

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

TIN, INC.

AI # 38936

PROCEEDINGS UNDER THE LOUISIANA  
ENVIRONMENTAL QUALITY ACT

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

\* Settlement Tracking No.

\* SA-MM-13-0061

\*

\* Enforcement Tracking Nos.

\* MM-CN-11-01269

\* MM-CN-12-00979

\* AE-CN-12-01425

\*

\* Docket No. 2012-2334-EQ

SETTLEMENT

The following Settlement is hereby agreed to between TIN, 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 owned and/or operated an unbleached paper mill and container facility located in Washington Parish, Louisiana ("the Facility").

II

On December 21, 2011, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. **MM-CN-11-01269**, which was based upon the following findings of fact:

The Respondent owns and/or operates an unbleached paper mill and container facility known to the Department as the Temple-Inland Inc. - Bogalusa Mill, which is located at 401 Avenue U in Bogalusa, Washington Parish, Louisiana. The Respondent notified as a conditionally exempt generator of hazardous waste on or about October 21, 2011, and operates under EPA Identification No. LAD981900418. The Respondent operates a Type I Industrial

Solid Waste Surface Impoundment designated as the Aerated Stabilization Basin (ASB) as authorized by Solid Waste Standard Permit No. P-0072R1, which became effective on May 6, 2011. The facility operated under Title V Air Permit No. 3060-00001-V3, issued on or about November 23, 2004, and Title V Air Permit No. 3060-00001-V4, issued on or about February 2, 2011. The facility currently operates under Title V Air Permit No. 3060-00001-V5, issued on or about August 29, 2011, and administratively amended on or about September 19, 2011.

The Respondent was issued Louisiana Pollutant Discharge Elimination System (LPDES) permit LA0007901 on June 13, 2006, with an effective date of July 1, 2006 and an expiration date of June 30, 2011. On or about September 2, 2008, the Respondent submitted a request for modification to LPDES permit LA0007901, which was received by the Department on or about September 8, 2008. On or about January 29, 2010, LPDES permit LA0007901 was modified by the Department with an effective date of March 1, 2010, and an expiration date of June 30, 2011. On or about December 14, 2010, the Respondent requested an extension of the deadline to submit a permit renewal application for LPDES permit LA0007901 from January 1, 2011, until March 1, 2011. The request for extension was granted by the Department on or about March 1, 2011, and a permit renewal application was submitted by the Respondent on or about February 28, 2011. LPDES permit LA0007901 was administratively continued by the Department. Under the terms and conditions of LPDES permit LA0007901, the Respondent is authorized to continuously discharge treated combined process wastewater from the kraft pulp and paper mill, linerboard mill, boiler and cooling tower blowdown; sludge dewatering liquid; lime kiln scrubber and boiler scrubber water; miscellaneous wastewaters (comprised of wastewater from the shops and offices); sanitary wastewater; and process area stormwater into the Pearl River, waters of the state.

On or about August 16, 21, 23, and 25, 2011, the Department conducted inspections of the Respondent's facility to determine the degree of compliance with the Solid and Hazardous Waste Regulations. Those inspections revealed the following violations:

- A. The Respondent failed to determine if solid wastes generated at its facility were hazardous wastes, in violation of LAC 33:V.1103. Specifically, the Respondent failed to determine whether waste drained from punctured aerosol cans and stored within a drum labeled with the words "Aerosol Puncture Station" was a hazardous waste. The Respondent corrected the violation by determining the contents of the container were a hazardous waste and shipping the drum for off-site disposal using a uniform hazardous waste manifest on or about November 3, 2011.
- B. The Respondent failed to notify the Office of Environmental Services within seven (7) days if any of the information submitted in the application for the identification number changes, in violation of LAC 33:V.1105.B. Specifically, the Respondent failed to submit an updated HW-1 Form reflecting the change in the owner/operator of the facility from Gaylord Container Corporation to TIN Inc., d/b/a Temple-Inland. The violation was corrected by submittal of an updated HW-1 Form dated October 31, 2011.
- C. The Respondent failed to clearly mark or label universal waste batteries or a container storing universal waste batteries with the words "Universal Waste Battery(ies)" or "Waste Battery(ies)" or "Used Battery(ies)," in violation of LAC 33:V.3823.A.1. Specifically, the Respondent failed to mark or label a pallet of universal waste batteries stored within the Mechanic Shop Universal Waste Storage Area. The violation was corrected at the time of the August 16, 2011, inspection.

