



#10132; Bollinger Marine Fabricators, L.L.C, 816 Bollinger Lane, Amelia, St. Mary Parish, AI #27417; Gretna Machine and Iron Works, L.L.C.(now Bollinger Gretna, L.L.C.), 4640 Peters Road, Harvey, Jefferson Parish, AI #2597; Bollinger Morgan City, L.L.C., 806 Bollinger Lane, Amelia, St. Mary Parish, AI #26061; Bollinger Gulf Repair, L.L.C., 3900 Jourdan Road, New Orleans, Orleans Parish, AI #6371; Bollinger Larose, L.L.C., 1515 Hwy. 24 Larose, AI #40832; Bollinger Algiers, L.L.C., 434 Powder Street, New Orleans, Orleans Parish, AI #19072, (collectively known as the “facility” or “facilities”).

## II

On October 23, 2000, the Department issued Notice of Potential Penalty, AE-PP-00-0176, to Bollinger Shipyards Lockport, L.L.C., attached hereto and made a part of this Settlement as Exhibit A.

## III

On December 29, 2000, the Department issued Notice of Potential Penalty, AE-PP-00-0306, to Bollinger Marine Fabricators, L.L.C., attached hereto and made a part of this Settlement as Exhibit B.

## IV

On February 19, 2001, the Department issued Notice of Potential Penalty, AE-PP-00-0404, to Bollinger Calcasieu, L.L.C., attached hereto and made a part of this Settlement as Exhibit C.

## V

On April 3, 2001, the Department issued Consolidated Compliance Order & Notice of Potential Penalty, WE-CN-00-0326, to Gretna Machine and Iron Works, L.L.C. (now

Bollinger Gretna, L.L.C.), attached hereto and made a part of this Settlement as Exhibit D.

## VI

On August 24, 2001, the Department issued Consolidated Compliance Order & Notice of Potential Penalty, MM-CN-00-0003, to Bollinger Morgan City, L.L.C., attached hereto and made a part of this Settlement as Exhibit E.

## VII

On November 13, 2001, the Department issued Consolidated Compliance Order & Notice of Potential Penalty, AE-CN-01-0333, to Bollinger Marine Fabricators, L.L.C., attached hereto and made a part of this Settlement as Exhibit F.

## VIII

On December 17, 2001, the Department issued Warning Letter, MM-L-01-0032, to Bollinger Gulf Repair, L.L.C., attached hereto and made a part of this Settlement as Exhibit G.

## IX

On July 3, 2003, the Department issued Warning Letter, WE-L-03-0468, to Bollinger Shipyard Lockport, L.L.C., attached hereto and made a part of this Settlement as Exhibit H.

## X

On July 3, 2003, the Department issued Warning Letter, WE-L-03-0470, to Bollinger Larose, L.L.C., attached hereto and made a part of this Settlement as Exhibit I.

## XI

On December 17, 2001, the Department issued Warning Letter, WE-L-01-0465, to Bollinger Gulf Repair, L.L.C., attached hereto and made a part of this Settlement as Exhibit J.

## XII

On November 6, 2003, the Department issued Compliance Order, AE-C-03-0363, to Bollinger Shipyards Lockport, L.L.C., attached hereto and made a part of this Settlement as Exhibit K.

## XIII

The Department conducted inspections at Respondent's facilities on June 5, 2001, January 30, 2002, and March 20, 2003 and noted various violations of the Act and Water Quality Regulations. Respondent self-reported certain violations of the Act and Water Quality Regulations at various facilities. These violations are noted in a table attached hereto and made a part of this Settlement as Exhibit L.

## XIV

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

## XV

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 FIVE HUNDRED THOUSAND and NO/100 (\$500,000.00) DOLLARS, of which Six Thousand Eight Hundred and No/100 (\$6,800.00) Dollars represents DEQ's enforcement costs, in settlement of the claims set forth in this agreement.

## XVI

Respondent, in addition to the penalty amount specified in Paragraph XV above and as part of this Settlement, agrees to expend the amount of EIGHT MILLION TWO HUNDRED

TWENTY-FOUR THOUSAND and No/100 (\$8,224,000.00) DOLLARS to implement and/or perform beneficial environmental projects over a period of time not to exceed three (3) years. These projects, along with the approximate amount to be spent on each, are listed and specifically incorporated into this Settlement as follows:

A. **Donations to the Louisiana Rural Water Association**

(i) Respondent agrees to donate to the Louisiana Rural Water Association (“LRWA”) the amount of Three Hundred Thousand and No/100 (\$300,000.00) Dollars to support the activities of the LRWA in providing assistance to municipal and other operators of wastewater treatment and potable water systems throughout the State of Louisiana.

