

# Trench Collapses Present Employers With Contradictory Outcomes

By Gerry McEwen – Garrett/Moser Insurance Services

**C**alifornia safety regulators have cited a Los Angeles construction company in the February collapse of a trench that injured a worker in Pasadena. But the Division of Occupational Safety and Health (DOSH) found little or no employer fault in three other incidents in which workers were killed.

DOSH cited L.A. Construction, a Pasadena company, in the injury incident at a townhouse project in that city. A day laborer and three coworkers were digging the trench while installing a sewage system when the trench collapsed. The injured worker was the only person inside the trench, which was cut up to nine vertical feet, but contained no shoring.

DOSH cited the firm for an alleged serious violation of Construction Safety Orders §1541.1, which requires employers to provide protection from cave-ins. "The employer did not ensure that the employees digging the trench and removing the dirt were protected from cave-ins by a sloping, benching, support or shield system," Cal/OSHA alleges. The Division proposes a \$5,400 penalty for this serious violation.

L.A. Construction also was cited for an alleged serious violation for not having a competent person inspect the work site before work began and take steps to protect employees. Additionally, DOSH alleges that the employer did not provide workers a means of access and egress to the trench, failed to obtain a permit for the trench, did not adopt a written Code of Safe Practices and did not have a written Injury and Illness Prevention Program (IIPP). Proposed penalties total almost \$7,000.

## Family Sues Over Trench Collapse Death

The family of a Lancaster construction worker killed in the collapse of a trench in a housing-tract construction site has filed a wrongful-death lawsuit against the developer, the city and Los Angeles County.

Robert Church Jr., 35, was laying sewer pipe when the March 21, 2005, collapse occurred at a housing tract adjacent to the Rancho Vista golf course and across from Rancho Vista Elementary School.



The defendants allowed the construction site to be in a dangerous condition, "in that an unshored trench collapsed thereby proximately causing the death of Robert Church Jr. ...." the lawsuit said.

Church was an employee of Santa Clarita-based Kennco Plumbing, a contractor that installs new tract home plumbing, state officials said.

Kennco was cited by the California Occupational Safety and Health Administration for failing to inspect the trench and failing provide a protective system, among other violations, and fined more than \$33,000. Kennco has appealed the fines.

The lawsuit was filed by four of Church's children and names as defendants Trimark Pacific Homes, the city and the county.

City and county officials said they had not seen the lawsuit and therefore could not comment. Claims filed by the plaintiffs' attorneys were rejected by the city and county last fall. The incident in the 4100 block of Bethpage Drive buried Church in a 32-inch-wide, nearly 8-foot-deep trench, a Cal-OSHA report said.

Other construction workers dug into the collapsed trench with shovels, but by the time they unearthed Church's face from under about 3 feet of dirt it was too late.

Construction workers said at the time that recent heavy rains had changed the consistency of the normally hard-packed Antelope Valley soil they were used to working in.

Cal-OSHA said in a report that Kennco did not protect Church "from a cave-in by an adequate protective system designed in accordance with" state safety and health regulations.

State regulations state that "each employee in an excavation shall be protected from cave-ins by an adequate protective system ... except when excavations are made entirely in stable rock or excavations are less than 5 feet in depth and examination of the ground by a competent person provides no indication of a potential cave-in," the report said.

The report said inspections must be conducted prior to the start of work, as needed throughout the shift, and after every rainstorm or other hazard-increasing occurrence.

Kennco did not notify Cal-OSHA officials prior to the commencement of the trench excavations and did not post a "Code of Safe Practices" at a conspicuous location on the job site, as required, the report said.