

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

BOLLINGER CALCASIEU, L.L.C.
AI # 2164

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

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Settlement Tracking No.
SA-AE-04-0001

Enforcement Tracking No.
AE-PP-03-0075

SETTLEMENT

The following Settlement is hereby agreed to between Bollinger Calcasieu, 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 corporation that operates a ship repair facility located at 8086 Global Drive in Sulphur, Calcasieu Parish, Louisiana ("the Facility").

II.

On July 23, 2003, the Department issued a Notice of Potential Penalty, Enforcement No. AE-PP-03-0075 to Respondent, which was based upon the following findings of fact:

On or about January 14, 2003, an inspection of Bollinger Calcasieu, L.L.C., owned and/or operated by Bollinger Calcasieu, L.L.C., was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air Quality Regulations in

response to a citizen complaint concerning the improper removal of asbestos-containing material from Barge No. 253. The facility is located at 8086 Global Drive in Sulphur, Calcasieu Parish, Louisiana.

The following violations were noted during the course of the inspection:

- A. The Respondent failed to thoroughly inspect the barge for the presence of asbestos prior to commencement of the renovation activity. This is a violation of LAC 33:III.5151.F.1 and Section 2057(A)(2) of the Act.
- B. The Respondent failed to provide the Office of Environmental Services with typed notice of intention to renovate. This is a violation of LAC 33:III.5151.F.2.a and Section 2057(A)(2) of the Act.

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 TEN THOUSAND ONE HUNDRED AND NO/100) DOLLARS (\$10,100.00) of which One Hundred Seventy-Eight and 12/100 Dollars (\$178.12) 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).

V.

Respondent further agrees that the Department may consider the inspection report(s), the 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 Calcasieu 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 Bollinger's receipt of 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 Darryl Serio, Office of Management and Finance, 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).

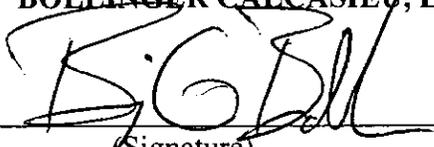
X.

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/her respective party, and to legally bind such party to its terms and conditions.

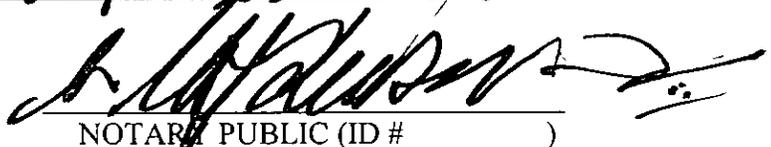
BOLLINGER CALCASIEU, L.L.C.

BY: 
(Signature)

Benjamin G. Bordelon
(Printed)

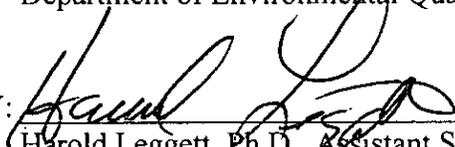
TITLE: EVP of Repair

THUS DONE AND SIGNED in duplicate original before me this 18th day of October, 2005, at Lakeport, Louisiana

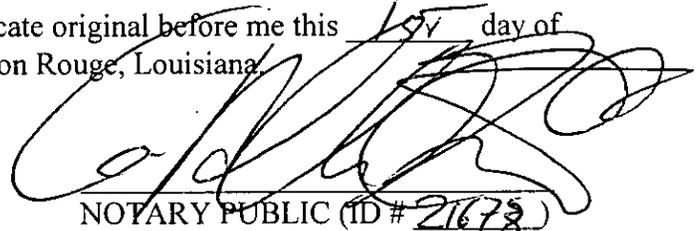

NOTARY PUBLIC (ID # _____)

L. CLIFTON DICKERSON III
NOTARY PUBLIC/ATTORNEY
(LA BAR ROLL NO. 04932
LAFOURCHE PARISH, LOUISIANA
COMMISSION ISSUED FOR LIFE

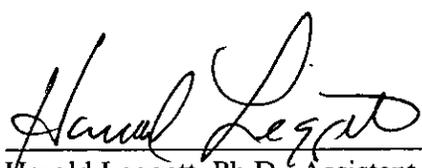
STATE OF LOUISIANA
Mike D. McDaniel, Ph.D., Secretary
Department of Environmental Quality

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

THUS DONE AND SIGNED in duplicate original before me this 19th day of February, 2006, at Baton Rouge, Louisiana


NOTARY PUBLIC (ID # 21673)

G. Allen Kirkpatrick
(Printed)

Approved: 
Harold Leggett, Ph.D., Assistant Secretary