

U.S. Department of Labor
Occupational Safety and Health Administration
299 Cherry Hill Road
Suite 103
Parsippany, NJ 07054
Phone: 973-263-1003 Fax: 973-299-7161



Citation and Notification of Penalty

To:
The LandTek Group, Inc., dba LandTek
and its successors
235 County Line Rd
Amityville, NY 11701

Inspection Number: 1158268
Inspection Date(s): 06/22/2016 - 06/22/2016
Issuance Date: 12/20/2016

Inspection Site:
151 Fairview Avenue
Verona, NJ 07044

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. 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 \$25,000 or more require a Transaction ID, and also must be paid using ACH. If you require a Transaction ID, please contact the OSHA Debt Collection Team at (202) 693-2170.

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

Notification of Corrective Action – For each violation which you do not contest, you must provide ***abatement certification*** to the Area Director of the OSHA office issuing the citation and identified above. This abatement certification is to be provided by letter within 10 calendar days after each abatement date. Abatement certification includes the date and method of abatement. If the citation indicates that the violation was corrected during the inspection, no abatement certification is required for that item. The abatement certification letter must be posted at the location where the violation appeared and the corrective action took place or employees must otherwise be effectively informed about abatement activities. A sample abatement certification letter is enclosed with this Citation. In addition, where the citation indicates that ***abatement documentation*** is necessary, evidence of the purchase or repair of equipment, photographs or video, receipts, training records, etc., verifying that abatement has occurred is required to be provided to the Area Director.

Employer Discrimination Unlawful – The law prohibits discrimination by an employer against an

employee for filing a complaint or for exercising any rights under this Act. An employee who believes that he/she has been discriminated against may file a complaint no later than 30 days after the discrimination occurred with the U.S. Department of Labor Area Office at the address shown above.

Employer Rights and Responsibilities – The enclosed booklet (OSHA 3000) outlines additional employer rights and responsibilities and should be read in conjunction with this notification.

Notice to Employees – The law gives an employee or his/her representative the opportunity to object to any abatement date set for a violation if he/she believes the date to be unreasonable. The contest must be mailed to the U.S. Department of Labor Area Office at the address shown above and postmarked within 15 working days (excluding weekends and Federal holidays) of the receipt by the employer of this Citation and Notification of Penalty.

Inspection Activity Data – You should be aware that OSHA publishes information on its inspection and citation activity on the Internet under the provisions of the Electronic Freedom of Information Act. The information related to these alleged violations will be posted when our system indicates that you have received this citation. You are encouraged to review the information concerning your establishment at www.osha.gov. If you have any dispute with the accuracy of the information displayed, please contact this office.



NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with OSHA to discuss the citation(s) issued on 12/20/2016. The conference will be held by telephone or at the OSHA office located at 299 Cherry Hill Road, Suite 103, Parsippany, NJ 07054 on _____ at

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

CERTIFICATION OF CORRECTIVE ACTION WORKSHEET

Inspection Number: 1158268

Company Name: The LandTek Group, Inc., dba LandTek
Inspection Site: 151 Fairview Avenue, Verona, NJ 07044
Issuance Date: 12/20/2016

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, 299 Cherry Hill Road, Suite 103, Parsippany, NJ 07054**

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

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

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

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

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

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

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

Signature

Date

Typed or Printed Name

Title

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

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



Citation and Notification of Penalty

Company Name: The LandTek Group, Inc., dba LandTek
Inspection Site: 151 Fairview Avenue, Verona, NJ 07044

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

29 CFR 1926.651(k)(1): Daily inspections of excavations, the adjacent areas, and protective systems were not made by a competent person for evidence of a situation that could have resulted in possible cave-ins, indications of failure of protective systems.

a) Work site was located at 151 Fairview Avenue, Verona, NJ 07044

Employees were exposed to cave in hazards as they were directed to work in an unprotected excavation with sheer walls as high as nearly 11 feet with no means of shoring to prevent collapse. The excavation had not been inspected that day by a competent person. A broken sanitary sewer pipe was tied in to an existing manhole and was washing out the soil undermining one wall of the excavation.

Violation was observed on or about 6/22/2016.

