

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

<p>IN THE MATTER OF</p> <p>NONDESTRUCTIVE & VISUAL INSPECTION, LLC</p> <p>AI # 30994, 99302</p> <p>PROCEEDINGS UNDER THE LOUISIANA ENVIRONMENTAL QUALITY ACT LA R S 30 2001, <u>ET SEQ</u></p>	<p>* Settlement Tracking No * SA-RE-07-0034</p> <p>* *</p> <p>* Enforcement Tracking No * RE-P-02-0203 * RE-P-06-0031</p> <p>* *</p> <p>* Docket No 2006-5454-EQ *</p>
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SETTLEMENT

The following Settlement is hereby agreed to between Nondestructive & Visual Inspection, 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 corporation who owns and/or operates radiation producing equipment The facility is located at 309 Zachary Drive in Scott, Lafayette Parish, Louisiana ("the Facility")

II

On August 5, 2004, the Department issued a Penalty Assessment, Enforcement No RE-P 02 0203, in the amount of \$4,040 07 to Respondent, Nondestructive & Visual Inspection – West, Inc (AI #30994) which was based upon the following findings of fact

The Respondent owns and/or operates radiation producing equipment under the provisions of Louisiana Registration Number LA-5601 L01. The temporary jobsite, Allen Tank Service Department (AI# 17432), is located at 5601 South Lewis Street on Port Road in Port of Iberia Parish, Louisiana. The Respondent's facility is located at 309 Zachary Drive in Scott, Lafayette Parish, Louisiana.

On June 4, 2004, and June 11, 2004, inspections conducted at Allen Tank Service Department by a LDEQ inspector found the following violations:

- A. The Respondent failed to ensure that pocket dosimeters have a range of zero to at least 2 millisieverts (200 millirems) and are recharged at least daily or at the start of each shift to prevent the pocket dosimeters from discharging beyond its range (i.e. going "off scale") to ensure accurate dosage readings, in violation of LAC 33 XV 577 B, LAC 33 XV 577 E and RE-CN-00-0202.
- B. The Respondent failed to supply an operable, calibrated pocket dosimeter with a range of zero to 200 milliroentgens (5.16×10^5 C/kg) for each worker, in violation of LAC 33 XV 590 A 3.
- C. The Respondent failed to determine the occupational radiation dose received during the current year and attempt to obtain records of lifetime cumulative occupational radiation dose for each individual who is likely to receive, in a year, an occupational dose requiring monitoring in accordance with LAC 33 XV 431, in violation of LAC 33 XV 414 A.

D The Respondent allowed Mr Nathan B Cox to act as radiographer while not wearing a direct-reading pocket dosimeter, an alarm ratemeter, and a personnel dosimeter, in violation of LAC 33 XV 577 A

At the time Penalty Assessment Enforcement No RE-P-02-0203 was issued by the Department, the Respondent Limited Liability Company had different members and managers than those members and managers who currently operate the business

On December 12, 2006, the Department issued a Penalty Assessment, Enforcement No RE-P-06-0031, in the amount of \$22,072 06 to Respondent, Nondestructive & Visual Inspection, LLC (AI #99302), which was based upon the following findings of fact

The Respondent is in possession of radioactive material under the provision of the Radioactive Material License, LA 5601 L01, issued by the Department The facility known as Nondestructive & Visual Inspection, LLC is located at 901 Oak Street in Houma, Terrebonne Parish, Louisiana

On March 15, 2006, an investigation was conducted by LDEQ as a result of the licensee notifying the Department of three overexposures that occurred for the year 2005 The investigation showed the Respondent failed to control the occupational dose to individual adults so that the annual limit dose does not exceed a total effective dose equivalent of 5000 millirem in violation of LAC 33 XV 410 A 1 Specifically, three industrial radiography workers received exposures exceeding 5000 millirem for the year 2005 Matthew Letchworth received 8445 millirem, Gerald Stelly received 5221 millirem, and Russell Gibson received 5253 millirem for the year 2005

III

In response to the Penalty Assessments, Enforcement No RE-P-02-0203 and RE-P-06-0031, 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 ELEVEN THOUSAND AND NO/100 DOLLARS (\$11,000 00), of which Five Hundred Seventeen and 13/100 Dollars (\$517 13) represents DEQ 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 DEQ 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 Assessments 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, Lafayette Parish, and Terrebonne 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 a proof-of-publication affidavit 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/her respective party, and to legally bind such party to its terms and conditions

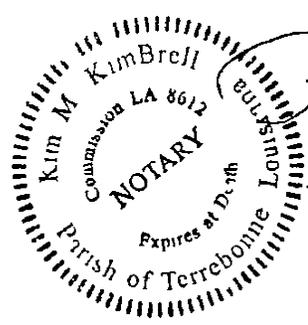
NONDESTRUCTIVE & VISUAL
INSPECTION, LLC

BY [Signature]
(Signature)

James Cloutier
(Print)

TITLE President

THUS DONE AND SIGNED in duplicate original before me this 20th day of
June, 20 08, at Houma



[Signature]
NOTARY PUBLIC (ID # 8612)
Kim M Kimbrell
(Print)

LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY
Harold Leggett, Ph D, Secretary

BY [Signature]
Peggy M Hatch, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 24th day of
June, 20 08, at Baton Rouge, Louisiana

[Signature]
NOTARY PUBLIC (ID # 40539)
[Signature]
(Print)

Approved [Signature]
Peggy M Hatch, Assistant Secretary