

U.S. Department of Labor Occupational Safety and Health Administration
1391 Speer Blvd, Suite 210
Denver, CO 80204



05/13/2022

A4S LLC, dba A4S Construction
and its successors
38596 Hwy 6, unit e303
Vail, CO 81657

Dear Employer:

Enclosed you will find citations for violations of the Occupational Safety and Health Act of 1970 (the Act) which may have accompanying proposed penalties. Also enclosed is a booklet entitled, "Employer Rights and Responsibilities Following an OSHA Inspection", (OSHA 3000-04R) revised 2018, which explains your rights and responsibilities under the Act. If you have any questions about the enclosed citations and penalties, I would welcome further discussions in person or by telephone. Please contact me at (303) 844-5285.

You will note on page 6 of the booklet that, for violations which you do not contest, you must (1) notify this office promptly by letter that you have taken appropriate corrective action within the time set forth on the citation; and (2) pay any penalties assessed. Please inform me 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. This information will allow us to close the case.

As indicated on page 3 of the booklet, you may request an informal conference with me during the 15-working-day notice of contest period. During such an informal conference you may present any evidence or views which you believe would support an adjustment to the citation or the penalty.

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 the citation. The running of this contest period is not interrupted by an informal conference.

If you decide to request an informal conference, please complete the attached notice at the bottom of this letter and post it next to the Citations as soon as the time, date and the place of the informal conference have been determined. Be sure to bring to the conference with you any and all supporting documentation of existing conditions as well as of 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.

You should be aware that OSHA publishes information on its inspection and citation activity on the Internet under the provisions of 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.

Sincerely,

Amanda S. Kupper

Amanda Kupper
Area Director

Enclosures

U.S. Department of Labor
Occupational Safety and Health Administration
1391 Speer Blvd, Suite 210
Denver, CO 80204



Citation and Notification of Penalty

To:
A4S LLC, dba A4S Construction
and its successors
38596 Hwy 6, unit e303
Vail, CO 81657

Inspection Number: 1564492
Inspection Date(s): 11/18/2021 - 05/10/2022
Issuance Date: 05/13/2022

Inspection Site:
0084 Berlin Placer Road
Breckenridge, CO 80424

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 by calling (303) 844-5285. 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 at www.pay.gov. At the top of the [pay.gov](http://www.pay.gov) homepage, type "OSHA" in the Search field and select Search. From **OSHA Penalty Payment Form** search result, select Continue. 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 05/13/2022. The conference will be held by telephone or at the OSHA office located at 1391 Speer Blvd, Suite 210, Denver, CO 80204 on _____ at _____.

Employees and/or representatives of employees have a right to attend an informal conference.

CERTIFICATION OF CORRECTIVE ACTION WORKSHEET

Inspection Number: 1564492

Company Name: A4S LLC, dba A4S Construction
Inspection Site: 0084 Berlin Placer Road, Breckenridge, CO 80424
Issuance Date: 05/13/2022

List the specific method of correction for each item on this citation in this package that does not read "Corrected During Inspection" and return to: **U.S. Department of Labor – Occupational Safety and Health Administration, 1391 Speer Blvd, Suite 210, Denver, CO 80204.**

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

I certify that the information contained in this document is accurate and that the affected employees and their representatives have been informed of the abatement.

Signature

Date

Typed or Printed Name

Title

NOTE: 29 USC 666(g) whoever knowingly makes any false statements, representation or certification in any application, record, plan or other documents filed or required to be maintained pursuant to the Act shall, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment of not more than 6 months or both.

POSTING: A copy of completed Corrective Action Worksheet should be posted for employee review



Citation and Notification of Penalty

Company Name: A4S LLC, dba A4S Construction
Inspection Site: 0084 Berlin Placer Road, Breckenridge, CO 80424

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

29 CFR 1926.651(c)(2): A stairway, ladder, ramp or other safe means of egress is not located in trench excavations that are 4 feet (1.22m) or more in depth so as to require no more than 25 feet (7.62m) of lateral travel for employees:

(a) A4S LLC dba A4S Construction: The employer is failing to ensure that workers assigned to work in trenches are provided a safe means of egress at least every 25 feet while working in trenches greater than 4 feet deep. This violation occurred on November 16, 2021 at 0084 Berlin Placer Road in Breckenridge CO 80424 when employees working in a trench were exposed to cave-in hazards when the exit ladder was approximately 90 lateral feet from the work being performed. To abate this hazard the employer must ensure that safe egress is available within 25 lateral feet of travel of work operations being conducted in the trench.

Abatement Note: Pursuant to 29 CFR 1903.19 the employer must submit documents that demonstrate that a safe means of egress is available to workers inside a trench within 25 lateral feet of the operations at all times. (An abatement plan and periodic progress reports may also be required if the abatement period is more than 90 days.)

Date By Which Violation Must be Abated:
Proposed Penalty:

May 25, 2022
\$14,502.00



Citation and Notification of Penalty

Company Name: A4S LLC, dba A4S Construction
Inspection Site: 0084 Berlin Placer Road, Breckenridge, CO 80424

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

29 CFR 1926.21(b)(2): The employer does not instruct each employee in the recognition and avoidance of unsafe conditions and the regulations applicable to his work environment to control or eliminate any hazards or other exposure to illness or injury:

(a) A4S LLC dba A4S Construction: The employer is failing to ensure that workers assigned to work in trenches are trained to recognize the hazards of trenches and the methods to control the hazards. This violation occurred on November 16, 2021, at 0084 Berlin Placer Road in Breckenridge CO 80424, when employees working in the trenches were exposed to hazardous conditions and were not trained on the hazards of trenches and the methods to use to ensure that trenches are safe while conducting work inside them. Between August and December 2021, the employer routinely assigned inexperienced and untrained workers to work in trenches despite their inability to recognize and avoid unsafe trench conditions. To abate this violation the employer must ensure that the workers assigned to work in trenches are trained on the recognition and avoidance of unsafe conditions and the regulations applicable to trench safety.

