

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:) Docket No. CWA-05-2011-0008
)
Joseph L. Bollig & Sons, Inc.)
New Lisbon, Wisconsin,)
)
Respondent.)

Proceeding to Assess a Civil Penalty
Under Section 309(g) of the Clean
Water Act, 33 U.S.C. § 1319(g)

RECEIVED
SEP 28 2012

Consent Agreement and Final Order

Preliminary Statement

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

1. The following findings are made and this Consent Agreement is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (U.S. EPA), an agency of the United States government, by Section 309(g) of the Clean Water Act (CWA), 33 U.S.C. § 1319(g). The Administrator has delegated this authority to the Regional Administrator, U.S. EPA, Region 5, who hereby issues this Consent Agreement and Final Order (CAFO).

Stipulations and Findings

2. WHEREAS, the parties to this administrative action have agreed to conclude the above-captioned action, begun by the filing of an administrative complaint on August 18, 2011 (amended on June 7, 2012), via the filing of this CAFO pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), and Sections 22.13(b) and 22.18(b)(2) and (3) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits*, 40 C.F.R. § 22.13(b) and 22.18(b)(2) and (3).

3. WHEREAS, the Complainant is, by lawful delegation of the Administrator and the

Regional Administrator, the Director of the Water Division, Region 5, U.S. EPA.

4. WHEREAS, the Respondent in this proceeding is Joseph L. Bollig & Sons, Inc., ('Respondent' or 'Bollig'), a corporation doing business in the State of Wisconsin.

5. WHEREAS, the Respondent admits for the purposes of this proceeding that the Administrator of EPA has jurisdiction of this proceeding pursuant to the regulations at 40 C.F.R. § 22.38, and pursuant to 40 C.F.R. § 22.18(b)(2).

6. WHEREAS, the Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms and conditions of this CAFO.

7. WHEREAS, the Respondent neither admits nor denies the specific factual allegations in this CAFO.

8. WHEREAS, the Respondent waives its right to contest the allegations in this CAFO, and its right to appeal this CAFO.

9. WHEREAS, the activities at issue in this CAFO were conducted at the Mauston-New Lisbon (WI) Airport (Airport), resulted in a prior U.S. EPA penalty action for \$15,000 with the Airport based on ability to pay, and an indemnification arrangement between the Respondent and the Airport could further obligate the Airport should additional penalties be required in this action.

10. WHEREAS, the Respondent admits to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

11. WHEREAS, settling this action without the adjudication of any issue of fact or law is in the public interest.

12. Complainant, the Director of the Water Division, U.S. EPA, Region 5, brought an administrative action seeking a civil penalty pursuant to Section 309(g) of the CWA, 33 U.S.C.

§ 1319(g), on August 18, 2011, as amended on June 7, 2012. U.S. EPA filed the Complaint in this action against Respondent Joseph L. Bollig & Sons, Inc. (Bollig), a corporation doing business in the State of Wisconsin and notified the public of its issuance. The Complaint, which is fully incorporated herein by reference, included formal findings of violation, notice of a proposed assessment of a civil penalty against Respondent in the amount of \$60,000 for alleged violations of the CWA, and notice of Respondent's opportunity to request a hearing on the proposed administrative penalty assessment.

13. Concurrent with the issuance of the Complaint, the State of Wisconsin was given an opportunity to confer with Complainant regarding the assessment of an administrative penalty against Respondent for violations of the Act alleged in the Complaint.

14. Complainant did not receive any public comments on the civil penalty proposed in the Complaint.

15. Respondent filed its Answer on September 28, 2011, in which it admitted and denied allegations in the Complaint, and requested a hearing under Section 309(g)(2)(b), 33 U.S.C. § 1319(g)(2)(b), and 40 C.F.R. § 22.15.

Civil Penalty

Based upon the facts alleged in this CAFO; upon the nature, circumstances, extent and gravity of the violations alleged; after consideration of the Respondent's prior history of such violations, degree of culpability and economic benefit resulting from the violation; the Respondent's good faith and cooperation in resolving this matter; and such other matters as justice may require; EPA hereby proposes to issue a Final Order assessing civil penalties to Respondent Bollig in the amount of \$0.

General Provisions

16. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the Complaint.

17. This CAFO does not affect the right of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

18. This CAFO does not affect Respondent's responsibility to comply with CWA and other applicable federal, state, local laws and permits.

19. This CAFO is a "final order" for purposes of 40 C.F.R. § 22.31, and U.S. EPA's CWA Section 404 Civil Penalty Policy.

20. The terms of this CAFO bind Respondent, its successors, and assigns.

21. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

22. Each party agrees to bear its own costs and attorney's fees in this action.

23. This CAFO constitutes the entire agreement between the parties.

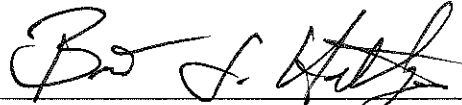
24. Upon filing with the Regional Hearing Clerk, Complainant will transmit a copy of the filed CAFO to counsel for the Respondent. Complainant shall also transmit a copy of the filed CAFO to the U.S. Army Corps of Engineers.

25. This CAFO shall become effective upon the date of filing with the Regional Hearing Clerk.

In the Matter of Joseph L. Bollig & Sons, Inc.
Docket No. CWA-05-2011-0008

Joseph L. Bollig and Sons, Inc., Respondent

Date: 9/19/12

A handwritten signature in black ink, appearing to read "Joe L. Bollig", written over a horizontal line.

Joseph L. Bollig & Sons, Inc.
New Lisbon, Wisconsin

In the Matter of Joseph L. Bollig & Sons, Inc.
Docket No. CWA-05-2011-0008

United States Environmental Protection Agency, Region 5, Complainant

Date: Sept. 28, 2012

Tinka G. Hyde
Tinka G. Hyde, Director
Water Division
United States Environmental Protection
Agency, Region 5

In the Matter of Mauston-New Lisbon Union Airport
Docket No. CWA-05-2011-0008

FINAL ORDER

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

Date: _____

Susan Hedman
Regional Administrator
United States Environmental Protection
Agency, Region 5