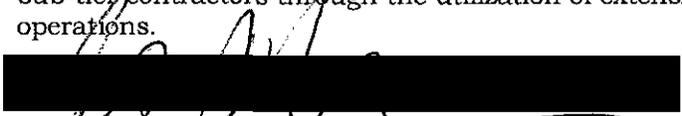


3. Exposing Employer Defense: Exposing Employer exercised reasonable diligence to protect employees from hazards. The hazard was a latent hazard of short duration and transitory in nature that the employer could not and did not recognize to exist despite a reasonable investigation. The hazard was created by, and known only to, sub-tier contractors.
4. Citation fails to describe violation with reasonable particularity and is vague and ambiguous.
5. Logical Time Defense.
6. Statute of Limitations.
7. Employer exercised due diligence to identify, control and abate serious hazards, including but not limited to all high hazard operations at the jobsite with regard to all jobsite personnel and sub-tier contractors through the utilization of extensive monitoring and oversight of jobsite operations.



4. _____
 (Signature of Employer or Employer's Representative)
 {If there is any change in representation after you file your appeal, you must notify the Appeals Board in writing}

Eugene F. McMnamin, Esq.

 (Type or print name)

Attorney for Employer

 (Title)

ATKINSON, ANDELSON, LOYA, RUUD & ROMO, 12800 Center Court Drive, Suite #300

(Address) {Address where all communications from the Appeals Board will be sent}
 Cerritos, CA 90703

(City) (State) (Zip Code)

(562) 653-3200 emcmnamin@aalrr.com September 13, 2013

 (Telephone) (E-Mail Address) (Date)

{All correspondence from the Appeals Board will be sent to the representative above at the address above. If there is any change in address, telephone number, and/or e-mail address after you file your appeal, you must notify the Appeals Board of the change(s). All such notifications must be in writing}

State of California
Division of Occupational Safety and Health
Bakersfield District Office (0950647; 4029)
7718 Meany Avenue
Bakersfield, CA 93308-5110

Inspection Number: 313388563
Inspection Dates: 03/05/2013 - 09/04/2013
Issuance Date: 09/04/2013
CSHO ID: Y0393
Optional Inspection Nbr: 029-13



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SEP 19 2013

OSH Appeals Board

Citation and Notification of Penalty

Company Name: CLP Resources Inc.
Inspection Site: 10400 Helios Way, Santa Margarita, CA 93453

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

1509. Injury and Illness Prevention Program

(a) Every employer shall establish, implement and maintain an effective Injury and Illness Prevention Program in accordance with section 3203 of the General Industry Safety Orders.

Reference: T8CCR Section 3203. Injury and Illness Prevention Program

(a) Effective July 1, 1991, every employer shall establish, implement and maintain an effective Injury and Illness Prevention Program (Program). The Program shall be in writing and, shall, at a minimum:

(1) Identify the person or persons with authority and responsibility for implementing the Program.
(2) Include a system for ensuring that employees comply with safe and healthy work practices. Substantial compliance with this provision includes recognition of employees who follow safe and healthful work practices, training and retraining programs, disciplinary actions, or any other such means that ensures employee compliance with safe and healthful work practices.

(3) Include a system for communicating with employees in a form readily understandable by all affected employees on matters relating to occupational safety and health, including provisions designed to encourage employees to inform the employer of hazards at the worksite without fear of reprisal. Substantial compliance with this provision includes meetings, training programs, posting, written communications, a system of anonymous notification by employees about hazards, labor/management safety and health committees, or any other means that ensures communication with employees.

EXCEPTION: Employers having fewer than 10 employees shall be permitted to communicate to and instruct employees orally in general safe work practices with specific instructions with respect to hazards unique to the employees' job assignments as compliance with subsection (a)(3).

(4) Include procedures for identifying and evaluating work place hazards including scheduled periodic inspections to identify unsafe conditions and work practices. Inspections shall be made to identify and evaluate hazards.

(A) When the Program is first established; EXCEPTION: Those employers having in place on July 1, 1991, a written Injury and Illness Prevention Program complying with previously existing section 3203.

(B) Whenever new substances, processes, procedures, or equipment are introduced to the workplace that represent a new occupational safety and health hazard; and

(C) Whenever the employer is made aware of a new or previously unrecognized hazard.

