

**U.S. Department of Labor**  
Occupational Safety and Health Administration  
11 Executive Drive  
Suite 11  
Fairview Heights, IL 62208  
Phone: 618-632-8612 Fax: 618-632-5712



## Citation and Notification of Penalty

**To:**  
Environmental Remediation and Recovery, Inc.  
and its successors  
PO Box 266  
Mounds, IL 62964

**Inspection Number:** 977916  
**Inspection Date(s):** 05/21/2014 - 11/14/2014  
**Issuance Date:** 11/18/2014

**Inspection Site:**  
400 Industrial Park Road  
Mounds, IL 62964

*The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.*

This Citation and Notification of Penalty (this Citation) describes violations of the Occupational Safety and Health Act of 1970. The penalty(ies) listed herein is (are) based on these violations. You must abate the violations referred to in this Citation by the dates listed and pay the penalties proposed, unless within 15 working days (excluding weekends and Federal holidays) from your receipt of this Citation and Notification of Penalty **you either call to schedule an informal conference (see paragraph below) or you mail a notice of contest to the U.S. Department of Labor Area Office at the address shown above.** Please refer to the enclosed booklet (OSHA 3000) which outlines your rights and responsibilities and which should be read in conjunction with this form. Issuance of this Citation does not constitute a finding that a violation of the Act has occurred unless there is a failure to contest as provided for in the Act or, if contested, unless this Citation is affirmed by the Review Commission or a court.

**Posting** - The law requires that a copy of this Citation and Notification of Penalty be posted immediately in a prominent place at or near the location of the violation(s) cited herein, or, if it is not practicable because of the nature of the employer's operations, where it will be readily observable by all affected employees. This Citation must remain posted until the violation(s) cited herein has (have) been abated, or for 3 working days (excluding weekends and Federal holidays), whichever is longer.

**Informal Conference** - An informal conference is not required. However, if you wish to have such a conference you may request one with the Area Director during the 15 working day contest period. During such an informal conference you may present any evidence or views which you believe would support an adjustment to the citation(s) and/or penalty(ies).

If you are considering a request for an informal conference to discuss any issues related to this Citation and Notification of Penalty, you must take care to schedule it early enough to allow time to contest after the informal conference, should you decide to do so. Please keep in mind that a written letter of intent to contest must be submitted to the Area Director within 15 working days of your receipt of this Citation. The running of this contest period is not interrupted by an informal conference.

If you decide to request an informal conference, please complete, remove and post the Notice to Employees next to this Citation and Notification of Penalty as soon as the time, date, and place of the informal conference have been determined. Be sure to bring to the conference any and all supporting documentation of existing conditions as well as any abatement steps taken thus far. If conditions warrant, we can enter into an informal settlement agreement which amicably resolves this matter without litigation or contest.

**Right to Contest** – You have the right to contest this Citation and Notification of Penalty. You may contest all citation items or only individual items. You may also contest proposed penalties and/or abatement dates without contesting the underlying violations. **Unless you inform the Area Director in writing that you intend to contest the citation(s) and/or proposed penalty(ies) within 15 working days after receipt, the citation(s) and the proposed penalty(ies) will become a final order of the Occupational Safety and Health Review Commission and may not be reviewed by any court or agency.**

**Penalty Payment** – Penalties are due within 15 working days of receipt of this notification unless contested. (See the enclosed booklet and the additional information provided related to the Debt Collection Act of 1982.) Make your check or money order payable to “DOL-OSHA”. Please indicate the Inspection Number on the remittance. You can also make your payment electronically on [www.pay.gov](http://www.pay.gov). On the left side of the pay.gov homepage, you will see an option to Search Public Forms. Type "OSHA" and click Go. From the results, click on **OSHA Penalty Payment Form**. The direct link is:

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

You will be required to enter your inspection number when making the payment. Payments can be made by credit card or Automated Clearing House (ACH) using your banking information. Payments of \$50,000 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](http://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 11/18/2014. The conference will be held by telephone or at the OSHA office located at 11 Executive Drive, Suite 11, Fairview Heights, IL 62208 on \_\_\_\_\_ at