- D. The Respondent failed to mark each used lamp or the container storing used lamps with the words "Universal Waste – Lamp(s)" or "Waste Lamps" or "Used Lamps," in violation of LAC 33:V.3823.A.6. Specifically, the Respondent failed to label four (4) of seventeen (17) containers of universal waste lamps stored within the Electrical Shop Universal Waste Storage Area. The violation was corrected at the time of the August 16, 2011, inspection.
- E. The Respondent failed to clearly mark or label universal waste electronics or a container storing universal waste electronics with the words "Universal Waste—Electronics," or "Waste Electronics," or "Used Electronics," in violation of LAC 33:V.3823.A.7. Specifically, the Respondent failed to properly label universal waste electronics stored within the Main Office Universal Waste Storage Area. The violation was corrected at the time of the August 16, 2011, inspection.
- F. The Respondent failed to clearly mark or label containers storing used oil with the words "Used Oil," in violation of LAC 33:V.4013.D.1. Specifically, two (2) containers storing used oil filters were not labeled with the words "Used Oil." The violation was corrected at the time of the August 16, 2011, inspection.
- G. The Respondent caused and/or allowed the processing and/or disposal of regulated solid waste at its facility or off-site locations without a permit or other authorization, in violation of La. R.S. 30:2155, LAC 33:VII.315.C. Specifically, the Respondent offered for land application boiler ash that was generated from the burning of wood waste and tire-derived fuel. The Respondent believed it was authorized to conduct this activity in accordance with LAC 33:VII.3017. Ash generated from the burning of a mixture of wood

waste and tire-derived fuel is not exempt from solid waste regulation, and thus, the land application of this ash constitutes the unauthorized disposal of solid waste.

- H. The Respondent failed to maintain the minimum equipment specified in the Respondent's Type I Industrial Solid Waste Permit, in violation of LAC 33:VII.901.A and Part II.G.1.c (Facility Operational Plans) of the Respondent's effective Type I Industrial Solid Waste Surface Impoundment Operating Permit P-0072R1. Specifically, according to the Respondent's Environmental Manager, Mr. Alban Bush, the Respondent did not maintain a dredge on-site as required by the aforementioned permit.
- I. The Respondent failed to operate and maintain the ASB in accordance with the Respondent's effective Type I Industrial Solid Waste Surface Impoundment Operating Permit P-0072R1, in violation of LAC 33:VII.901.A and the Facility Operational Plan (Appendix K) of P-0072R1. Specifically, the Respondent failed to operate and maintain the ASB in a manner that ensured the unit was effective and efficient as a wastewater treatment unit. A study prepared by the Respondent's contractor, Environmental Specialists, LLC, and dated July 2, 2010, noted a number of deficiencies and concerns regarding the operation and maintenance of the ASB, including, but not necessarily limited to: 1) wastewater retention time; 2) sludge accumulation; 3) baffle integrity; and 4) poor and/or ineffective impoundment aeration and solids suspension.

The Department conducted an Air Quality inspection on or about May 24, 2011 through May 26, 2011, to determine the degree of compliance with the Act and the Air Quality Regulations. On or about November 22, 2011, a file review of the facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

While the investigation by the Department is not yet complete, the following violations

were noted during the course of the inspection and file review:

A. In correspondence as shown in Table A, the Respondent submitted reports listing deviations of Total Reduced Sulfur (TRS) limits for Recovery Furnace No. 21 (EQT0010) of Title V Air Permit No. 3060-00001-V3, issued on or about November 23, 2004. The permit restricts the number of 12-hour averaged periods of greater than 5 parts per million per unit volume emissions of TRS (excluding periods of startup, shutdown, or malfunction [SSM], and periods when the facility is not operating). Excursions are restricted to less than 1.0% of the total operating time per quarter. The percentage of periods of excess emissions, excluding SSM events, is shown in Table A:

