

**EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS**

This form was originated by Wanda I. Santiago for John W. Kilborn 4/25/13  
Name of Case Attorney Date

in the ORC (RAA) at 918-1113  
Office & Mail Code Phone number

Case Docket Number CAA-01-2013-0015

Site-specific Superfund (SF) Acct. Number \_\_\_\_\_

This is an original debt  This is a modification

Name and address of Person and/or Company/Municipality making the payment:

Blount Boats, Inc.  
461 Water Street  
Warren, RI 02885

Total Dollar Amount of Receivable \$ 24,000 Due Date: 5/25/13

SEP due? Yes  No  Date Due \_\_\_\_\_

Installment Method (if applicable)

INSTALLMENTS OF:  
1<sup>st</sup> \$ \_\_\_\_\_ on \_\_\_\_\_  
2<sup>nd</sup> \$ \_\_\_\_\_ on \_\_\_\_\_  
3<sup>rd</sup> \$ \_\_\_\_\_ on \_\_\_\_\_  
4<sup>th</sup> \$ \_\_\_\_\_ on \_\_\_\_\_  
5<sup>th</sup> \$ \_\_\_\_\_ on \_\_\_\_\_

For RHC Tracking Purposes:

Copy of Check Received by RHC \_\_\_\_\_ Notice Sent to Finance \_\_\_\_\_

**TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:**

IFMS Accounts Receivable Control Number \_\_\_\_\_

If you have any questions call: \_\_\_\_\_  
in the Financial Management Office Phone Number



U. S. ENVIRONMENTAL PROTECTION AGENCY – NEW ENGLAND  
5 POST OFFICE SQUARE, SUITE 100 (OES04-3)  
BOSTON, MA 02109-3912

April 25, 2013

RECEIVED

APR 25 2013

EPA ORC WS  
Office of Regional Hearing Clerk

**HAND DELIVERY**

Ms. Wanda Santiago  
Regional Hearing Clerk  
U.S. EPA, Region I  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

Re: *In the Matter of Blount Boats, Inc./Docket CAA 01-2013-0015*

Dear Ms. Santiago:

Attached for filing in the above-referenced matter are an original and one copy of a Consent Agreement and Final Order (“CAFO”) that the U.S. Environmental Protection Agency, Region 1 (“EPA”) has entered into with Blount Boats, Inc. The CAFO has been signed by all parties and the Acting Regional Judicial Officer. Also attached are an original and one copy of a Certificate of Service.

EPA has also sent copies of the CAFO, the Certificate of Service, and this letter to the Respondents by certified mail and email

Thank you for your assistance. Please call me if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "John W. Kilborn".

John W. Kilborn  
Senior Enforcement Counsel

cc: Greg Benik, Counsel for Blount Boats  
Steve Calder, EPA



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1  
FIVE POST OFFICE SQUARE – SUITE 100 (MAIL CODE OES04-3)  
BOSTON, MA 02109-3912

VIA CERTIFIED MAIL and EMAIL (Phone No. 401-454-0054)

April 25, 2013

Gregory L. Benik, Esq.  
Benik & Associates P.C.  
128 Dorrance Street, Suite 450  
Providence, RI 02903

Re: Blount Boats, Inc./Consent Agreement and Final Order

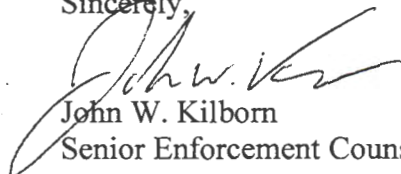
Dear Greg:

Enclosed is a copy of the final and effective Consent Agreement and Final Order, with Attachments 1 and 2. This CAFO has been signed by the Regional Judicial Officer and was filed with the Regional Hearing Clerk today, April 25, 2013. Therefore, according to Paragraph 1, the Effective Date of the CAFO is April 25, 2013. Note that the penalty payment required by Paragraph 52 is due within 30 days of the Effective Date.

I also enclose copies of my transmittal letter to the Regional Hearing Clerk and a Certificate of Service.

Please let me know if you have any questions. We appreciate your cooperation during the negotiations of this matter.

Sincerely,

  
John W. Kilborn  
Senior Enforcement Counsel

Enclosure  
cc: Steve Calder

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE ADMINISTRATOR

RECEIVED  
APR 25 2013  
EPA ORC WS  
Office of Regional Hearing Clerk

\_\_\_\_\_  
In the Matter of: )  
)  
Blount Boats, Inc. )  
461 Water Street )  
Warren, Rhode Island 02885 )  
)  
Respondent )  
\_\_\_\_\_ )

Docket No. CAA 01-2013-0015

**CONSENT AGREEMENT AND FINAL ORDER**

The Complainant, United States Environmental Protection Agency, Region I (“EPA”), alleges that Blount Boats, Inc. (“Respondent”) violated certain provisions of the Rhode Island State Implementation Plan (“SIP”) and the National Emission Standards for Hazardous Air Pollutants for Shipbuilding and Ship Repair Facilities (Surface Coating) found at 40 CFR Part 63, Subpart II (“Shipbuilding NESHAP”), at its facility located at 461 Water Street, Warren, Rhode Island. EPA also alleges that Respondent failed to apply for and obtain either a Title V operating permit, pursuant to Sections 502(a) and 503(c) of the CAA, 42 U.S.C. §§ 7661a(a) and 7661b(c), and 40 C.F.R. Part 70.5, or an emissions cap under the SIP at Rhode Island Air Pollution Control Regulation 29.3.

EPA and Respondent agree to settlement of this matter through this Consent Agreement and Final Order (“CAFO”) without the filing of an administrative complaint, as authorized under 40 C.F.R. § 22.13(b).

EPA and Respondent agree that settlement of this matter is in the public interest, and that entry of this CAFO without further litigation is the most appropriate means of resolving this matter.