(5) Include a procedure to investigate occupational injury or occupational illness.

(6) Include methods and/or procedures for correcting unsafe or unhealthy conditions, work practices and work procedures in a timely manner based on the severity of the hazard:

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

State of California

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Bakersfield District Office (0950647; 4029)
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Issuance Date: 09/04/2013
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Citation and Notification of Penalty

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SEP 19 2013

Company Name: CLP Resources Inc.
Inspection Site: 10400 Helios Way, Santa Margarita, CA 93453

OSH Appeals Board

- (A) When observed or discovered; and,
- (B) When an imminent hazard exists which cannot be immediately abated without endangering employee(s) and/or property, remove all exposed personnel from the area except those necessary to correct the existing condition. Employees necessary to correct the hazardous condition shall be provided the necessary safeguards.
- (7) Provide training and instruction:
 - (A) When the program is first established; EXCEPTION: Employers having in place on July 1, 1991, a written Injury and Illness Prevention Program complying with the previously existing Accident Prevention Program in Section 3203.
 - (B) To all new employees;
 - (C) To all employees given new job assignments for which training has not previously been received;
 - (D) Whenever new substances, processes, procedures or equipment are introduced to the workplace and represent a new hazard;
 - (E) Whenever the employer is made aware of a new or previously unrecognized hazard; and,
 - (F) For supervisors to familiarize themselves with the safety and health hazards to which employees under their immediate direction and control may be exposed.

VIOLATION:

During and/or prior to the time of the inspection, the employer did not implement and/or maintain the following procedures as described in their IIPP:

- a. The employer did not effectively identify and evaluate work place hazards of employees disturbing soil contaminated with coccidioides fungal spores during their work activities and did not identify and evaluate unsafe and unhealthy conditions and work practices which could result in employees contracting Valley Fever from breathing coccidioides fungal spores present in the soil which could become airborne as a result of the employees work activities. (Ref: T8CCR Section 3203(a)(4))
- b. The employer did not investigate known cases of Valley Fever after illnesses were reported. (Ref: T8CCR Section 3203(a)(5))
- c. The employer did not effectively correct unsafe or unhealthy conditions, work practices or procedures involving employees disturbing soil contaminated with coccidioides fungal spores during their work activities which could result in employees contracting Valley Fever from breathing coccidioides fungal spores present in

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State of California

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Bakersfield District Office (0950647; 4029)
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Citation and Notification of Penalty

Company Name: CLP Resources Inc.
Inspection Site: 10400 Helios Way, Santa Margarita, CA 93453

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SEP 19 2013

OSH Appeals Board

the soil which could become airborne as a result of the employees' work activities. (Ref: T8CCR Section 3203(a)(6))

Date By Which Violation Must be Abated: 10/07/2013
Proposed Penalty: \$ 560.00

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

OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
(916) 274-5751
FAX (916) 274-5785

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SEP 19 2013

OSH Appeals Board

APPEAL FORM

2013-R4D7 - 3196

313388563

Inspection Number on Citation

CLP Resources, Inc.

Employer Name on Citation

Employer Legal Name or DBA (Optional)

6615 South Rural Road, Suite 107

Address

Tempe, AZ 95253

1. You only have 15 working days from receipt of a citation to appeal.

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FIRST READ IMPORTANT INFORMATION ON THE REVERSE SIDE THEN COMPLETE ONE APPEAL FORM FOR EACH CITATION

1. This is an Appeal from:

CITATION NO(s): 2 Item No(s): 1

NOTIFICATION OF FAILURE TO ABATE ALLEGED VIOLATION
CITATION NO(s): _____ Item No(s): _____

SPECIAL ORDER/SPECIAL ACTION NO: _____
Item No(s): _____

2. Specific ground(s) for this appeal are: (Check all that apply)

The safety order was not violated.

The classification (i.e., serious, willful, repeat) is incorrect.

The abatement requirements are unreasonable.

Required changes Time allowed to complete changes

The proposed penalty is unreasonable.

