

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

BOLLINGER QUICK REPAIR, L.L.C.

AI # 1266

BOLLINGER ALGIERS, L.L.C.

AI# 19072

PROCEEDINGS UNDER THE LOUISIANA ENVIRONMENTAL QUALITY ACT

LA. R.S. 30:2001, ET SEQ.

* **Settlement Tracking No.**
* **SA-AE-09-0048**

* **Enforcement Tracking No.**
* **AE-CN-05-0019**
* **AE-CN-05-0035**

* **Docket No. 2006-1886-EQ**
* **2006-3157-EQ**

SETTLEMENT

The following Settlement is hereby agreed to between Bollinger Quick Repair, L.L.C. and Bollinger Algiers, L.L.C. (defined collectively herein as "Respondents") and the Department of Environmental Quality (Department), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (Act).

I

Respondents are limited liability corporations. Bollinger Quick Repair, L.L.C. owns and/or operates a ship repair yard facility located at or near 615 Destrehan Avenue in Harvey, Jefferson Parish, Louisiana (Quick Repair Facility). Bollinger Algiers, L.L.C. owns and/or operates a shipbuilding and repair facility located at or near Algiers Point on the Mississippi River in New Orleans, Orleans Parish, Louisiana. (Algiers Facility).

II

This Settlement Agreement encompasses the following two (2) enforcement actions:

- 1) **On February 21, 2005, Bollinger Quick Repair, L.L.C. was issued Consolidated Compliance Order and Notice of Potential Penalty (CONOPP), Enforcement No. AE-CN-05-0019, which was based upon the following findings of fact:**

The Respondent owns and/or operates a ship repair yard located at or near 615 Destrehan Avenue in Harvey, Jefferson Parish, Louisiana. The facility operates under Air Permit No. 1340-00008-02 issued on November 9, 1999.

On or about October 5, 2004, an inspection of the Respondent's facility was performed in response to a complaint to determine the degree of compliance with the Act and the Air Quality Regulations. During the inspection, it was noted that the Insulation Burn Off Oven (Emission Point 005) was not equipped with an afterburner with a control efficiency of 90 percent as noted in the permit application for Air Permit No. 1340-00008-02. In addition, the inspection report noted that emission calculation methodology used for Air Permit No. 1340-00008-02 may not currently be accurate and that Emission Point 005 may not be meeting the emission limits as permitted. The inspection report also noted that during the inspection, operators at the facility stated that the oven was getting too much oxygen. Due to the high temperatures the mist system could not be operated to assist in controlling emissions. According to the inspection report, the Respondent has made several modifications to the Insulation Burn Off Oven (Emission Point 005) to assist in controlling emissions. According to the inspection report, the facility's representative stated that the Respondent would obtain an afterburner for this oven.

The Respondent submitted an Emission Exceedance Report dated November 3, 2004. In this report, the Respondent described the above noted issue in regard to the afterburner for the Insulation Burn Off Oven (Emission Point 005). As indicated in the November 3, 2004 report, the permitted emissions for this emission point are based on emission estimates for ovens equipped with an afterburner with a control efficiency of 90 percent; however, as stated by the Respondent, the Insulation Burn Off Oven was not equipped with an afterburner. In addition, based on a more recent

recalculation of emissions from the combustion of natural gas fuel for the oven, carbon monoxide (CO) and volatile organic compounds (VOC) emissions have increased. The Respondent estimated that actual emissions were in excess of permitted emission rates for particulate matter (PM₁₀), CO, and VOC.

The following violation was noted during the course of the inspection and a review of information submitted by the Respondent:

The Insulation Burn Off Oven (Emission Point 005) was not equipped with an afterburner with a control efficiency of 90 percent as stated in the air permit application for Air Permit No. 1340-00008-02, and the point source is exceeding the established permit limits for PM₁₀, CO, and VOC. The Respondent's failure to equip Emission Point 005 with an afterburner with a control efficiency of 90 percent is a violation of General Condition I of Air Permit No. 1340-00008-02, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act. Each exceedance of the permitted emission rates for PM₁₀, CO, and VOC as listed on the Annual Emission Rates page is a violation of General Condition II of Air Permit No. 1340-00008-02, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2).