Therefore, before taking any testimony, upon the pleadings, without adjudication of any issue of fact or law, and upon consent and agreement of the parties, it is hereby ordered and adjudged as follows:

**A. PRELIMINARY STATEMENT**

1. The provisions of this CAFO shall apply to and be binding upon EPA and upon Respondent and its officers, directors, successors, and assigns. The “Effective Date” of this CAFO shall be defined as the date that this CAFO is filed with the Regional Hearing Clerk, as described in the Final Order on Page 27.

2. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in this CAFO. Respondent waives any defenses it might have as to jurisdiction and venue. Respondent consents to the terms of this CAFO.

3. Respondent neither admits nor denies the general or specific factual and legal allegations contained below in Section B. For purposes of this CAFO and any action necessary to enforce it, Respondent hereby waives its right to request a judicial or administrative hearing or otherwise to contest the allegations in this CAFO. Respondent waives any right to appeal this CAFO.

Statutory and Regulatory Authorities

4. Section 110(a) of the CAA, 42 U.S.C. § 7410(a), requires that each state prepare a SIP incorporating regulations designed to attain and maintain healthy air quality. A state must submit its SIP and any SIP revisions to EPA for approval. Once EPA has approved a SIP, EPA may enforce the SIP’s requirements and prohibitions pursuant to Section 113 of the CAA, 42 U.S.C. § 7413.

5. EPA has approved the Rhode Island SIP under Section 110 of the Act, 42 U.S.C. § 7410. The SIP contains various federally-approved portions of the Rhode Island Air Pollution Control Regulations (“RI APC Regulations”) and can be accessed at [http://www.epa.gov/region1/topics/air/sips/sips\\_ri.html](http://www.epa.gov/region1/topics/air/sips/sips_ri.html).

6. EPA promulgated the Shipbuilding NESHAP under Section 112 of the Act, 42 U.S.C. § 7412. Regulations promulgated under CAA Section 112 are enforceable by EPA in accordance with Section 113 of the Act, 42 U.S.C. § 7413.

7. Violations of CAA Title V requirements are enforceable by EPA in accordance with Section 113 of the Act, 42 U.S.C. § 7413.

8. Respondent’s alleged violations described herein render Respondent liable for penalties under Section 113(d) of the Act. Section 113(d) of the Act, 42 U.S.C. § 7413(d), authorizes EPA to issue an administrative penalty order to enforce the requirements or prohibitions described herein.

9. EPA has provided notice to Respondent and to the Rhode Island Department of Environmental Management of EPA’s findings of violations described in this CAFO, at least 30 days prior to the issuance of an administrative penalty order pursuant to Section 113(d) of the Act.

10. Under Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and the Civil Monetary Inflation Rule (see Pub. L. 104-134 and 40 C.F.R. Part 19), EPA may assess penalties of up to (i) \$27,500 for each day of each violation of the Act occurring after January 30, 1997 through March 15, 2004, (ii) \$32,500 for each day of each violation of the Act occurring after March 15, 2004 through January 12, 2009, and (iii) \$37,500 for each day of each violation of the Act occurring after January 12, 2009.

11. Section 113(d) of the Act limits EPA's authority to issue administrative complaints to matters where the total penalty sought does not exceed \$200,000 and the first alleged date of violation occurred no more than twelve months prior to the initiation of the action, unless the EPA Administrator and the Attorney General for the U.S. Department of Justice ("DOJ") jointly determine that a matter involving a larger penalty or longer period of violation is appropriate for administrative action. Pursuant to the Debt Collection Improvement Act and its implementing regulations, the above-described penalty cap has been raised to \$295,000 for violations occurring after January 12, 2009.

12. This CAFO alleges violations that occurred more than twelve months ago. EPA and DOJ have jointly determined that this matter is appropriate for administrative action.

**B. EPA FINDINGS**

General Findings

13. Respondent constructs and repairs steel and aluminum commercial vessels, including transport ferries and small cruise ships, at its Water Street facility ("Facility").

14. Respondent was formed as a Rhode Island corporation in 2003. The Facility was previously owned and operated by corporations owned and/or controlled by members of the Blount family.

15. In the process of constructing or repairing vessels at the Facility, Respondent applies materials to the surfaces of vessels, including paints, solvent thinners, and fairing compounds (collectively referred to herein as "coatings"), containing volatile organic compounds ("VOCs") and hazardous air pollutants ("HAPs").

16. Respondent uses two paint spray guns to apply coatings to vessels. Respondent also uses other means to apply coatings to vessels such as brushes and rollers.

17. On May 5, 2011, an EPA inspector performed an inspection at the Facility.

18. On March 15, 2012, EPA issued a CAA Reporting Requirement to Respondent.

19. On or about May 9, 2012, Respondent submitted its responses to the Reporting Requirement. On May 15, 2012, EPA met with Respondent to discuss the responses. On June 21, and September 12, 2012, Respondent submitted additional information to EPA.

20. On December 11, 2012, EPA issued a Notice of Violation to Respondent.

#### Specific Findings

##### Alleged Violation of Rhode Island Air Pollution Control Regulation 9

21. Under the SIP at RI APC Regulation 9.2.1, no person may construct, install or modify, or cause the construction, installation, or modification of, any stationary source subject to RI APC Regulation 9 without obtaining an air pollution control permit.

22. Under the SIP at RI APC Regulation 9.3.1(g)(1), a minor source permit is required for the construction, installation, or modification of any stationary source or process having the potential to emit 10 pounds per hour or 100 pounds per day of any air contaminant into the atmosphere through surface coating, spray and dip painting, and roller coating.

23. Under the SIP at RI APC Regulation 9.4.1(b), a major stationary source is



a stationary source that emits or has the potential to emit 50 tons per year or more of VOCs, or a stationary source that makes a physical change if the change would constitute a major stationary source by itself.

