or required to use the respirator in the workplace. The employer may discontinue an employee's medical evaluations when the employee is no longer required to use a respirator.

During and/or prior to the time of inspection, the employer did not provide medical evaluations to determine at least three employees' ability to use a respirator before employees were fit tested or required to use a respirator in the workplace. The employees wore a half face respirator with air purifying filters.

Date By Which Violation Must be Abated:
Proposed Penalty:

10/07/2013
\$ 420.00

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

OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

2520 Venture Oaks Way, Suite 300
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SEP 2 5 2013

APPEAL FORM OSH Appeals Board

2013-R4D7 - 3242

313388621

Inspection Number on Citation

(Leave blank- Appeals Board will fill in.)

PAPICH CONSTRUCTION COMPANY INC

Employer Name on Citation

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

Employer Legal Name or DBA (Optional)

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.

800 FARROLL AVE

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

1. This is an Appeal from:

CITATION NO(s): 2 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>

Papich Construction Company Inc. reserves the right to submit additional documentation and information

in support of its appeal.

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}

KARIN NARDI

(Type or print name)

ARNOLD & PORTER LLP

(Title)

10th FLOOR, THREE EMBARCADERO CENTER

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

SAN FRANCISCO

CA.

94111-4024

(City)

(State)

(Zip Code)

1-415-471-3301

karen.nardi@aporter.com

09/18/2013

(Telephone)

(E-Mail Address)

(Date)

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Inspection Number: 313388621
Inspection Dates: 03/06/2013 - 09/04/2013
Issuance Date: 09/04/2013
CSHO ID: C5017
Optional Inspection Nbr: 053-13



RECEIVED

SEP 25 2013

OSH Appeals Board

Citation and Notification of Penalty

Company Name: PAPICH CONSTRUCTION COMPANY INC
Inspection Site: 13505 CARISSA HWY 58, SANTA MARGARITA, CA 93453

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

T8CCR Section 342(a). Reporting Work-Connected Fatalities and Serious Injuries.

(a) Every employer shall report immediately by telephone or telegraph to the nearest District Office of the Division of Occupational Safety and Health any serious injury or illness, or death, of an employee occurring in a place of employment or in connection with any employment.

Immediately means as soon as practically possible but not longer than 8 hours after the employer knows or with diligent inquiry would have known of the death or serious injury or illness. If the employer can demonstrate that exigent circumstances exist, the time frame for the report may be made no longer than 24 hours after the incident.

Serious injury or illness is defined in section 330(h), Title 8, California Administrative Code.

The employer did not report by telephone or telegraph to the nearest District Office of the Division of Occupational Safety and Health serious illnesses of employees occurring in a place of employment or in connection with employment.

a. On or about February 2012, an employee was treated and hospitalized for more than 2 days, for Valley Fever contracted in connection with working at the California Valley Solar Ranch site located in Santa Margarita, California. The employer was aware of the employee's serious illness (Valley Fever) involving hospitalization for more than 24 hours.

b. On or about October 2011, an employee was treated and hospitalized for more than 2 days, for Valley Fever contracted in connection with working at the California Valley Solar Ranch site located in Santa Margarita, California. The employer was aware of the employee's serious illness (Valley Fever) involving hospitalization for more than 24 hours.

The employer never reported the serious illnesses. The employer had knowledge of the regulation requirements to report serious injuries to Cal/OSHA.

Date By Which Violation Must be Abated: 10/07/2013
Proposed Penalty: \$ 25000.00

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OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

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SEP 2 5 2013

APPEAL FORM OSH Appeals Board

2013-R4D7 -3243

313388621

Inspection Number on Citation

PAPICH CONSTRUCTION COMPANY INC

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Employer Legal Name or DBA (Optional)

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karen.nardi@aporter.com

09/18/2013

(Telephone)

(E-Mail Address)

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- 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
Bakersfield District Office (0950647; 4029)
7718 Meany Avenue
Bakersfield, CA 93308-5110

Inspection Number: 313388621
Inspection Dates: 03/06/2013 - 09/04/2013
Issuance Date: 09/04/2013
CSHO ID: C5017
Optional Inspection Nbr: 033-13



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SEP 25 2013

OSH Appeals Board

Citation and Notification of Penalty

Company Name: PAPICH CONSTRUCTION COMPANY INC
Inspection Site: 13505 CARISSA HWY 58, SANTA MARGARITA, CA 93453

Citation 3 Item 1 Type of Violation: **Willful Regulatory**

T8CCR Section 14300.29(b)(3). Forms.

(b) Implementation.

(3) How quickly must each injury or illness be recorded?

You must enter each recordable injury or illness on the Cal/OSHA Form 300 and Cal/OSHA Form 301 Incident Report within seven (7) calendar days of receiving information that a recordable injury or illness has occurred.

The employer has not, as of to date, recorded on their 2011 and 2012 Cal/OSHA Form 300 several recordable valley fever illnesses that resulted in one or more of the following:

- (1) An employee received medical treatment beyond first aid.
- (2) An employee was off work for days/days away from work.

The employer was familiar with the CCR Title 8 accident recording regulations through experience in completing the company's Log 300 Forms.

