

U.S. Department of Labor
Occupational Safety and Health Administration
444 Regency Parkway Drive
Suite 303
Omaha, NE 68114
Phone: 402-553-0171 Fax: 402-551-1288



Citation and Notification of Penalty

To:
Premier Underground, LLC
and its successors
PO Box 523
Gretna, NE 68028

Inspection Number: 1282935
Inspection Date(s): 12/12/2017 - 12/12/2017
Issuance Date: 04/17/2018

Inspection Site:
20619 Pine St
Elkhorn, NE 68022

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 04/17/2018. The conference will be held by telephone or at the OSHA office located at 444 Regency Parkway Drive, Suite 303, Omaha, NE 68114 on _____ at

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

CERTIFICATION OF CORRECTIVE ACTION WORKSHEET

Inspection Number: 1282935

Company Name: Premier Underground, LLC
Inspection Site: 20619 Pine St, Elkhorn, NE 68022
Issuance Date: 04/17/2018

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, 444 Regency Parkway Drive, Suite 303, Omaha, NE 68114**

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

Typed or Printed Name

Date

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: Premier Underground, LLC
Inspection Site: 20619 Pine St, Elkhorn, NE 68022

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

29 CFR 1926.21(b)(2): The employer did not instruct each employee in the recognition and avoidance of unsafe conditions and the regulations applicable to his/her environment to control or eliminate any hazards or other exposure to illness or injury:

The employer is failing to ensure that employees are trained to recognize engulfment hazards associated with working in an excavation. The most recent occurrence was evident during the inspection conducted on December 12, 2017 at a jobsite located at 20619 Pine St, Elkhorn, NE 68022. The employer failed to train employees in the hazards associated with working in excavations that are outlined in Subpart P of 29 CFR 1926. This training would allow employees to recognize unsafe conditions and take appropriate actions in order to eliminate them. Employees were observed working in one trench on the east side of Pine St and another trench on the west side of Pine St.

Abatement certification is required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	05/08/2018
Proposed Penalty:	\$3880.00



Citation and Notification of Penalty

Company Name: Premier Underground, LLC
Inspection Site: 20619 Pine St, Elkhorn, NE 68022

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

29 CFR 1926.100(a): Employees were not protected by protective helmets while working in areas where there was a possible danger of head injury from impact or falling objects:

The employer is failing to protect employees from struck-by hazards associated with working in a trench. The most recent occurrence was evident during the inspection conducted on December 12, 2017 at a jobsite located at 20619 Pine St, Elkhorn, NE 68022. The employer has three employees working in a seven foot trench on the west side of Pine St where there is a potential for a head injury from falling debris. The spoil piles and loose debris is located between zero and twelve inches from the top edge of the trench where an employee was observed working without any head protection.

Abatement certification is required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	04/24/2018
Proposed Penalty:	\$1663.00

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



Citation and Notification of Penalty

Company Name: Premier Underground, LLC
Inspection Site: 20619 Pine St, Elkhorn, NE 68022

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

29 CFR 1926.651(c)(2): A stairway, ladder, ramp or other safe means of egress was not located in trench excavations that were 4 feet (1.22m) or more in depth so as to require no more than 25 feet (7.62m) of lateral travel for employees:

The employer is failing to provide a safe means of egress when working in a trench excavation. The most recent occurrence was evident during the inspection conducted on December 12, 2017 at a jobsite located at 20619 Pine St, Elkhorn, NE 68022.

- a. One employee is working in the east side trench, which is approximately 12 feet long, 3.5 feet wide, and 8 feet deep, and there is no ladder for egress.
- b. One employee is working in the west side trench, which is approximately 50 feet long, 7 feet wide, and 7 feet deep. There is only one ladder, located approximately 50 feet away, available for egress.

Abatement certification is required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	04/24/2018
Proposed Penalty:	\$3880.00

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



Citation and Notification of Penalty

Company Name: Premier Underground, LLC
Inspection Site: 20619 Pine St, Elkhorn, NE 68022

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

29 CFR 1926.651(j)(2): Protection was not provided by placing and keeping excavated or other materials or equipment at least 2 feet (.61m) from the edge of excavations, or by the use of retaining devices that were sufficient to prevent materials or equipment from falling or rolling into excavations, or by a combination of both if necessary:

The employer is failing to protect employees from excavated materials that could pose a hazard by falling into excavations where employees are working. The most recent occurrence was evident during the inspection conducted on December 12, 2017 at a jobsite located at 20619 Pine St, Elkhorn, NE 68022. The employer has two different trenches at the jobsite. While both trenches have the spoils piles located within 2 feet of the edge only the larger trench has a large enough spoils pile to pose a cave-in hazard.