**TABLE A**

<b>Date submitted</b>	<b>Reporting Period</b>	<b>Limit of excess emissions</b>	<b>Actual excess emissions</b>
10/9/2009	2009 Second Quarter	1.0%	2.16%
3/9/2010	2009 Fourth Quarter	1.0%	1.07%

Each failure to maintain the number of periods of excess emissions of TRS to less than 1% of the total operating time per period is a violation of Specific Requirement No. 12 for EQT10 of Title V Air Permit No. 3060-00001-V3, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

B. In correspondence as shown in Table B, the Respondent submitted reports listing deviations of Oxides of Nitrogen (NO<sub>x</sub>) for Hogged Fuel Boiler No. 12 (EQT0009) of Title V Air Permit No. 3060-00001-V3, and of Title V Air Permit No. 3060-00001-V4. Table B lists excursions of the NO<sub>x</sub> limit of less than or equal to 0.30 pounds of NO<sub>x</sub> per million BTU (MMBTU) of energy produced during 3-hour averaged periods. Each permit prohibits the excess emission of NO<sub>x</sub> (excluding periods of SSM, and periods

when the facility is not operating). The number of averaged periods of excess emission of NO<sub>x</sub>, excluding SSM events, is shown in Table B:

**TABLE B**

<b>Date submitted</b>	<b>Reporting Period</b>	<b>Number of 1-hour periods with excess NO<sub>x</sub> emissions</b>
6/19/07	First Semiannual 2007	35
3/28/08	Second Semiannual 2007	14
9/19/08	First Semiannual 2008	11
3/10/09	Second Semiannual 2008	81
10/9/09	First Semiannual 2009	62
3/26/10	Second Semiannual 2009	87
9/21/10	First Semiannual 2010	15
2/2/11	Second Semiannual 2010	27
9/29/11	First Semiannual 2011	25

Each failure to maintain the NO<sub>x</sub> emissions below the permit limit is a violation of Specific Requirement No. 1 for EQT09 of Title V Air Permit No. 3060-00001-V3, Specific Requirement No. 106 of Title V Air Permit No. 3060-00001-V4, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

On or about August 17, 2011, the Respondent submitted a seven (7) day written notification report detailing the circumstances, chronology of events, and root cause associated with the unauthorized discharge of black liquor and/or inadequately treated wastewater from Outfall 001 permitted under Louisiana Pollutant Discharge Elimination System (LPDES) Permit LA0007901 to the Pearl River. The Respondent had previously made an emergency notification to the Department of Public Safety (DPS-Louisiana State Police) reporting the aforementioned unauthorized discharge on or about August 13, 2011. According to the written report, on about August 9, 2011, the Respondent experienced an upset with the multiple effect evaporator at its

Bogalusa facility that led to black liquor being introduced into the Respondent's on-site wastewater treatment system. This process upset led to the ultimate unauthorized discharge of black liquor and/or inadequately treated wastewater from Outfall 001. Additionally, the written report had noted that the unauthorized discharge was preventable and resulted in an apparent off-site fish kill. The written report also stated that the unauthorized discharge to the Pearl River was terminated at 12:50 p.m. on August 14, 2011, in association with a shutdown of the Respondent's facility. While the Department's investigation is not complete, a file review conducted by the Department on or about December 1, 2011, revealed the following violation:

The Respondent failed to immediately commence emergency abatement activities relating to an off-site emergency in order to prevent or control a release or potential release of a pollutant, in violation of LAC 33:I.6909.A. Specifically, the Respondent failed to commence appropriate and necessary abatement activities relating to the Respondent's ultimate unauthorized discharge of black liquor and/or inadequately treated wastewater to the Pearl River.

On or about August 16, 21, 23, and 25, 2011, the Department conducted inspections of the facility to determine the degree of compliance with the Solid and Hazardous Waste Regulations. During those inspections, the Department observed that the soil beneath two (2) sections of the perimeter fencing surrounding the Respondent's permitted Type I Industrial Solid Waste Surface Impoundment had experienced significant erosion. The erosion in these sections was significant enough to allow for the potential unauthorized ingress and/or egress from the Respondent's facility beneath the perimeter fence. These areas of concern were noted and discussed with representatives of the Respondent during the aforementioned inspections. The Respondent has made at least one (1) previous attempt to repair the integrity of the fencing by

replacing the soils washed out from those sections. However, soils in those repaired sections were eroded again during subsequent heavy rainfall events.

