

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

**BOISE BUILDING SOLUTIONS
MANUFACTURING, L.L.C.**

AI # 1647

**PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT**

* **Settlement Tracking No.**
 * **SA-AE-09-0015**
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 * **Enforcement Tracking No.**
 * **AE-CN-05-0232**
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 * **LA. R.S. 30:2001, ET SEQ.**

SETTLEMENT

The following Settlement is hereby agreed to between Boise Building Solutions Manufacturing, L.L.C. ("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 a plywood plant known as the Florien Plywood Plant facility located off Louisiana Highway 171, one-half mile north of Florien, Sabine Parish, Louisiana ("the Facility").

II

On January 30, 2006, the Department issued to Respondent a Consolidated Compliance Order & Notice Of Potential Penalty, Enforcement No. AE-CN-05-0232, which was based upon the following findings of fact:

The Respondent owns and/or operates a plywood plant known as the Florien Plywood Plant located off Louisiana Highway 171, one-half mile north of Florien, Sabine Parish, Louisiana. The

facility operated under Title V Permit No. 2700-00001-V0 issued on January 31, 2001, until issuance of Title V Permit No. 2700-00001-V1 on May 1, 2003, under which it currently operates. A Notification of Change of Ownership/Operator or Name Change form was submitted which showed a change of ownership from Boise Cascade Corporation to the Respondent effective October 29, 2004.

On or about September 15, 2005, representatives of the Respondent met with the Department to discuss the late submittal of the Title V renewal application for Title V Permit No. 2700-00001-V1. The expiration date for this permit is January 31, 2006. Therefore, the due date for submittal of the Title V renewal application was on or about August 5, 2005, or 180 days prior to permit expiration. In that meeting, the representatives of the Respondent stated the reasons and circumstances surrounding the late Title V renewal application and agreed to provide a letter documenting the items discussed in the meeting. The Respondent's representatives expressed concern that the renewed Title V permit may not be issued by the expiration date of Title V Permit No. 2700-00001-V1. Therefore, it was agreed to schedule a meeting on December 8, 2005, to discuss the progress in obtaining a renewed Title V permit prior to expiration of Title V Permit No. 2700-00001-V1. The Respondent also agreed to expedite the submission of the application.

The Respondent provided a letter, dated September 19, 2005, to the Department documenting the information discussed in the September 15, 2005, meeting. The Respondent submitted the Title V permit renewal application under cover letter dated October 13, 2005.

On or about December 8, 2005, the Respondent again met with the Department. In this meeting it was determined that the Permits Division would most likely not have a renewed Title V Permit issued before expiration of Title V Permit No. 2700-00001-V1. The Respondent submitted a letter dated December 9, 2005, in which the Respondent requested to continue its operations, after

expiration of Title V Permit No. 2700-00001-V1, in accordance with the existing emissions limits and requirements of Title V Permit No. 2700-00001-V1.

On or about December 13, 2005, a file review of the Respondent's facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

The following violation was noted during the course of the file review:

The Respondent failed to submit an application for renewal of Title V Permit No. 2700-00001-V1 at least six (6) months prior to the date of the permit expiration. The failure to submit the Title V permit renewal application at least six (6) months prior to the date of permit expiration is a violation of LAC 33:III.507.E.4, Part 70 General Condition A of Title V Permit No. 2700-00001-V1, and Section 2057(A)(2) of the Act.

On or about December 16, 2005, a file review of the Respondent's facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

The following violations were noted during the course of the file review:

- A. The prior owner of the facility submitted the Title V semiannual monitoring reports dated March 25, 2004 and August 30, 2004, and the Title V annual compliance certification dated February 27, 2004. The Respondent submitted Title V semiannual monitoring reports dated March 11, 2005 and August 31, 2005, and the Title V annual compliance certification dated March 10, 2005. In these Title V semiannual monitoring reports and Title V annual compliance certifications, frequent occurrences were reported in which the Regenerative Catalytic/Thermal Oxidizer (Emission Point RCO/RTO) was not operating properly and the emissions were routed to the atmosphere as follows:

| Reason | Six-month periods | Number of occurrences | Report dates | Days |
|---|---|-----------------------|--|------------|
| Intermittent; failure of the poppet proximity switch | July 2003–December 2003; January–June 2004; July 2004–December 2004; January–June 30, 2005 | 75 (8)* | February 27, 2004; March 25, 2004; August 30, 2004; March 11, 2005; March 10, 2005; August 31, 2005 | 39 (4)* |
| Intermittent; process inlet fires being detected | July–December 2003; January–June 2004; July 2004–December 2004 | 51 (1)* | February 27, 2004; March 25, 2004; August 30, 2004; March 10, 2005; March 11, 2005 | 41 (1)* |
| Combustion chamber temperature less than the minimum required | July–December 2003; January–June 2004; January – June 2005 | 7 (4)* | February 27, 2004; March 25, 2004; August 30, 2004; March 10, 2005; August 31, 2005 | 7 (4)* |
| Process blocking damper position failed | July–December 2003; January–June 2004; January–June 2005 | 5 (3)* | February 27, 2004; March 25, 2004; August 30, 2004; March 10, 2005; August 31, 2005 | 4 (2)* |
| Fresh air damper was out of position | January–June 2005 | 4 (4)* | August 30, 2004; March 10, 2005; August 31, 2005 | 2 (2)* |

Note: May be more than one occurrence in a given day.