Date By Which Violation Must be Abated:	Corrected During Inspection
Proposed Penalty:	\$7126.00



Citation and Notification of Penalty

Company Name: The LandTek Group, Inc., dba LandTek
Inspection Site: 151 Fairview Avenue, Verona, NJ 07044

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

29 CFR 1926.1053(b)(4): Ladder(s) were used for purposes other than the purpose for which they were designed.

a) Worksite was located at 151 Fairfield Avenue, Verona, NJ 07044.

Employees were exposed to fall hazards as they were using a Werner 10 Foot A-Frame Step Ladder that was in the closed position for access and egress to and from the bottom of the excavation.

Violation occurred on or about 6/21/2016 and 6/22/2016.

Date By Which Violation Must be Abated:
Proposed Penalty:

Corrected During Inspection
\$7126.00



Citation and Notification of Penalty

Company Name: The LandTek Group, Inc., dba LandTek
Inspection Site: 151 Fairview Avenue, Verona, NJ 07044

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

29 CFR 1926.1203(a): Before it begins work at a worksite, each employer must ensure that a competent person identifies all confined spaces in which one or more of the employees it directs may work, and identifies each space that is a permit space, through consideration and evaluation of the elements of that space, including testing as necessary.

a) Worksite was located at 151 Fairfield Avenue, Verona, NJ 07044.

Employees were exposed to potential atmospheric and explosion hazards as they were directed to enter an existing sanitary sewer manhole that had not been evaluated. Potential atmospheric hazards include but are not limited to oxygen deficiency and hydrogen sulfide. Potential explosion hazards include methane gas.

Violation occurred on or about 6/21/2016 and 6/22/2016.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	01/03/2017
Proposed Penalty:	\$12471.00



Citation and Notification of Penalty

Company Name: The LandTek Group, Inc., dba LandTek
Inspection Site: 151 Fairview Avenue, Verona, NJ 07044

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

29 CFR 1926.1203(d): (d) If any employer decides that employees it directs will enter a permit space, that employer must have a written permit space program that complies with 1926.1204 implemented at the construction site. The written program must be made available prior to and during entry operations for inspection by employees and their authorized representatives.

a) Worksite was located at 151 Fairfield Avenue, Verona, NJ 07044.

Employees were exposed to potential atmospheric and explosion hazards in that the employer failed to have a written permit space program specific to the site identifying permit required confined spaces and the hazards that exist within them for employees working on the sanitary sewer improvements at the manhole tie-in location. Potential atmospheric hazards include but are not limited to oxygen deficiency and hydrogen sulfide. Potential explosion hazards include methane gas.

Violation occurred on or about 6/21/2016 and 6/22/2016.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated: 01/03/2017
Proposed Penalty: \$7126.00



Citation and Notification of Penalty

Company Name: The LandTek Group, Inc., dba LandTek
Inspection Site: 151 Fairview Avenue, Verona, NJ 07044

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

29 CFR 1926.1203(e)(2)(iii): (iii) Before an employee enters the space, the internal atmosphere must be tested, with a calibrated direct-reading instrument, for oxygen content, for flammable gases and vapors, and for potential toxic air contaminants, in that order. Any employee who enters the space, or that employee's authorized representative, must be provided an opportunity to observe the pre-entry testing required by this paragraph.

a) Worksite was located at 151 Fairfield Avenue, Verona, NJ 07044.

Employees were exposed to potential atmospheric and explosion hazards from a manhole for a sanitary sewer system. The manhole was not subject to air monitoring before employees entered it to tie in the sanitary sewer. Potential atmospheric hazards include but are not limited to oxygen deficiency and hydrogen sulfide. Potential explosion hazards include methane gas.

Violation occurred on or about 6/21/2016 and 6/22/2016.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	01/03/2017
Proposed Penalty:	\$12471.00



Citation and Notification of Penalty

Company Name: The LandTek Group, Inc., dba LandTek
Inspection Site: 151 Fairview Avenue, Verona, NJ 07044

Citation 1 Item 6 Type of Violation: **Serious**

29 CFR 1926.1207(a): The employer must provide training to each employee whose work is regulated by this standard, at no cost to the employee, and ensure that the employee possesses the understanding, knowledge, and skills necessary for the safe performance of the duties assigned under this standard. This training must result in an understanding of the hazards in the permit space and the methods used to isolate, control or in other ways protect employees from these hazards, and for those employees not authorized to perform entry rescues, in the dangers of attempting such rescue.

a) Worksite was located at 151 Fairfield Avenue, Verona, NJ 07044.