An investigation conducted by the Department on or about August 26, 2011, revealed that the Respondent caused and/or allowed the discharge of a pollutant not authorized by LPDES permit LA0007901. Specifically, laboratory results of samples taken of the Respondent's discharge at the time of the investigation revealed the following:

<b>Date</b>	<b>Time</b>	<b>Parameter</b>	<b>Results (Conc.)</b>
08/26/11	0905	Total Phenol	0.091 mg/l
08/26/11	1200	Total Phenol	0.102 mg/l
08/26/11	1500	Total Phenol	0.195 mg/l

As of June 2011, the Respondent was no longer authorized to discharge Phenol into waters of the state. Each discharge of a pollutant not authorized by LPDES permit LA0007901 is in violation of La. R.S. 30:2076(A)(1)(a) and LAC 33:IX.501.D.

On or about October 25, 2011, the Department issued to the Respondent Amended Consolidated Compliance Order and Notice of Potential Penalty, Enforcement Tracking No. WE-CN-11-01062C. Compliance Order Paragraph V of that action required the Respondent to submit to the Department an ASB Optimization Plan by December 31, 2011. The submittal and implementation of this ASB Optimization Plan are essential to ensure that the violation cited in Findings of Fact Paragraph III.I is quickly and effectively returned to compliance.

On September 10, 2012, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. **MM-CN-12-00979**, which was based upon the following findings of fact:

The Respondent owns and/or operates an unbleached kraft paper mill and container plant known to the Department as the Bogalusa Paperboard Mill, which is located at 401 Avenue U in

Bogalusa, Washington Parish, Louisiana. The Respondent was issued Louisiana Pollutant Discharge Elimination System (LPDES) permit LA0007901 on June 13, 2006, with an effective date of July 1, 2006 and an expiration date of June 30, 2011. On or about September 2, 2008, the Respondent submitted a request for modification to LPDES permit LA007901, which was received by the Department on September 8, 2008. On or about January 29, 2010, LPDES permit LA00790 was modified with an effective date of March 1, 2010, and an expiration date of June 30, 2011. On or about December 14, 2010, the Respondent requested an extension of the deadline to submit a permit renewal application for LPDES permit LA0007901 from January 1, 2011, until March 1, 2011, and a permit renewal application was submitted by the Respondent on or about February 28, 2011. LPDES permit LA0007901 has been administratively continued by the Department. Under the terms and conditions of LPDES permit LA0007901, the Respondent is authorized to continuously discharge treated combined process wastewater from the kraft pulp and paper mill and the linerboard mill; boiler and cooling tower blowdown; sludge dewatering liquid; lime kiln scrubber and boiler scrubber water; miscellaneous wastewaters (comprised of wastewater from the shops and offices); sanitary wastewater; contaminated groundwater from a groundwater remediation project, and process area storm water into the Pearl River, waters of the state. The Respondent notified as a conditionally exempt generator of hazardous waste on or about October 21, 2011, and operates under EPA Identification No. LAD981900418. The Respondent operates a Type I Industrial Solid Waste Surface Impoundment designated as the Aerated Stabilization Basin (ASB) as authorized by Solid Waste Standard Permit No. P-0072R1, which became effective on May 6, 2011.

On or about March 2, 2012, the Department received notification that International Paper Company acquired the Bogalusa Paperboard Mill. Based on subsequent information provided to

the Department, it was determined that although International Paper Company is the new parent company, the Respondent will retain ownership and responsibility for the mill and will be responsible for compliance with the above-referenced permits issued by the Department.