3. Explain any other reasons for appeal or issues to be raised on appeal. Affirmative defenses must be specifically stated. Some important affirmative defenses are listed on the OSHAB website at: <http://www.dir.ca.gov/OSHAB/oshab.html>

1. Lack of Employer Knowledge.

2. Independent Employee Act.

3. Exposing Employer Defense: Exposing Employer exercised reasonable diligence to protect employees from hazards. The hazard was a latent hazard of short duration and transitory in nature that the employer could not and did not recognize to exist despite a reasonable investigation. The hazard was created by, and known only to, sub-tier contractors.
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8. Division failed to tender Form IBY timely.

[Redacted Signature]

4.

(Signature of Employer or Employer's Representative)

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Eugene F. McMenamin, Esq.

(Type or print name)

Attorney for Employer

(Title)

ATKINSON, ANDELSON, LOYA, RUUD & ROMO, 12800 Center Court Drive, Suite #300

(Address) {Address where all communications from the Appeals Board will be sent}

Cerritos, CA 90703

(City)

(State)

(Zip Code)

(562) 653-3200

emcmenamin@aalrr.com

September 13, 2013

(Telephone)

(E-Mail Address)

(Date)

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Citation and Notification of Penalty

RECEIVED

SEP 19 2013

Company Name: CLP Resources Inc.
Inspection Site: 10400 Helios Way, Santa Margarita, CA 93453

OSH Appeals Board

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

5141. Control of Harmful Exposure to Employees

(a) Engineering Controls. Harmful exposures shall be prevented by engineering controls whenever feasible

VIOLATION:

During and/or prior to the time of inspection, the employer did not implement effective engineering controls to control exposures to airborne dust, in order to limit exposures to coccidioides, the spore that causes Valley Fever (Coccidioidomycosis), a serious and potentially fatal disease. Coccidioides spores are known to be present in the soils of this area. The employer conducted work activities that involved considerable disturbance of the soils. Although the site's Dust Management Plan included engineering controls, during and/or prior to the time of the inspection the engineering controls that were not effectively implemented included, but were not limited to:

- a. The employer did not effectively provide watering methods to stabilize airborne dusts. Insufficient water was available, and water was often not applied to the off-road areas. Watering methods, quantities, and frequency were not sufficient to minimize airborne dust in all areas where employees were exposed.
- b. The employer did not ensure that all spoils piles were tarped or otherwise stabilized.
- c. The employer did not implement other effective soil stabilization measures such as minimizing the area of exposed bare dirt to the immediate areas being worked, the application of soil stabilizers, and the prompt re-vegetation of completed areas.

Date By Which Violation Must be Abated:

09/14/2013

Proposed Penalty:

\$ 5060.00

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

OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
(916) 274-5751
FAX (916) 274-5785

RECEIVED
SEP 19 2013

OSH Appeals Board

APPEAL FORM

2013-R4D7 - 3197

313388563

Inspection Number on Citation

CLP Resources, Inc.

Employer Name on Citation

Employer Legal Name or DBA (Optional)

6615 South Rural Road, Suite 107

Address

Tempe, AZ 95253

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CITATION NO(s): 3 Item No(s): 1

NOTIFICATION OF FAILURE TO ABATE ALLEGED VIOLATION
CITATION NO(s): _____ Item No(s): _____

SPECIAL ORDER/SPECIAL ACTION NO: _____
Item No(s): _____

2. Specific ground(s) for this appeal are: (Check all that apply)

The safety order was not violated.

The classification (i.e., serious, willful, repeat) is incorrect.

The abatement requirements are unreasonable.

Required changes Time allowed to complete changes

The proposed penalty is unreasonable.

3. Explain any other reasons for appeal or issues to be raised on appeal. Affirmative defenses must be specifically stated. Some important affirmative defenses are listed on the OSHAB website at: <http://www.dir.ca.gov/OSHAB/oshab.html>

1. Lack of Employer Knowledge.

2. Independent Employee Act.

3. Exposing Employer Defense: Exposing Employer exercised reasonable diligence to protect employees from hazards. The hazard was a latent hazard of short duration and transitory in nature that the employer could not and did not recognize to exist despite a reasonable investigation. The hazard was created by, and known only to, sub-tier contractors.
4. Citation fails to describe violation with reasonable particularity and is vague and ambiguous.
5. Logical Time Defense.
6. Statute of Limitations.
7. Employer exercised due diligence to identify, control and abate serious hazards, including but not limited to all high hazard operations at the jobsite with regard to all jobsite personnel and sub-tier contractors through the utilization of extensive monitoring and oversight of jobsite operations.
8. Division failed to tender Form IBY timely.

