

CL-10208326-5246

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2007 NOV -2 AM 9:39

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October 26, 2007

Oshkosh Truck Corporation  
Attn: Service Dept.  
P.O. Box 2566  
Oshkosh, WI 54901

Re: 2000 S-Series Front Placement Concrete Mixer

Dear Oshkosh Truck:

Our office represents Sundby [REDACTED] As we believe you are aware, one of [REDACTED] employees was killed recently while using a vehicle which Oshkosh Truck manufactured. Pursuant to your request on page 6A-1 of the Operator Manual for this vehicle, this letter constitutes notice that this vehicle may have a defect which could cause injury or death. Other similar trucks may also have a defect which could cause injury or death.

Enclosed is a copy of the Citation and Notification of Penalty issued by OSHA for this accident. As suggested by the citation and as OSHA has informed us during the Informal Hearing, OSHA believes some sort of guard or enclosure should be in place to prevent the type of accident which occurred.

We do not know whether Oshkosh Truck has such a guard or enclosure available for purchase, or whether one will be developed. However, if you do have such a guard or enclosure or if you develop one in the future for your ready-mix vehicles, Sundby would be interested in obtaining them so they could retrofit the Oshkosh trucks which Sundby owns.

We have sent a copy of this letter to the National Highway Traffic Safety Administration and to Thatcher Peterson, with whom we have discussed this incident.

ET  
11/02/07  
KS

**MELLI, WALKER, PRASH & ROHLY, S.C.**  
**Oshkosh Truck Corporation**  
**Attn: Service Dept.**  
**October 26, 2007**  
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Please contact me if you have any questions.

Very truly yours,



Douglas E. Witte

DEW/mjj

Enclosure

cc: NHTSA  
Thatcher Peterson  
Sundby Sand and Gravel Company, Inc.

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

**Inspection Number: 310763388**  
**Inspection Dates: 09/06/2007 -**  
**Issuance Date: 10/09/2007**



**Citation and Notification of Penalty**

**Company Name:** [REDACTED]  
**Inspection Site:** 2279 County Highway A, Stoughton, WI 53589

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

**29 CFR 1910.212(a)(4):** Revolving drum(s), barrel(s), or container(s) were not guarded by enclosure(s) which were interlocked with the drive mechanism so that the barrel(s), drum(s), or container(s) could not revolve unless the enclosure(s) were in place:

The revolving barrel and blades of the auger for the Oshkosh S-series cement truck numbered 36 was not guarded by enclosure or interlocked with the drive mechanism.

**ABATEMENT CERTIFICATION AND DOCUMENTATION REQUIRED**

[REDACTED]

  
 Kimberly A. Stille  
 Area Director

See pages 1 through 5 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.