(ii) Respondent agrees to make an initial donation of One Hundred Fifty Thousand and No/100 (\$150,000.00) to the LRWA within thirty (30) days after the Settlement becomes final and effective.

(iii) Respondent agrees to make a second donation of One Hundred Fifty Thousand and No/100 (\$150,000.00) to the LRWA on or before the one (1) year anniversary of the initial donation described in sub-paragraph (ii) above.

(iv) Respondent shall submit a report to the Department within thirty (30) days from each donation confirming that the donation has been made as set forth hereinabove, including the total amount donated to the LRWA. If, for any reason, Respondent does not donate the amount of Three Hundred Thousand and No/100 (\$300,000.00) Dollars, then it shall, in its final report, propose additional donations for the Department’s approval or pay to the Department an amount equal to the difference between the amount of money agreed to be spent and the amount of money actually spent.

B. **Donation(s) to the Department**

(i) Respondent agrees to expend the amount of Three Hundred Ten Thousand and No/100 (\$310,000.00) Dollars to purchase equipment for an enhanced air monitoring

station or stations to be used at a location to be determined by the Department. Respondent agrees to submit a list of proposed equipment to be purchased, along with manufacturer's specifications, for the Department's review and approval. The Department will review the specifications and accept or reject the list as proposed or provide comments to Respondent within thirty (30) days of receiving the proposed equipment list.

(ii) This equipment shall be conveyed, after purchase, by the Respondent to the Department by an Act of Donation within ninety (90) days from notice of the Secretary's signature, unless delivery is delayed by the vendor, in which case the Respondent shall notify the Department and will have corresponding additional time to complete the conveyance. It is the intent of the parties that this equipment shall be used at a location or locations to be chosen solely by the Department in its discretion. Should the Department determine that such equipment is no longer needed at the chosen location or locations, or that the need for such equipment is greater in another area, the Department shall have discretion to relocate such equipment.

(iii) Respondent shall submit a single final report within thirty (30) days from the execution of the Act of Donation setting forth the completion of the project(s) set forth hereinabove, including the total amount spent on the project(s) listed above. It shall also contain a certification that the projects were completed as described. If Respondent does not spend the amount of Three Hundred Ten Thousand and No/100 (\$310,000.00) Dollars, then it shall, in its final report, propose additional projects for the Department's approval or pay to the Department an amount equal to the difference between the amount of money agreed to be spent and the amount of money actually spent.

C. **Donations to Educational Institutions and/or Environmental Organizations**

(i) Respondent will make monetary donations to educational institutions and/or environmental organizations totaling Eighty-Six Thousand Five Hundred Fifty and No/100 (\$86,550.00) Dollars within a three (3) fiscal-year period. These donations will be made specifically for the following purposes:

- (1) Purpose 1 - Defray the costs of (a) removing and disposing of present mercury contamination and (b) eliminating the use of mercury instruments in selected local educational institutions.
  - (2) Purpose 2 - Sponsor environmental education.
  - (3) Purpose 3 - Sponsor local clean-up efforts.
  - (4) Purpose 4 - Contribute to on-going efforts to restore the Louisiana wetlands and/or inhibit further loss of coastal resources.
- (ii) Within fiscal year 2003-2004, Respondent will donate a total of Twenty-Eight Thousand Eight Hundred Fifty and No/100 (\$28,850) Dollars to the following entities or organizations for the specified purposes as follows:
- (1) Audubon Institute (Purpose 2).
  - (2) Barataria-Terrebonne Estuary Foundation (Purpose 4).
  - (3) Leadership Lafourche (Purpose 3).
  - (4) Nature Conservancy of Louisiana (Purpose 4).
  - (5) Nicholls State University (Purpose 2).
  - (6) Restore & Retreat (Purpose 4).
  - (7) Mercury Removal Program of one or more local schools (Purpose 1).
- (iii) Within fiscal year 2004-2005, Respondent will again donate a total of Twenty-Eight Thousand Eight Hundred Fifty and No/100 (\$28,850) Dollars. Respondent will either donate to the entities or organizations specified above or will seek approval from the Department for alternate recipients prior to making the monetary donation.
- (iv) Within fiscal year 2005-2006, Respondent will again donate a total of Twenty-Eight Thousand Eight Hundred Fifty and No/100 (\$28,850) Dollars. Respondent will either donate to the entities or organizations specified above or will seek approval from the Department for alternate recipients prior to making the monetary donation.
- (v) Respondent will submit a report to the Department verifying that (i) the funds have been donated and (ii) the donated funds have been expended by the donee for a purpose consistent with the Act and the Louisiana Environmental Regulatory Code. Respondent shall make such report within thirty (30) days after the conclusion of any quarter in which donation has been made and/or notice is received by Respondent of the expenditure of the donated funds.