Abatement Note: Pursuant to 29 CFR 1903.19 the employer must submit documents that demonstrate the training content, identifies the trainer and trainer qualifications, training sessions, certification of employees trained prior to entry into trenches, and the plan to train all new employees prior to assignment to work in trenches. (An abatement plan and periodic progress reports may also be required if the abatement period is more than 90 days.)

Date By Which Violation Must be Abated:
Proposed Penalty:

May 25, 2022
\$145,027.00



Citation and Notification of Penalty

Company Name: A4S LLC, dba A4S Construction
Inspection Site: 0084 Berlin Placer Road, Breckenridge, CO 80424

Citation 2 Item 2 Type of Violation: **Willful - Serious**

29 CFR 1926.651(k)(1): Daily inspections of excavations, the adjacent areas, and protective systems are not being made by a competent person for evidence of a situation that could result in possible cave-ins, indications of failure of protective systems, hazardous atmospheres, or other hazardous conditions when employee exposure is reasonably anticipated. An inspection is not conducted by the competent person prior to the start of work and as needed throughout the shift. Inspections are also not made after every rainstorm or other hazard-increasing occurrence:

(a) A4S LLC dba A4S Construction: The employer is failing to ensure that a competent person is conducting inspections of trenches for evidence of hazardous conditions prior to workers entering to work inside the trenches. This violation occurred on November 16, 2021, at 0084 Berlin Placer Road in Breckenridge, CO 80424 when workers were directed to enter a trench that was greater than 5 feet deep prior to an inspection conducted by a competent person. The trench caved in burying three workers and killing one of them. This violation occurred again on December 20, 2021, at the same construction project when workers were directed into a trench that had not been inspected by a competent person. Photographs of the trench show a trench greater than 5 feet deep with an undercut portion of dirt at the top of the wall and workers outside of protective systems working below, exposing them to a potential trench collapse. Between August and December 2021, the employer routinely assigned workers to work inside trenches that had not been inspected by a competent person. To abate this violation the employer must ensure that trenches are inspected by a competent person prior to employees entering the trenches at the start of work each day and after every rainstorm or other hazard-increasing occurrence.

Abatement Note: Pursuant to 29 CFR 1903.19 the employer must submit documents that demonstrate a competent person (one who has the experience and/or training to recognize the hazards of trenches, is designated by the employer as the competent person, and has the authority to take immediate corrective actions to ensure workers are not exposed to hazards) is assigned to this work site daily and is conducting inspections at the beginning of each shift and as the conditions of the trenches change. (An abatement plan and periodic progress reports may also be required if the abatement period is more than 90 days.)

Date By Which Violation Must be Abated:
Proposed Penalty:

May 25, 2022
\$145,027.00

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: A4S LLC, dba A4S Construction
Inspection Site: 0084 Berlin Placer Road, Breckenridge, CO 80424

Citation 2 Item 3 Type of Violation: **Willful - Serious**

29 CFR 1926.652(a)(1): Each employee in an excavation is not being protected from cave-ins by an adequate protective system designed in accordance with 29 CFR 1926.652 (b) or (c):

(a) A4S LLC dba A4S Construction: The employer is failing to protect each employee performing work in trenches by properly sloping the trenches or by using appropriate protective systems designed in accordance with paragraph (b) or (c) of 29 CFR 1926.652. This violation was committed on November 16, 2021, at 0084 Berlin Placer Road in Breckenridge CO 80424 when employees were installing sewer lines in a vertical cut excavation that was greater than 5 feet deep in type B and C soil, without a protective system. The trench caved in burying three workers and fatally injuring one. This violation was observed again on December 20, 2021, at the same construction project, when workers in a trench deeper than 5 feet were photographed working below an undercut portion of the trench and outside of a trench box. Between August and December 2021, the employer routinely assigned workers to work inside trenches that were not protected from cave-ins by an adequate protective system. To abate this violation the employer must ensure that the trenches are properly sloped, or that protective systems designed in accordance with this standard are used, and that no employees enter trenches until this protection is provided.

Abatement Note: Pursuant to 29 CFR 1903.19, the employer must submit documents describing the steps it is taking to ensure compliance, including an explanation of how these steps protect its employees from the hazards of trench cave in. (An abatement plan, periodic progress reports, and provision of site addresses may be required if the abatement period is more than 90 days.)

Date By Which Violation Must be Abated:
Proposed Penalty:

May 25, 2022
\$145,027.00

Amanda S. Kupper

Amanda Kupper
Area Director

U.S. Department of Labor
Occupational Safety and Health Administration
1391 Speer Blvd, Suite 210
Denver, CO 80204



**INVOICE /
DEBT COLLECTION NOTICE**

Company Name: A4S LLC, dba A4S Construction
Inspection Site: 0084 Berlin Placer Road, Breckenridge, CO 80424
Issuance Date: 05/13/2022

Summary of Penalties for Inspection Number: 1564492

Citation 1 Item 1, Serious	\$14,502.00
Citation 2 Item 1, Willful - Serious	\$145,027.00
Citation 2 Item 2, Willful - Serious	\$145,027.00
Citation 2 Item 3, Willful - Serious	\$145,027.00

TOTAL PROPOSED PENALTIES: **\$449,583.00**

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 at www.pay.gov. At the top of the pay.gov homepage, type "OSHA" in the Search field and select Search. From the **OSHA Penalty Payment Form** search result, select Continue. 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 two 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.

Amanda S. Kupper

Amanda Kupper

Area Director

May 13, 2022

Date