On or about December 21, 2011, the Department issued Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. MM-CN-11-01269 to the Respondent. The enforcement action documented numerous violations of the Solid Waste, Hazardous Waste, Air Quality, Water Quality, and the Office of the Secretary Regulations. The Respondent submitted a request for an administrative hearing dated January 19, 2012. On or about January 24, 2012, the Department and the Respondent entered into a dispute resolution agreement relative to Findings of Fact Paragraphs III.G, H, I, V, & VII and Order Paragraphs I through V of the enforcement action. All other violations, Findings of Fact Paragraphs, and Order Paragraphs included in the enforcement action were not disputed and have been deemed final.

Paragraph I of the Order section of Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. MM-CN-11-01269 required that the Respondent cease the processing and/or disposal of solid waste (i.e., the processing/disposal of boiler ash from the burning of wood waste and tire-derived fuel) without a permit or other authorization from the Department. Although the Respondent disputed this paragraph, it is being addressed under the aforementioned dispute resolution agreement, and the Department acknowledges that the Respondent addressed this order by ceasing to burn tire-derived fuel in its boilers in 2011.

Paragraphs II - V of the Order section of Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. MM-CN-11-01269 pertain to the operation and maintenance of the ASB and compliance with Solid Waste Standard Permit No. P-0072R1. The Respondent disputed the requirements of these paragraphs of the Order and they are being

addressed under the aforementioned dispute resolution agreement. While the Respondent has not specifically addressed paragraphs II – V, the Department acknowledges that these orders will be satisfied through the Respondent’s satisfactory implementation of the ASB Optimization Plan referenced in Findings of Fact Paragraph VI below. Therefore, the Department acknowledges that the Respondent shall satisfy paragraphs II – V of the Order section in Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. MM-CN-11-01269 by complying with the compliance schedules for the completion of the pre-construction activities, construction phases, and the submittal of any required permit modification applications as specified on pages 4 and 5 of the ASB Optimization Plan.

In correspondence dated July 31, 2012, the Respondent submitted a revised Aeration Stabilization Basin (ASB) Optimization Plan in accordance with Order Paragraph I of Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. WE-CN-11-01062C issued by the Department to the Respondent on or about June 28, 2012. The Department has completed a technical review of the ASB Optimization Plan and has deemed it satisfactory. However, the Respondent requested that the Whole Effluent Toxicity (WET) requirements be suspended at outfall 001; this request has been denied.

In correspondence dated August 23, 2012, the Respondent identified two previously unpermitted emergency outfalls. These outfalls would be activated in heavy rain events that exceed the short term capacity of the influent pumping station and storm water retention ponds and would discharge the overflow directly into Bogue Lusa creek, waters of the state. These intermittent discharges would be temporary until such time that the upgrades to the influent pumping station and the rehabilitation to the storm water ponds are completed. Any discharges from these outfalls would be considered an unauthorized discharge in violation of La. R.S.

30:2075.

In correspondence dated April 26, 2012, the Respondent requested that the monitoring frequency for Total Phenols at Outfall 001 be reduced. Daily sampling conducted by the Respondent as required by Consolidated Compliance Order & Notice Of Potential Penalty, Enforcement Tracking No. WE-CN-11-01062B has revealed no detectable levels of phenols.

On December 14, 2012, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. **AE-CN-12-01425**, which was based upon the following findings of fact:

The Respondent owns and/or operates the Bogalusa Mill (the Facility), an integrated unbleached paper mill and container mill, located at 401 Avenue U in Bogalusa, Washington Parish, Louisiana. The facility currently operates under Title V Air Permit No. 3060-00001-V5, issued on or about August 29, 2011, and administratively amended on or about September 19, 2011. The facility previously operated under Title V Air Permit No. 3060-00001-V3, issued on or about November 23, 2004, and Title V Air Permit No. 3060-00001-V4, issued on or about February 2, 2011. The facility currently operates under PSD-LA-561, issued on or about July 11, 1990, PSD-LA-698, issued on or about November 23, 2004, PSD-LA-547(M3), issued on or about February 2, 2011, PSD-LA-748, issued on or about February 2, 2011, and PSD-LA-657, issued on or about September 18, 2011.