On or about December 28, 2004, a review of the Respondent's emission exceedance report dated November 3, 2004, 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 review of the Respondent's report:

- A. According to the Respondent, toxic air pollutant (TAP) emissions were not speciated in the permit application submitted to the Department and therefore, are not included in the current air permit for the Open Abrasive Blast Area (Emission Point 008). According to the Respondent, more recent emission methodology indicates that PM₁₀ emissions from blasting contain the following TAP emissions not included in the permit: arsenic, barium, cadmium, chromium, chromium (VI), copper, lead, nickel, and zinc. This is a violation of LAC 33:III.517.D.3.d and e, LAC 33:III.501.C.2 and Sections 2057(A)(1) and 2057(A)(2) of the Act.
- B. According to the Respondent, TAPs were not speciated in the permit application submitted to the Department and therefore, are not included in the current air permit for the Outdoor Painting Area (Emission Point 010). More recent

emission estimation methodology indicates that PM₁₀ emissions, containing the following TAP emissions, have resulted from the Outdoor Paint Area: Barium, Copper, and Zinc. This is a violation of LAC 33:III.501.C.2, LAC 33:III.517.D.3.d and e, and Sections 2057(A)(1) and 2057(A)(2) of the Act. In addition, the actual TAP constituents in painting emissions included individual TAPs not shown on the Table 1 list of TAPs in Air Permit No. 1340-00008-02. Cumene was a TAP that was emitted and not included on the list. Specific Condition 5 of Air Permit No. 1340-00008-02 requires that the permittee shall obtain a variance or permit modification prior to use of any material containing a TAP not listed in Table 1 or emitting any air contaminant not listed in this permit. The Respondent's failure to obtain a variance or permit modification to include cumene is a violation of Specific Condition 5 of Air Permit No. 1340-00008-02, LAC 33:III.501.C.4, LAC 33:III.501.C.2, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

- C. According to the Respondent, PM₁₀ emissions from the Welding Fugitives (Emission Point 022) exceeded the annual emission rates for the years 2002 and 2003. The Respondent estimated actual emissions were 0.36 tons per year and 0.31 tons per year, respectively. The permitted emission rate is 0.048 tons per year. Each exceedance of the permitted PM₁₀ emission rate for Emission Point 022 as specified on the Annual Emission Rates page is a violation of General Condition II of Air Permit No. 1340-00008-02, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act. In addition, according to the Respondent, TAPs were not comprehensively speciated in the permit application submitted to the Department and therefore, are not included in the current air permit for the Welding Fugitives (Emission Point 022). More recent emission estimation methodology indicates that PM₁₀ emissions, containing the following TAP emissions have resulted from Welding Fugitives: Cobalt and Lead. This is a violation of LAC 33:III.501.C.2, LAC 33:III.517.D.3.d and e, and Sections 2057(A)(1) and 2057(A)(2) of the Act.
- D. According to the Respondent, emission methodology used to develop the permit application which provided the basis for the current permit only included PM₁₀ from the combustion of fuel gas. Updated emission estimation methodology accounts for PM₁₀ resulting from the metal cut. The Respondent noted that the updated methodology results in estimated emissions in excess of permit limits for PM₁₀. Each exceedance of the permitted PM₁₀ emission limit for the Burning and Cutting Fugitives (Emission Point 012) as specified on the Annual Emission Rates page is a violation of General Condition II of Air Permit No. 1340-00008-02, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act. In addition, the Respondent reported that the TAPs were not speciated in the permit application submitted to the Department and therefore, are not included in the current air permit for the Burning and Cutting Fugitives. More recent emission estimation methodology indicates that PM₁₀ emissions, containing the following TAP emissions, have resulted from Burning and Cutting Fugitives: Barium,