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

**CERTIFICATION OF CORRECTIVE ACTION WORKSHEET**

**Inspection Number: 977916**

Company Name: Environmental Remediation and Recovery, Inc.  
Inspection Site: 400 Industrial Park Road, Mounds, IL 62964  
Issuance Date: 11/18/2014

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, 11 Executive Drive, Suite 11, Fairview Heights, IL 62208**

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**  
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**Company Name:** Environmental Remediation and Recovery, Inc.  
**Inspection Site:** 400 Industrial Park Road, Mounds, IL 62964

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The alleged violations below have been grouped because they involve similar or related hazards that may increase the potential for injury or illness.

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

29 CFR 1910.23(c)(1): Open-sided floors and/or platforms four feet or more above adjacent floor or ground level were not guarded with standard railings (or equivalent) and toeboards:

On the fuel side, where the fixed platform and hinged car platform meet, when folded for railcar access, guardrail openings ranging from 10 to 12 inches in width between the platforms. Employees were exposed to falling up to 15 feet to a concrete floor below.

Date By Which Violation Must be Abated:  
Proposed Penalty:

12/01/2014  
\$2000.00

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

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**Company Name:** Environmental Remediation and Recovery, Inc.  
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**Citation 1 Item 1 b** Type of Violation: **Serious**

29 CFR 1910.132(a): Protective equipment was not used when necessary whenever hazards capable of causing injury and impairment were encountered:

Employees conducting permit-required confined space entries on the Fuel Side, working from the top of railcars, were exposed to the hazard of falling approximately 15 feet when standard railings were not provided on cars and no fall protection equipment was provided.

**Date By Which Violation Must be Abated:**

**12/08/2014**

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

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**Inspection Number:** 977916  
**Inspection Date(s):** 05/21/2014 - 11/14/2014  
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**Citation and Notification of Penalty**

**Company Name:** Environmental Remediation and Recovery, Inc.  
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**Citation 1 Item 2** Type of Violation: **Serious**

29 CFR 1910.134(d)(2)(i)(B): The employer did not provide a full facepiece pressure demand supplied-air respirator (SAR) with auxiliary self-contained air supply for employee use in IDLH atmospheres:

On or about May 20, 2014, on the Fuel side, employees were required to enter permit required confined space (ADMX 29425) to remove sweet crude oil with an immediately dangerous to life or health (IDLH) atmosphere. Employees entered the IDLH space without an auxiliary self-contained air supply.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:	11/24/2014
Proposed Penalty:	\$2800.00

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

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

**Inspection Number:** 977916  
**Inspection Date(s):** 05/21/2014 - 11/14/2014  
**Issuance Date:** 11/18/2014



**Citation and Notification of Penalty**

**Company Name:** Environmental Remediation and Recovery, Inc.  
**Inspection Site:** 400 Industrial Park Road, Mounds, IL 62964

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

29 CFR 1910.134(e)(1): The employer did not provide a medical evaluation to determine the employee's ability to use a respirator, before the employee was fit tested or required to use the respirator in the workplace:

On the Fuel and Food Grade sides, employees were required to wear tight-fitting full-face airline respirators or full-face cartridge respirators. The employer failed to ensure that employees were provided with a medical evaluation before being required to wear a respirator.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:	12/08/2014
Proposed Penalty:	\$2800.00

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

29 CFR 1910.134(f)(1): The employer did not ensure that employee(s) required to use a tight-fitting facepiece respirator passed the appropriate qualitative fit test (QLFT) or quantitative fit test (QNFT):

On the Fuel side and Food Grade side, employees were required to wear full-face, tight-fitting and/or full-facepiece pressure-demand supplied-air respirators. The employer did not ensure that employees were fit tested on the make, model, style and size of each respirator required to be worn.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:	11/24/2014
Proposed Penalty:	\$2800.00

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

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**Citation 1 Item 5** Type of Violation: **Serious**

