

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

BOARDWALK LOUISIANA
MIDSTREAM, LLC
AI # 2043

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

* Settlement Tracking No.
* SA-RE-19-0013
*
* Enforcement Tracking No.
* RE-PP-14-00431
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SETTLEMENT

The following Settlement is hereby agreed to between Boardwalk Louisiana Midstream, 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 owns and/or operates an industrial services facility located in Iberville Parish, Louisiana (“the Facility”).

II

On April 21, 2017, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. RE-PP-14-00431, attached as Exhibit A.

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 EIGHT THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$38,500.00), of which Six Hundred Forty-Two and 53/100 Dollars (\$642.53) 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)/permit record(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 Iberville 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 B).

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.

Boardwalk Louisiana Midstream, LLC

BY: Kevin Miller
(Signature)

Kevin Miller
(Printed)

TITLE: President

THUS DONE AND SIGNED in duplicate original before me this 13th day of June, 20 19, at Houston, Texas.

Princess Burch
NOTARY PUBLIC (ID # 129839647)



(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 5th day of Sept, 20 19, 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 21, 2017

CERTIFIED MAIL (7012 2210 0001 1915 5090)
RETURN RECEIPT REQUESTED

BOARDWALK LOUISIANA MIDSTREAM, LLC

c/o Corporation Service Company
Agent for Service of Process
320 Somerulos Street
Baton Rouge, LA 70802-6129

**RE: NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. RE-PP-14-00431
AGENCY INTEREST NO. 2043**

Dear Sir:

On or about February 6, 2014, an inspection of **BOARDWALK LOUISIANA MIDSTREAM, LLC**, owned and/or operated by **BOARDWALK LOUISIANA MIDSTREAM, LLC (RESPONDENT)**, was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Radiation Regulations. The facility is located at 60825-A Highway 1148 West in Plaquemine, Iberville Parish, Louisiana. The Respondent was issued Radioactive Materials License GL-238, which was terminated by the Department on August 12, 2015.

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 maintain records showing the receipt, storage, transfer, and disposal of all sources of radiation, in violation of LAC 33:XV.104.A. Specifically, the Respondent failed to maintain records documenting the transfer of the missing Model 5812 Texas Nuclear densitometer gauge, device serial number B-0187, to the Department of Energy (DOE).

The Department received a written response from the Respondent on September 4, 2014, stating that the B-0187 densitometer gauge was removed from the facility in early 2013 and records documenting the transfer to the DOE are not known to exist. The gauge was later found at Major Equipment Radiation Services, Inc., and then disposed of at QSA Global, Inc. The response stated that the Department received the records on or about August 20, 2014. The records failed to include any information documenting the transfer or disposal of Model 5812 Texas Nuclear densitometer gauge, device serial number B-0187.



- B. The Respondent failed to perform and maintain annual inventory records of all sealed sources, in violation of LAC 33:XV.104.B. Specifically, the Respondent was unable to provide inspectors with the requested records of the Respondent's annual source inventory or gauge inventory documentation for 2011, 2012, and 2013.

The Department received a written response from the Respondent on September 4, 2014, stating that the source inventory or gauge inspection records could not be located.

- C. The Respondent failed to ensure that only authorized persons, who are required to hold a specific license, install and service a gauge from well #102, in violation of LAC 33:XV.320.A.1 and Radioactive Material License, GL-238, Condition #2. Specifically, the 5812 Texas Nuclear densitometer gauge, device serial number B-0187, was removed from well #102 by Bernuchaux Fabricators, Inc. of Thibodaux, LA. Bernuchaux Fabricators, Inc. is not an unauthorized holder of a specific license to uninstall the device.

The Department received a written response from the Respondent on September 4, 2014, stating that the Respondent was not aware of the requirements applied to contractors handling the sealed radiation source on Well #102. The Respondent has since removed all radiation sources from the site.

- D. The Respondent transferred a regulated source to an unauthorized facility, in violation of LAC 33:XV.320.A.1 and Radioactive Material General License, GL-238, Condition #3. Specifically, the Respondent transferred Texas Nuclear Technologies Model 5211 Gauge-Brine Densitometer, device serial number B-0187, to the U.S. DOE Strategic Petroleum Reserve, located at 60825 Highway 1148 in Plaquemine, LA., which was not an authorized holder of a specific license.