Cadmium, Chromium, Cobalt, Copper, Manganese, Nickel, Lead and Zinc. This is a violation of LAC 33:III.501.C.2, LAC 33:III.517.D.3.d and e, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

- E. According to the Respondent, there is minimal piping at the facility for fuel utilized during cutting operations and oil piping. Fugitive emissions resulting from equipment leaks (i.e. valves and flanges) were not included in the permit application submitted to the Department and therefore, are not included in the current air permit. This is a violation of LAC 33:III.501.C.2, LAC 33:III.517.D.3.d and e, and Sections 2057(A)(1) and 2057(A)(2) of the Act.
- F. According to the Respondent, the facility must periodically remove materials from vessels and tanks via tanker truck. Cargo loaded includes slop oils, lube oils, bilge water and fuels. Emissions resulting from loading these tanker trucks were not included in the permit application submitted to the Department and therefore, are not included in the current air permit. This is a violation of LAC 33:III.501.C.2, LAC 33:III.517.D.3.d and e, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

2) On June 16, 2005, Bollinger Algiers, L.L.C. was issued Consolidated Compliance Order and Notice of Potential Penalty (CONOPP), Enforcement No. AE-CN-05-0035, which was based upon the following findings of fact:

The Respondent owns and/or operates a shipbuilding and repair facility located at or near Algiers Point on the Mississippi River in New Orleans, Orleans Parish, Louisiana. The facility operates under Air Permit No. 1560-00095-00 issued on October 17, 1994.

On or about December 28, 2004, a review of the Respondent's emission exceedance report dated November 3, 2004, 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 review of the Respondent's report:

- A. According to the Respondent, toxic air pollutant (TAP) emissions were not speciated in the permit application submitted to the Department and therefore are not included in the current air permit for the Outdoor Blast Area (Emission Point 020). According to the Respondent, more recent emission estimation methodology indicates that particulate matter (PM₁₀) emissions from blasting contain the following TAP emissions not included in the permit: arsenic, barium,

- cadmium, chromium VI, copper, lead, nickel, and zinc. This is a violation of LAC 33:III.517.D.3.d and e, LAC 33:III.501.C.2 and Sections 2057(A)(1) and 2057(A)(2) of the Act.
- B. According to the Respondent, PM₁₀ emissions from the Outdoor Blast Area (Emission Point 020) exceeded annual emission rates for the years 2001 and 2002. Estimated actual emissions were 0.63 tons per year and 0.67 tons per year, respectively. The permitted emission rate for PM₁₀ is 0.17 tons per year. Each exceedance of the permitted PM₁₀ emission rate for Emission Point 020 as specified on the Air Quality Data Sheet is a violation of General Condition II of Air Permit No. 1560-00095-00, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act.
- C. According to the Respondent, TAPs were not speciated in the permit application submitted to the Department and therefore are not included in the current air permit for the Outdoor Paint Area (Emission Point 030). More recent emission estimation methodology indicates that PM₁₀ emissions, containing the following TAP emissions, have resulted from the Outdoor Paint Area: barium, copper, and zinc. The Respondent also reported that actual TAP constituents in painting emissions included TAPs not listed on the Air Permit Briefing Sheet in the Permit. This is a violation of LAC 33:III.517.D.3.d and e, LAC 33:III.501.C.2 and Sections 2057(A)(1) and 2057(A)(2) of the Act.
- D. According to the Respondent, volatile organic compound (VOC) emissions from the Outdoor Paint Area (Emission Point 030) exceeded the annual emission limit for the year 2001. Estimated actual emissions were 8.38 tons per year. The permitted emission rate for VOC is 6.88 tons per year. The exceedance of the permitted VOC emission rate for Emission Point 030 as specified on the Air Quality Data Sheet is a violation of General Condition II of Air Permit No. 1560-00095-00, LAC 33:III.501.C.4, and Sections 2057(A)(1) and 2057(A)(2) of the Act.
- E. According to the Respondent, PM₁₀ emissions from Outdoor Welding (Emission Point 040) were not speciated in the permit application submitted to the Department and therefore are not included in the current air permit. More recent emission estimation methodology indicates that PM₁₀ emissions, containing the following TAP emissions have resulted from Outdoor Welding: chromium, cobalt, manganese, nickel, and lead. This is a violation of LAC 33:III.517.D.3.d and e, LAC 33:III.501.C.2, and Sections 2057(A)(1) and 2057(A)(2) of the Act.
- F. According to the Respondent, PM₁₀ emissions from Outdoor Cutting (Emission Point 050) were not speciated in the permit application submitted to the Department and therefore are not included in the current air permit. More recent emission estimation methodology indicates that PM₁₀ emissions, containing the

