

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

H & H X-RAY SERVICES, INC.

AI # 30909

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

* Settlement Tracking No.
* SA-RE-10-0028
*
* Enforcement Tracking No.
* RE-P-09-0013
*
* Docket # 2009-9329-EQ
*
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SETTLEMENT

The following Settlement is hereby agreed to between H & H X-Ray Services, 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 an industrial radiography company with storage facilities located in West Monroe, Ouachita Parish, Louisiana (“the Facility”).

II

On September 15, 2009, the Department issued to Respondent a Penalty Assessment, Enforcement No. RE-P-09-0013, in the amount of \$66,905.73, which was based upon the following findings of fact:

The Respondent owns and/or operates an industrial radiography company with storage facilities located at 104 Enterprise Street in West Monroe, Ouachita Parish, Louisiana. The Respondent currently operates under Radioactive Materials License LA-2970-L01 issued by the Department on August 28, 2008.

On or about October 14, 2007, the Department conducted an inspection of the Respondent's temporary worksite operations on a pipeline located in the Red River Parish, Louisiana.

The following violations were noted during the course of the inspection:

- A. The Respondent failed to ensure that each radiation area was posted with a conspicuous sign or signs bearing the radiation symbol and the words "CAUTION, RADIATION AREA", in violation of LAC 33:XV.451.A.
- B. The Respondent failed to ensure each high radiation area was posted with a conspicuous sign or signs bearing the radiation symbol and the words, "CAUTION, HIGH RADIATION AREA" or "DANGER, HIGH RADIATION AREA", in violation of LAC 33:XV.451.B.
- C. The Respondent failed to ensure sufficient calibrated and operable radiation survey instruments were available to perform physical radiation surveys as required by LA 33:XV Chapter 5, in violation of LAC 33:XV.543.A.
- D. The Respondent failed to ensure that radiography personnel wore at all times during radiographic operations, on the trunk of their body, a direct-reading pocket dosimeter, an alarm ratemeter, and a personnel dosimeter in violation of LAC 33:XV.577.A.
- E. The Respondent failed to ensure pocket dosimeters were recharged at least daily or at the start of each shift, in violation of LAC 33:XV.577.B.
- F. The Respondent failed to ensure the pocket dosimeters had been checked for correct response to radiation at periods not to exceed one year, in violation of LAC 33:XV.577.B.
- G. The Respondent failed to ensure the alarm ratemeter was calibrated for a correct response to radiation at periods not to exceed one year, in violation of LAC 33:XV.577.H.4.
- H. The Respondent failed to ensure a physical radiation survey was made after each radiographic exposure utilizing radiation machines or sealed sources to determine if the machine is

“off” or that the sealed source has been returned to its shielded position immediately upon completion of the exposure, in violation of LAC 33:XV.587.B.

III

In response to the Penalty Assessment, Respondent made a timely request for a hearing.

IV

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

V

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-TWO THOUSAND FIFTY-FIVE AND 73/100 DOLLARS (\$32,055.73), of which One Thousand One Hundred Five and 73/100 Dollars (\$1,105.73) 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).

VI

Respondent further agrees that the Department may consider the inspection report(s), the Penalty Assessment 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.

VII

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.

VIII

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.

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Ouachita Parish, Louisiana. The advertisement, in form, wording, and size 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.

H & H X-RAY SERVICES, INC.

BY: _____
(Signature)

(Print)

TITLE: _____

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20 _____, at _____.

NOTARY PUBLIC (ID # _____)

(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Peggy M. Hatch, Secretary

BY: _____
Cheryl Sonnier Nolan, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20 _____, at Baton Rouge, Louisiana.

NOTARY PUBLIC (ID # _____)

(stamped or printed)

Approved: 

Cheryl Sonnier Nolan, Assistant Secretary