29 CFR 1910.134(i)(7): Oil lubricated compressor(s) used to supply breathing air did not have a high-temperature or carbon monoxide alarm(s) or both:

On the Fuel side, employees were required to enter a permit required confined space while utilizing a supplied air respirator (SAR) with air supplied from an oil lubricated compressor. Employees were exposed to hazards of high temperature and/or carbon monoxide when the SAR was not equipped with a high temperature alarm or a carbon monoxide alarm.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:	12/08/2014
Proposed Penalty:	\$2800.00

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**Company Name:** Environmental Remediation and Recovery, Inc.  
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**Citation 1 Item 6** Type of Violation: **Serious**

29 CFR 1910.146(d)(3)(i): Under the permit-required confined space program required by 29 CFR 1910.146(c)(4), the employer did not develop and implement the means, procedures, and practices necessary for safe permit space entry operations, including, but not limited to, specifying acceptable entry conditions:

The employer's written permit-required confined space program did not specify acceptable entry conditions for safe employee entry into railcars on both the Food Grade and Fuel sides of the operation, including, but not limited to: corn syrup, molasses, ethanol and sweet crude oil.

Date By Which Violation Must be Abated:  
Proposed Penalty:

12/22/2014  
\$2000.00

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

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

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**Citation and Notification of Penalty**

**Company Name:** Environmental Remediation and Recovery, Inc.  
**Inspection Site:** 400 Industrial Park Road, Mounds, IL 62964

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The alleged violations below have been grouped because they involve similar or related hazards that may increase the potential for injury or illness.

**Citation 1 Item 7 a Type of Violation: **Serious****

29 CFR 1910.146(d)(3)(iv): Under the permit-required confined space program required by 29 CFR 1910.146(c)(4), the employer did not develop and implement the means, procedures, and practices necessary for safe permit entry operations, including providing purging, inerting, flushing or ventilating the permit space as necessary to eliminate or control atmospheric hazards:

The written permit-required confined space program did not specify how to set up and use the ventilation equipment to eliminate or control the atmospheric hazards during Food Grade/Fuel side tank railcar entry. Passive and mechanical ventilation was provided prior to entry, but not during entry to maintain acceptable entry conditions.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:	11/24/2014
Proposed Penalty:	\$2800.00

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

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

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**Citation and Notification of Penalty**

**Company Name:** Environmental Remediation and Recovery, Inc.  
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**Citation 1 Item 7 b** Type of Violation: **Serious**

29 CFR 1910.146(d)(4)(ii): Under the permit-required confined space program required by 29 CFR 1910.146(c)(4), the employer did not ensure that employees used the ventilating equipment properly:

On and before May 20, 2014, the employer did not ensure employees used ventilation equipment properly, including prior to entry, and during entry, to ensure that atmospheric hazards were controlled in railcars containing sweet crude oil.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:

11/24/2014

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

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**Citation 1 Item 8** Type of Violation: **Serious**

29 CFR 1910.146(d)(4)(viii): Under the permit-required confined space program required by 29 CFR 1910.146(c)(4), the employer did not ensure that rescue and emergency equipment needed to comply with 29 CFR 1910.146(d)(9) were maintained properly:

On or about May 20, 2014, on the Fuel side, employees were required to enter permit required confined space (ADMX 29425) to remove sweet crude oil. The employer did not ensure that a functioning mechanical lifting device was available for use during an emergency rescue of an incapacitated entrant during entry operations.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:	11/24/2014
Proposed Penalty:	\$2800.00

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

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

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**Citation and Notification of Penalty**

**Company Name:** Environmental Remediation and Recovery, Inc.  
**Inspection Site:** 400 Industrial Park Road, Mounds, IL 62964

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The alleged violations below have been grouped because they involve similar or related hazards that may increase the potential for injury or illness.