24. Under the SIP at RI APC Regulation 9.4.2, a major source permit is required for new major stationary sources of VOCs or stationary sources that make major modifications that increase VOC emissions above permitting thresholds in areas designated as nonattainment for ozone, as is the case for the entire State of Rhode Island.

25. EPA alleges that Respondent installed two paint spray guns at its Facility in February 2009, and that the Respondent used other means, to apply VOC-containing coatings to commercial vessels at its Facility. EPA alleges that Respondent's potential to emit exceeds 10 pounds per hour from its surface coating operations and that Respondent's potential to emit also exceeds 100 pounds per day of VOCs from its surface coating operations. Accordingly, EPA has determined that Respondent requires an air pollution control permit.

26. EPA alleges that, based upon the installation of the two paint spray guns at the Facility in February 2009, and Respondent's use of other means, to apply VOC-containing coatings to commercial vessels, Respondent's potential to emit exceeds 50 tons or more per year of VOCs from its surface coating operations. Accordingly, EPA has determined that the Facility constitutes a major stationary source of VOCs and requires an air pollution control permit.

27. As of February 2009, EPA alleges that Respondent did not have an air pollution control permit under RI APC Regulation 9. Accordingly, as of February 2009, EPA has determined that Respondent has constructed, installed, or modified the Facility

or processes at the Facility without having obtained an air pollution control permit, in violation of RI APC Regulation 9 of the SIP and the Clean Air Act.

28. As of February 2009, EPA alleges that Respondent has failed to apply, and continues to fail to apply, the required air pollution control practices at the Facility.

29. To date, EPA alleges that Respondent has not applied for an air pollution control permit under RI APC Regulation 9. Therefore, EPA has determined that Respondent continues to operate the Facility without the required air pollution control permit under RI APC Regulation 9.

Alleged Violation of Rhode Island Air Pollution Control Regulation 29 and/or Title V

30. EPA alleges that Respondent has the potential to emit 50 tons per year or more of VOCs from its surface coating operations at the Facility. EPA also alleges that Respondent is subject to the Shipbuilding NESHAP, as described below. Accordingly, EPA has determined that Respondent was required to apply for and obtain either a Title V operating permit, pursuant to Sections 502(a) and 503(c) of the CAA, 42 U.S.C. §§ 7661a(a) and 7661b(c), and 40 C.F.R. Part 70.5, or an emissions cap under the SIP at RI APC Regulation 29.3.

31. To date EPA alleges that Respondent had not applied for or obtained either a Title V operating permit or an emissions cap for the Facility, in violation of RI APC Regulation 29 of the SIP and the Clean Air Act. See CAA Sections 502(a) and 503(c), 42 U.S.C. §§ 7661a(a) and 7661b(c).

Alleged Violation of Rhode Island Air Pollution Control Regulation 19

32. Under the SIP at RI APC Regulation 19.2.1, surface coating facilities for which actual uncontrolled emissions from miscellaneous metal parts and products

(“MMP”) coating (see RI APC Regulation 19.1.20(d)) have been greater than 15 pounds of VOCs in any one day after December 31, 1989 must comply with RI APC Regulation 19 of the SIP.

33. Under the SIP at RI APC Regulation 19.2.3, an owner or operator of a surface coating facility whose emissions are below the applicability threshold of RI APC Regulation 19.2.1 must comply with the applicable certification, recordkeeping, and reporting requirements of RI APC Regulation 19.5.1.

34. Under the SIP at RI APC Regulation 19.5.1, any owner or operator of a surface coating line or operation that is exempt from the emission limitations in RI APC Regulation 19.3 because Respondent’s VOC emissions from all operations in any one of the surface coating categories listed in RI APC Regulation 19.1.20(a)-(i) have not exceeded 15 pounds per day, must comply with applicable certification, recordkeeping, and reporting requirements.

35. EPA alleges that Respondent applied surface coatings that contain VOCs to MMP. EPA has determined that, at a minimum, Respondent has violated, and continues to violate, the certification and recordkeeping requirements of RI APC Regulation 19.5.1 of the SIP.

Alleged Violations of the National Emission Standards for Hazardous Air Pollutants

36. The Shipbuilding NESHAP applies to shipbuilding and ship repair operations at any facility that is a major source of HAPs. See 40 C.F.R. § 63.781(a). An “affected source” is any ship-building or ship repair facility subject to the NESHAP that has surface coating operations with a minimum 1,000 liters (264 gallons) annual marine coating usage. See 40 C.F.R. § 63.782

37. The term “major source” is defined by the Shipbuilding NESHAP as “any source that emits or has the potential to emit, in the aggregate, 9.1 megagrams per year (10 tons per year) or more of any HAP or 22.7 megagrams per year (25 tons per year) or more of any combination of HAP.” See 40 C.F.R. § 63.782. Section 112(a)(1) of the CAA, 42 U.S.C. § 7412(a)(1), defines the term “major source” to include any stationary source that has the potential to emit 10 tons per year or more of any HAP or 25 tons per year or more of any combination of HAPs.

38. EPA alleges that Respondent is a major source of HAPs and is an affected source under the Shipbuilding NESHAP.

39. The effective date of the Shipbuilding NESHAP was December 15, 1995. See 60 Fed. Reg. 64330 (Dec. 15, 1995). Each owner or operator of an existing affected source was required to comply with the Shipbuilding NESHAP within two years after the NESHAP’s effective date. See 40 C.F.R. § 63.784(a). Therefore, EPA alleges that the Respondent Facility has been required to comply with the Shipbuilding NESHAP since December 16, 1997.

