

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

NATIONAL INSPECTION
SERVICES, L.L.C.

AI # 141400; 148319

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

* Settlement Tracking No.
* SA-RE-10-0007
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* Enforcement Tracking No.
* RE-P-09-0012
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SETTLEMENT

The following Settlement is hereby agreed to between National Inspection Services, L.L.C. (“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 owns and/or operates an industrial radiography service company facility located in Scott, Lafayette Parish, Louisiana, (“the Facility”).

II

On August 25, 2009, the Department issued to Respondent a Penalty Assessment, Enforcement No. RE-P-09-0012, in the amount of \$33,010.94, which was based upon the following findings of fact:

The Respondent owns and/or operates an industrial radiography service company located at 104 Abigayle’s Row in Scott, Lafayette Parish, Louisiana (AI No. 126120). The Respondent operates under Radioactive Material License LA-11160-L01 issued on February 7, 2007.

The following violations were noted during the course of the inspection conducted on or about October 29, 2007, of the radiography crew dispatched from the Scott, Louisiana (AI# 148319) location:

- A. The Respondent's employee(s) engaged in deliberate misconduct by submitting information to the Department that was known to be inaccurate in some respect, in violation of LAC 33:XV.302.A.2. Specifically, the site survey sheet falsely documented that all pocket dosimeters were recharged and alarm rate meters were checked for functionality and operable.
- B. The Respondent's employees failed to recharge their pocket dosimeters at least daily or at the start of each shift, in violation of LAC 33:XV.577.B.
- C. The Respondent's employee(s) failed to perform a physical radiation survey after each radiographic exposure utilizing sealed sources to determine that the sealed source has been returned to its shielded position immediately upon completion of exposure, in violation of LAC 33:XV.587.B
- D. The Respondent failed to supply an operable survey meter, in violation of LAC 33:XV.590.A.1.
- E. The Respondent failed to supply an operable alarm rate meter, in violation of LAC 33:XV.590.A.4.
- F. The radiographer trainees were not directly supervised by the radiographer instructor, in violation of LAC 33:XV.590.D.3.

The following violations were noted during the course of the inspection conducted on or about November 14, 2007, of the radiography crew dispatched from the Scott, Louisiana (AI# 141400) location:

- A. The radiographer instructor performed radiography, although he was the only qualified individual present, in violation of LAC 33:XV.573.A.

- B. The Respondent's employee(s) failed to perform a physical survey of the storage area prior to transport to the temporary job site, in violation of LAC 33:XV.587.D.
- C. The Respondent's employee(s) failed to record the beginning pocket dosimeter readings, in violation of LAC 33:XV.588.A.5.

On June 26, 2008, a Notice of Potential Penalty (NOPP), Enforcement Tracking No. RE-PP-08-0009, was issued to the Respondent.

A penalty in the amount of \$33,010.94 was assessed together with legal interest as allowed by law and all costs of bringing and prosecuting the enforcement action accruing after the date of issuance.

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 TWENTY-SEVEN THOUSAND AND NO/100 DOLLARS (\$27,000.00), of which One Thousand Five Hundred Sixty-Six and 57/100 Dollars (\$1,566.57) 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 LSA- 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 Lafayette 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).

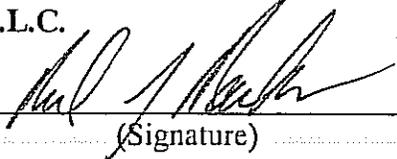
XI

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.

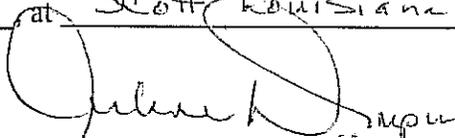
NATIONAL INSPECTION SERVICES,
L.L.C.

BY: 
(Signature)

Neil J Marks
(Printed)

TITLE: Owner

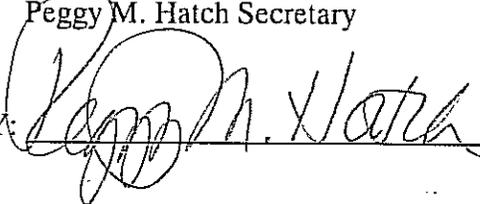
THUS DONE AND SIGNED in duplicate original before me this 29th day of March, 2011 at Scott Louisiana.


NOTARY PUBLIC (ID # 45853)

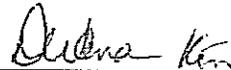
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LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY

Peggy M. Hatch Secretary

BY: 

THUS DONE AND SIGNED in duplicate original before me this 28 day of June, 2011, at Baton Rouge, Louisiana.


NOTARY PUBLIC (ID # 24912)
Bar Roll *for commission*

(stamped or printed)

Approved: 
Cheryl Sonnier Nolan, Assistant Secretary