**Citation 1 Item 9 a Type of Violation: **Serious****

29 CFR 1910.146(d)(9): The employer did not develop and implement procedures for summoning rescue and emergency services, for rescuing entrants from permit spaces, for providing necessary emergency services to rescued employees, and/or for preventing unauthorized entry:

On or about May 20, 2014, on the Fuel side, employees were required to enter permit required confined space (ADMX 29425) to remove sweet crude oil. The employer did not develop or implement procedures to activate employees designated as emergency responders, or how and when to summon outside rescue and emergency services.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated: 12/15/2014  
Proposed Penalty: \$2800.00

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

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

**Inspection Number:** 977916  
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**Issuance Date:** 11/18/2014



**Citation and Notification of Penalty**

**Company Name:** Environmental Remediation and Recovery, Inc.  
**Inspection Site:** 400 Industrial Park Road, Mounds, IL 62964

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**Citation 1 Item 9 b** Type of Violation: **Serious**

29 CFR 1910.146(i)(7): The employer did not ensure that each attendant summoned rescue and other emergency services as soon as the attendant determined that authorized entrants needed assistance to escape from permit space hazards:

On or about May 20, 2014, on the Fuel side, employees were required to enter permit required confined space (ADMX 29425) to remove sweet crude oil. The Fuel side Entry Supervisor and Attendant did not summon outside local emergency rescue services, '911', when it was immediately determined that employee emergency responders could not remove the incapacitated Entrant.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:

12/01/2014

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

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

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**Citation and Notification of Penalty**

**Company Name:** Environmental Remediation and Recovery, Inc.  
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**Citation 1 Item 10** Type of Violation: **Serious**

29 CFR 1910.146(d)(14): Under the permit-required confined space program required by 29 CFR 1910.146(c)(4), the employer did not review the permit-required confined space program, using the canceled permits retained under 29 CFR 1910.146(e)(6) within one year after each entry and did not revise the program as necessary to ensure that employee participation in entry operations were protected from permit space hazards:

The employer did not review the permit-required confined space program, using the cancelled permits, within one year of each entry to ensure that employees were protected from hazards of entry and to revise the program as necessary.

Date By Which Violation Must be Abated:  
Proposed Penalty:

12/08/2014  
\$2000.00

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

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**Company Name:** Environmental Remediation and Recovery, Inc.  
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**Citation 1 Item 11** Type of Violation: **Serious**

29 CFR 1910.146(e)(5)(i): The entry supervisor did not terminate entry and cancel the entry permit when the entry operations covered by the entry permit had been completed:

On or before May 19, 2014, the entry supervisor for the Food Grade side did not cancel the entry permit when the molasses railcar entry of GATX 23940 was terminated.

Date By Which Violation Must be Abated:

12/01/2014

Proposed Penalty:

\$1600.00

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

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**Citation 1 Item 12** Type of Violation: **Serious**

29 CFR 1910.146(g)(2)(iv): The employer did not provide training to each affected employee whenever the employer had reason to believe either that there were deviations from the permit space entry procedures required by 29 CFR 1910.146(d)(3) or that there were inadequacies in the employee's knowledge or use of these procedures:

The employer did not train affected employees upon discovery of deviations from required entry procedures, such as but not limited to: failure to properly record testing results, failure to test railcars prior to entry, and failure to utilize required rescue equipment.

Date By Which Violation Must be Abated:  
Proposed Penalty:

12/15/2014  
\$1600.00

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The alleged violations below have been grouped because they involve similar or related hazards that may increase the potential for injury or illness.

Citation 1 Item 13 a      Type of Violation: **Serious**

29 CFR 1910.146(k)(1)(i): When designating rescue and emergency services pursuant to paragraph (d)(9), the employer did not evaluate the prospective rescuer's ability to respond to a rescue summons in a timely manner, considering the hazards identified:

On or about May 20, 2014, on the Fuel side, the employer had not previously evaluated the ability of the emergency rescue services (911) to provide timely rescue in a permit required confined space railcar (ADMX 29425) containing a hazardous atmosphere.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:	12/08/2014
Proposed Penalty:	\$2800.00

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**Citation 1 Item 13 b**      Type of Violation: **Serious**

29 CFR 1910.146(k)(1)(ii): When designating rescue and emergency services pursuant to paragraph (d)(9), the employer did not evaluate the prospective rescuer's ability, in terms of proficiency with rescue-related tasks and equipment, to function appropriately while rescuing entrants from the particular space or types of spaces identified:

The employer did not evaluate the training of the emergency rescue service prior to designation, to ensure that the responders could effectively rescue an entrant in railcar spaces, including tank railcars.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:

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The alleged violations below have been grouped because they involve similar or related hazards that may increase the potential for injury or illness.

