

Minnesota Department of Labor and Industry

Occupational Safety and Health Division
443 Lafayette Road
St. Paul, MN 55155-4307
Phone: 651-284-5050 FAX: 651-284-5741

Citation and Notification of Penalty

To:
Your Lake Aquatic Plant Management LLC
4619 Ivanhoe Pl
Columbia Heights, MN 55421

Inspection Number: 318206372
CSHO ID: I7117
Optional Report No.: 01824RII
Inspection Date(s): 5/21/2024 - 10/18/2024
Issuance Date: 11/7/2024

Inspection Site:
15837 Garden View Drive
Apple Valley, MN 55124

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 Minnesota Occupational Safety and Health Act of 1973 (the Act). The penalty amounts listed herein are based on these violations. You must abate the violations referred to in this Citation by the dates listed and pay the penalties, unless within 20 calendar days from your receipt of this Citation you file a Notice of Contest with the Commissioner of the Department of Labor and Industry. Your contestation rights and other employer and employee rights and responsibilities are set out in the first three pages of this Citation. The description of alleged violations begins on page 5 of this Citation.

EMPLOYER AND EMPLOYEE RIGHTS AND RESPONSIBILITIES

Posting - The Act requires that a copy of this Citation shall be promptly posted at or near each place that an alleged violation referred to in the citation occurred or, if not practicable, in a prominent place where it will be readily visible by all affected employees. If uncontested, this Citation must remain posted until all alleged violations cited therein are corrected, or for 20 days, whichever is longer. If contested, this Citation must remain posted until the contestation is resolved.

Penalty Payment - Payment of all penalties is to be made by check or money order payable to "Minnesota Department of Labor and Industry, MNOSHA", and remitted to the Occupational Safety and Health Division at P.O. Box 64025, St. Paul, MN, 55164-0025, within 20 calendar days following receipt of this Citation. After 60 days, unpaid penalties shall increase 25 percent and shall accrue an additional interest of 10 percent per month compounded monthly until the fine is paid in full.

Effective August 1, 2003, the minimum \$25,000 penalty issued to employers with fewer than 50 employees for serious citations connected to the death of an employee may be made in five payments of \$5,000. The first \$5,000 payment is due within 20 calendar days following receipt of this Citation. The 2nd-5th payments of \$5,000 are due on the next four anniversary dates of this Citation becoming a Final Order. The Commissioner may elect to waive the 2nd-5th \$5,000 payment if in the preceding year the employer receives no citations. MNOSHA will provide written notice of the 2nd-5th payments dates or of any penalty waiver.

Notification of Corrective Action - Progress reports on correction of alleged violations not immediately abated as observed by the occupational safety and health investigator shall be submitted on the Progress Report form provided with this Citation. Written progress reports must be mailed to the address shown on the top of page 1 of this Citation by the latest abatement date on the citation, or within 30 days after receipt of the citation, whichever is earlier. Reports must state the specific corrective action taken on each cited item, the date of such action and the anticipated abatement date of uncompleted items. Additional written progress reports shall be submitted every thirty days until the items are fully abated. Facsimile (FAX) transmittal is acceptable.

All alleged violations not contested must be corrected by the abatement date specified in this Citation. A followup inspection may be made for the purpose of ascertaining that the employer has corrected the alleged violations and posted this Citation as required by the Act. Failure to correct an alleged violation by the abatement date on this Citation may result in further penalties for each day the alleged violation has not been corrected.

Petition for Modification of Abatement Date (PMA) - If, due to factors beyond reasonable control, compliance cannot be achieved by the abatement day on the citation, the employer may file a Petition for Modification of Abatement Date (PMA) to obtain an extension of the abatement time period. The PMA must be in writing and received at the address shown on the top of page 1 of this Citation prior to the expiration of the abatement date on the citation. Facsimile (FAX) transmittal of a PMA is acceptable. A copy of the PMA must be posted for ten days in the location where this Citation is posted. A copy of the PMA must also be served upon authorized employee representatives.

The employer's written petition must describe:

- 1) The action that has been taken so far to achieve compliance;
- 2) The amount of additional time needed for compliance;
- 3) The reasons why additional time is needed;
- 4) A description of the interim steps that will be taken to safeguard employees against the cited hazard;
- 5) A statement that employees have been notified of the PMA filing.

Employees have the right to file a written objection to the Commissioner regarding the employer's PMA request. A copy of the objection must be served on the employer within 10 days of the employer's posting of the PMA. The employee objection must be received by the Commissioner within 15 days of the employer's PMA request. Facsimile (FAX) transmittal is acceptable.

Employer Right to Contest - The employer has the right to a hearing to contest any or all parts of

this Citation. If the employer wishes to contest, the employer must fully complete and notarize the attached NOTICE OF CONTEST AND SERVICE TO AFFECTED EMPLOYEES (Notice of Contest form) and file it with the Commissioner at the address shown on the top of page 1 of this Citation within 20 calendar days of receiving the citation.