4.



(Signature of Employer or Employer's Representative)
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Eugene F. McMnamin, Esq.

(Type or print name)

Attorney for Employer

(Title)

ATKINSON, ANDELSON, LOYA, RUUD & ROMO, 12800 Center Court Drive, Suite #300

(Address) {Address where all communications from the Appeals Board will be sent}
 Cerritos, CA

90703

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(562) 653-3200

emcmnamin@aalrr.com

September 13, 2013

(Telephone)

(E-Mail Address)

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State of California

Division of Occupational Safety and Health
Bakersfield District Office (0950647; 4029)
7718 Meany Avenue
Bakersfield, CA 93308-5110

Inspection Number: 313388563
Inspection Dates: 03/05/2013-09/04/2013
Issuance Date: 09/04/2013
CSHO ID: Y0393
Optional Inspection Nbr: 029-13



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SEP 19 2013

Citation and Notification of Penalty

Company Name: CLP Resources Inc.
Inspection Site: 10400 Helios Way, Santa Margarita, CA 93453

OSH Appeals Board

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

5141. Control of Harmful Exposure to Employees

(b) Administrative Controls. Whenever engineering controls are not feasible or do not achieve full compliance, administrative controls shall be implemented if practicable

VIOLATION:

During and/or prior to the time of inspection, the employer did not implement effective administrative controls as included in the site's Dust Management Plan, in order to minimize exposure to Coccidioides, the spore that causes Valley Fever (Coccidioidomycosis), a serious and potentially fatal disease. Coccidioides spores are known to be present in the soils of the area.

On March 05, 2013 employees were exposed to high wind and high dust conditions. CLP Resources Inc. did not initiate corrective measures, nor remove employees working in high wind conditions whereby visible emissions were observed above 20 percent opacity and at other times when engineering controls were not effective.

Date By Which Violation Must be Abated:
Proposed Penalty:

09/14/2013
\$ 5060.00

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

OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
(916) 274-5751
FAX (916) 274-5785

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SEP 19 2013

A P P E A L F O R M OSH Appeals Board

2013-R4D7 - 3198

313388563

Inspection Number on Citation

CLP Resources, Inc.

Employer Name on Citation

Employer Legal Name or DBA (Optional)

6615 South Rural Road, Suite 107

Address

Tempe, AZ 95253

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CITATION NO(s): 4 Item No(s): 1

NOTIFICATION OF FAILURE TO ABATE ALLEGED VIOLATION
CITATION NO(s): _____ Item No(s): _____

SPECIAL ORDER/SPECIAL ACTION NO: _____
Item No(s): _____

2. Specific ground(s) for this appeal are: (Check all that apply)

The safety order was not violated.

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Required changes Time allowed to complete changes

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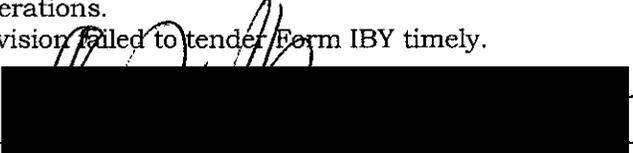
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5. Logical Time Defense.
6. Statute of Limitations.
7. Employer exercised due diligence to identify, control and abate serious hazards, including but not limited to all high hazard operations at the jobsite with regard to all jobsite personnel and sub-tier contractors through the utilization of extensive monitoring and oversight of jobsite operations.
8. Division failed to tender Form IBY timely.

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(Signature of Employer or Employer's Representative)

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emcmenamain@aalrr.com

September 13, 2013

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State of California
Division of Occupational Safety and Health
Bakersfield District Office (0950647; 4029)
7718 Meany Avenue
Bakersfield, CA 93308-5110

Inspection Number: 313388563
Inspection Dates: 03/05/2013-09/04/2013
Issuance Date: 09/04/2013
CSHO ID: Y0393
Optional Inspection Nbr: 029-13



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SEP 19 2013

Citation and Notification of Penalty

Company Name: CLP Resources Inc.
Inspection Site: 10400 Helios Way, Santa Margarita, CA 93453

OSH Appeals Board

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

5144. Respiratory Protection.

(c) Respiratory protection program. This subsection requires the employer to develop and implement a written respiratory protection program with required worksite-specific procedures and elements for required respirator use. The program must be administered by a suitably trained program administrator. In addition, certain program elements may be required for voluntary use to prevent potential hazards associated with the use of the respirator. The Small Entity Compliance Guide contains criteria for the selection of a program administrator and a sample program that meets the requirements of this subsection. Copies of the Small Entity Compliance Guide will be available from the Occupational Safety and Health Administration's Office of Publications, Room N 3101, 200 Constitution Avenue, NW, Washington, DC, 20210 (202-219-4667).

