

U.S. Department of Labor Occupational Safety and Health Administration
1851 Executive Center Drive
Suite 227
Jacksonville, FL 32207



01/03/2022

Earthbalance Corporation
and its successors
2579 N Toledo Blade Blvd
North Port, FL 34289

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 (904) 232-2895.

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,

Nolan Houser
Acting Area Director

Enclosures

U.S. Department of Labor
Occupational Safety and Health Administration
1851 Executive Center Drive
Suite 227
Jacksonville, FL 32207



Citation and Notification of Penalty

To:
Earthbalance Corporation
and its successors
2579 N Toledo Blade Blvd
North Port, FL 34289

Inspection Number: 1545586
Inspection Date(s): 07/31/2021 - 08/03/2021
Issuance Date: 01/03/2022

Inspection Site:
Apalachicola National Forest / USFS Apalachicola
Work Center, 23288 NW County Rd 12
Bristol, FL 32321

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 (904) 232-2895. 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 01/03/2022. The conference will be held by telephone or at the OSHA office located at 1851 Executive Center Drive, Suite 227, Jacksonville, FL 32207 on _____ at _____.

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

CERTIFICATION OF CORRECTIVE ACTION WORKSHEET

Inspection Number: 1545586

Company Name: Earthbalance Corporation

Inspection Site: Apalachicola National Forest / USFS Apalachicola Work Center, 23288 NW County Rd 12, Bristol, FL 32321

Issuance Date: 01/03/2022

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, 1851 Executive Center Drive, Suite 227, Jacksonville, FL 32207.**

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

U.S. Department of Labor
Occupational Safety and Health Administration

Inspection Number: 1545586
Inspection Date(s): 07/31/2021 - 08/03/2021
Issuance Date: 01/03/2022



Citation and Notification of Penalty

Company Name: Earthbalance Corporation

Inspection Site: Apalachicola National Forest / USFS Apalachicola Work Center, 23288 NW County Rd 12, Bristol, FL 32321

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

29 CFR 1910.151(b): There was neither an infirmary, clinic, or hospital used for the treatment of all injured employees in near proximity to the workplace nor a person or persons adequately trained to render first aid:

a. At the invasive plant removal project, located in the Apalachicola National Forest, Florida: On or about 07/30/2021, the employer failed to ensure that a person adequately trained to provide first aid to employees working in an area where there was no infirmary, clinic, or hospital was available in case of severe injury or illness such as heat related emergencies.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:

January 28, 2022

Proposed Penalty:

\$12,288.00

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: Earthbalance Corporation

Inspection Site: Apalachicola National Forest / USFS Apalachicola Work Center, 23288 NW County Rd 12, Bristol, FL 32321

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

OSH ACT of 1970 Section (5)(a)(1): The employer did not furnish employment and a place of employment which were free from recognized hazards that were causing or likely to cause death or serious physical harm to employees in that employees were exposed to high ambient heat:

a. On or about and at times prior to July 30, 2021, employees were exposed to the recognized hazard of high ambient heat from direct sunlight during the performance of their job duties, including removing invasive non-native plants. Employees were working in environmental conditions of temperatures of up to 97 degrees Fahrenheit and 48% relative humidity and a WBGT of 91.7 degrees Fahrenheit under clear skies, while wearing long sleeve shirts and pants for 8 hour shifts. Such exposures are likely to lead to the development of serious heat-related illnesses such as, but not limited to, heat cramps, heat stress, heat exhaustion, and heat stroke. An employee exposed to the extreme heat and humidity developed signs and symptoms of heat related illnesses that aggravated and resulted in a fatality.

Feasible methods to protect employees from heat-related illnesses include, but are not limited to, establishing a heat stress management program which incorporates guidelines from OSHA and the National Institute of Occupational Safety & Health (NIOSH) document, "Protecting Workers from Heat Illness", and OSHA's Safety and Health Topics Page on Occupational Heat Exposure. Among other measures, such a program may include:

a. Develop and implement an effective heat-related illness prevention program which establishes how the employer will determine if workers are exposed to a heat hazard based on environmental conditions (e.g., weather or indoor temperature and humidity), clothing, and workload. It should include policies/procedures for controlling heat hazards, worker acclimatization program, heat alert program, training employees on the hazards and signs and symptoms of heat stress, and medical monitoring program;

b. Provide a training program for all employees, regarding the health effects associated with heat stress, symptoms of heat-induced illness, and methods of preventing such illnesses. Such training should be conducted annually in advance of the hot weather season and throughout the season when excessive heat is predicted. Ensure that all trained personnel confirm their understanding of the training and training records are maintained;

c. Establish a procedure for acclimatizing employees who are not accustomed to working in hot environments or those returning from extended absences from work;

d. Implement a work/rest regimen dependent on environmental conditions and that includes a provision to allow

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: Earthbalance Corporation

Inspection Site: Apalachicola National Forest / USFS Apalachicola Work Center, 23288 NW County Rd 12, Bristol, FL 32321

employees to become acclimatized to extreme heat conditions;

- e. Reschedule work during cooler periods of the day (e.g. early morning and/or in the evenings);
- f. Ensure affected personnel working in the field have adequate amounts of cool (50-60 degrees F), potable water and electrolyte replacements (specific recommendation should be made by medical consultation) along their work shift and require them to drink them frequently. Encourage employees to drink 5 to 7 ounces of fluid every 15 to 20 minutes rather than relying on thirst;
- g. Establish a screening program to identify health conditions that could be aggravated by exposure to heat stress;
- h. Provide equipment such as cooling vests, cooling bandanas, or other equipment that may help prevent overheating;
- i. Develop and implement a process for identifying appropriate rest locations where employees have adequate facilities for climate-controlled air or shade during their work shift;
- j. Develop and implement a system to alert employees to the heat index anticipated for the day and identify each precaution they should take to reduce the risk of heat-related illness;
- k. Develop and implement a system to check and monitor employees in the field when the National Weather Service heat advisories are in effect, when the heat index exceeds, or is expected to exceed 91 degrees;
- l. Establish work rules that instruct employees to report heat stress symptoms to management and seek assistance and evaluation when experiencing them; and
- m. Conduct in-person evaluations of employees complaining of heat-related illness symptoms and arrange for medical attention or other assistance as necessary. This may include providing first aid to the employee

The listing of these available abatement methods does not necessarily mean that any one measure is sufficient to abate the hazard.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:

January 28, 2022

Proposed Penalty:

\$12,288.00

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

Nolan Houser
Acting Area Director

U.S. Department of Labor
Occupational Safety and Health Administration
1851 Executive Center Drive
Suite 227
Jacksonville, FL 32207



**INVOICE /
DEBT COLLECTION NOTICE**

Company Name: Earthbalance Corporation
Inspection Site: Apalachicola National Forest / USFS Apalachicola Work Center, 23288 NW County Rd 12, Bristol, FL 32321
Issuance Date: 01/03/2022

Summary of Penalties for Inspection Number: 1545586

Citation 1 Item 1, Serious	\$12,288.00
Citation 1 Item 2, Serious	\$12,288.00

TOTAL PROPOSED PENALTIES: \$24,576.00

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](http://www.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.

Nolan Houser

Acting Area Director

Date