

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

BOING US HOLDCO, INC.

AI # 224015

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

* Settlement Tracking No.
* SA-WE-24-0042
*
* Enforcement Tracking No.
* WE-C-22-00845
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SETTLEMENT AGREEMENT

The following Settlement Agreement is hereby agreed to between Boing US Holdco, Inc. (“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 owns and/or operates a car wash located in Opelousas, St. Landry Parish, Louisiana (“the Facility”).

II

On August 10, 2023, the Department issued to Respondent a Compliance Order, Enforcement Tracking No. WE-C-22-00845 (Exhibit 1).

III

In response to the Compliance Order, Respondent made a timely request for a hearing.

IV

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

V

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 THOUSAND NINE HUNDRED AND NO/100 DOLLARS (\$5,900.00), of which Four Hundred Sixty-Nine and 34/100 Dollars (\$469.34) represents the Department's enforcement costs, in settlement of the claims set forth in this Settlement Agreement. The total amount of money expended by Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

VI

Respondent further agrees that the Department may consider the permit record(s), the Compliance Order and this Settlement Agreement 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.

VII

This Settlement 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 Settlement Agreement in any action by the Department to enforce this Settlement Agreement.

VIII

This Settlement Agreement 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 Agreement, the Department considered the factors for issuing civil penalties set forth in La. R.S. 30:2025(E) of the Act.

IX

As required by law, the Department has submitted this Settlement Agreement to the Louisiana Attorney General for approval or rejection. The Attorney General's concurrence is appended to this Settlement Agreement.

X

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in St. Landry Parish, Louisiana. The advertisement, in form and wording approved by the Department, announced the availability of this Settlement Agreement for public view and comment and the opportunity for a public hearing. Respondent has submitted an original proof-of-publication affidavit and an original public notice to the Department and, as of the date this Settlement Agreement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

XI

Payment is to be made within thirty (30) days from notice of the Secretary's signature. If payment is not received within that time, this Settlement Agreement is voidable at the option of the Department. The Respondent shall provide its tax identification number when submitting payment. 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 attached hereto.

XII

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

XIII

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.

BOING US HOLDCO, INC.

BY: _____
(Signature)

(Printed)

TITLE: _____

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20 _____, at _____.

NOTARY PUBLIC (ID # _____)

(stamped or printed)

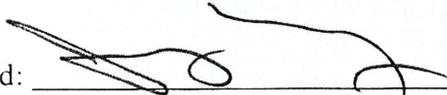
LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Courtney J. Burdette, Secretary

BY: _____
Jerrie "Jerry" Lang, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20 _____, at Baton Rouge, Louisiana.

NOTARY PUBLIC (ID # _____)

(stamped or printed)

Approved: 

Jerrie "Jerry" Lang, Assistant Secretary

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF ENVIRONMENTAL COMPLIANCE ENFORCEMENT DIVISION POST OFFICE BOX 4312 BATON ROUGE, LOUISIANA 70821-4312		COMPLIANCE ORDER		
Enforcement Tracking No.	WE-C-22-00845	Certified Mail No.	7019 2280 0000 4381 3587	
Agency Interest (AI) No.	224015	Contact Name	Richard Ober, Jr.	
Alternate ID No.	LAG751169	Contact Phone No.	(225) 219-3135	
Respondent:	Boling US Holdco, Inc.	Facility Name:	Take 5 Car Wash	
	c/o Corporation Service Company Agent for Service of Process	Physical Location:	1804 Cresswell Lane Extension	
	501 Louisiana Avenue	City, State, Zip:	Opelousas, LA 70570	
	Baton Rouge, LA 70802	Parish:	St. Landry	

This COMPLIANCE ORDER is issued by the Louisiana Department of Environmental Quality (the Department), under the authority granted by the Louisiana Environmental Quality Act (the Act), La. R.S. 30:2001, et seq., and particularly by La. R.S. 30:2025(C) and 30:2050.2.

FININGS OF FACT
 An authorized representative of the Department inspected the abovementioned facility or conducted a file review of the facility to determine the degree of compliance with regulations promulgated in the Louisiana Administrative Code, Title 33. The State regulatory citations for the violation(s) identified during the inspection and/or file review are indicated below.

