

**U.S. Department of Labor**  
Occupational Safety and Health Administration  
Houston South Area Office  
17625 El Camino Real, Suite 400  
Houston, TX 77058  
Phone: (281)286-0583 FAX: (281)286-6352



## Citation and Notification of Penalty

**To:**  
Cherry Demolitions

and its successors  
6131 Selenski  
Houston, TX 77048

**Inspection Site:**  
7880 Airport Rd  
Houston, TX 77061

**Inspection Number:** 311963557  
**Inspection Date(s):** 06/26/2009 - 06/30/2009

**Issuance Date:** 10/07/2009

*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. 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, please 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. (Please see attached "Corrective Action Verification.")

**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.

**Corrective Action Verification**

Dear Sir:

OSHA's inspections are intended to result in the abatement/correction of violations of the OSHA Act. To verify that this has been accomplished, Section 1903.19 requires that an employer certify to OSHA, within ten (10) days of the final abatement date that each item cited has been corrected.

This abatement certification letter must include the following:

Name of Employer

OSHA Inspection Number

Citation and Item Numbers to which the submission relates

The date each item was abated, specific action taken to abate each violation and appropriate documentation for the action taken. Where appropriate, this documentation should include photographs, work orders, purchase orders, personal protective equipment provided, standard operation procedures, copies of written programs, engineering controls, monitoring data, etc. Adequate supporting documentation may allow us to close the case file. **The lack of adequate documentation could result in a follow-up inspection.**

A statement that affected employees and their representatives have been informed of the abatement actions

A statement that the information submitted is accurate

The signature of the employer or the employer's authorized representative.

Following is a sample format that may be used for this submittal:

Name of Employer \_\_\_\_\_

<u>Citation Number</u>	<u>Item No. Instance No.</u>	<u>Date Item Abated</u>	<u>Corrective Action Taken</u>
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Date this letter of submission posted \_\_\_\_\_

I certify that the information submitted is correct.

\_\_\_\_\_  
Employer or Authorized Representative



## NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with OSHA to discuss the citation(s) issued on \_\_\_\_\_ 10/07/2009. The conference will be held at the OSHA office located at Houston South Area Office, 17625 El Camino Real, Suite 400, Houston, TX, 77058 on \_\_\_\_\_ at \_\_\_\_\_. Employees and/or representatives of employees have a right to attend an informal conference.



**Citation and Notification of Penalty**

Company Name: Cherry Demolitions  
Inspection Site: 7880 Airport Rd, Houston, TX 77061

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The alleged violations below have been grouped because they involve similar or related hazards that may increase the potential for injury resulting from an accident.

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

29 CFR 1926.501(a)(2): The employer did not determine if the walking/working surfaces on which its employees are to work have the strength and structural integrity to support employees safely:

- a) On or about June 25, 2009, on the roof of the terminal building, the employer did not ensure that metal pans supporting concrete to be demolished could support employees safely, exposing employees to fall hazards.

Date By Which Violation Must be Abated: 10/20/2009  
Proposed Penalty: \$ 3000.00

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

CFR. 1926.855(c): Safe walkways, not less than 18 inches wide, formed of planks not less than 2 inches thick if wood, or of equivalent strength if metal, were not provided and used by workmen when necessary to enable them to reach any point without walking upon exposed beams:

- a) On or about June 25, 2009, on the roof of the terminal building, the employer used provided particleboard that was approximately 3/8" in thickness for walkways, exposing employees to fall hazards.

Date By Which Violation Must be Abated: 10/20/2009

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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.



**Citation and Notification of Penalty**

Company Name: Cherry Demolitions  
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**Citation 1 Item 2** Type of Violation: **Serious**

29 CFR 1926.502(d)(8): Horizontal lifelines were not designed, installed, and used under the supervision of a qualified person:

- a) On or about June 25, 2009, on the roof of a three story terminal building, a horizontal lifeline was not designed or installed by a qualified person. The lifeline was installed with a nut missing on the wire rope clamp; clamps were installed upside-down, and the lifeline was installed with 15 feet of slack, and three employees were connected to a lifeline which was intended for two employees, exposing employees to fall hazards.

Date By Which Violation Must be Abated: 10/27/2009  
Proposed Penalty: \$ 3000.00

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

29 CFR 1926.502(f)(1): Warning lines were not erected around all sides of the roof work area:

- a) On or about June 25, 2009, on the roof of the terminal building, the employer did not install warning lines on the northwest portion of an open side of the roof, exposing employees to fall hazards.

Date By Which Violation Must be Abated: 10/20/2009  
Proposed Penalty: \$ 3000.00



**Citation and Notification of Penalty**

Company Name: Cherry Demolitions  
Inspection Site: 7880 Airport Rd, Houston, TX 77061

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The alleged violations below have been grouped because they involve similar or related hazards that may increase the potential for injury resulting from an accident.

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

CFR 1926.502(f)(2)(ii): A warning line's rope, wire, or chain was not rigged and supported in such a way that its lowest point (including sag) was no less than 34 inches (.9 m) from the walking/working surface and its highest point was no more than 39 inches (1.0 m) from the walking/working surface:

- a) On or about June 25, 2009, on the roof of the terminal building, the warning line erected on the roof using plastic chain sagged below the required 34" from the walking/working surface, exposing employees to fall hazards.

Date By Which Violation Must be Abated: 10/20/2009  
Proposed Penalty: \$ 3000.00

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

CFR 1926.502(f)(2)(iv) The rope, wire, or chain shall have a minimum tensile strength of 500 pounds (2.22 kN), and after being attached to the stanchions, shall be capable of supporting, without breaking, the loads applied to the stanchions as prescribed in paragraph (f)(2)(iii) of this section:

- a) On or about June 25, 2009, on the roof of the terminal building, plastic chain used as a warning line had a tensile strength of 150 pounds, exposing employees to fall hazards.

Date By Which Violation Must be Abated: 10/20/2009

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**Citation and Notification of Penalty**

Company Name: Cherry Demolitions  
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**Citation 1 Item 5** Type of Violation: **Serious**

CFR 1926.502(h)(1)(i): The safety monitor was not competent to recognize fall hazards:

- a) On or about June 25, 2009, on the roof of a three story terminal building, the safety monitor was not trained as a competent person, capable of recognizing fall hazards when employees were performing demolition work, exposing employees to a fall hazard.


Date By Which Violation Must be Abated: 10/27/2009  
Proposed Penalty: \$ 3000.00

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

CFR 1926.502(h)(1)(ii): The safety monitor did not warn employees when it appeared that the employees were unaware of a fall hazard:

- a) On or about June 25, 2009, on the roof of a three story terminal building, the safety monitor did not warn employees that were removing broken concrete from rusted and corroded metal pans that walking on the metal pans exposed them to a fall hazard.

Date By Which Violation Must be Abated: 10/20/2009  
Proposed Penalty: \$ 3000.00

  
MARK R. BRIGGS  
Area Director