(1) In any workplace where respirators are necessary to protect the health of the employee or whenever respirators are required by the employer, the employer shall establish and implement a written respiratory protection program with worksite-specific procedures. The program shall be updated as necessary to reflect those changes in workplace conditions that affect respirator use. The employer shall include in the program the following provisions, as applicable:

- (A) Procedures for selecting respirators for use in the workplace;
- (B) Medical evaluations of employees required to use respirators;
- (C) Fit testing procedures for tight-fitting respirators;
- (D) Procedures for proper use of respirators in routine and reasonably foreseeable emergency situations;
- (E) Procedures and schedules for cleaning, disinfecting, storing, inspecting, repairing, discarding, and otherwise maintaining respirators;

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

State of California
Division of Occupational Safety and Health
Bakersfield District Office (0950647; 4029)
7718 Meany Avenue
Bakersfield, CA 93308-5110

Inspection Number: 313388563
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Issuance Date: 09/04/2013
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Citation and Notification of Penalty

Company Name: CLP Resources Inc.
Inspection Site: 10400 Helios Way, Santa Margarita, CA 93453

OSH Appeals Board

(F) Procedures to ensure adequate air quality, quantity, and flow of breathing air for atmosphere-supplying respirators;

(G) Training of employees in the respiratory hazards to which they are potentially exposed during routine and emergency situations;

(H) Training of employees in the proper use of respirators, including putting on and removing them, any limitations on their use, and their maintenance; and

(I) Procedures for regularly evaluating the effectiveness of the program.

VIOLATION:

During and/or prior to the time of inspection, the employer did not effectively evaluate and implement a written respiratory protection program to protect the employees from exposure to coccidioides spores, which cause Valley Fever (Coccidioidomycosis), a serious and potentially fatal disease. Coccidioides spores are known to be present in the soils of this area. The employer conducted work activities that involved considerable disturbance of the soils. During and/or prior to the time of the inspection, the employer did not develop and implement a respiratory protection program that met the requirements of this standard:

- a. The employer did not evaluate respiratory hazards in the workplace to determine operations in which exposure to Coccidioides spores required respiratory protection, and did not establish clear policies for the use of respirators. Employees worked in areas where airborne dusts were generated due to work operations or wind, without the use of respiratory protection.
- b. Employees used non-approved devices (dust masks) rather than respirators during high-wind events. These devices do not provide adequate respiratory protection.
- c. The employer did not evaluate the effectiveness of the site's respiratory protection program, despite receiving reports of diagnosed cases of Valley Fever among employees working at the site.

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State of California

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OSH Appeals Board

Citation and Notification of Penalty

Company Name: CLP Resources Inc.
Inspection Site: 10400 Helios Way, Santa Margarita, CA 93453

Date By Which Violation Must be Abated:
Proposed Penalty:

09/14/2013
\$ 5060.00

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

OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
(916) 274-5751
FAX (916) 274-5785

RECEIVED
SEP 19 2013

A P P E A L F O R M OSH Appeals Board

2013-R4D7 - 3199

313388563
Inspection Number on Citation

CLP Resources, Inc.
Employer Name on Citation

Employer Legal Name or DBA (Optional)

6615 South Rural Road, Suite 107
Address
Tempe, AZ 95253

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1. This is an Appeal from:

CITATION NO(s): 5 Item No(s): 1

NOTIFICATION OF FAILURE TO ABATE ALLEGED VIOLATION
CITATION NO(s): _____ Item No(s): _____

SPECIAL ORDER/SPECIAL ACTION NO: _____
Item No(s): _____

2. Specific ground(s) for this appeal are: (Check all that apply)

The safety order was not violated.

The classification (i.e., serious, willful, repeat) is incorrect.

The abatement requirements are unreasonable.