I. The Respondent owns and/or operates a car wash located at 1804 Cresswell Lane Extension in Opelousas, St. Landry Parish, Louisiana. On July 12, 2022, the Department transferred Louisiana Pollutant Discharge Elimination System (LPDES) General Permit LAG751169 to the Respondent with an effective date of March 29, 2022. LPDES General Permit LAG751169 will expire on April 25, 2024. Under the terms and conditions of LPDES General Permit LAG751169, the Respondent is permitted to discharge exterior vehicle and equipment wash wastewater from Outfall 001 and treated sanitary wastewater from Outfall 002 into an unnamed ditch, thence into Bayou Rawles, all waters of the state.

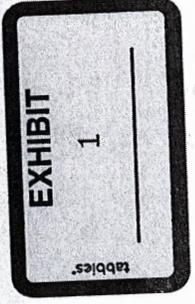
On July 12, 2022, the Respondent was automatically covered under the Louisiana Sewage Sludge and Biosolids Use or Disposal General Permit LAJ660000.

Date of Violation	Description of Violation
File Review July 27, 2023	The Respondent failed to submit Discharge Monitoring Reports (DMRs) in a timely manner. The Respondent is required to submit quarterly and semiannual DMRs no later than the 28 th day of the month following each quarter or semiannual monitoring period. Specifically, the Respondent failed to submit quarterly Discharge Monitoring Reports (DMRs) for Outfall 001 for the second and third quarters of 2022 by July 28, 2022, and October 28, 2022, respectively, and a semiannual DMR for Outfall 002 for the first half of 2022 by July 28, 2022. The DMRs for the second and third quarters of 2022 for Outfall 001 were submitted on January 27, 2023. The DMR for the first half of 2022 for Outfall 002 was submitted on January 27, 2023. The failure to submit DMRs timely is a violation of LPDES Permit LAG751169 (Part I, Section C.7, pages 15-17 of 17 and Part III, Standard Conditions for LPDES Permits, Sections A.2 and D.4), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.L.4.

Monitoring Period End Date	Outfall	Parameter	Limit	DMR Value	Units	
						Exceedance
06/30/2022	001-Q	Solids, total suspended --- DAILY MX	45	54	mg/L	
06/30/2022	002-S	Solids, total suspended --- MO AVG	30	47	mg/L	
06/30/2022	002-S	Solids, total suspended --- DAILY MX	45	54	mg/L	
06/30/2022	002-S	Enterococci --- MO AV GEO	35	69.57	#/100mL	
06/30/2022	002-S	Enterococci --- DAILY MX	135	>2420	#/100mL	
06/30/2022	002-S	Coliform, fecal general --- DAILY MX	400	>2420	#/100mL	
12/31/2022	001-Q	Solids, total suspended --- DAILY MX	45	76	mg/L	
03/31/2023	001-Q	Solids, total suspended --- DAILY MX	45	113	mg/L	

Each exceedance of a permitted effluent limitation is a violation of LPDES Permit LAG751169 (Part I, Section B, Outfalls 001 and 002, pages 8 and 10 of 17 and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.D.

IV. The Respondent failed to increase the monitoring frequency as indicated in LPDES Permit LAG751169 for the above referenced test failures that occurred for total suspended solids (TSS) in the second quarter of 2022, fourth quarter of 2022, and first quarter of 2023 for Outfall 001. The DMRs for the second quarter of 2022, third quarter of 2022, and fourth quarter of 2022 indicated a frequency of analysis for TSS of 1 per 90 days. On the noncompliance report attached to the DMR for the first quarter of 2023 for Outfall 001, the Respondent reported that it did not sample in February 2023 after exceeding the daily maximum permit limitation for TSS in January 2023, due to an administrative oversight by the sampling contractor. Specifically, if the value of an effluent characteristic exceeds the daily maximum limitation in any sample, then the measurement frequency for that parameter shall increase to 1/month until a sample demonstrates a value less than or equal to the daily maximum. The failure to increase the monitoring frequency for TSS is a violation of LPDES Permit LAG751169 (Part I, Section B, footnote 3, page 8 of 17), La. R.S. 30:2076(A)(3), LAC 33:IX.501.A, LAC 33:IX.2701.A, and LAC 33:IX.6511.