The Department received a written response from the Respondent on September 4, 2014, stating that after further investigation by the Respondent, the missing gauge was not transferred to the U.S. DOE Strategic Petroleum Reserve as previously thought. The missing B-0187 gauge was later found at Major Equipment Remediation Services, Inc. and was subsequently disposed of at QSA Global, Inc. Records notifying the Department of the transfer of the densitometer are not known to exist.

- E. The Respondent failed to ensure that labels were maintained and the instructions followed, in violation of LAC 33:XV.320.A.1 and Radioactive Material General License, GL-238, Condition #4. Specifically, the "Caution, Radioactive Material" sign posted at Wellhead #6, on which a Model 5211 densitometer gauge was installed, was observed by inspectors to be more than fifty percent (50%) painted over and illegible.

The Department received a written response from the Respondent on September 4, 2014, stating that the sign posted at Wellhead #6, was not replaced or repaired. Instead, the Respondent removed all of the densitometers and transported them to QSA Global, Inc. for disposal on August 19, 2014. The Respondent terminated its RAM license GL-238 on

August 24, 2014. The Respondent ceased all activities authorized by RAM license GL-238, and all radioactive materials owned by the Respondent were transferred to QSA Global, Inc.

- F. The Respondent failed to perform leak tests of sealed sources of radiation, in violation of LAC 33:XV.426.A.2. Specifically, the Respondent failed to conduct leak testing on the densitometer gauges during 2011, 2012, and 2013.

The Department received a written response from the Respondent on September 4, 2014, stating they were unable to locate source inventory or gauge inspection records for 2011, 2012, and 2013. The Respondent also provided documentation confirming that all densitometers on-site were leak tested by BBP Services, Inc. on March 20, 2014 and received a passing result. The Respondent stated that all of the densitometers were transferred off-site and disposed of on May 5, 2014 and August 19, 2014.

- G. The Respondent failed to secure a licensed or registered radioactive material from unauthorized removal or access, in violation of LAC 33:XV.445.A. Specifically, the Respondent stored two (2) Model 5211 Texas Nuclear densitometer gauges in a 2nd story loft in the maintenance shop. Neither of the two (2) densitometer gauges, device serial numbers B-0185 and B-0189, each containing a nominal 50 mCi source of Cs-137, was secured to prevent unauthorized access or removal.

The Department received a written response from the Respondent on September 4, 2014, stating that a secure storage area (consisting of a closet with locking door) was constructed on a secure storage area located on the second (2nd) story loft of the maintenance building after the site inspection. The radioactive material is secured in a locked box on second (2nd) story loft. This violation was addressed.

- H. The Respondent failed to ensure that the records of tests for leakage or contamination from sealed sources shall be kept in units of Becquerel or micro curie and maintained for inspection by the Department for five (5) years, in violation of LAC 33:XV.473.A. Specifically, the Respondent failed to provide the leak testing records of the licensee's densitometer gauges to the inspectors.

The Department received a written response from the Respondent on September 4, 2014, stating they were unable to locate leak test records for 2011, 2012, and 2013. The Respondent provided documentation confirming that all densitometers on-site were leak tested by BBP Services, Inc. on March 20, 2014.

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

you would like to have such a meeting, please contact Suzanne Gardner at (225) 219-1423 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

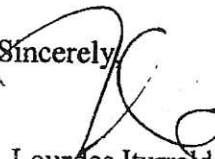
The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance in order to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violations to the above named contact person within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**. Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify this statement. If the Respondent chooses not to submit the requested most current annual gross revenues statement within ten (10) days, it will be viewed by the Department as an admission that the Respondent has the ability to pay the statutory maximum penalty as outlined in La. R.S. 30:2025.

For each violation described herein, the Department reserves the right to seek civil penalties and the right to seek compliance with its rules and regulations in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties and compliance.

The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter7. To expedite closure of this **NOTICE OF POTENTIAL PENALTY**, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violation(s) described herein. The Respondent may offer a settlement amount, but the Department is under no obligation to enter into settlement negotiations. The decision to proceed with a settlement is at the discretion of the Department. The settlement offer amount may be entered on the attached "**NOTICE OF POTENTIAL PENALTY REQUEST TO SETTLE**" form. The Respondent must include a justification of the offer. **DO NOT** submit payment of the offer amount with the form. The Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.

To reduce document handling, please refer to the Enforcement Tracking Number and Agency Interest Number on the front of this document on all correspondence in response to this action.

Sincerely,



Lourdes Iturraide
Assistant Secretary
Office of Environmental Compliance