

U.S. Department of Labor
Occupational Safety and Health Administration
Dr. A.H. McCoy Federal Bldg.
100 West Capitol Street Suite 749
Jackson, MS 39269
Phone: 601-965-4606 Fax: 601-965-4610



AMENDED CITATION

To:
Berthelot Design Construction, Inc.
and its successors
15081 Chickasaw Road
Kiln, MS 39556

Inspection Number: 1090038
Inspection Date(s): 09/08/2015-12/18/2015
Issuance Date: 03/02/2016

Amended Issuance Date: 03/03/2016

Inspection Site:
15151 HWY 603
Kiln, MS 39556

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.

The following item(s), as described in the attached citation, is (are) amended as follows:

Citation 2, Item 1 (Willful) penalty is deleted

This amended citation must be posted with the original citation until the amended violation(s) has been abated, or for 3 working days, whichever is longer.

The employer has 15 working days from the date of receipt of this amended citation to contest those portions for the original citation which have been amended. The contest period is not extended for the unamended portions of the original citation.

A handwritten signature in black ink that reads "Eugene Stewart".

Eugene Stewart
Area Director

U.S. Department of Labor

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Citation and Notification of Penalty

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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 either call to schedule an informal conference (see paragraph below) or** 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.

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 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. You can also make your payment electronically on www.pay.gov. On the left side of the pay.gov homepage, you will see an option to Search Public Forms. Type “OSHA” and click Go. From the results, click on **OSHA Penalty Payment Form**. The direct link is:

<https://www.pay.gov/paygov/forms/formInstance.html?agencyFormId=53090334>.

You will be required to enter your inspection number when making the payment. Payments can be made by credit card or Automated Clearing House (ACH) using your banking information. Payments of \$25,000 or more require a Transaction ID, and also must be paid using ACH. If you require a Transaction ID, please contact the OSHA Debt Collection Team at (202) 693-2170.

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

Notification of Corrective Action – For each violation which you do not contest, you must provide ***abatement certification*** to the Area Director of the OSHA office issuing the citation and identified above. This abatement certification is to be provided by letter within 10 calendar days after each abatement date. Abatement certification includes the date and method of abatement. If the citation indicates that the violation was corrected during the inspection, no abatement certification is required for that item. The abatement certification letter must be posted at the location where the violation appeared and the corrective action took place or employees must otherwise be effectively informed about abatement activities. A sample abatement certification letter is enclosed with this Citation. In addition, where the citation indicates that ***abatement documentation*** is necessary, evidence of the purchase or repair of equipment, photographs or video, receipts, training records, etc., verifying that abatement has occurred is required to be provided to the Area Director.

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.

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 these alleged violations will be posted when our system indicates that you have received this citation. 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.



NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with OSHA to discuss the citation(s) issued on 03/02/2016. The conference will be held by telephone or at the OSHA office located at Dr. A.H. McCoy Federal Bldg. 100 West Capitol Street, Suite 749, Jackson, MS 39269 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: 1090038
Inspection Date(s): 09/08/2015 - 12/18/2015
Issuance Date: 03/02/2016



Citation and Notification of Penalty

Company Name: Berthelot Design Construction, Inc.
Inspection Site: 15151 HWY 603, Kiln, MS 39556

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

29 CFR 1926.703(a)(2): 29CFR1926.703(a)(2): Drawings or plans including all revisions for jack layout, formwork, (including shoring equipment), working decks and scaffolds were not available at the jobsite.

(a) Construction Site - On or about September 8, 2015 approved engineered drawings were not available at the jobsite for the structural design changes from an elevated wood floor to a concrete floor. The changes were not submitted to the designer and engineer to develop new drawings for the changes.

Date By Which Violation Must be Abated:
Proposed Penalty:

Corrected During Inspection
\$0.00

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 and Notification of Penalty

Company Name: Berthelot Design Construction, Inc.
Inspection Site: 15151 HWY 603, Kiln, MS 39556

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

29 CFR 1926.703(b)(1): Shoring equipment (including equipment used in reshoring operations) was not inspected prior to erection to determine that the equipment met the requirements specified in the formwork drawings:

(a) Construction Site - On or about September 8, 2015, the employer failed to install shoring equipment to support the structure changes to the building and floor for changing the wood floor to a concrete floor.