Required changes Time allowed to complete changes

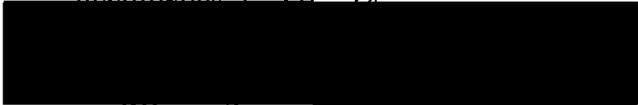
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(Signature of Employer or Employer's Representative)

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Attorney for Employer

(Title)

ATKINSON, ANDELSON, LOYA, RUUD & ROMO, 12800 Center Court Drive, Suite #300

(Address) {Address where all communications from the Appeals Board will be sent}
Cerritos, CA

90703

(City)

(State)

(Zip Code)

(562) 653-3200

emcmnamin@aalrr.com

September 13, 2013

(Telephone)

(E-Mail Address)

(Date)

{All correspondence from the Appeals Board will be sent to the representative above at the address above. If there is any change in address, telephone number, and/or e-mail address after you file your appeal, you must notify the Appeals Board of the change(s). All such notifications must be in writing}

State of California
Division of Occupational Safety and Health
Bakersfield District Office (0950647; 4029)
7718 Meany Avenue
Bakersfield, CA 93308-5110

Inspection Number: 313388563
Inspection Dates: 03/05/2013 - 09/04/2013
Issuance Date: 09/04/2013
CSHO ID: Y0393
Optional Inspection Nbr: 029-13



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OSH Appeals Board

Citation and Notification of Penalty

Company Name: CLP Resources Inc.
Inspection Site: 10400 Helios Way, Santa Margarita, CA 93453

Citation 5 Item 1 Type of Violation: **Willful Regulatory**

T8CCR 14300.29(b)(3). Forms - Willful Regulatory

(b) Implementation.

(3) How quickly must each injury or illness be recorded?

You must enter each recordable injury or illness on the Cal/OSHA Form 300 and Cal/OSHA Form 301 Incident Report within seven (7) calendar days of receiving information that a recordable injury or illness has occurred.

VIOLATION:

The employer has not, as of to date, recorded on their 2012 Cal/OSHA Form 300 several recordable valley fever illnesses that resulted in one or more of the following:

- (1) An employee receiving medical treatment beyond first aid.
- (2) An employee missing a day or days away from work.

The employer was familiar with the CCR Title 8 accident recording regulations through experience in completing the company's Log 300 Forms.

Date By Which Violation Must be Abated: 10/07/2013
Proposed Penalty: \$ 5000.00

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

OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
(916) 274-5751
FAX (916) 274-5785

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OSH Appeals Board

APPEAL FORM

2013-R4D7 - 3200

313388563

Inspection Number on Citation

CLP Resources, Inc.

Employer Name on Citation

Employer Legal Name or DBA (Optional)

6615 South Rural Road, Suite 107

Address

Tempe, AZ 95253

1. You only have 15 working days from receipt of a citation to appeal.

2. A copy of this form must be attached to each citation or notification appealed. Failure to file a completed form may result in dismissal of the appeal.

FIRST READ IMPORTANT INFORMATION ON THE REVERSE SIDE THEN COMPLETE ONE APPEAL FORM FOR EACH CITATION

1. This is an Appeal from:

CITATION NO(s): 6 Item No(s): 1

NOTIFICATION OF FAILURE TO ABATE ALLEGED VIOLATION
CITATION NO(s): _____ Item No(s): _____

SPECIAL ORDER/SPECIAL ACTION NO: _____
Item No(s): _____

2. Specific ground(s) for this appeal are: (Check all that apply)

The safety order was not violated.

The classification (i.e., serious, willful, repeat) is incorrect.

The abatement requirements are unreasonable.

Required changes Time allowed to complete changes

The proposed penalty is unreasonable.

3. Explain any other reasons for appeal or issues to be raised on appeal. Affirmative defenses must be specifically stated. Some important affirmative defenses are listed on the OSHAB website at: <http://www.dir.ca.gov/OSHAB/oshab.html>

1. Lack of Employer Knowledge.
2. Independent Employee Act.

3. Exposing Employer Defense: Exposing Employer exercised reasonable diligence to protect employees from hazards. The hazard was a latent hazard of short duration and transitory in nature that the employer could not and did not recognize to exist despite a reasonable investigation. The hazard was created by, and known only to, sub-tier contractors.
4. Citation fails to describe violation with reasonable particularity and is vague and ambiguous.
5. Logical Time Defense.
6. Statute of Limitations.
7. Employer exercised due diligence to identify, control and abate serious hazards, including but not limited to all high hazard operations at the jobsite with regard to all jobsite personnel and sub-tier contractors through the utilization of extensive monitoring and oversight of jobsite operations.