following TAP emissions, have resulted from Outdoor Cutting: barium, cadmium, chromium, cobalt, copper, manganese, nickel, lead, and zinc. This is a violation of LAC 33:III.517.D.3.d and e, LAC 33:III.501.C.2, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

- G. According to the Respondent, there is minimal piping at the facility for fuel utilized during cutting operations. Fugitive emissions resulting from equipment leaks (i.e. valves and flanges) were not included in the permit application submitted to the Department and therefore are not included in the current air permit. This is a violation of LAC 33:III.517.D.3.d and e, LAC 33:III.501.C.2, and Sections 2057(A)(1) and 2057(A)(2) of the Act.
- H. According to the Respondent, the facility must remove materials from vessels and tanks via tanker truck. Cargo loaded includes slop oils, lube oils, bilge water, and fuels. Emissions resulting from loading these tanker trucks were not included in the permit application submitted to the Department and therefore are not included in the current air permit. This is a violation of LAC 33:III.517.D.3.d and e, LAC 33:III.501.C.2, and Sections 2057(A)(1) and 2057(A)(2) of the Act.

III

In response to Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. AE-CN-05-0019, and Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. AE-CN-05-0035, Respondents made a timely request for a hearing.

IV

The Respondents (collectively and independently) deny they committed any violations or that they are liable for any fines, forfeitures and/or penalties.

V

Nonetheless, Respondents, without making any admission of liability under state or federal statute or regulation, agree to pay, and the Department agrees to accept, a payment in the amount of FIVE THOUSAND FIVE HUNDRED and NO/100 DOLLARS (\$5,500.00), of which One Thousand Two Hundred Two and 29/100 Dollars (\$1,202.29) represents the Department's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by

Respondents 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

Respondents further agree that the Department may consider the inspection report(s), the CONOPPs and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondents, and in any such action Respondents shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondents' 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 Respondents hereby waive 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 Respondents have caused a public notice advertisement to be placed in the official journal of the parish governing authority in Jefferson Parish, Louisiana and Orleans 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. Respondents have submitted an original proof-of-publication affidavit and an original public notice 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 or her respective party, and to legally bind such party to its terms and conditions.

**BOLLINGER QUICK REPAIR, L.L.C. and
BOLLINGER ALGIERS, L.L.C.**

ALL REPRESENTED HEREIN BY:

Craig P. Roussel
(Signature)

Craig P. Roussel
(Print)

TITLE: VP + CAO

THUS DONE AND SIGNED in duplicate original before me this 21st day of
April, 20 10, at Lockport, LA.

Starrellen C. Remont
NOTARY PUBLIC (ID # 054194)

Starrellen C. Remont
(Print)

**LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY**

Peggy M. Hatch, Secretary

BY:

[Signature]
Beau James Brock, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 30th day of
August, 20 10, at Baton Rouge, Louisiana.

Christopher A. Ratcliff
NOTARY PUBLIC (ID # 10149)

Christopher A. Ratcliff
(Print)

Approved: Paul D. Miller
Paul D. Miller, P.E., Assistant Secretary