

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

TOLUNAY-WONG ENGINEERS, INC.

AI # 179532

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

* Settlement Tracking No.
* SA-RE-20-0096
*
* Enforcement Tracking No.
* RE-CN-16-00160
*
*
* Docket No. 2017-8639-EQ
*

SETTLEMENT

The following Settlement is hereby agreed to between Tolunay-Wong Engineers, 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 facility located in Gonzales, Ascension Parish, Louisiana (“the Facility”).

II

On February 7, 2017, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. RE-CN-16-00160 (Exhibit 1).

III

In response to the Consolidated Compliance Order & Notice of Potential Penalty, 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 TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00), of which Nine Hundred Seventy-One and 91/100 Dollars (\$971.91) 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 Consolidated Compliance Order & 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.

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

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.

X

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Ascension 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.

XI

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).

XII

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

XIII

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.

TOLUNAY-WONG ENGINEERS, INC.

BY: [Signature]
(Signature)

GREG TAYLOR
(Printed)

TITLE: CMT DEPARTMENT MANAGER

THUS DONE AND SIGNED in duplicate original before me this 18th day of March, 20 21, at Houston, Texas.

[Signature]
NOTARY PUBLIC (ID # 129935702)
JOYCE LEUNG
Notary Public, State of Texas
Comm. Expires 08-27-2022
Notary ID 129935702

(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 10th day of August, 20 21, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 92503)

AMBER G. LITCHFIELD
Notary Public
State of Louisiana
Notary ID # 92503
East Baton Rouge Parish

(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

February 7, 2017

CERTIFIED MAIL (7012 3460 0001 0423 3895)
RETURN RECEIPT REQUESTED

TOLUNAY-WONG ENGINEERS, INC.

c/o Daniel O. Wong, P.E.
Agent for Service of Process
6037 Commerce Point Dr.
Geismar, LA 70734

**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. RE-CN-16-00160
AGENCY INTEREST NO. 179532**

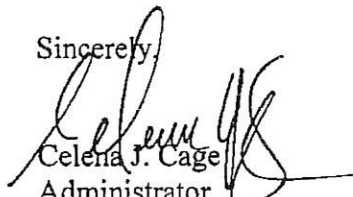
Dear Sir:

Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), the attached **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is hereby served on **TOLUNAY-WONG ENGINEERS, INC. (RESPONDENT)** for the violations described therein.

Compliance is expected within the maximum time period established by each part of the **COMPLIANCE ORDER**. The violations cited in the **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** could result in the issuance of a civil penalty or other appropriate legal actions.

Any questions concerning this action should be directed to Suzanne Gardner at (225) 219-1423.

Sincerely,


Celena J. Cage
Administrator
Enforcement Division

CJC/SDG/sdg
Alt ID No. LA-12622-L01
Attachment



c: **TOLUNAY-WONG ENGINEERS, INC.**
c/o John Quidley, Radiation Safety Officer
37534 Highway 30, Ste. A
Gonzales, LA 70737

**STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE**

IN THE MATTER OF	*	
	*	
TOLUNAY-WONG ENGINEERS, INC.	*	ENFORCEMENT TRACKING NO.
ASCENSION PARISH	*	
ALT ID NO. LA-12622-L01	*	RE-CN-16-00160
	*	
	*	AGENCY INTEREST NO.
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT,	*	179532
La. R.S. 30:2001, ET SEQ.	*	

CONSOLIDATED
COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **TOLUNAY-WONG ENGINEERS, INC. (RESPONDENT)** by the Louisiana Department of Environmental Quality (the Department), under the authority granted by the Louisiana Environmental Quality Act (the Act), La. R.S. 30:2001, et seq., and particularly by La. R.S. 30:2025(C), 30:2050.2 and 30:2050.3(B).

FINDINGS OF FACT

I.

The Respondent owns and/or operates an industrial radiography facility known as Tolunay-Wong Engineers, Inc. located at 37543 Highway 30, Suite A in Gonzales, Ascension Parish, Louisiana. The Respondent operates under Radioactive Materials License LA-12622-L01.

II.

On or about July 2, 2015, the Department conducted an inspection of the Respondent's facility to determine the degree of compliance with the Radiation Protection Regulations and the Act. While the Department's investigation is not yet complete, the following violations were noted at the time of the inspection:

- A. The Respondent failed to notify the Office of Environmental Compliance in writing before making any change that would render the information contained in the Radioactive Material License no longer accurate, in violation of LAC 33:XV.320.A.2 and Radioactive Material License LA-12622-L01, Amendment #6, Condition 2. Specifically, the Radioactive Material License lists Jason Engen as the Radiation Safety Officer (RSO) for the Gonzales, Louisiana location. Mr. Engen's employment ended in March of 2015, and the Respondent failed to notify the Department of these changes. Mr. John Quidley is the new Radiation Safety Officer for the Gonzales, Louisiana location. This violation has been addressed in the RAM License Amendment #7.
- B. The Respondent failed to return the Troxler 3430 soil moisture density gauge to its permanent place of storage in violation of LAC 33:XV.320.A.2, and ATTACHMENT "D", Tolunay-Wong Engineers, Inc. "Radiation Safety Plan", Item Operator #3. Specifically, the gauge was checked out on June 25, 2015, and was not returned to the storage location by July 2, 2015. The July 4th holiday weekend was not a working weekend and the gauge should have been returned to the storage location.
- C. The Respondent failed to properly store the Troxler 3430 soil moisture density gauge while in transit involving overnight storage in violation of LAC 33:XV.320.A.2, and ATTACHMENT "D", Tolunay-Wong Engineers, Inc. "Radiation Safety Plan", Item Storage. Specifically, the Respondent failed to cover the gauge case so that it is not visible from the outside of the vehicle while the operator is not present.
- D. The Respondent failed to secure the Troxler 3430 soil moisture density gauge while not being observed, in violation of LAC 33:XV.445, and ATTACHMENT "D", Tolunay-Wong Engineers, Inc. "Radiation Safety Plan", Item Storage. Specifically, the Respondent failed to secure the gauge to the steering wheel in the cab of the truck. The gauge was fastened to the truck bed, but the tailgate was left open and the cables were cut.