(vi) If, for any reason, Respondent does not donate the amount of Eighty-Six Thousand Five Hundred Fifty and No/100 (\$86,550.00) Dollars, then it shall, in its final report, propose additional donations for the Department's approval or pay to the Department an amount equal to the difference between the amount of money agreed to be spent and the amount of money actually spent.

D. **Pollution Prevention Project to be Performed at Bollinger Facilities.**

A pollution prevention project is one that reduces the generation of pollution through "source reduction," i.e., any practice that reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise being released into the environment, prior to recycling, treatment, or disposal.

1. Plural Component Airless Spray System (Lockport, Marine Fabricators), \$100,000, to be completed on or before December 31, 2005. Respondent will acquire and install upgraded painting systems to reduce hazardous waste through the use of large recyclable containers, eliminating the need for disposal of paint cans with residual material. No material will be lost due to excess pre-mixed paint, as the system only draws and mixes as much material as is required. Shutdown and alarm features prevent spraying off-ratio material. The system involves the use of little or no solvents to apply coating materials, further reducing VOC emissions. Solvent usage and associated emissions also would be reduced when cleaning the system, as only those parts which come in contact with mixed material must be flushed.

E. **Pollution Reduction Projects to be Performed at Bollinger Facilities.**

A pollution reduction project is one that results in a decrease in the amount and/or toxicity of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise being released into the environment by an operating business or facility by a means which does not qualify as "pollution prevention." This may include the installation of more effective end-of-process control or treatment technology, or improved containment, or safer disposal of an existing pollutant source. Pollution reduction also includes "out-of-process recycling," wherein industrial waste collected after the

manufacturing process and/or consumer waste materials are used as raw materials for production off-site.

1. Sanitary Wastewater Treatment Plant (Larose), \$56,000, to be completed on or before December 31, 2004. Respondent will install a new sanitary wastewater treatment plant at the Bollinger Larose Facility with capacity greater than that required for the permitted effluent limitations. Respondent is requesting recognition of this as a BEP only for the portion attributable to redundant or excess capacity (40%) to safeguard against bypass and upset events.

2. Wastewater Chlorination System (Larose), \$39,750, to be completed on or before December 31, 2004. Respondent will add a chlorination system to treat grey water entering the wastewater treatment plant; this system also includes a de-chlorinator to decrease the residual chlorine level before discharge. Such a system is not required by permit.

3. Vapor Control Flaring System (Calcasieu), \$405,700, to be completed on or before December 31, 2005. Respondent will install a safe and efficient vapor control device for the barge cleaning and de-gassing facility at Bollinger Calcasieu. The new device will allow the facility to reduce emissions to a level better than required by permit.

4. Work Barges with Blasting Screens (Amelia Repair, Calcasieu, Larose, Morgan City, Quick Repair, Gulf Repair, Lockport), \$1,730,000, to be completed on or before December 31, 2005. Respondent will install portable screens on work barges to be used at the various dry docks prior to any blasting, painting and/or lowering of the dry dock to provide emission control of sand and fugitives emissions beyond permit requirements. Barges will be constructed and utilized at the following facilities:

Bollinger Amelia Repair, Bollinger Calcasieu, Bollinger Larose, Bollinger Morgan City, Bollinger Quick Repair, Bollinger Gulf Repair, Bollinger Shipyards Lockport

5. Abrasive Blasting Enclosures (Lockport, Gulf Repair), \$320,000, to be completed on or before December 31, 2004. BSI will acquire and install portable

abrasive-blasting enclosures to contain and capture fugitive emissions when sandblasting vessels and components beyond current best management practices. The enclosures would be utilized at Bollinger Shipyards Lockport and Bollinger Gulf Repair as test sites to evaluate feasibility for company wide implementation.