Important: To be considered filed, all parts of the Notice of Contest form must be completed and the completed form must be deposited in the United States mail and postmarked, or otherwise timely received by the Commissioner at the above address within 20 calendar days after the date this Citation is received by the employer. You may also file electronically at (contestation.dli@state.mn.us), by facsimile (FAX), or by hand-delivering the completed form to the Department, if received no later than 4:30 p.m. on the 20th calendar day. If the employer fails to file the Notice of Contest form on time, this Citation and Notification of Penalty becomes a final order of the Commissioner which is not subject to review by any court or agency and the Occupational Safety and Health Division may file and enforce the penalty as a district court judgment without further notice or additional proceedings pursuant to Minnesota Statute § 16D.17.

Employee Right to Contest - An employee or authorized representative of employees has the right to a hearing to contest this Citation by filing a letter with the Commissioner of the Department of Labor and Industry at the address shown on page 1 within 20 calendar days of the employer's receipt of this Citation.

Important: To be considered filed, an employee letter of contest must be deposited in the United States mail and postmarked, or otherwise timely received by the Commissioner at the above address within 20 calendar days after the date this Citation is received by the employer. You may also file electronically at (contestation.dli@state.mn.us), by facsimile (FAX), or by hand-delivering the completed form to the Department, if received no later than 4:30 p.m. on the 20th calendar day. If the employee fails to file a letter of contest on time, this Citation and Notification of Penalty becomes a final order of the Commissioner which is not subject to review by any court or agency and the Occupational Safety and Health Division may file and enforce the penalty as a district court judgment without further notice or additional proceedings pursuant to Minnesota Statute § 16D.17.

Employee Right to Party Status - Affected employees or their authorized employee representatives may elect to participate as parties in the formal contested case hearing by filing written notice with the Commissioner at the address shown above at least 45 days before the start of the hearing. The notice must contain the employees' names, addresses, authorized employee representatives, if any, and a statement that they are affected employees of the cited employer.

Employer Discrimination Unlawful - Employees who believe that they have been discharged or otherwise discriminated against by any person because the employees have exercised any right authorized under the provisions of Minnesota Statutes §§ 182.65 to 182.674, may, within 30 days after such alleged discrimination occurs, file a complaint with the Commissioner of the Department of Labor and Industry at the address shown above, alleging the discriminatory act.

PENALTY INFORMATION

Types of Violations - There are 5 types of violations that may be cited by MNOSHA. They are: Nonserious, Serious, Willful, Repeat and Failure to Abate.

Penalties - In cases not involving the death of an employee, the law allows the following maximum penalties: Nonserious, \$15,625; Serious, \$15,625; Willful, \$156,259; Repeat, \$156,259; and Failure to Abate, \$15,625 per day the violation remains unabated. If a Willful or Repeat violation caused or contributed to the death of an employee, however, MNOSHA is compelled by law to assess the employer a total non-negotiable penalty of at least \$50,000 for all citations connected to the employee's death. If there are no Willful or Repeat violations among the violations that caused or contributed to the employee's death, MNOSHA must assess the employer a non-negotiable penalty of at least \$25,000 for each citation connected to the employee's death. The following violations are not subject to these minimums and will be processed according to MNOSHA's ordinary penalty system: (a) any serious violations issued to an employer with fewer than 50 employees when the victim of a workplace fatality owned a controlling interest in the business unless the Commissioner determines that a fine shall be assessed, and (b) any violations found during a fatality investigation but determined not to be connected to the death of an employee.

Credits - A penalty for a violation may be credited by as much as 95 percent, depending on the employer's good faith (up to 30%), size of business (up to 55%), and previous violation history (up to 10%). The penalties which appear on the Citation and Notification of Penalty have been reduced by the credits described.

Minnesota
Department of Labor and Industry
10/18/2024
Occupational Safety and Health Division

Inspection Number: 318206372
Inspection Date(s): 5/21/2024 -
Issuance Date: 11/7/2024
OSHI ID: 17117
Optional Report No.: 01824RII

Citation and Notification of Penalty

Company Name: Your Lake Aquatic Plant
Management LLC
Inspection Site: 15837 Garden View Drive, Apple Valley, MN 55124

Citation 01 Item 001

Type of Violation: **Willful**

29 CFR 1910.410(a)(1): Each dive team member did not have the experience or training necessary to perform assigned tasks in a safe and healthful manner:

On May 21, 2024, each dive team member performing aquatic weed removal did not have the experience or training necessary to perform assigned tasks in a safe and healthful manner.

This citation requires both Certification of Abatement and Documentation of Abatement to be submitted by the abatement due date.