COMPLIANCE ORDER

Based on the foregoing, the Respondent is **hereby ordered**:

I.

To take, immediately upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to meet and maintain compliance with the Radiation Protection Regulations and Radioactive Materials License LA-12622-L01.

II.

To immediately, upon receipt of this **COMPLIANCE ORDER**, institute procedures to ensure licensed or registered radioactive material is stored and secured in accordance with LAC 33:XV.445 and LAC 33:XV.320.A.

III.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, a written report that includes a detailed description of the circumstances surrounding the cited violation(s) and actions taken or to be taken to achieve compliance with the Order Portion of this **COMPLIANCE ORDER**. This report and all other reports or information required to be submitted to the Enforcement Division by this **COMPLIANCE ORDER** shall be submitted to:

Office of Environmental Compliance
Post Office Box 4312
Baton Rouge, Louisiana 70821-4312
Attn: Suzanne Gardner
Re: Enforcement Tracking No. RE-CN-16-00160
Agency Interest No. 179532

THE RESPONDENT SHALL FURTHER BE ON NOTICE THAT:

I.

The Respondent has a right to an adjudicatory hearing on a disputed issue of material fact or of law arising from this **COMPLIANCE ORDER**. This right may be exercised by filing a written request with the Secretary no later than thirty (30) days after receipt of this **COMPLIANCE ORDER**.

II.

The request for an adjudicatory hearing shall specify the provisions of the **COMPLIANCE ORDER** on which the hearing is requested and shall briefly describe the basis for the request. This request should reference the Enforcement Tracking Number and Agency Interest Number, which are located in the upper right-hand corner of the first page of this document and should be directed to the following:

Department of Environmental Quality
Office of the Secretary
Post Office Box 4302
Baton Rouge, Louisiana 70821-4302
Attn: Hearings Clerk, Legal Division
Re: Enforcement Tracking No. RE-CN-16-00160
Agency Interest No. 179532

III.

Upon the Respondent's timely filing a request for a hearing, a hearing on the disputed issue of material fact or of law regarding this **COMPLIANCE ORDER** may be scheduled by the Secretary of the Department. The hearing shall be governed by the Act, the Administrative Procedure Act (La. R.S. 49:950, et seq.), and the Department's Rules of Procedure. The Department may amend or supplement this **COMPLIANCE ORDER** prior to the hearing, after providing sufficient notice and an opportunity for the preparation of a defense for the hearing.

IV.

This **COMPLIANCE ORDER** shall become a final enforcement action unless the request for hearing is timely filed. Failure to timely request a hearing constitutes a waiver of the Respondent's right to a hearing on a disputed issue of material fact or of law under Section 2050.4 of the Act for the violation(s) described herein.

V.

The Respondent's failure to request a hearing or to file an appeal or the Respondent's withdrawal of a request for hearing on this **COMPLIANCE ORDER** shall not preclude the Respondent from contesting the findings of facts in any subsequent penalty action addressing the same violation(s), although the Respondent is estopped from objecting to this **COMPLIANCE ORDER** becoming a permanent part of its compliance history.

VI.

Civil penalties of not more than twenty-seven thousand five hundred dollars (\$27,500) for each day of violation for the violation(s) described herein may be assessed. For violations which occurred on August 15, 2004, or after, civil penalties of not more than thirty-two thousand five hundred dollars (\$32,500) may be assessed for each day of violation. The Respondent's failure or refusal to comply with this **COMPLIANCE ORDER** and the provisions herein will subject the Respondent to possible enforcement procedures under La. R.S. 30:2025, which could result in the assessment of a civil penalty in an amount of not more than fifty thousand dollars (\$50,000) for each day of continued violation or noncompliance.

VII.

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

NOTICE OF POTENTIAL PENALTY

I.

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.

II.

Prior to the issuance of additional appropriate enforcement action(s), 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**.


III.

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 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 violation(s) 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 that statement.

IV.

This **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is effective upon receipt.

Baton Rouge, Louisiana, this 2th day of February, 2017.



Lourdes Iturralde
Assistant Secretary
Office of Environmental Compliance

Copies of a request for a hearing and/or related correspondence should be sent to:

Louisiana Department of Environmental Quality
Office of Environmental Compliance
Enforcement Division
P.O. Box 4312
Baton Rouge, LA 70821-4312
Attention: Suzanne D. Gardner