F. **Assessments and Audits Project to be Performed at Bollinger Facilities.**

These compliance assessment or audit projects must be performed by an entity approved by the department. The Respondent must agree to provide a certified copy of the assessment or audit to the department along with an implementation report to detail the action(s) taken and/or to defend the facility's decision to forego implementation of the suggested changes listed in the audit report.

1. Supplemental Compliance/Permit Activities (BSI System-wide), \$2,600,000, to cover activities through calendar year 2006. In addition to its own staff, Respondent will retain and use outside expertise (legal and engineering) to assess ongoing and future efforts to ensure compliance, including training of personnel, examination of work practices, and implementation of permit requirements. Activities will consist of, but not be limited to, critical review of existing permits, assistance with new permit and amendment requests, external environmental audits, and the evaluation of new technologies in the production process. In the case of audits, each facility will be assessed for compliance with regulatory and permit requirements; the resulting report will be provided to the Department.

The goal is to encourage a process of continuous improvement in environmental performance, rather than mere permit maintenance and documentation of past performance. As new processes are developed and submitted to the Department for approval, Respondent will share this information with others within the regulated community through appropriate industrial sponsor organizations and associations.

F. **Environmental Compliance Promotion Projects to be Performed at Bollinger Facilities.**

An environmental compliance promotion project provides training or technical support to identify, achieve and maintain compliance with applicable statutory and regulatory requirements; avoid committing a violation with respect to such statutory and regulatory requirements; go beyond compliance by reducing the generation, release, or disposal of pollutants to a level below the legally required limits; or promote environmental education, including awareness of potential risks or harm to the public health and the environment.

1. Oracle Portal VOC/NESHAP Program (BSI System-wide), \$450,000, to be completed on or before December 31, 2004. Respondent's Information Technology Group will complete development of an Oracle Portal to aid all BSI facilities in VOC tracking, reporting, and compliance assurance for the use of VOC products. The Portal will track the use of all paints, cures, thinners, and solvents on a daily basis by site. This provides each site with information on VOC-compliant products, thinning ratios and other pertinent information to assist with compliance assurance, and will compare calculated emissions on a daily basis with permit limits. The program will allow BSI staff to evaluate material utilized per vessel, including quantities of paint per vessel, amounts of blasting media required and used per vessel, and several other key environmental compliance areas. It will also allow comparison of efficiencies among the various sites, allowing for concentration of resources to enhance performance and compliance assurance.

In addition to having real-time environmental information available to all facilities, the Oracle Portal will also function as a compliance management tool that allows for the accurate estimation of future contracts. The Oracle Portal will identify any potential compliance issues prior to the execution of a contract, providing a level of compliance assurance unavailable through after-the-fact review of work records.

2. Document Imaging System (BSI System-wide), \$26,000, to be completed on or before December 31, 2004. In conjunction with the Oracle Portal system, Respondent will acquire and implement a system-wide document imaging system.

This will allow all facilities and the corporate office simultaneous access to all permit-related requirements, inspection reports, orders and other key environmental documents. It will also serve to protect the accuracy and reliability of all environmental data that is generated to promote compliance of permit parameters. This type of system is not required by permit, but it will facilitate information transfer among facilities on common issues. It also will allow immediate access by inspection personnel to all documents relevant to environmental history and performance.

3. Supplemental Environmental Staff Organization (BSI System-wide), \$1,800,000, to cover activities through calendar year 2006. In addition to maintaining its existing facility-specific environmental staff, Respondent will make a three-year commitment to reorganize and supplement its internal environmental staff with the creation of new three Regional Environmental Coordinator personnel positions within the company. These positions will answer directly to a new Vice President for Corporate Operations to ensure environmental issues are brought to the attention of upper management in a timely and comprehensive manner. The four positions will be filled by qualified environmental professionals hired to assist the compliance activities of the environmental staff at each facility. These positions will provide internal and external training on a continuing basis and will participate on behalf of Respondent in Department-sponsored workshops, conferences and/or training sessions.

G. Respondent shall submit quarterly reports regarding its progress on the projects. The first shall be due on the 5<sup>th</sup> day of the month following the end of the corresponding quarter of the date the Department signs this Settlement. Quarterly reports shall be submitted on the 5<sup>th</sup> of the month following the end of every corresponding quarter thereafter until the project is completed. Each such quarterly report shall include a description of the project, tasks completed, tasks remaining, the percentage completed, and money expended on each project through the date of the report. Upon completion of all projects required under this Settlement, Respondent shall submit a final

report to include a summary of all the information previously submitted and a total amount spent on the projects listed above. It shall also contain a certification that the projects were completed as described.