V.	File Review July 27, 2023	The Respondent failed to comply with LPDES Permit LAG751169. Specifically, the Respondent failed to submit an accurate/complete quarterly Discharge Monitoring Reports (DMRs) for the fourth quarter of 2022 for Outfall 001. The Respondent did not complete DMRs in accordance with the instructions on EPA Form 3320-1. Specifically, the Respondent failed to report the flow on the DMR for the fourth quarter of 2022 for Outfall 001. The failure to submit a complete/accurate DMR is a violation of LPDES Permit LAG751169 (Part III, Standard Conditions for LPDES Permits, Sections A.2 and D.4), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.L.4.a.
VI.	File Review July 27, 2023	The Respondent failed to comply with the Louisiana Sewage Sludge and Biosolids Use or Disposal General Permit LAJ660000. Specifically, the Respondent failed to submit the annual Sewage Sludge & Biosolids Use or Disposal Reporting Form for the year 2022 as required by General Permit LAJ660000. The form was due by January 28, 2023. The failure to submit the annual Sewage Sludge & Biosolids Use or Disposal Reporting Form for the year 2022 is a violation of General Permit LAJ660000 (Part II, Specific Conditions, Section C and Part III, Standard Conditions, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.7313.A.2.

ORDER

Based on the foregoing, the Respondent is hereby ordered to comply with the requirements that are indicated below:

I.	To take, immediately upon receipt of this COMPLIANCE ORDER , any and all steps necessary to meet and maintain compliance with the Water Quality Regulations. This shall include, but not be limited to; correcting <u>all</u> of the violations described in the "Findings of Fact" portion.
II.	To submit to the Enforcement Division, within thirty (30) days after receipt of this COMPLIANCE ORDER , a written report that includes a detailed description of the circumstances surrounding the cited violation(s) and actions taken or to be taken to achieve compliance with the "Order" portion of this COMPLIANCE ORDER . This report and all other reports or information required to be submitted to the Enforcement Division by this COMPLIANCE ORDER shall be submitted to the Department at the address specified in this document.
III.	To submit to the Enforcement Division, within thirty (30) days after receipt of this COMPLIANCE ORDER , the annual Sewage Sludge & Biosolids Use or Disposal Reporting Form for the year 2022 as required by General Permit LAJ660000.

RIGHT TO APPEAL

I.	The Respondent has a right to an adjudicatory hearing on a disputed issue of material fact or of law arising from this COMPLIANCE ORDER . This right may be exercised by filing a written request with the Secretary no later than thirty (30) days after receipt of this COMPLIANCE ORDER .
II.	The request for an adjudicatory hearing shall specify the provisions of the COMPLIANCE ORDER on which the hearing is requested and shall briefly describe the basis for the request. This request should reference the Enforcement Tracking Number and Agency Interest Number, which are located in the upper left-hand corner of the first page of this document and should be directed to the address specified in this document.
III.	Upon the Respondent's timely filing a request for a hearing, a hearing on the disputed issue of material fact or of law regarding this COMPLIANCE ORDER may be scheduled by the Secretary of the Department. The hearing shall be governed by the Act, the Administrative Procedure Act (La. R.S. 49:950, et seq.), and the Division of Administrative Law's (DAL) Procedural Rules. The Department may amend or supplement this COMPLIANCE ORDER prior to the hearing, after providing sufficient notice and an opportunity for the preparation of a defense for the hearing.
IV.	This COMPLIANCE ORDER shall become a final enforcement action unless the request for hearing is timely filed. Failure to timely request a hearing constitutes a waiver of the Respondent's right to a hearing on a disputed issue of material fact or of law under Section 2050.4 of the Act for the violation(s) described herein.
V.	The Respondent's failure to request a hearing or to file an appeal or the Respondent's withdrawal of a request for hearing on this COMPLIANCE ORDER shall not preclude the Respondent from contesting the findings of facts in any subsequent penalty action addressing the same violation(s), although the Respondent is estopped from objecting to this COMPLIANCE ORDER becoming a permanent part of its compliance history.
VI.	Civil penalties of not more than thirty-two thousand five hundred dollars (\$32,500) may be assessed for each day of violation. The Respondent's failure or refusal to comply with this COMPLIANCE ORDER and the provisions herein will subject the Respondent to possible enforcement procedures under La. R.S. 30:2025, which could result in the assessment of a civil penalty in an amount of not more than fifty thousand dollars (\$50,000) for each day of continued violation or noncompliance.
VII.	For each violation described herein, the Department reserves the right to seek civil penalties in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties.
VIII.	This COMPLIANCE ORDER is effective upon receipt.