Abatement certification is required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	04/24/2018
Proposed Penalty:	\$3880.00

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



Citation and Notification of Penalty

Company Name: Premier Underground, LLC
Inspection Site: 20619 Pine St, Elkhorn, NE 68022

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

29 CFR 1926.651(k)(1): An inspection of the excavations, the adjacent areas, and protective systems was not conducted by the competent person prior to the start of work and as needed throughout the shift:

The employer is failing to have daily inspections conducted by a competent person to identify any factors which could result in a cave-in or other hazardous situations. The most recent occurrence was evident during the inspection conducted on December 12, 2017 at a jobsite located at 20619 Pine St, Elkhorn, NE 68022. The employer does not have a trained competent person to perform daily inspections at the excavation site where 4 employees are working. This was evident by the number of safety hazards and violations observed.

- a. No inspections had been performed on the east side trench.
- b. No inspections had been performed on the west side trench.

Abatement certification is required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	04/24/2018
Proposed Penalty:	\$3880.00

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



Citation and Notification of Penalty

Company Name: Premier Underground, LLC
Inspection Site: 20619 Pine St, Elkhorn, NE 68022

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

29 CFR 1926.652(c)(3)(iii): At least one copy of the tabulated data, which identifies the registered professional engineer who approved the data, was not maintained at the jobsite during construction of the protective system:

The employer is failing to maintain a copy of the tabulated data for the hydraulic shoring device located at the jobsite which could result in failure exposing employees to cave-ins. The most recent occurrence was evident during the inspection conducted on December 12, 2017 at a jobsite located at 20619 Pine St, Elkhorn, NE 68022. The employer does not have the tabulated data for the speed shoring that was used the day prior and was pulled out to be used during the inspection.

Abatement certification is required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	04/24/2018
Proposed Penalty:	\$3880.00

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



Citation and Notification of Penalty

Company Name: Premier Underground, LLC
Inspection Site: 20619 Pine St, Elkhorn, NE 68022

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 (b) or (c).

The employer is failing to protect employees from crushing hazards while working in excavations (trenches). This was most recently documented on December 12, 2017 at a jobsite located at 20619 Pine St, Elkhorn, NE 68022. The employer was actively working in two separate excavations and had employees exposed to cave in hazards in each.

- a. The employer allowed an employee to enter the east side trench, which is about 12 feet long, 3.5 feet wide, and 8 feet deep, without any form of protective system.
- b. The employer allowed an employee to enter the east side trench, which is approximately 50 feet long, 7 feet wide, and 7 feet deep, without any form of protective system.

Abatement certification is required for this violation. The documentation should include written verification of abatement, applicable measurements or monitoring results, and photographs or videos which you believe will be helpful. The abatement certification sheet is enclosed with the citations.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:
Proposed Penalty:

04/24/2018
\$25867.00

A handwritten signature in blue ink that reads "Jeff Funke".

Jeff Funke
Area Director

U.S. Department of Labor
Occupational Safety and Health Administration
444 Regency Parkway Drive
Suite 303
Omaha, NE 68114
Phone: 402-553-0171 Fax: 402-551-1288



INVOICE / DEBT COLLECTION NOTICE

Company Name: Premier Underground, LLC
Inspection Site: 20619 Pine St, Elkhorn, NE 68022
Issuance Date: 04/17/2018

Summary of Penalties for Inspection Number	1282935
Citation 1, Serious	\$21063.00
Citation 2, Willful	\$25867.00
TOTAL PROPOSED PENALTIES	\$46930.00

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

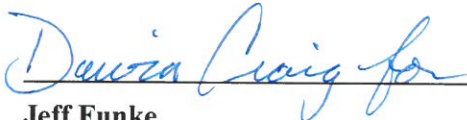
account, the bank will attempt to make the transfer up to 2 times.

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.

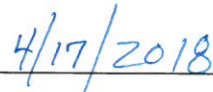
Delinquent Charges: A debt is considered delinquent if it has not been paid within one month (30 calendar days) of the penalty due date or if a satisfactory payment arrangement has not been made. If the debt remains delinquent for more than 90 calendar days, a delinquent charge of six percent (6%) per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



Jeff Funke

Area Director



Date