

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

MISTRAS GROUP, INC.

AI # 10356

PROCEEDINGS UNDER THE LOUISIANA  
ENVIRONMENTAL QUALITY ACT  
LA. R.S. 30:2001, ET SEQ.

\* Settlement Tracking No.  
\* SA-RE-17-0064  
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\* Enforcement Tracking No.  
\* RE-CN-12-00203  
\* RE-CN-13-00087  
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SETTLEMENT

The following Settlement is hereby agreed to between Mistras Group, Inc. (“Respondent”) and the Department of Environmental Quality (“DEQ” or “the Department”), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (“the Act”).

I

Respondent is a corporation that owns and/or operates a facility located in Baton Rouge, East Baton Rouge Parish, Louisiana (“the Facility”).

II

On July 19, 2012, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. RE-CN-12-00203, which was based upon the following findings of fact:

“The Respondent owns and/or operates an industrial radiography company located at 17820 Sotile Drive in Baton Rouge, East Baton Rouge Parish, Louisiana. The Respondent currently operates under the provisions of Radioactive Material License No. LA-10986-L01 issued by the Department on May 24, 2011.

On or about January 6, 2012, and January 23, 2012, inspections/incident investigations of the Respondent's facility and operations were conducted by the Department to determine the degree of compliance with the Radiation Protection Regulations and the Act. The incident investigation occurred due to a notification by the Louisiana State Police (LSP) to the Louisiana Department of Environmental Quality (LDEQ) on January 4, 2012, resulting from a traffic stop of a personal vehicle transporting a Source Production & Equipment Co. (SPEC) industrial radiographic exposure device licensed to the Respondent. Mason Bourgeois (AI No. 170641), industrial radiographer trainee and vehicle owner and driver, and his father Donald Bourgeois (AI No. 50821), industrial radiographer instructor and vehicle passenger, were both arrested by the LSP on unrelated charges. While the Department's investigation is not yet complete, the following violations were noted:

- A. During the course of the inspection, it was noted that the Respondent failed to ensure that the radiographer had a calibrated radiation survey meter while transporting any device containing radioactive material. This is a violation of LAC 33:XV.320.A.2 and Operating and Emergency Procedures VI.2.F.
- B. During the course of the inspection, it was noted that the Respondent failed to ensure that only Trustworthy and Reliable (T&R) individuals, approved by the licensee, to have unescorted access to radioactive material quantities of concern. This is a violation of LAC 33:XV.320.A.2, Radioactive Material License No. LA-10986-L01 Condition No. 22.B and the U.S. Nuclear Regulatory Commission Order Imposing Increased Controls Principle 1.a.
- C. During the course of the inspection, it was noted that the Respondent failed to ensure that the personal vehicle transporting the SPEC 150 industrial radiographic device, serial no. 0347, was properly marked with a yellow III placard. This is a violation of LAC 33:XV.320.A.2 and Operating and Emergency Procedures Part V.I.2.E.
- D. During the course of the inspection, it was noted that the Respondent failed to ensure that the vehicle transporting the SPEC 150 industrial radiographic device, serial no. 0347, was a company vehicle with permanent vehicle identification of 'Mistras Group LLC.' This is a violation of LAC 33:XV.320.A.2 and Operating and Emergency Procedures VI.1.A.

- E. During the course of the inspection, it was noted that the Respondent failed to ensure that the SPEC 150 industrial radiographic device, serial no. 0347, was transported blocked and braced. This is a violation of LAC 33:XV.1504.B and 49 CFR.177.842(d).
- F. During the course of the inspection, it was noted that the Respondent failed to ensure that SPEC 150 industrial radiographic device, serial no. 0347, was transported properly manifested with shipping papers. This is a violation of LAC 33:XV.1504.C.4 and 49 CFR.172.C and 49 CFR.172.G.
- G. During the course of the inspection, it was noted that the Respondent failed to ensure that a radiation survey of the transporting vehicle was conducted. This is a violation of LAC 33:XV.542.C.
- H. During the course of the inspection, it was noted that the Respondent failed to ensure that Donald Bourgeois (AI No. 50821) and Milton Venable (AI No. 92596) adhered to the Radiation Protection Regulations and Operating and Emergency Procedures. Specifically, the willful misconduct is a violation of LAC 33:XV.1506.B.1.
- I. During the course of the inspection, it was noted that an employee of the Respondent engaged in deliberate misconduct that causes or would have caused, if not detected, a licensee, certificate of registration holder, or applicant to be in violation of any rule, regulation, or order; or any term, condition, or limitation of any license issued by the Department, in violation of LAC 33:XV.302.A.”