40. Pursuant to 40 C.F.R. §§ 63.787(a), 63.9(b)(1)(i), and 63.9(b)(2), EPA alleges that the owner or operator of the Facility was required to submit to EPA written notification that the Respondent was subject to the Shipbuilding NESHAP within 180 days of when the Facility became subject to the NESHAP. This initial notification was due to EPA by June 13, 1996. To date, EPA alleges that Respondent has not submitted an initial notification.

41. Accordingly, EPA has determined that Respondent has violated and continues to violate 40 C.F.R. §§ 63.787(a), 63.9(b)(1)(i), and 63.9(b)(2).

42. Pursuant to 40 C.F.R. §§ 63.787(b) and 63.9(a), EPA alleges that Respondent was required to submit an implementation plan. This implementation plan must address compliance with the requirements set forth in 40 C.F.R. § 63.787(b)(3). Pursuant to 40 C.F.R. § 63.787(b)(1)(ii), this implementation plan was required to be submitted to EPA by December 16, 1996. To date, EPA alleges that Respondent has not submitted an implementation plan.

43. Accordingly, EPA has determined that Respondent has violated and continues to violate 40 C.F.R. §§ 63.787(b), and 63.9(a).

44. Pursuant to 40 C.F.R. § 63.788(c), EPA alleges that Respondent is required to submit semiannual compliance reports to EPA. The semiannual reports are due by the sixtieth day following completion of each six month period after the compliance date. To date, EPA alleges that Respondent has not submitted any semiannual compliance reports.

45. Accordingly, EPA has determined that Respondent has violated and continues to violate 40 C.F.R. § 63.788(c).

46. Pursuant to 40 C.F.R. § 63.783(a), EPA alleges that Respondent's coatings are required to comply with specific as-applied Volatile Organic Hazardous Air Pollutant ("VOHAP") content emission limits set forth in Table 2 of the Shipbuilding NESHAP. EPA alleges that Respondent has used as-applied coatings with VOHAP contents greater than the emission limits set forth in Table 2.

47. Accordingly, EPA has determined that Respondent has violated and continues to violate 40 C.F.R. § 63.783(a).

#### Summary of Findings

48. Based upon the forgoing, EPA alleges that Respondent:
- a. failed to apply for a state air pollution control permit under RI APC Regulation 9;
  - b. failed to obtain a Title V operating permit, or, if available, an emissions cap under the SIP at RI APC Regulation 29.3;
  - c. violated the certification and recordkeeping requirements of RI APC Regulation 19;
  - d. failed to submit an initial notification to EPA in violation of the Shipbuilding NESHAP at 40 C.F.R. §§ 63.787(a), 63.9(b)(1)(i), and 63.9(b)(2);
  - e. failed to submit an implementation plan in violation of the Shipbuilding NESHAP at 40 C.F.R. §§ 63.787(b) and 63.9(a);
  - f. failed to submit semi-annual summary reports to EPA in violation of the Shipbuilding NESHAP at 40 C.F.R. § 63.788(c); and
  - g. failed to comply with the emission limits set forth in Table 2 of the Shipbuilding NESHAP in violation of 40 C.F.R. § 63.783(a).

**C. TERMS OF SETTLEMENT**

49. Without admitting or denying the specific factual allegations contained in this CAFO, Respondent consents to the terms and issuance of this CAFO, including the performance of the Supplemental Environmental Project described herein, and consents for the purposes of settlement to the payment of the civil penalty as set forth in this CAFO.

50. Respondent shall comply with all of the terms and conditions of Appendix 1 (Terms of Compliance), which is incorporated herein by reference.

51. Stipulated Penalties: Respondent shall be liable for stipulated penalties in the amount of \$600 for each day for the first through fifth day for each failure to perform any action required in Paragraph 50 and \$1,200 for each day thereafter for each failure to perform any action required in Paragraph 50.

52. In light of the statutory factors of Section 113(e) of the Act, EPA has determined that it is fair and proper to assess a civil penalty for the violations alleged in this CAFO in the amount of twenty-four thousand dollars (\$24,000). Respondent shall pay the penalty of twenty-four thousand dollars (\$24,000) within thirty (30) days of the Effective Date. Respondent shall submit a bank, cashier's, or certified check in payment of this penalty.

53. Respondent shall make payment by submitting a bank, cashier's, or certified check, to the order of the "Treasurer, United States of America," in the amount of twenty-four thousand dollars (\$24,000) to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

Respondent shall note the case name and docket number of this action on the check and in an accompanying cover letter, and shall simultaneously provide copies of the check and cover letter to:

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region I  
Suite 100, Mail Code ORA18-1  
5 Post Office Square  
Boston, MA 02109-3912

and

John W. Kilborn  
Senior Enforcement Counsel  
U.S. Environmental Protection Agency, Region I  
Suite 100, Mail Code OES4-03  
5 Post Office Square  
Boston, MA 02109-3912

54. Pursuant to Section 113(d)(5) of the CAA, if Respondent fails to pay any penalty amount it will be subject to an action to compel payment, plus interest, enforcement expenses, and a nonpayment penalty. 42 U.S.C. § 7413(d)(5). Interest will be assessed on the penalty if it is not paid by the due date established herein. In that event, interest will accrue from the date the CAFO was signed by the EPA Regional Judicial Officer, at the "underpayment rate" established pursuant to 26 U.S.C § 6621(a)(2). In the event that the penalty is not paid when due, an additional charge will be assessed to cover the United States' enforcement expenses, including attorneys' fees and collection costs. A quarterly nonpayment penalty will be assessed for each quarter during which the failure to pay the penalty persists. Such nonpayment penalty shall be 10 percent of the aggregate amount of Respondent's outstanding penalties and nonpayment penalties hereunder accrued as of the beginning of such quarter.