On or about December 4, 2012, a file review of the facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

While the investigation by the Department is not yet complete, the following violations were noted during the course of the inspection and file review:

In correspondence dated November 30, 2012, the Respondent submitted a request for interim limits based on the results of stack testing conducted on various emission sources throughout the facility. Pollutants measured were Volatile Organic Compounds (VOC), Manganese (Mn), Nickel (Ni), Phosphorus (P), Barium (Ba), Cadmium (Cd), Total Reduced Sulfur (TRS), Hydrogen Sulfide (H<sub>2</sub>S), Particulate Matter (PM) and Sulfuric Acid (H<sub>2</sub>SO<sub>4</sub>). The stack testing revealed emissions above the limits of Title V Air Permit No. 3060-00001-V4 as

shown in Table A:

**TABLE A**

Emission Source ID	Emission Source Description	Pollutant	Current Permit Limit, lb/hr	Test result, lb/hr
EQT 0007	Hogged Fuel Boiler No. 10C	VOC	7.58	8.58
		Mn	0.023	0.0552
		Ni	0.003	0.0056
		P	0.058	0.189
EQT 0009	Hogged Fuel Boiler No. 12	VOC	10.24	60.40
		Ba	0.016	0.0254
		Cd	0.001	0.00131
		Mn	0.032	0.127
		Ni	0.004	0.0839
EQT 0008	Recovery Furnace No. 20	TRS as H <sub>2</sub> S	7.745	10.21
		H <sub>2</sub> S	3.934	6.92
EQT 0005	Smelt Dissolving Tank No. 20	PM	9.00	10.85
EQT 0010	Recovery Furnace No. 21	TRS as H <sub>2</sub> S	1.85	2.70
		H <sub>2</sub> S	0.234	0.54
		H <sub>2</sub> SO <sub>4</sub>	1.375	2.74
EQT 0011	Smelt Dissolving Tank No. 21	TRS as H <sub>2</sub> S	0.019	0.140
EQT 0013	Black Liquor Oxidizing Primary Tank	TRS as H <sub>2</sub> S	1.14	1.89
EQT 0014	Black Liquor Oxidizing Secondary Tank	TRS as H <sub>2</sub> S	1.14	2.60

Each failure to restrict the emission of each pollutant to the limits of the permit is a violation of Title V Air Permit No. 3060-00001-V4, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

III

In response to the Consolidated Compliance Orders & Notices of Potential Penalties, Respondent made timely requests for 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 TWENTY FIVE THOUSAND AND NO/100 DOLLARS (\$25,000.00) of which Eleven Thousand Thirty-Eight and 04/100 Dollars (\$11,038.04) represents the Department's enforcement costs, in settlement of the claims set forth in this agreement.

VI

Respondent, in addition to the penalty amount specified in Paragraph V above and as part of this Settlement, will donate the sum of ONE HUNDRED TWENTY THOUSAND and 00/100 (\$120,000.00) to the City of Bogalusa to fund a Beneficial Environmental Project ("BEP"). The funds for this BEP shall be used by the City of Bogalusa to remove and properly dispose of Regulated Asbestos Containing Material (RACM) that was generated by the City of Bogalusa during its blighted property project.

- A. Within thirty (30) days of completing the donation to the City of Bogalusa, Respondent will provide to the Department certification that payment has been made.
- B. The total amount of money expended by Respondent on cash payments to the Department and on BEPs, as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30: 2050.7(E)(1).

VII

Respondent further agrees that the Department may consider the inspection report(s), the Consolidated Compliance Order & Notice of Potential Penalties and this Settlement for the purpose of determining compliance history in connection with any future enforcement or

permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

#### VIII

This agreement shall be considered a final order of the Secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

#### IX

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 La. R. S. 30:2025(E) of the Act and the rules relating to beneficial environmental projects set forth in LAC 33:I.Chapter 25.

#### X

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Washington Parish, Louisiana. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted 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.

## XI

Payment to the Department is to be made within ten (10) days from notice of the Secretary's signature. Payment to the City of Bogalusa is to be made within thirty (30) 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).

## XII

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

## 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.

TIN, 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**  
Peggy M. Hatch, Secretary

BY: \_\_\_\_\_  
Cheryl Sonnier Nolan, 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:   
Cheryl Sonnier Nolan, Assistant Secretary