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June 8, 2020

Ms. Mary C. Muessle
Director
Division of Nuclear Materials Safety, Region IV
Nuclear Regulatory Commission
1600 East Lamar Boulevard
Arlington, Texas 76011-4511

VIA U.S. AND ELECTRONIC MAIL

Re: Bayou Inspection Services, Inc.
Response to NRC Inspection
Report 150-00017/2020-002

Dear Ms. Muessle:

This letter is submitted on behalf of Bayou Inspection Services, Inc. (Bayou) to the United States Nuclear Regulatory Commission (NRC) in response to NRC's letter, dated May 19, 2020 (the NRC Letter). The NRC Letter relates to NRC's in-office document review of information submitted by Bayou in February, 2020 regarding the submittal of Form 241 and obtaining a general license under 10 CFR 150.20.

The NRC Letter provides Bayou the opportunity to respond to the apparent violation within thirty days, request a pre-decisional enforcement conference (PEC), or request alternative dispute resolution (ADR). Bayou does not wish to request a PEC or ADR. It is submitting this letter to explain the facts, inform NRC that Bayou has taken corrective action, and respectfully suggest to the NRC that no further action is required.

Facts

Bayou is a radiological services company which operates pursuant to Radioactive Material License, No. LA-7112-L01 (the License), issued by the Louisiana Department of Environmental Quality. In the past, Bayou has conducted operations onshore and offshore in state and federal

waters. Due to the downturn in offshore activity, Bayou had not recently worked in federal waters and did not renew or seek coverage under the general license afforded by 10 CFR §150.20.

Bayou accepted a job in offshore waters that was to occur between February 16, 2020 and February 24, 2020. Bayou dispatched its operators on February 16, 2020 to the offshore location, but they did not arrive until February 18, 2020 and did not begin any radiographic work until February 20, 2020.¹

In the meantime, the Radiation Safety Officer (RSO) realized that Bayou did not have a general license under 10 CFR §150.20 and, on February 17, 2020, submitted Form 241 to the NRC. However, it did not include the License or the appropriate fee. On February 18, 2020, NRC pointed out these deficiencies. Later that day, the License and fee were submitted. On February 24, 2020, NRC granted the general license under 10 CFR §150.20.

Discussion Regarding Additional Enforcement

A licensee “shall, at least 3 days before engaging in each activity for the first time in a calendar year, file a submittal containing an NRC Form 241,” a copy of its license, and the appropriate fee. 10 CFR §150.20(b)(1). Bayou acknowledges this provision and that it should have submitted the Form 241, License, and fee in a timelier manner. However, based on the decision points set forth in the NRC Enforcement Policy, dated January 15, 2020 (the Policy), it is respectfully suggested that no further action is warranted.

1. Previous Enforcement Actions

On information and belief, Bayou has not had any previous escalated actions during the past two years or the period between its last two inspections. As a result, NRC should next consider the corrective actions taken by Bayou. However, in an abundance of caution, Bayou will address the decision point regarding credit for identification.

2. Credit For Identification

It is suggested that Bayou should receive credit for the identification of the need for submitting Form 241 and obtaining the general permit. This decision “should be focused on identification of the problem requiring corrective action.” Policy, p. 20.

In this case, the need for the general license was identified by Bayou. In times when Bayou did more offshore work, the general license would have been in place for this calendar year. However, it had not been “renewed,” due to the fact that Bayou was not conducting offshore work. Bayou’s RSO realized, on his own and without prompting from the NRC, that Bayou did not have the general license for 2020. He applied immediately, even if it was not timely.

¹ Please note that Bayou is providing this chronology for reference purposes. It is not stating that the submission on February 17 fulfilled the requirement or that Bayou fulfilled all requirements three days prior to radiography activities in offshore waters.

3. Corrective Actions

Bayou's corrective actions were prompt and comprehensive. Upon realizing that it did not have the general license, Bayou immediately submitted Form 241. NRC has noted this submittal as Bayou's "immediate corrective action." NRC Letter, Enclosure, p. 2.

Bayou has also taken steps to address this issue so that there will be no recurrence. Bayou has amended its safety calendar to include a requirement in December of each year that the executive officers and the RSO meet to determine the likelihood of conducting offshore work in the coming year. If so, a proper application, including Form 241, will be submitted in December so that the general license may be granted prior to the expiration of the general license for that year. Additionally, Bayou prepared an "Offshore Dispatch Checklist" which must be completed before any team is sent offshore. It includes a requirement to determine the status of the general license. If one was not obtained in December, as outlined above, this requirement will ensure that no team is sent offshore without a general license in effect.

4. Mitigation of Civil Penalty

It is suggested that there are multiple factors mitigating against further action and the issuance of a penalty. Bayou did submit Form 241 on February 17, 2020 and had submitted all required elements by February 18, 2020. Bayou did not actually conduct radiography activities in offshore waters until February 20, 2020. Bayou has taken concrete steps to ensure that a general license is in effect when a future team is sent offshore.

The factors in the Policy, Section 3.6, suggest that NRC should exercise its enforcement discretion to take no further action. Bayou does not believe that this violation was a Severity Level I or II, there were no overexposures, there was no "particularly poor" performance by Bayou, Bayou's enforcement history is not "particularly poor," the violation was not willful, there was no "substantial increase in risk," and there was no loss of control of regulated material. As a result, no penalty is warranted.

Conclusion

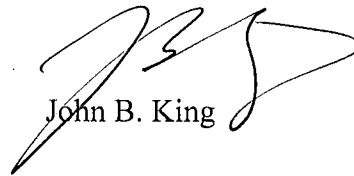
This violation resulted from an unfortunate oversight which was promptly corrected. Bayou has also taken steps to ensure that there will be no recurrence of this situation. Thus, Bayou requests that NRC take no further action against Bayou and certainly not issue a civil penalty under these circumstances.

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I trust this is sufficient for your needs at this time. If you have any questions, concerns, or comments, or need additional information, please contact me.

Sincerely,

BREAZEALE, SACHSE & WILSON, L.L.P.



John B. King

VERIFICATION

On behalf of Bayou Inspection Services, Inc., I certify that the facts related herein are true and correct, to the best of my knowledge, information, and belief.



Joey Rentrop
Radiation Safety Officer
Bayou Inspection Services, Inc