4.

(Signature of Employer or Employer's Representative)

{If there is any change in representation after you file your appeal, you must notify the Appeals Board in writing}

Eugene F. McMEnamin, Esq.

(Type or print name)

Attorney for Employer

(Title)

ATKINSON, ANDELSON, LOYA, RUUD & ROMO, 12800 Center Court Drive, Suite #300

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OSH Appeals Board

Citation and Notification of Penalty

Company Name: CLP Resources Inc.
Inspection Site: 10400 Helios Way, Santa Margarita, CA 93453

Citation 6 Item 1 Type of Violation: **Willful Regulatory**

342. Reporting Work-Connected Fatalities and Serious Injuries

(a) Every employer shall report immediately by telephone or telegraph to the nearest District Office of the Division of Occupational Safety and Health any serious injury or illness, or death, of an employee occurring in a place of employment or in connection with any employment.

Immediately means as soon as practically possible but not longer than 8 hours after the employer knows or with diligent inquiry would have known of the death or serious injury or illness. If the employer can demonstrate that exigent circumstances exist, the time frame for the report may be made no longer than 24 hours after the incident.

Serious injury or illness is defined in section 330(h), Title 8, California Administrative Code.

VIOLATION:

Employer did not report by telephone or telegraph to the nearest district office of the Division of Occupational Safety and Health a serious illness of an employee occurring in a place of employment or in connection with employment.

On or about September 24, 2012 an employee was treated and hospitalized for over 24 hours for Valley Fever he contracted in connection with working at Topaz Solar Farm in Santa Margarita California. The employer was aware of the employee's illness (Valley Fever) involving hospitalization for more than 24 hours. The employer never reported the serious illness. The employer had knowledge of the regulation requirements to report serious injuries or illnesses to Cal /OSHA.

Date By Which Violation Must be Abated:

10/07/2013

Proposed Penalty:

\$ 25000.00

[Redacted signature area]

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

State of California

Division of Occupational Safety and Health
Bakersfield District Office (0950647; 4029)
7718 Meany Avenue
Bakersfield, CA 93308-5110

Inspection Number: 313388563
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Citation and Notification of Penalty

Company Name: CLP Resources Inc.
Inspection Site: 10400 Helios Way, Santa Margarita, CA 93453

OSH Appeals Board

Compliance Officer/District Manager

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

ATKINSON, ANDELSON, LOYA, RUUD ROMO

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

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FAX (916) 923-1222

SAN DIEGO

(858) 485-9526
FAX (858) 485-9412

OUR FILE NUMBER:

014493.00010
11562554.1

September 16, 2013

**VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Filing Clerk
CAL-OSHA APPEALS BOARD
2520 Venture Oaks Way, Ste. 300
Sacramento, CA 95833

Certified Article Number

7196 9008 9111 1540 5126

SENDERS RECORD

**Re: Employer Name: CLP Resources, Inc.
Inspection Dates: 3/5/2013 - 9/4/2013
Inspection Site: 10400 Helios Way, Santa Margarita, CA 93453
Inspection No.: 313388563
Issuance Date: 9/4/2013
CSHO ID: Y0393**

RECEIVED

SEP 19 2013

Dear Clerk:

OSH Appeals Board

I am enclosing the original and a copy of the Appeals to:

1. Citation No. 1, Item No. 1;
2. Citation No. 2, Item No. 1;
3. Citation No. 3, Item No. 1;
4. Citation No. 4, Item No. 1;
5. Citation No. 5, Item No. 1; and
6. Citation No. 6, Item No. 1.

Please return the conformed copies reflecting the date the Appeals are received, and return the conformed copies to me in the self-addressed, stamped envelope provided.

Thank you for your anticipated courtesy and cooperation.

Very truly yours,

ATKINSON, ANDELSON, LOYA, RUUD & ROMO

Cathleen Siler
Assistant to Eugene F. McMnamin
/cms

Enclosures: Appeals to Citations 1 through 6