Date By Which Violation Must be Abated:
Proposed Penalty:

Corrected During Inspection
\$0.00

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 and Notification of Penalty

Company Name: Berthelot Design Construction, Inc.
Inspection Site: 15151 HWY 603, Kiln, MS 39556

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

29 CFR 1926.703(a)(1): Formwork was not designed, fabricated, erected, supported, braced and maintained so that it would be capable of supporting without failure all vertical and lateral loads that could reasonably be anticipated to be applied to the form:

(a) Construction Site - On or about September 8, 2015 the formwork was not designed for a concrete floor. The approved engineered building plans were not followed for the construction of a wood floor. The building plans called for "Z" purlins on 12-inch center but were switched to "C" purlins on 16-inch center and used for a concrete floor.

Date By Which Violation Must be Abated:
Proposed Penalty:

Corrected During Inspection
\$5000.00

A handwritten signature in cursive script that reads 'Eugene Stewart'.

Eugene Stewart
Area Director

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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INVOICE / DEBT COLLECTION NOTICE

Company Name: Berthelot Design Construction, Inc.
Inspection Site: 15151 HWY 603, Kiln, MS 39556
Issuance Date: 03/02/2016

Summary of Penalties for Inspection Number	1090038
Citation 1, Serious	\$0.00
Citation 2, Willful	\$5000.00
TOTAL PROPOSED PENALTIES	\$5000.00

To avoid additional charges, please remit payment promptly to this Area Office for the total amount of the uncontested penalties summarized above. Make your check or money order payable to: "DOL-OSHA". Please indicate OSHA's Inspection Number (indicated above) on the remittance. You can also make your payment electronically on www.pay.gov. On the left side of the pay.gov homepage, you will see an option to Search Public Forms. Type "OSHA" and click Go. From the results, click on **OSHA Penalty Payment Form**. The direct link is <https://www.pay.gov/paygov/forms/formInstance.html?agencyFormId=53090334>. You will be required to enter your inspection number when making the payment. Payments can be made by credit card or Automated Clearing House (ACH) using your banking information. Payments of \$25,000 or more require a Transaction ID, and also must be paid using ACH. If you require a Transaction ID, please contact the OSHA Debt Collection Team at (202) 693-2170.

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

If a personal check is issued, it will be converted into an electronic fund transfer (EFT). This means that our bank will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will then usually occur within 24 hours and will be shown on your regular account statement. You will not receive your original check back. The bank will destroy your original check, but will keep a copy of it. If the EFT cannot be completed because of insufficient funds or closed

account, the bank will attempt to make the transfer up to 2 times.

Pursuant to the Debt Collection Act of 1982 (Public Law 97-365) and regulations of the U.S. Department of Labor (29 CFR Part 20), the Occupational Safety and Health Administration is required to assess interest, delinquent charges, and administrative costs for the collection of delinquent penalty debts for violations of the Occupational Safety and Health Act.

Interest: Interest charges will be assessed at an annual rate determined by the Secretary of the Treasury on all penalty debt amounts not paid within one month (30 calendar days) of the date on which the debt amount becomes due and payable (penalty due date). The current interest rate is one percent (1%). Interest will accrue from the date on which the penalty amounts (as proposed or adjusted) become a final order of the Occupational Safety and Health Review Commission (that is, 15 working days from your receipt of the Citation and Notification of Penalty), unless you file a notice of contest. Interest charges will be waived if the full amount owed is paid within 30 calendar days of the final order.

Delinquent Charges: A debt is considered delinquent if it has not been paid within one month (30 calendar days) of the penalty due date or if a satisfactory payment arrangement has not been made. If the debt remains delinquent for more than 90 calendar days, a delinquent charge of six percent (6%) per annum will be assessed accruing from the date that the debt became delinquent.

Administrative Costs: Agencies of the Department of Labor are required to assess additional charges for the recovery of delinquent debts. These additional charges are administrative costs incurred by the Agency in its attempt to collect an unpaid debt. Administrative costs will be assessed for demand letters sent in an attempt to collect the unpaid debt.



Eugene Stewart
Area Director



Date