H. If Respondent does not spend the amount of \$8,224,000.00, then it shall, in its final report, propose additional projects for the Department's approval or pay to the Department in an amount equal to the difference between the amount of money agreed to be spent and the amount of money actually spent.

I. The total amount of money expended by Respondent on cash payments to DEQ and on beneficial environmental projects, as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30: 2050.7(E)(1).

#### XVII

Respondent will audit each of its Louisiana facilities for compliance with the Act and Louisiana Environmental Regulatory Code. Respondent will schedule audits at four (4) facilities in calendar year 2004, four (4) facilities in 2005 and the remaining four (4) facilities in 2006. Respondent will conduct such audits through independent professionals acceptable to the Department and will require that all results of each audit be detailed in a written report. Respondent will provide a copy of each written report to the Department no later than sixty (60) days following completion of the audit. In the event that the audit reveals any matter that requires action be taken to bring the audited facility into compliance, Respondent, contemporaneously with the report to the Department, will provide a work plan detailing steps to be taken, including a schedule, to achieve and maintain compliance.

#### XVIII

Respondent further agrees that the Department may consider the inspection report(s), the enforcement actions listed in Paragraphs II through XIII, above, 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.

#### XIX

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.

#### XX

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 and the rules relating to beneficial environmental projects set forth in LAC 33:I.Chapter 25.

XXI

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in each parish corresponding with the situs of each facility made subject of this Settlement. 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.

XXII

The payment described in Paragraph XV is to be made within two (2) years of the date this Settlement becomes final. Payment will be made in two equal installments of TWO HUNDRED FIFTY THOUSAND and NO/100 (\$250,000.00) DOLLARS, with the first payment due within thirty (30) days of Respondent's receiving notice of the finality of the Settlement. The second and final payment will be due and payable to the Department on or before the one-year anniversary date of the first payment. If payment is not received within that time, this Agreement is voidable at the option of the Department. Penalties are to be made payable to the Department of Environmental Quality and mailed to the attention of Darryl Serio, Office of Management and Finance, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303.

XXIII

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

#### XXIV

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.

WITNESSES:

BOLLINGER SHIPYARDS, INC.

Moraine Guffe

BY: Michael C. Ellis  
(Signature)

Michael C. Ellis

(Printed)

Executive Vice-President and

TITLE: Chief Operating Officer

Greta A. Helbert

THUS DONE AND SIGNED in duplicate original before me this 29<sup>th</sup> day of

January, 20 04, at Lockport, Lafourche Parish, LA

L. Clifton Dickerson III

NOTARY PUBLIC / Attorney  
L. Clifton Dickerson III  
La Bar Roll No. 4932

STATE OF LOUISIANA

**Mike D. McDaniel, Ph.D., Secretary**  
Department of Environmental Quality

BY: Harold Leggett

**Harold Leggett, Ph.D., Assistant Secretary**  
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 1<sup>st</sup> day of

July, 20 04, at Baton Rouge, Louisiana.

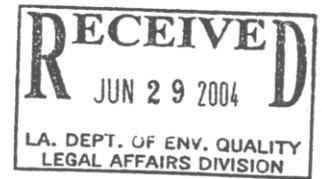
[Signature]  
NOTARY PUBLIC

Approved: R. Bruce Hammatt  
R. Bruce Hammatt, Assistant Secretary



CHARLES C. FOTI, JR.  
ATTORNEY GENERAL

State of Louisiana  
DEPARTMENT OF JUSTICE  
P.O. BOX 94005  
BATON ROUGE  
70804-9005



June 29, 2004

Mr. Mike D. McDaniel, Secretary  
La. Department of Environmental Quality  
Office of the Secretary  
P.O. Box 4301  
Baton Rouge, LA 70821-4301

Re: Review of DEQ Settlement  
Bollinger Shipyards, LLC  
AE-PP-00-0176, et al

Dear Mr. McDaniel:

I am pleased to inform you that I am approving the Bollinger Settlement as written.

Trusting that you find this satisfactory and useful, I am,

Sincerely,

  
CHARLES C. FOTI, Jr.  
Attorney General

CCF/cbw

cc: Herman Robinson