Citation 1 Item 14 a      Type of Violation: **Serious**

29 CFR 1910.146(k)(1)(iv): The employer who had designated rescue and emergency services did not inform each rescue team or service of the hazards they may confront when called to perform rescue at the site:

As a backup to employee rescue response, the employer designated calling 911 for emergency services, but did not inform each responding service (police, Fire and Rescue, and EMS) of the hazards to expect when they were summoned to the site.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:	01/07/2015
Proposed Penalty:	\$2800.00

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

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

**Inspection Number:** 977916  
**Inspection Date(s):** 05/21/2014 - 11/14/2014  
**Issuance Date:** 11/18/2014



**Citation and Notification of Penalty**

**Company Name:** Environmental Remediation and Recovery, Inc.  
**Inspection Site:** 400 Industrial Park Road, Mounds, IL 62964

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**Citation 1 Item 14 b**      Type of Violation: **Serious**

29 CFR 1910.146(k)(1)(v): The employer who had designated rescue and emergency services did not provide the selected rescue team or service with access to all permit spaces from which rescue could be necessary, so that the rescue service could develop appropriate rescue plans and practice rescue operations:

The employer designated calling 911 for outside emergency rescue services, and did not provide access to the rescue services to all permit spaces so rescue plans and practice rescue operations could be made.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:

01/07/2015

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

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

**Inspection Number:** 977916  
**Inspection Date(s):** 05/21/2014 - 11/14/2014  
**Issuance Date:** 11/18/2014



**Citation and Notification of Penalty**

**Company Name:** Environmental Remediation and Recovery, Inc.  
**Inspection Site:** 400 Industrial Park Road, Mounds, IL 62964

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The alleged violations below have been grouped because they involve similar or related hazards that may increase the potential for injury or illness.

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

29 CFR 1910.134(g)(3)(vi)(A): Employees located outside the immediately dangerous to life or health atmosphere were not equipped with pressure demand or other positive pressure SCBAs, or a pressure demand or other positive pressure supplied-air respirator with auxiliary SCBA:

The employer did not equip employees with pressure demand or other positive pressure supplied-air respirators with SCBAs outside permit required confined spaces with IDLH atmospheres for use in case of emergency rescue.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:	11/24/2014
Proposed Penalty:	\$14000.00

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

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

**Inspection Number:** 977916  
**Inspection Date(s):** 05/21/2014 - 11/14/2014  
**Issuance Date:** 11/18/2014



**Citation and Notification of Penalty**

**Company Name:** Environmental Remediation and Recovery, Inc.  
**Inspection Site:** 400 Industrial Park Road, Mounds, IL 62964

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

29 CFR 1910.146(k)(2)(i): The employer did not provide affected employees with the personal protective equipment (PPE) needed to conduct permit space rescues safely and did not train affected employees so they were proficient in the use of that PPE, at no cost to those employees:

The employer did not provide equipment or train employees designated as rescuers in the use of PPE, such as respiratory protection necessary to proficiently conduct permit space rescue in the event of an emergency.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:

11/24/2014

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

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

**Inspection Number:** 977916  
**Inspection Date(s):** 05/21/2014 - 11/14/2014  
**Issuance Date:** 11/18/2014



**Citation and Notification of Penalty**

**Company Name:** Environmental Remediation and Recovery, Inc.  
**Inspection Site:** 400 Industrial Park Road, Mounds, IL 62964

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

29 CFR 1910.134(h)(4): Respirators that failed an inspection or were otherwise found to be defective were not removed from service and discarded or repaired:

The MSA Type-C Ultraview Full Face respirator mask used with a supplied airline for Fuel Side permit required confined space entries into rail tank cars had a broken lower head strap, a broken breathing tube snorkel, and an airline with splices and holes. The employer did not remove the mask, snorkel, or airline from service and discard or repair them.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:	11/24/2014
Proposed Penalty:	\$14000.00

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

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

**Inspection Number:** 977916  
**Inspection Date(s):** 05/21/2014 - 11/14/2014  
**Issuance Date:** 11/18/2014



**Citation and Notification of Penalty**

**Company Name:** Environmental Remediation and Recovery, Inc.  
**Inspection Site:** 400 Industrial Park Road, Mounds, IL 62964

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

29 CFR 1910.146(d)(5)(i): The employer authorized entry to begin after evaluation testing of the permit space conditions determined that acceptable entry conditions did not exist:

On or about May 20, 2014, entry into the tank railcar ADMX 29425 containing sweet crude oil residue was authorized after testing determined that entry conditions were not acceptable; the testing conducted prior to entry triggered multiple sensor alarms on the 4-gas meter.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:	11/24/2014
Proposed Penalty:	\$14000.00

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

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

**Inspection Number:** 977916  
**Inspection Date(s):** 05/21/2014 - 11/14/2014  
**Issuance Date:** 11/18/2014



**Citation and Notification of Penalty**

**Company Name:** Environmental Remediation and Recovery, Inc.  
**Inspection Site:** 400 Industrial Park Road, Mounds, IL 62964

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**Citation 2 Item 4** Type of Violation: **Willful**

29 CFR 1910.146(d)(5)(ii): Under the permit-required confined space program required by 29 CFR 1910.146(c)(4), the employer did not evaluate permit space conditions when entry operations were conducted by testing or monitoring the permit space as necessary:

On or before May 20, 2014, the employer did not monitor permit-required confined space railcar entries as necessary during the course of cleaning operations to ensure acceptable entry conditions were maintained.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:	11/24/2014
Proposed Penalty:	\$14000.00

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

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

**Inspection Number:** 977916  
**Inspection Date(s):** 05/21/2014 - 11/14/2014  
**Issuance Date:** 11/18/2014



**Citation and Notification of Penalty**

**Company Name:** Environmental Remediation and Recovery, Inc.  
**Inspection Site:** 400 Industrial Park Road, Mounds, IL 62964

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The alleged violations below have been grouped because they involve similar or related hazards that may increase the potential for injury or illness.

**Citation 2 Item 5 a** Type of Violation: **Willful**

29 CFR 1910.146(e)(1): Before entry was authorized, the employer did not document the completion of measures required by 29 CFR 1910.146(d)(3) by preparing an entry permit:

On May 20, 2014, the Entry Supervisor did not complete an entry permit prior to beginning cleaning operations, as required, for confined space entry into railcar ADMX 29425 containing sweet crude oil. The permit would have documented the measures taken to ensure safe permit entry.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:	11/24/2014
Proposed Penalty:	\$14000.00

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

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

**Inspection Number:** 977916  
**Inspection Date(s):** 05/21/2014 - 11/14/2014  
**Issuance Date:** 11/18/2014



**Citation and Notification of Penalty**

**Company Name:** Environmental Remediation and Recovery, Inc.  
**Inspection Site:** 400 Industrial Park Road, Mounds, IL 62964

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**Citation 2 Item 5 b Type of Violation: **Willful****

29 CFR 1910.146(j)(2): The employer did not ensure that each entry supervisor verified, by checking that the appropriate entries had been made on the permit, that all tests specified by the permit had been conducted and that all procedures and equipment specified by the permit were in place before endorsing the permit and allowing entry to begin:

On and before May 20, 2014, the Entry Supervisors did not verify and ensure that all of the appropriate entries were made on the permit-required confined space entry permits for railcars entered, such as, but not limited to, atmospheric testing and ensuring rescue equipment was in place prior to entry.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:

11/24/2014

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

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

**Inspection Number:** 977916  
**Inspection Date(s):** 05/21/2014 - 11/14/2014  
**Issuance Date:** 11/18/2014



**Citation and Notification of Penalty**

**Company Name:** Environmental Remediation and Recovery, Inc.  
**Inspection Site:** 400 Industrial Park Road, Mounds, IL 62964

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Citation 2 Item 6 Type of Violation: **Willful**

29 CFR 1910.146(k)(2)(iv): The employer did not ensure that affected employees practice making permit space rescues at least once every 12 months, by means of simulated rescue operations in which they remove dummies, manikins, or actual persons from the actual permit spaces, or from representative permit spaces:

The employer did not conduct rescue drills with affected employees, designated as rescuers, that included removal of dummies, manikins or persons from permit or representative permit spaces at least every 12 months.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated:	11/24/2014
Proposed Penalty:	\$14000.00

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

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

**Inspection Number:** 977916  
**Inspection Date(s):** 05/21/2014 - 11/14/2014  
**Issuance Date:** 11/18/2014



**Citation and Notification of Penalty**

**Company Name:** Environmental Remediation and Recovery, Inc.  
**Inspection Site:** 400 Industrial Park Road, Mounds, IL 62964

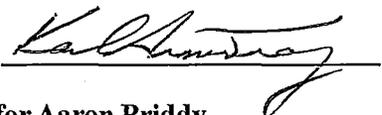
**Citation 2 Item 7** Type of Violation: **Willful**

29 CFR 1910.146(k)(3): 29 CFR 1910.146(k)(3): To facilitate non-entry rescue, retrieval systems or methods were not used whenever an authorized entrant entered a permit space:

On or about May 20, 2014, the employer did not ensure that retrieval systems consisting of a chest or full body harness with retrieval line attached, and a mechanical device capable of retrieving personnel from permit spaces with more than a 5 foot vertical depth, were used during entry to railcar ADMX 29425 for sweet crude oil cleanout.

**ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM**

Date By Which Violation Must be Abated: 11/24/2014  
Proposed Penalty: \$70000.00

  
for Aaron Priddy  
Area Director

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

**U.S. Department of Labor**  
Occupational Safety and Health Administration  
11 Executive Drive  
Suite 11  
Fairview Heights, IL 62208  
Phone: 618-632-8612 Fax: 618-632-5712



## INVOICE / DEBT COLLECTION NOTICE

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**Company Name:** Environmental Remediation and Recovery, Inc.  
**Inspection Site:** 400 Industrial Park Road, Mounds, IL 62964  
**Issuance Date:** 11/18/2014

<b>Summary of Penalties for Inspection Number</b>	<b>977916</b>
<b>Citation 1, Serious</b>	<b>\$34400.00</b>
<b>Citation 2, Willful</b>	<b>\$154000.00</b>
<b>TOTAL PROPOSED PENALTIES</b>	<b>\$188400.00</b>

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To avoid additional charges, please remit payment promptly to this Area Office for the total amount of the uncontested penalties summarized above. Make your check or money order payable to: "DOL-OSHA". Please indicate OSHA's Inspection Number (indicated above) on the remittance. You can also make your payment electronically on [www.pay.gov](http://www.pay.gov). On the left side of the pay.gov homepage, you will see an option to Search Public Forms. Type "OSHA" and click Go. From the results, click on **OSHA Penalty Payment Form**. The direct link is <https://www.pay.gov/paygov/forms/formInstance.html?agencyFormId=53090334>. You will be required to enter your inspection number when making the payment. Payments can be made by credit card or Automated Clearing House (ACH) using your banking information. Payments of \$50,000 or more require a Transaction ID, and also must be paid using ACH. If you require a Transaction ID, please contact the OSHA Debt Collection Team at (202) 693-2170.

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

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

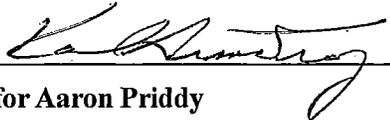
account, the bank will attempt to make the transfer up to 2 times.

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

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

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

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

  
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for Aaron Priddy  
Area Director

11/18/2014  
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Date