Employees were exposed to potential atmospheric and explosion hazards in that they were not properly trained for the safe performance of their duties and the hazards associated with them when they entered the sanitary sewer manhole. Potential atmospheric hazards include but are not limited to oxygen deficiency and hydrogen sulfide. Potential explosion hazards include methane gas.

Violation occurred on or about 6/21/2016 and 6/22/2016.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	01/03/2017
Proposed Penalty:	\$7126.00



Citation and Notification of Penalty

Company Name: The LandTek Group, Inc., dba LandTek
Inspection Site: 151 Fairview Avenue, Verona, NJ 07044

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

29 CFR 1926.1211(a)(1): (1) The employer designated rescue and emergency services, pursuant to 1926.1204(i) and did not evaluate the prospective rescuer's ability to respond to a rescue summons in a timely manner, considering the hazard(s) identified.

a) Worksite was located at 151 Fairfield Avenue, Verona, NJ 07044.

Employees were exposed to potential atmospheric and explosion hazards in that the employer did not coordinate rescue and emergency services for employees entering a sanitary sewer manhole on site. The employer had designated 911 as the rescue and emergency response without evaluating local emergency response capabilities. Potential atmospheric hazards include but are not limited to oxygen deficiency and hydrogen sulfide. Potential explosion hazards include methane gas.

Violation occurred on or about 6/21/2016 and 6/22/2016.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	01/03/2017
Proposed Penalty:	\$7126.00



Citation and Notification of Penalty

Company Name: The LandTek Group, Inc., dba LandTek
Inspection Site: 151 Fairview Avenue, Verona, NJ 07044

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

29 CFR 1926.1211(c): (c) Non-entry rescue is required unless the retrieval equipment would increase the overall risk of entry or would not contribute to the rescue of the entrant.

a) Worksite was located at 151 Fairfield Avenue, Verona, NJ 07044.

Employees were exposed to potential atmospheric and explosion hazards while they worked in a sanitary sewer manhole on site with no means of mechanical retrieval available for rescue in the event of an emergency. The employees did not have a harness, lanyard or tripod with winch available to them. Potential atmospheric hazards include but are not limited to oxygen deficiency and hydrogen sulfide. Potential explosion hazards include methane gas.

Violation occurred on or about 6/21/2016 and 6/22/2016.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	01/03/2017
Proposed Penalty:	\$12471.00



Citation and Notification of Penalty

Company Name: The LandTek Group, Inc., dba LandTek
Inspection Site: 151 Fairview Avenue, Verona, NJ 07044

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

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

a) Worksite was located at 151 Fairfield Avenue, Verona, NJ 07044.

Two employees were exposed to caught in and struck by hazards as they were observed working in an open excavation that was over 10 feet deep with nearly perpendicular walls in Class B soil with no cave-in protection or adequate benches / slopes to protect the employees from engulfment.

Violation was observed on or about 6/22/2016.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

01/03/2017
\$124709.00

A handwritten signature in black ink, appearing to read "K Hoffman", written over a horizontal line.

Kris Hoffman
Area Director

U.S. Department of Labor
Occupational Safety and Health Administration
299 Cherry Hill Road
Suite 103
Parsippany, NJ 07054
Phone: 973-263-1003 Fax: 973-299-7161



INVOICE / DEBT COLLECTION NOTICE

Company Name: The LandTek Group, Inc., dba LandTek
Inspection Site: 151 Fairview Avenue, Verona, NJ 07044
Issuance Date: 12/20/2016

Summary of Penalties for Inspection Number	1158268
Citation 1, Serious	\$73043.00
Citation 2, Willful	\$124709.00
TOTAL PROPOSED PENALTIES	\$197752.00

To avoid additional charges, please remit payment promptly to this Area Office for the total amount of the uncontested penalties summarized above. Make your check or money order payable to: "DOL-OSHA". Please indicate OSHA's Inspection Number (indicated above) on the remittance. You can also make your payment electronically on 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 \$25,000 or more require a Transaction ID, and also must be paid using ACH. If you require a Transaction ID, please contact the OSHA Debt Collection Team at (202) 693-2170.

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

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

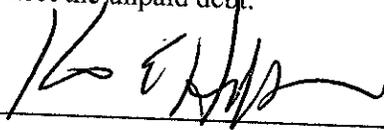
account, the bank will attempt to make the transfer up to 2 times.

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.



Kris Hoffman
Area Director

12/20/2016
Date