SUPPLEMENTAL ENVIRONMENTAL PROJECT

55. Respondent shall complete and perform the supplemental environmental project ("SEP") described below and in Appendix 2, which is incorporated herein by reference. The SEP involves the construction and use of a modular vinyl shelter over the construction ways at the Facility. The SEP is intended to secure significant environmental and public health protection and improvements by reducing harmful emissions from hazardous air pollutants, volatile organic compounds, and particulate matter.



56. Respondent agrees to complete the SEP within 90 days after the Effective Date and to spend at least \$230,000 for the SEP. Respondent shall include documentation of the expenditures made in connection with the SEP, cumulatively through the date so indicated in the submittal of the SEP Completion Report, as part of the SEP Completion Report. Respondent agrees to be responsible for the satisfactory completion of the SEP in accordance with the requirements of this CAFO. Respondent further agrees that the failure to satisfactorily complete the SEP shall be deemed a violation of this CAFO and that Respondent shall become liable for stipulated penalties pursuant to Paragraph 64 herein.

57. Respondent hereby certifies that, as of the Effective Date, Respondent is not required to perform or develop the SEP by any federal, state, or local law or regulation; nor is Respondent required to perform or develop the SEP by agreement, grant or as injunctive relief in this or any other case. Respondent further certifies that it has not received, and is not presently negotiating to receive, credit in any other enforcement action for the SEP. Respondent specifically certifies as follows: It is not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEP. To the best of Respondent's knowledge and belief after reasonable inquiry, there is no such open federal transaction that is funding or could be used to fund the same activity as the SEP, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to EPA within two years of the date of this settlement (unless the project was barred from funding as statutorily ineligible). For the purposes of this certification, the term "open federal financial assistance transaction," refers to a grant, cooperative agreement, loan, federally-

guaranteed loan guarantee or other mechanism for providing federal financial assistance whose performance period has not yet expired.

58. Respondent shall submit a SEP Completion Report to EPA within thirty (30) days of substantial completion of the SEP. The SEP Completion Report shall contain the following information:

- a. A detailed description of the SEP as implemented;
- b. A description of any SEP operating problems encountered and the solutions thereto;
- c. Itemized SEP costs, documented by copies of purchase orders and receipts or cancelled checks or other written evidence, including internally generated cost allocation documents.
- d. Certification that the SEP has been fully implemented (subject to ongoing maintenance) pursuant to the provisions of the CAFO; and
- e. A description of the estimated environmental and public health benefits resulting from implementation of the SEP (with a quantification of the benefits and pollutant reductions, if feasible) using Respondent's calculations based on manufacturers' estimates, or, if such estimates are unavailable, other readily available information.

59. Respondent agrees that any failure to submit a SEP Completion Report by the date specified in Paragraph 58 shall be deemed a violation of the CAFO and Respondent shall become liable for stipulated penalties under the CAFO, in addition to its responsibility to submit the SEP Completion Report.

60. Respondent agrees that EPA may inspect its Facility at any time in order to confirm that the SEP is being undertaken in conformity with the representations made herein.

61. Respondent shall operate and use the shelter as described in Appendix 2 for a period of at least five (5) years after the completion of installation.

62. Respondent shall maintain legible copies of the documentation and data used for any and all documents or reports submitted to EPA pursuant to this CAFO until such time that EPA accepts the SEP Completion Report pursuant to Paragraph 63 below. Respondent shall provide the documentation and data to EPA within 14 days of a request for such information. In all SEP-related documents or reports, including, without limitation, the SEP Completion Report, submitted to EPA pursuant to this CAFO, Respondent shall, by one of its officers, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, the information is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

63. Following the receipt of the SEP Completion Report described in Paragraph 58 above, EPA will do one of the following: (i) accept the SEP Completion Report; (ii) reject the SEP Completion Report, notify the Respondent in writing, of deficiencies in the SEP Completion Report and grant Respondent an additional forty-five

(45) days in which to correct any deficiencies; or (iii) if any such deficiencies cannot be corrected in 45 days, reject the SEP Completion Report and seek stipulated penalties in accordance with Paragraph 64 of this CAFO.

b. If EPA elects to exercise option (ii) above, EPA shall permit Respondent the opportunity to object in writing to the notification of deficiency or disapproval given pursuant to this Paragraph within fifteen (15) days of receipt of such notification. EPA and Respondent shall have an additional forty-five (45) days from the receipt by EPA of the notification of objection to reach agreement. If agreement cannot be reached on any such issue within this forty-five (45) day period, EPA shall provide a written statement of its decision to Respondent, which decision shall be final and binding upon Respondent. In the event the SEP is not completed as contemplated herein, as determined by EPA, stipulated penalties shall be due and payable by Respondent to EPA in accordance with Paragraph 64.

c. In the event that EPA elects to exercise option (iii) above, EPA shall permit Respondent the opportunity to object in writing to EPA's conclusion (that the deficiencies cannot be corrected within forty-five (45) days) within fifteen (15) days of receipt of such notification. EPA and Respondent shall have an additional forty-five (45) days from the receipt by EPA of the notification of objection to reach agreement. If agreement cannot be reached on any such issue within this forty-five (45) day period, EPA shall provide a written statement of its decision to Respondent, which decision shall be final and binding upon Respondent. In the event the SEP is not completed as contemplated herein, as determined by EPA, stipulated penalties shall be due and payable by Respondent to EPA in accordance with Paragraph 64.

64. a. In the event that Respondent fails to comply with any of the terms or provisions of this CAFO relating to the performance of a SEP described in Paragraphs 55-63 above and/or to the extent that the actual expenditures for the SEPs do not equal or exceed the cost of the SEP described in Paragraph 56 above, Respondent shall be liable for stipulated penalties according to the provisions set forth below:

(i) Except as provided in subparagraph (ii) immediately below, for a SEP that has not been completed satisfactorily pursuant to this CAFO, Respondent shall pay a stipulated penalty to the United States of \$100,000, plus interest from the Effective Date, except that Respondent shall only pay a stipulated penalty of \$75,000 as provided below in Paragraph 68, if the SEP has not been completed due to the failure to obtain required permits and approvals.

