

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

CHART ENERGY & CHEMICALS, INC.

AI # 52238

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

* Settlement Tracking No.
* SA-RE-09-0066
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* Enforcement Tracking No.
* RE-CN-09-0006
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SETTLEMENT

The following Settlement is hereby agreed to between Chart Energy & Chemicals, 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 a radiography facility located in New Iberia, Iberia Parish, Louisiana ("the Facility").

II

On April 30, 2009, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. RE-CN-09-0006, which was based upon the following findings of fact:

The Respondent is in possession of radioactive material in Louisiana under the provisions of Registration Certificate, 11068, issued by the Department. The facility is located at 3415 Earl B. Wilson Rd. in New Iberia, Iberia Parish, Louisiana.

On or about March 27, 2009, an inspection was conducted by a representative of the Department. The following violations were discovered during the inspection:

- A. The Respondent allowed Mr. Donald Bourgeois (AI 50821) to perform industrial radiography on March 1, 2009, using a Seifert AS2, serial number 842822, industrial radiography X-Ray exposure device, without successfully completing a radiation safety examination within the last five years, in violation of LAC 33:XV.575.A.6.
- B. Kevin Hebert, Donald Bourgeois and Rachid Belarbi did not wear an alarming ratemeter during approximately 20 industrial radiographic exposures, in violation of LAC 33:XV.577.A.
- C. The Respondent failed to maintain the surveys records required by LAC 33:XV.587.C and D for inspection by the department for three consecutive years after completion of the survey, in violation of LAC 33:XV.587.E.

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 FOUR THOUSAND AND NO/100 DOLLARS (\$4,000.00), of which One Thousand and No/100

Dollars (\$1,000.00) 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 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 Iberia 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 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.

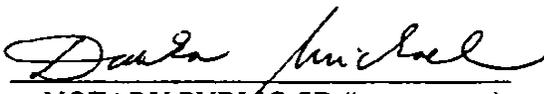
CHART ENERGY & CHEMICALS, INC.

BY: 
(Signature)

MATTHEW J. KLABEN
(Print)

TITLE: VICE PRESIDENT, GENERAL COUNSEL AND SECRETARY

THIS DONE AND SIGNED in duplicate original before me this 26th day of JANUARY, 20 10, at GARFIELD HEIGHTS, OHIO.


NOTARY PUBLIC (ID #)



DANKA MICHAEL, Notary Public
STATE OF OHIO
My Commission Expires April 3, 2011
(Recorded in Cuyahoga County)

DANKA MICHAEL
(Print)

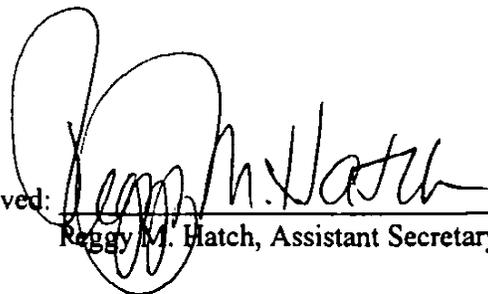
LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Peggy M. Hatch, Secretary

BY: 
Paul D. Miller, P.E., Assistant Secretary
Office of Environmental Compliance

THIS DONE AND SIGNED in duplicate original before me this 26th day of April, 20 10, at Baton Rouge, Louisiana.


NOTARY PUBLIC (ID # 15149 (1))

Christopher A. Ratchiff
(Print)

Approved: 
Peggy M. Hatch, Assistant Secretary