* Those of the total number of occurrences/days that were under the Respondent's ownership of the facility.

Based on discussions with a representative of the Respondent, since installation of the RCO/RTO, there have been problems with condensed volatile organic compounds (VOC) depositing inside the duct work which appear to be due to the design of the system. The VOC condensation is contributing to the occurrences which have been reported. Each of the Respondent's failure to use and diligently maintain in proper working order the RCO/RTO is a violation of LAC 33:III.905 which states, "When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded." Control equipment as defined by LAC 33:III.111 is "any device or contrivance, operating procedure or abatement scheme used to prevent or reduce air pollution." In addition, each of the Respondent's failure to maintain the VOC control efficiency of 95 percent is a violation of the State Only Specific Condition as referenced in

Table 2 of Title V Permit No. 2700-00001-V1, LAC 33:III.501.C.4, LAC 33:III.501.C.6, and Sections 2057(A)(1) and 2057(A)(2) of the Act. Each of the Respondent's failure to maintain the hourly average combustion chamber temperature greater than or equal to 850 degrees Fahrenheit is a violation of the State Only Specific Condition as referenced in Table 2 of Title V Permit No. 2700-00001-V1, LAC 33:III.501.C.4, LAC 33:III.5109, and Section 2057(A)(2) of the Act.

- B. In the Title V semiannual monitoring report dated August 31, 2005, the Respondent reported for the RCO/RTO that the combustion chamber was too low for ready status. The Respondent noted that it was waited until the combustion chamber attained ready status. The Respondent's failure to maintain the VOC control efficiency of 95 percent is a violation of the State Only Specific Condition as referenced in Table 2 of Title V Permit No. 2700-00001-V1, LAC 33:III.501.C.4, LAC 33:III.501.C.6, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

The issues listed below are not the subject matter of an enforcement action issued by the Department, but are included as a part of this Settlement:

- A. Deviations reported in the Title V annual compliance certification and semiannual monitoring report both under cover letters dated March 13, 2006; the Title V semiannual monitoring report dated September 15, 2006; the Title V annual compliance certification and Title V semiannual monitoring report both under cover letters dated March 23, 2007, which were revised by the Title V annual compliance certification and semiannual monitoring report both under cover letter dated December 5, 2007; the Title V annual compliance certification and Title V semiannual monitoring report both under cover letters dated March 28, 2008 and Louisiana General Condition XI Quarterly Deviation Reports dated June 28, 2007; September 14, 2007; December 4, 2007 and March 28, 2008, pertaining to the RCO/RTO issues cited in the Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-05-0232.
- B. Deviations reported in the letter dated December 3, 2007 and in the Title V semiannual monitoring report and Title V annual compliance certification both under cover letters dated March 28, 2008, pertaining to missed daily visible emissions monitoring for the Hogged Fuel Fired Boiler stack (Emission Point B1).

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 TWENTY-TWO THOUSAND AND NO/100 DOLLARS (\$22,000.00), of which One Thousand Three Hundred Thirty-Eight and 84/100 Dollars (\$1,338.84) represents 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), the Consolidated Compliance Order and 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 LSA- R. S. 30:2025(E) of the Act.

VIII

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

IX

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).

X

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

XI

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.

**BOISE BUILDING SOLUTIONS
MANUFACTURING, L.L.C.**

BY: *David G. Gadda*
(Signature)

DAVID G. GADDA
(Print)

TITLE: VICE PRESIDENT & GENERAL COUNSEL

THUS DONE AND SIGNED in duplicate original before me this 28TH day of
July, 20 09, at BOISE, IDAHO.



Cherie H. Anderson
NOTARY PUBLIC (ID # 2289)
My commission expires: 8/5/09
CHERIE H. ANDERSON
(Print)

**LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY**

Harold Leggett, Ph.D., Secretary

BY: *Peggy M. Hatch*
Peggy M. Hatch, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 5th day of
November, 20 09, at Baton Rouge, Louisiana.

Christopher A. Ratcliff
NOTARY PUBLIC (ID # 10149)
Christopher A. Ratcliff
(Print)

Approved: *Peggy M. Hatch*
Peggy M. Hatch, Assistant Secretary