(ii) If the SEP is not completed satisfactorily, but the Respondent: (A) made good faith and timely efforts to complete the project; and (B) certifies, with supporting documentation, that at least 90 percent of the amount of money which was required to be spent was expended on the SEP, Respondent shall not be liable for any stipulated penalty.

(iii) If the SEP is satisfactorily completed, but the Respondent spent less than 90 percent of the amount of money required to be spent for the project, Respondent shall pay a stipulated penalty to the United States in the amount of \$17,000, plus interest accrued from the Effective Date.

(iv) If the SEP is satisfactorily completed, and the Respondent spent at least 90 percent of the amount of money required to be spent for the project, Respondent shall not be liable for any stipulated penalty.

(v) For failure to submit a SEP Completion Report required by Paragraph 58 above in a complete and timely manner, Respondent shall pay a stipulated penalty in the amount of \$1,000 for each day for the first through fifth days after the SEP Completion Report was originally due under Paragraph 58 and \$2,000 for each day thereafter until the SEP Completion Report is submitted.

(vi) For failure to submit any other report or information required by EPA under Paragraphs 55-63 above in a complete and timely manner, Respondent shall pay a stipulated penalty in the amount of \$600 for each day for the first through fifth days after the report or information was originally due and \$1,200 for each day thereafter until the report or information is submitted.

b. The determinations of whether the SEP or any SEP Report has been satisfactorily completed and/or timely completed or submitted, and whether the Respondent has made a good faith, timely effort to implement the SEP, shall be made by EPA in the exercise of its sole discretion.

65. For each SEP, any public statement, oral or written, in print, film or other media, made by Respondent making reference to the SEP shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for alleged violations of the Clean Air Act."

66. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state, or local law, nor shall it be construed to be a ruling on, or a determination of, any issue related to any federal, state, or local permit.

67. With respect to any injunctive relief or the SEP under the terms of this CAFO:

- a. This CAFO shall not be construed to constitute EPA approval of any equipment or technology installed by Respondent; and
- b. Respondent agrees to indemnify, save and hold harmless the EPA, its officials, agents, contractors, subcontractors, employees and representatives, from any and all claims or causes of action:
  - i. arising from, or on account of, acts or omissions of Respondent, Respondent's officers, directors, employees, agents, contractors, subcontractors, receivers, trustees, successors or assigns; and
  - ii. for damages or reimbursement arising from, or on account of, any contract, agreement, or arrangement between Respondent and any persons or entities for performance of work.

68. a. "Force Majeure" for purposes of this CAFO is defined as any event arising from causes beyond the control of Respondent, including its contractors and subcontractors, that delays or prevents the timely performance of the SEP under this CAF, including, without limitation, the failure to obtain any permits or approvals required for the SEP, notwithstanding Respondent's best efforts to avoid the delay. "Best efforts" include anticipating any potential Force Majeure event and addressing the effects of any such event (a) as it is occurring and (b) after it has occurred, such that the delay is minimized to the greatest extent possible. "Best Efforts" also includes having submitted timely and complete applications required for any permits or approvals needed for the SEP and having taken all other actions necessary to obtain such permits and approvals.

Force Majeure does not include Respondent's financial inability to perform any action under a SEP.

b. If an event occurs that causes or may cause Respondent to fail to fully comply in a timely manner with any provision of the SEP, Respondent shall provide written notice via electronic mail and overnight mail to EPA within seven (7) days of when Respondent first knew or should have known of the event. In the notice, Respondent shall specifically reference this Paragraph 68 and describe the expected length of time the delay or impediment to performance may persist; the known or suspected causes of the delay or impediment; the measures taken or to be taken by Respondent to prevent or minimize the delay or impediment; and the timetable by which those measures will be implemented by Respondent.

c. Failure by Respondent to comply with the notice requirements set out in subparagraph b, above, shall render the remainder of this Paragraph void and of no effect as to the particular event involved, and shall constitute a waiver of Respondent's rights under this CAFO to obtain an extension of time based on such event.

d. If EPA agrees that Respondent's failure to comply with a provision of the SEP is attributable to Force Majeure, the EPA and Respondent shall stipulate in writing to an extension of time for the performance of the affected requirements of the SEP, not to exceed the amount of time lost due to the actual unavoidable delay resulting from such circumstances. Stipulated penalties shall not accrue for the number of days constituting the actual unavoidable delay caused by such circumstances.

e. The preceding subparagraph notwithstanding, if Respondent has not completed the SEP because it has not been granted all required permits and approvals for the SEP



within one year from the Effective Date or within two years from the Effective Date if Respondent has not completed the SEP because Respondent is contesting any appeals of permits or approvals that have been granted, the time for performance of the SEP shall not be further extended; Respondent shall be deemed not to have performed the SEP; and Respondent shall be liable for a stipulated penalty of seventy-five thousand dollars (\$75,000).

**D. GENERAL PROVISIONS**

69. All submissions required by this Order shall be sent to:

If by Respondent:

Susan Studlien, Director  
Office of Environmental Stewardship  
U.S. Environmental Protection Agency—Region 1  
Suite 100 Mail Code OES4-5  
5 Post Office Square  
Boston, MA 02109-3912  
Attention: Steve Calder

If by EPA:

Marcia L. Blount, President and CFO  
Blount Boats, Inc.  
461 Water Street,  
Warren, Rhode Island 02885

With a copy to:

Gregory L. Benik, Esq.  
Benik & Associates, P.C.  
128 Dorrance Street, Suite 450  
Providence, RI 02030

70. The stipulated penalties in this CAFO, the civil penalty under Paragraph 52, above, any interest, and the nonpayment penalties and/or charges as described in Paragraph 54, above, shall represent penalties assessed by EPA and shall not be

deductible for purposes of federal taxes, and shall not be deductible for purposes of state, or local taxes unless allowed by law. For federal income tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP. In addition, Respondent hereby agrees that, within thirty (30) days of the date it submits its federal tax reports for the calendar year in which the above-identified SEP is completed, it will submit to EPA a certification that any funds expended in the performance of the SEP have not been deducted from federal taxes or capitalized into inventory or basis.