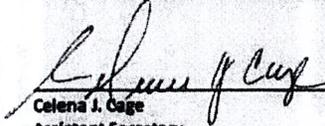
CONTACTS AND SUBMITTAL OF INFORMATION

<p>Enforcement Division: Louisiana Department of Environmental Quality Office of Environmental Compliance Water Enforcement Division Post Office Box 4312 Baton Rouge, LA 70821 Attn: Richard Ober, Jr</p>	<p>Hearing Requests: Department of Environmental Quality Office of the Secretary Post Office Box 4302 Baton Rouge, Louisiana 70821-4302 Attn: Hearings Clerk, Legal Division Re: Enforcement Tracking No. WE-C-22-00845- Agency Interest No. 224015</p>
<p>Water Permits Division (if necessary): Department of Environmental Quality Office of Environmental Services Post Office Box 4313 Baton Rouge, LA 70821-4313 Attn: Water Permits Division</p>	<p>Physical Address (if hand delivered): Department of Environmental Quality 602 N Fifth Street Baton Rouge, LA 70802</p>

HOW TO APPEAL A COMPLIANCE ORDER

- To appeal the **COMPLIANCE ORDER**, the Respondent must follow the guidelines set forth in the "Right to Appeal" portion of this **COMPLIANCE ORDER**.
- To request closure of this **COMPLIANCE ORDER**, the Respondent must demonstrate compliance with the "Order" portion of this **COMPLIANCE ORDER** by completing the attached "**COMPLIANCE ORDER REQUEST TO CLOSE**" form and returning it to the address specified.
 - Before requesting closure of this **COMPLIANCE ORDER**, please contact the Financial Services Division at 225-219-3865 or email them at DEQ-WWWFinancialServices@la.gov to determine if you owe outstanding fees.

If you have questions or need more information, you may contact Richard Ober, Jr at (225) 219-3135 or richard.ober@la.gov.



Celena J. Cage
Assistant Secretary
Office of Environmental Compliance

Date: 08/10/2023

cc: Mr. Eddie Rawls
Boing US Holdco, Inc.
440 South Church St., Suite 700
Charlotte, NC 28202

Attachment(s)
- Request to Close

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF ENVIRONMENTAL COMPLIANCE ENFORCEMENT DIVISION POST OFFICE BOX 4312 BATON ROUGE, LOUISIANA 70821-4312		COMPLIANCE ORDER REQUEST TO CLOSE		
Enforcement Tracking No.	WE-C-22-00845	Contact Name	Richard Ober, Jr	
Agency Interest (AI) No.	224015	Contact Phone No.	(225) 219-3135	
Alternate ID No.	LAG751169			
Respondent:	Being US Holdco, Inc.	Facility Name:	Take 5 Car Wash	
	c/o Corporation Service Company	Physical Location:	1804 Cresswell Lane Extension	
	Agent for Service of Process	City, State, Zip:	Opelousas, LA 70570	
	501 Louisiana Avenue Baton Rouge, LA 70802	Parish:	St. Landry	
STATEMENT OF COMPLIANCE				
STATEMENT OF COMPLIANCE				
A written report was submitted in accordance with Paragraph II of the "Order" portion of the COMPLIANCE ORDER.		Date Completed	Copy Attached?	
All necessary documents were submitted to the Department within 30 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph III of the "Order" portion of the COMPLIANCE ORDER.				
All items in the "Findings of Fact" portion of the COMPLIANCE ORDER were addressed and the facility is being operated to meet and maintain the requirements of the "Order" portion of the COMPLIANCE ORDER. Final compliance was achieved as of:				
CERTIFICATION STATEMENT				
<i>I certify, under provisions in Louisiana and United States law that provide criminal penalties for false statements, that based on information and belief formed after reasonable inquiry, the statements and information attached and the compliance statement above, are true, accurate, and complete. I also certify that I do not owe outstanding fees or penalties to the Department for this facility or any other facility I own or operate. I further certify that I am either the Respondent or an authorized representative of the Respondent.</i>				
Respondent's Signature		Respondent's Printed Name		Respondent's Title
Respondent's Physical Address		Respondent's Phone #		Date
MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:				
Louisiana Department of Environmental Quality Office of Environmental Compliance Enforcement Division Post Office Box 4312 Baton Rouge, LA 70821 Attn: Richard Ober, Jr				

If you have questions or need more information, you may contact Richard Ober, Jr at (225) 219-3135 or richard.ober@la.gov.