On June 19, 2013, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. RE-CN-13-00087, which was based upon the following findings of fact:

“The Respondent owns and/or operates an industrial radiography company located at 17820 Sotile Drive in Baton Rouge, East Baton Rouge Parish, Louisiana. The Respondent currently operates under the provisions of Radioactive Material License No. LA-10986-L01 issued by the Department on May 24, 2011.

On or about July 19, 2012, Consolidated Compliance Order & Notice of Potential Penalty RE-CN-12-00203 was issued to the Respondent for violations of the Radiation Protection Regulations. This enforcement action was not appealed and is, therefore, considered to be a final

action by the Department.

On or about December 19, 2012, the Department conducted an inspection due to an unintended radiation exposure to a member of the public in excess of regulatory limits during radiographic operations. The incident took place at the International Paper mill located at 401 Avenue U in Bogalusa, Louisiana on December 12, 2012, between 5:22 pm and 6:00 pm. According to the Radiation Safety Officer (RSO), Joe Casanova, and the General Manager, Jimmy Quaid, the certified radiographer on the crew had not adequately supervised the trainee of the crew when the restricted area boundary was set up. The radiography trainee inadvertently included a small operator shack within the restricted area without verifying the shack was unoccupied. As a result, an unmonitored non-radiation worker, Wade Mizell, was discovered within the restricted boundary shortly after completion of the exposures. The RSO determined that Mr. Mizell, a member of the public, received a radiation dose of 4.60 mRem within a period of one (1) hour, which is above the 0.002 rem limit allowed in one (1) hour for members of the public. This is in violation of LAC 33:XV.421.A.2.

An inspection conducted by the Department on or about December 19, 2012, revealed the Respondent failed to ensure that whenever radiography is performed at a location other than the permanent radiographic installation, that the radiographer was accompanied by at least one (1) other qualified radiographer or, if the radiographer is a qualified instructor, a qualified radiographer trainee, in violation of LAC 33:XV.573.A. Specifically, the crew was composed of Certified Radiographer, Travis Williams (Agency Interest Number 172128) and Radiography Trainee, Devin Quaid (Agency Interest Number 181571), which is an invalid crew configuration for conducting radiography.”

III

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

IV

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of THIRTY-SIX THOUSAND AND NO/100 DOLLARS (\$36,000.00), of which Five Hundred Sixty-Seven and 44/100 Dollars (\$567.44) represents the Department's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

V

Respondent further agrees that the Department may consider the inspection report(s), the Consolidated Compliance Orders & Notices of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VI

This agreement shall be considered a final order of the Secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this

agreement.

## VII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in La. R. S. 30:2025(E) of the Act.

## VIII

As required by law, the Department has submitted this Settlement Agreement to the Louisiana Attorney General for approval or rejection. The Attorney General's concurrence is appended to this Settlement Agreement.

## IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in East Baton Rouge Parish, Louisiana. The advertisement, in form and wording approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted an original proof-of-publication affidavit and an original public notice to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

## X

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department

of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

XI

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his or her respective party, and to legally bind such party to its terms and conditions.

MISTRAS GROUP, INC.

BY: Robert J. Slack  
(Signature)

ROBERT J. SLACK  
(Printed)

TITLE: Director of Regulatory Affairs

THUS DONE AND SIGNED in duplicate original before me this 6th day of March, 20 18, at 10:30 AM.

Julie A Harnew  
NOTARY PUBLIC (ID # )  
**JULIE A HARNEW**  
Official Seal  
Notary Public - State of Illinois  
My Commission Expires Jan 25, 2020  
(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY  
Chuck Carr Brown, Ph.D., Secretary

BY: [Signature]  
Loures Iturralde, Assistant Secretary  
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 27th day of June, 20 18, at Baton Rouge, Louisiana.

[Signature]  
NOTARY PUBLIC (ID # 19181)

Perry Theriot  
(stamped or printed)

Approved: [Signature]  
Loures Iturralde, Assistant Secretary