71. Respondent shall pay stipulated penalties plus any interest due thereupon within fifteen (15) days of receipt of a written demand by Complainant for such penalties. The method of payment shall be in accordance with the provisions of Paragraph 53 herein. Complainant may, in its sole discretion, elect not to seek stipulated penalties or to compromise any portion of stipulated penalties that accrue pursuant to this CAFO.

72. Payment of the civil penalty, and any interest, non-payment penalties, and/or other charges, does not waive, suspend, or modify the responsibility of Respondent to comply with the requirements of all of the federal laws and regulations administered by EPA and shall not be a defense to any actions subsequently commenced pursuant to said laws and regulations.

73. This CAFO constitutes a settlement by EPA of all claims against Respondent for civil penalties pursuant to Section 113 of the Act for the violations alleged in Section B of this CAFO. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to Federal laws and regulations administered by EPA for matters not addressed in this CAFO, and it is the responsibility

of Respondent to comply with all applicable provisions of federal, state, or local law.

EPA reserves all its other criminal and civil enforcement authorities, including the authority to seek injunctive relief and the authority to address imminent hazards.

74. Except as described in Paragraph 54, each party shall bear its own costs and fees in this proceeding, including attorneys fees, and specifically waives any right to recover such costs from the other party pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504, or other applicable law.

75. Each party certifies that at least one of their undersigned representatives is fully authorized to enter into the terms and conditions of this CAFO and to execute and legally bind such party to this document.

76. Appendix 1 (Terms of Compliance) and Appendix 2 (SEP Statement of Work) are attached hereto and incorporated herein as enforceable parts of this CAFO.

[The remainder of this page is intentionally left blank.]

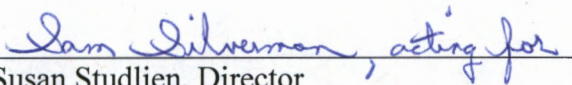
FOR BLOUNT BOATS, INC.

Name Marcia Blount

Date 4/10/2013

Title President

FOR UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

  
Susan Studlien, Director  
Office of Environmental Stewardship  
U.S. Environmental Protection Agency, Region I

4-23-13  
Date

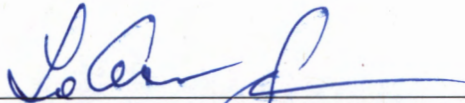
  
John W. Kilborn  
Senior Enforcement Counsel  
U.S. Environmental Protection Agency, Region I

April 18, 2013  
Date

FINAL ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby ordered to comply with the terms of the above Consent Agreement, which will become effective on the date it is filed with the Regional Hearing Clerk.

U.S. ENVIRONMENTAL PROTECTION AGENCY



LeAnn Jensen, Acting Regional Judicial Officer  
U.S. Environmental Protection Agency, Region 1

4/24/13  
Date

**APPENDIX 1**

**Terms of Compliance  
Consent Agreement and Final Order  
Blount Boats, Inc.**

1. Within 60 days of the effective date of the CAFO, Blount shall comply with the applicable requirements of Rhode Island Air Pollution Control Regulation 19, including without limitation, the record-keeping and certification requirements.
2. Within 90 days of the effective date of the CAFO, Blount shall apply for a permit pursuant to Rhode Island Air Pollution Control Regulation 9 that incorporates conditions no less stringent than the elements described in this Appendix 1. Without limitation, Blount shall apply for a Regulation 9 permit for Blount's Facility that contains an overall VOC emission cap of 49 tons per year, a cap of 24 tons per year for any combination of Hazardous Air Pollutants (as defined by the Clean Air Act), and a cap of 9 tons per year of any one Hazardous Air Pollutant, all such caps to be satisfied on a 12-month rolling basis.
3. Within 90 days of receiving an air pollution control permit under RI Air Pollution Control Regulation 9, Blount shall apply for a Title V operating permit, pursuant to Sections 502(a) and 503(c) of the CAA, 42 U.S.C. §§ 7661a(a) and 7661b(c).
4. Respondent shall comply with the National Emission Standards for Hazardous Air Pollutants for Shipbuilding and Ship Repair Facilities (Surface Coating) found at 40 CFR Part 63, Subpart II ("Shipbuilding NESHAP"). Without limitation, Respondent shall comply with the following requirements:
  - (a) submit an initial notification to EPA pursuant to 40 C.F.R. §§ 63.787(a), 63.9(b)(1)(i), and 63.9(b)(2), no later than 30 days after the effective date of the CAFO;
  - (b) submit an implementation plan to EPA pursuant to 40 C.F.R. §§ 63.787(b) and 63.9(a), no later than 60 days after the effective date of the CAFO;
  - (c) submit a semi-annual summary report to EPA pursuant to 40 C.F.R. § 63.788(c), no later than 180 days after the effective date of the CAFO; and
  - (d) comply with the emission limits set forth in Table 2 of the Shipbuilding NESHAP pursuant to 40 C.F.R. § 63.783(a), no later than 90 days after the effective date of the CAFO.
5. Blount shall implement a record-keeping system that will record the information necessary to demonstrate compliance with the CAFO.

6. At Blount's Facility, Blount shall only use paint spray guns with high transfer efficiency (such as high volume low pressure and/or reduced pressure guns).
7. Blount shall submit to EPA quarterly reports for 12 months to demonstrate compliance with the terms of the CAFO. Blount shall submit the first quarterly report three months after the effective date of the CAFO.