Certification of Abatement: An employers signed statement, submitted on a Progress Report form, that the violation has been abated.

Documentation of Abatement: Documents submitted by the employer demonstrating that abatement is complete, (i.e., pictures, receipts, etc.).

This citation requires both Certification of Abatement and Documentation of Abatement to be submitted by the abatement due date.

Certification of Abatement: An employer's signed statement, submitted on a Progress Report form, that the violation has been abated.

Documentation of Abatement: Documents submitted by the employer demonstrating that the abatement is complete, (i.e., pictures, receipts, etc.).

Date By Which Violation Must Be Abated: 12/5/2024
Penalty: \$161,323.00

Minnesota
Department of Labor and Industry
10/18/2024
Occupational Safety and Health Division

Inspection Number: 318206372
Inspection Date(s): 5/21/2024 -
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Citation and Notification of Penalty

Company Name: Your Lake Aquatic Plant
Management LLC
Inspection Site: 15837 Garden View Drive, Apple Valley, MN 55124

Citation 01 Item 002

Type of Violation: **Willful**

29 CFR 1910.410(a)(3): All dive team members were not trained in cardiopulmonary resuscitation and first aid (American Red Cross standard course or equivalent):

On May 21, 2024 employees of a dive team were not trained in cardiopulmonary resuscitation (CPR) and First Aid while working on an aquatic weed removal project.

This citation requires both Certification of Abatement and Documentation of Abatement to be submitted by the abatement due date.

Certification of Abatement: An employers signed statement, submitted on a Progress Report form, that the violation has been abated.

Documentation of Abatement: Documents submitted by the employer demonstrating that abatement is complete, (i.e., pictures, receipts, etc.).

This citation requires both Certification of Abatement and Documentation of Abatement to be submitted by the abatement due date.

Certification of Abatement: An employer's signed statement, submitted on a Progress Report form, that the violation has been abated.

Documentation of Abatement: Documents submitted by the employer demonstrating that the abatement is complete, (i.e., pictures, receipts, etc.).

Date By Which Violation Must Be Abated: 12/5/2024
Penalty: \$123,200.00

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Inspection Number: 318206372
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Citation and Notification of Penalty

Company Name: Your Lake Aquatic Plant
Management LLC
Inspection Site: 15837 Garden View Drive, Apple Valley, MN 55124

Citation 01 Item 003

Type of Violation: **Willful**

29 CFR 1910.410(c)(1): The employer or an employee designated by the employer was not at the dive location in charge of all aspects of the diving operation affecting the safety and health of dive team members:

May 21, 2024 the employer did not designate an employee or employer to be in charge of all the aspects of the diving operations while working on an aquatic weed removal project.

This citation requires both Certification of Abatement and Documentation of Abatement to be submitted by the abatement due date.

Certification of Abatement: An employers signed statement, submitted on a Progress Report form, that the violation has been abated.

Documentation of Abatement: Documents submitted by the employer demonstrating that abatement is complete, (i.e., pictures, receipts, etc.).

This citation requires both Certification of Abatement and Documentation of Abatement to be submitted by the abatement due date.

Certification of Abatement: An employer's signed statement, submitted on a Progress Report form, that the violation has been abated.

Documentation of Abatement: Documents submitted by the employer demonstrating that the abatement is complete, (i.e., pictures, receipts, etc.).

Date By Which Violation Must Be Abated: 12/5/2024
Penalty: \$123,200.00

Minnesota
Department of Labor and Industry
10/18/2024
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Inspection Number: 318206372
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Citation and Notification of Penalty

Company Name: Your Lake Aquatic Plant
Management LLC
Inspection Site: 15837 Garden View Drive, Apple Valley, MN 55124

Citation 01 Item 004 Type of Violation: **Willful**

29 CFR 1910.420(a): The employer did not develop and maintain a safe practices manual:

On May 21, 2024, the employer did not develop and maintain a safe practices manual to be available at the dive location to each dive team member.

This citation requires both Certification of Abatement and Documentation of Abatement to be submitted by the abatement due date.

Certification of Abatement: An employers signed statement, submitted on a Progress Report form, that the violation has been abated.

Documentation of Abatement: Documents submitted by the employer demonstrating that abatement is complete, (i.e., pictures, receipts, etc.).

This citation requires both Certification of Abatement and Documentation of Abatement to be submitted by the abatement due date.

Certification of Abatement: An employer's signed statement, submitted on a Progress Report form, that the violation has been abated.

Documentation of Abatement: Documents submitted by the employer demonstrating that the abatement is complete, (i.e., pictures, receipts, etc.).

