

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

EAGLE US 2 LLC

AI # 1255

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

\* Settlement Tracking No.  
\* SA-RE-19-0087  
\*  
\* Enforcement Tracking No.  
\* RE-PP-17-01173  
\*  
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\*  
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SETTLEMENT

The following Settlement is hereby agreed to between Eagle US 2 LLC (“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 limited liability company that owned and/or operated a chemical manufacturing facility located in Westlake, Calcasieu Parish, Louisiana (“the Facility”).

II

On April 9, 2018, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. RE-PP-17-01173 (Exhibit 1).

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 NINE THOUSAND EIGHT HUNDRED FIFTY AND NO/100 DOLLARS (\$9,850.00), of which One Thousand Three Hundred Forty-Three and 37/100 Dollars (\$1,343.37) 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 Notice 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 Calcasieu 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 thirty (30) 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.

EAGLE US 2 LLC

BY: Curtis Munch  
(Signature)

Curtis Brescher  
(Printed)

TITLE: Plant Manager

THUS DONE AND SIGNED in duplicate original before me this 28<sup>th</sup> day of February, 20 20, at Calcasieu Parish.

Beth Lee Mueller  
NOTARY PUBLIC (ID # 68629)

Beth Lee mueller  
(stamped or printed)

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

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

THUS DONE AND SIGNED in duplicate original before me this 6<sup>th</sup> day of May, 20 20, at Baton Rouge, Louisiana.

[Signature]  
NOTARY PUBLIC (ID # 19181)

Perry Theriot  
(stamped or printed)

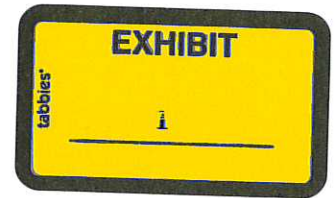
Approved: [Signature]  
Lourdes Iturralde, Assistant Secretary

JOHN BEL EDWARDS  
GOVERNOR



CHUCK CARR BROWN, Ph.D.  
SECRETARY

**State of Louisiana**  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF ENVIRONMENTAL COMPLIANCE  
April 9, 2018



CERTIFIED MAIL (7017 2400 0000 7557 3972/3989)  
RETURN RECEIPT REQUESTED

**EAGLE US 2 LLC**  
c/o CT Corporation System  
Agent for Service of Process  
3867 Plaza Tower Drive  
Baton Rouge, LA 70816

**RE: NOTICE OF POTENTIAL PENALTY  
ENFORCEMENT TRACKING NO. RE-PP-17-01173  
AGENCY INTEREST NO. 1255**

Dear Sir:

On or about August 24, 2017, an inspection of **EAGLE US 2 LLC – LAKE CHARLES COMPLEX**, a chemical manufacturing facility, owned and/or operated by **EAGLE US 2 LLC (RESPONDENT)**, was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Radiation Protection Regulations. The Respondent is a fixed gauge licensee and X-Ray registrant, currently operating under Radioactive Materials License LA-2257-L01 issued by the Department. The facility is located at 1300 PPG Drive in Westlake, Calcasieu Parish, Louisiana.

On or about August 23, 2017, a representative of the Respondent contacted the Department at approximately 6:44 p.m. to report a lost source and a source found outside of its source holder at the facility. The Respondent's Radiation Safety Officer (RSO) stated that the last known location of the lost source was within the facility.

On or about August 24, 2017, the Department contacted the Respondent's RSO to discuss the previous day's notification. The RSO stated they were notified about corrosion problems on two (2) gauges, SA8-c10 (serial number 6195CN) and SA1-c10 (serial number 9527GG) by a radiation contractor following an inspection conducted on or about December 12, 2016. The Respondent reported the corrosion and an inoperable shutter in the open position for gauge 9527GG to the Department verbally and via e-mail correspondence on January 12, 2017. On or about February 24, 2017, an operator at the facility noted that readings from gauge 9527GG were out of range. No notifications were made at that time, as the operator believed it to be an instrument error. The facility's RSO stated that during preparations for replacement of gauge 6195CN on August 23, 2017, it was noted that the back

plate of the gauge had fallen off due to corrosion, causing the source to slide out of the gauge. Two (2) radiation contractors were contacted to retrieve and secure the source, but neither contractor could arrive on site in a timely manner. Due to the imminent threat of Hurricane Harvey the following day, the RSO retrieved the source using a retrieving tool, placed the source back into the gauge, secured the gauge, and placed it in a storage area even though the Respondent did not have a source retrieval condition on its license, LA-2257-L01. Due to the issues with gauge 6195CN, the RSO proceeded to check on gauge 9527GG. The RSO found that the back plate of gauge 9527GG had fallen off due to corrosion, and the source was missing. The RSO conducted a survey of the surrounding area and all readings were at background levels. After notifying the Department about the missing source from gauge 9527GG, the facility contracted the services of a radiation contractor to conduct surveys of the facility. A total of nine hundred forty (940) manual readings were collected at the facility including waste and sewer areas, with results indicating that no unshielded source was present in the areas surveyed. To date, the source from gauge 9527GG has not been located.

A response to the inspection submitted by the Respondent on or about January 31, 2018, stated that the frequency of routine visual inspections and leak tests was increased to twice per year and annually, respectively, to prevent recurrence. These tasks will be performed by a radiation consultant and will be tracked using the facility's site electronic tracking database. The Respondent further stated that the facility's full inventory of sources was scrutinized. Source housing units with unacceptable levels of corrosion have been removed or are slated for removal.

While the investigation by the Louisiana Department of Environmental Quality (the Department) is not yet complete, the following violations were noted during the course of the inspection:

- A. The Respondent failed to secure licensed or registered radioactive material from unauthorized removal or access, in violation of LAC 33:XV.445.A. Specifically, a one hundred fifteen (115) mCi Cs-137 density gauge source, gauge number SA1-c10, serial number 9527GG, was deemed to be lost on August 24, 2017, and, to date, has not been located.
- B. The Respondent failed to secure licensed or registered radioactive material from unauthorized removal or access, in violation of LAC 33:XV.445.A. Specifically, a fifteen and eighty-six hundredths (15.86) mCi Cs-137 density gauge source, gauge number SA8-C10, serial number 6195CN, was found out of the source holder on August 23, 2017. The source was retrieved, placed into its source holder, secured, and placed in storage by the facility's RSO. The Respondent did not have a source retrieval condition on its license, LA-2257-L01.

Pursuant to La. R.S. 30:2050.3(B), you are hereby notified that the issuance of a penalty assessment is being considered for the violation(s) described herein. Written comments may be filed regarding the violation(s) and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice.

Prior to the issuance of any additional appropriate enforcement action, you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If