## **APPENDIX 2**

### **Scope of Work for Supplemental Environmental Project**

#### **Consent Agreement and Final Order Blount Boats, Inc.**

Respondent, Blount Boats, Inc., shall install a telescoping, fabric-covered, steel frame shelter at its facility located at 461 Water Street, Warren, Rhode Island as a Supplemental Environmental Project. Respondent shall install and operate such shelter as described in this Appendix 2. The project is designed to reduce air emissions from spray painting and sandblasting associated with shipbuilding activities.

1. Shelter Structure Details: The shelter will be constructed of three sections, two of which are movable and extendable to a length of 150 feet. Each section will be 50 feet in length and the largest section 55 feet wide by 44 feet high (side wall is 34 feet high). The steel frame will be comprised of three modular sections each 50 feet long. One section will be stationary and 40 feet wide. The other two sections will rest on a rail system and be movable (one will be 48 feet wide and the other 55 feet wide). It will be possible to reposition the movable sections of the steel frame using a yard crane. The lower 11 feet of the shelter's sides will be constructed of panel sections that can be removed if flooding occurs during severe storms, or to provide passive ventilation when spray painting or sandblasting is not being conducted. The entire shelter will be located above the mean high water line and will be integrated into Respondent's storm water system.
2. Shelter Location: The completed shelter will primarily be located over the vessel launching shipway (the "ways") and telescope in and out over the ways. It also will be possible to lift and reposition the two movable sections of the shelter to cover the vertical lift dock.
3. Concrete Spread Footings: Respondent will use concrete spread footings along each side of the ways to anchor the shelter. To install the concrete spread footings, 150 feet long trenches will be created along each side of the ways using typical excavation equipment. The footings can be constructed from either reinforced cast-in-place concrete or pre-cast concrete units.
4. Shelter Fabric: The shelter fabric will be constructed from translucent white, flame retardant, PVC laminated fabric. This material helps minimize the need for extensive energy/lighting requirements.
5. Steel Frame: The steel frame of the shelter will be constructed from galvanized steel that is designed to withstand winds and gusts up to 130 miles per hour and bear snow loads up to 40 pounds per square foot.

6. End Wall: The stationary shelter and the outer-most 55 foot wide shelter will have removable end wall curtains (manufactured from the same fabric as the remaining structure) that will fully enclose the shelter. The movable 48 foot and 55 foot wide sections will also have end wall curtains on both ends if they are used together or separately to cover the vertical lift dock. Therefore, regardless of shelter length or location, there will be end wall curtains in place on both ends of the shelter to fully enclose the shelter whenever spray painting or sandblasting operations are performed within the shelter.
7. Shelter Assembly: The shelter structure will be delivered in pieces and assembled on site using a crane. Railings will be secured to the concrete spread footings and the shelter will be secured to the railings. The movable 40 foot and 55 foot wide sections of the shelter will then telescope in and out along the railings as necessary.
8. Electrical power: The shelter will have electrical power to run a ventilation system, lighting system, and various power equipment operated by yard workers. The electrical system will include explosion proof panel boxes for both 200 and 100 amp service and explosion proof switches for electrical components
9. Lighting: The lighting system will consist of a minimum of 20 fluorescent or LED lights. The lighting will be located in explosion proof fixtures.
10. Ventilation: The ventilation system will consist of two 36 inch 24,000 cubic feet per minute explosion proof exhaust fans. These fans will be installed on the stationary section of the shelter. The movable 48 foot and 55 foot sections will also utilize fans for ventilation if they are used together or separately to cover the vertical lift dock. Several louvers will be installed on all three sections of the shelter to provide fresh air and additional lighting.
11. Filtration system: A filter frame will be mounted on the inlet side of the exhaust fans. Filter media will be attached to the frames during blasting and spray painting operations to control the particulate emissions generated during these operations. To maximize emission reductions, the filter media used will be specific to the coating or blasting operation being conducted. Initially, Respondent will use polyester fiber filters to control emissions from the blasting operations and “high capacity” or “high solids” paper filters to control emissions from the coating operations. The movable 48 foot and 55 foot sections will also utilize a filtration system if they are used together or separately to cover the vertical lift dock. Respondent will dispose of and/or reuse the filters and the material captured by the filters according to any applicable rules, regulations, or laws.
12. Project Timeline: The construction of the shelter is estimated to take 3 to 4 weeks. Specifically, it will take 2 to 3 weeks for site preparation (foundation construction, drainage trench construction, preparing electrical connections, etc.) and 1 week for structure assembly.

EPA DOCKET NO.: CAA-01-2013-0015  
In Re: Blount Boats, Inc.

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Consent Agreement and Final Order has been sent to the following persons on the date and in the manner noted below:

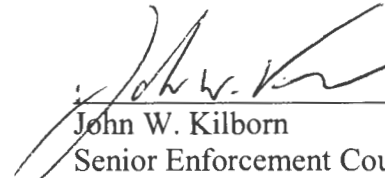
Original and one copy,  
hand-delivered:

Ms. Wanda Santiago  
Regional Hearing Clerk  
U.S. EPA, Region I  
5 Post Office Square, Suite 100  
Boston, MA 02109-3812

Copy, by email and  
Certified Mail

Gregory L. Benik, Esq.  
Benik & Associates P.C.  
128 Dorrance Street, Suite 450  
Providence, RI 02903

Dated: 04/25/13

  
\_\_\_\_\_  
John W. Kilborn  
Senior Enforcement Counsel  
U.S. Environmental Protection Agency,  
Region 1  
5 Post Office Square, Suite 100  
Boston, MA 02109-3812  
(617) 918-1893  
Kilborn.john@epa.gov