Date By Which Violation Must be Abated:
Proposed Penalty:

10/07/2013
\$ 5000.00

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

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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SEP 2 5 2013

APPEAL FORM DSH Appeals Board

2013-R4D-1 -3244

313388621

Inspection Number on Citation

PAPICH CONSTRUCTION COMPANY INC

Employer Name on Citation

Employer Legal Name or DBA (Optional)

800 FARROLL AVE

Address

GROVER BEACH, CA 93433

(Leave blank-Appeals Board will fill in.)

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.

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

1. This is an Appeal from:

CITATION NO(s): 4 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>

Papich Construction Company Inc. reserves the right to submit additional documentation and information

in support of its appeal. See attached letter dated September 19, 2013.

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}

KARIN NARDI

(Type or print name)

ARNOLD & PORTER LLP

(Title)

10th FLOOR

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

SAN FRANCISCO

CA.

94111-4024

(City)

(State)

(Zip Code)

1-415-471-3301

karin.nardi@aporter.com

09/18/2013

(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.
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- H. Late appeals will not be accepted unless good cause is shown.

State of California
Division of Occupational Safety and Health
Bakersfield District Office (0950647; 4029)
7718 Meany Avenue
Bakersfield, CA 93308-5110

Inspection Number: 313388621
Inspection Dates: 03/06/2013 - 09/04/2013
Issuance Date: 09/04/2013
CSHO ID: C5017
Optional Inspection Nbr: 033-13



RECEIVED
SEP 25 2013

Citation and Notification of Penalty

Company Name: PAPICH CONSTRUCTION COMPANY INC
Inspection Site: 13505 CARISSA HWY 58, SANTA MARGARITA, CA 93453

OSH Appeals Board

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

Subchapter 7. General Industry Safety Orders
Group 16. Control of Hazardous Substances
Article 107. Dusts, Fumes, Mists, Vapors and Gases

T8 CCR Section 5141(a). Control of Harmful Exposure to Employees.

(a) Engineering Controls. Harmful exposures shall be prevented by engineering controls whenever feasible.

During and/or prior to the time of inspection, the employer did not implement effective engineering controls to control exposures to airborne dust, in order to limit exposures to coccidioides, the spore that causes Valley Fever (Coccidioidomycosis), a serious and potentially fatal disease. Coccidioides spores are known to be present in the soils of this area. The employer conducted work activities that involved considerable disturbance of the soils. Although the site's Dust Management Plan included the use of engineering controls, the engineering controls that were not effectively implemented included, but were not limited to:

- a. The employer did not enforce use of High Efficiency Particulate (HEP)-filtered air conditioned enclosed cabs on heavy equipment as described in the "Dust Management Plan (Valley Fever Exposure)". Employees operated heavy equipment with open cabs.
- b. The employer did not effectively provide watering methods to stabilize airborne dusts. Insufficient water was available, and water was often not applied to the off-road areas. Watering methods, quantities, and frequency were not sufficient to minimize airborne dust in all areas where employees were exposed.
- c. The employer did not ensure that all spoils piles were tarped or otherwise stabilized.
- d. The employer did not implement other effective soil stabilization measures such as minimizing the area of exposed bare dirt to the immediate areas being worked, the application of soil stabilizers, and the prompt re-vegetation of completed areas.

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

State of California
Division of Occupational Safety and Health
Bakersfield District Office (0950647; 4029)
7718 Meany Avenue
Bakersfield, CA 93308-5110

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SEP 25 2013

Citation and Notification of Penalty

Company Name: PAPICH CONSTRUCTION COMPANY INC
Inspection Site: 13505 CARISSA HWY 58, SANTA MARGARITA, CA 93453

OSH Appeals Board

Date By Which Violation Must be Abated: 09/14/2013
Proposed Penalty: \$ 8435.00



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.

DEPARTMENT OF INDUSTRIAL RELATIONS
OCCUPATIONAL SAFETY
AND HEALTH APPEALS BOARD
2520 VENTURE OAKS WAY, SUITE 300
SACRAMENTO, CA 95833
(916) 274-5751
FAX (916) 274-5785



September 18, 2013

Terrell Cypert, Safety Manager
PAPICH CONSTRUCTION COMPANY INC
P.O. Box 2210
Pismo Beach, CA 93448

RE: IMIS# 313388621

Dear Mr. Cypert:

The Occupational Safety and Health Appeal Board received your telephone call on September 17, 2013, indicating your intention to appeal the citation(s), notification(s), or order(s) issued by the Division of Occupational Safety and Health.

A completed Appeal Form must be filed for each citation, notification, or order that you are appealing. Please indicate on the Appeal Form what action by the Division is being appealed and the grounds upon which the appeal is based. Attach a copy of the citation(s) you are appealing to your completed Appeal form(s). You should keep copies for your records.

If you do not postmark, mail, or deliver the completed Appeal form(s) and the appealed citation(s) to the Appeals Board at 2520 Venture Oaks Way, Suite 300, Sacramento, CA 95833 by September 27, 2013, your appeal may be dismissed.

If your appeal meets all the legal requirements, it will be docketed upon receipt of your Appeal form(s) and citation(s). Docketed copies of each timely appeal will be sent to you.

Sincerely,



Office Assistant

cc: DOSH District Manager - Bakersfield
4-7-C5017-033-2013