Date By Which Violation Must Be Abated: 12/5/2024
Penalty: \$161,323.00

Minnesota
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Company Name: Your Lake Aquatic Plant
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Inspection Site: 15837 Garden View Drive, Apple Valley, MN 55124

Citation 01 Item 005

Type of Violation: **Willful**

29 CFR 1910.424(c)(1): SCUBA diving was conducted without a standby diver available while a diver was in the water:

On May 21, 2024, a standby diver was not available while divers were engaged in diving operations.

This citation requires both Certification of Abatement and Documentation of Abatement to be submitted by the abatement due date.

Certification of Abatement: An employers signed statement, submitted on a Progress Report form, that the violation has been abated.

Documentation of Abatement: Documents submitted by the employer demonstrating that abatement is complete, (i.e., pictures, receipts, etc.).

This citation requires both Certification of Abatement and Documentation of Abatement to be submitted by the abatement due date.

Certification of Abatement: An employer's signed statement, submitted on a Progress Report form, that the violation has been abated.

Documentation of Abatement: Documents submitted by the employer demonstrating that the abatement is complete, (i.e., pictures, receipts, etc.).

Date By Which Violation Must Be Abated: **12/5/2024**
Penalty: **\$161,323.00**

Nicole Blissenbach, Commissioner
MN Department of Labor and Industry

**Minnesota
Department of Labor and Industry**

Occupational Safety and Health Division
443 Lafayette Road North
St. Paul, MN 55155-4307

Phone: 1-800-DIAL-DLI (1-800-342-5934) 2024
(651) 284-5050

FAX: (651) 284-5741
www.dli.mn.gov
**DEPT. OF LABOR & INDUSTRY
LEGAL SERVICES**

RECEIVED

Inspection Number 318206 372	OSHI ID I7117	Optional Report No.: 01824RII
Employer's Name and Mailing Address: [REDACTED] YOUR LAKE AQUATIC PLANT MGT LLC 4619 IVANHOE PL COLUMBIA HEIGHTS MN 55421 318206372 I7117 01824		

NOTICE OF CONTEST AND SERVICE TO AFFECTED EMPLOYEES

PURPOSE OF THIS FORM

If you have received a Citation and Notification of Penalty from the Minnesota Occupational Safety and Health Division (MNOSHA) and you wish to contest any part of the Citation, including the penalty, you must complete this form. **For your contest to be valid, you must file this form within 20 calendar days of the date the employer received the Citation.**

If you only wish to obtain an extension of time to correct the violation, you may file a Petition for Modification of Abatement Date according to the instructions on the Citation and Notification of Penalty.

By filing this Notice of Contest form, you are initiating a formal contested case proceeding before an administrative law judge of the parts of the Citation and Notification of Penalty you are contesting. This form must be filed in good faith and not solely for delay or avoidance of penalties.

HOW TO FILE THIS FORM

- This Notice of Contest form must be filed with the Commissioner of the Department of Labor and Industry at the above address **within 20 calendar days** after the date the employer received the Citation and Notification of Penalty. To be considered filed, all parts of the Notice of Contest form must be completed and the completed form must be mailed and postmarked, **within 20 calendar days** after the date the employer received the Citation and Notification of Penalty. You may also file electronically at contestation.dli@state.mn.us, by facsimile (FAX), or by hand-delivering the completed form to the Department, if received **no later than 4:30 p.m. on the 20th calendar day**.
- If you fail to file the fully completed Notice of Contest form on time, the Citation and Notification of Penalty becomes a final order of the Commissioner that is not subject to review by any court or agency.

APPEAL PROCESS

Upon receipt of a timely filed Notice of Contest form, MNOSHA will contact you and schedule a date, time and location for an informal conference. The purpose of the informal conference is to allow you to discuss with a MNOSHA representative the Citation and Notification of Penalty and the basis for your contest. The goal of the informal conference is to reach an early resolution of the contest. If you and MNOSHA are unable to reach a resolution at the informal conference then the contest will proceed to a formal contested case hearing.

COMPLETING THIS FORM

1. HOW TO IDENTIFY THE INSPECTION BEING CONTESTED.

Complete the box at the top of this form using the Inspection Number, OSHI ID, Optional Report Number and Employer's Mailing Address from the Citation and Notification of Penalty being contested.

2. HOW TO CONTEST THE CITATION AND NOTIFICATION OF PENALTY.

Indicate in the boxes on the next page which part(s) of the Citation and Notification of Penalty you wish to contest. Identify the citations you are contesting by indicating the citation and item numbers. Then indicate which part(s) of each item is being contested. Finally, state your reasons for contesting in the space provided below the boxes.

- Check the box CITATION if you wish to contest that the violation occurred.
- Check the box TYPE OF VIOLATION if you wish to contest the characterization of the violation as non-serious, serious, willful or repeat.
- Check the box ABATEMENT DATE if you wish to contest the date by which you must abate the violation.
- Check the box PENALTY if you wish to contest the amount of the penalty.