

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-1582-AIR-E TCEQ ID: RN100217132 CASE NO.: 38457

RESPONDENT NAME: TIN Inc. dba Temple-Inland

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Buna Lumber Operations, 1652 County Road 725, Buna, Jasper County</p> <p>TYPE OF OPERATION: Sawmill</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on March 8, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732 TCEQ Enforcement Coordinator: Ms. Miriam Hall, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-1044; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Patrick Miller, Business Unit Environmental Manager, TIN Inc., 303 South Temple Drive, Diboll, Texas 75941 Mr. David F. Kellam, Vice President Solid Wood, TIN Inc., 303 South Temple Drive, Diboll, Texas 75941 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: July 14, 2009</p> <p>Date of NOV/NOE Relating to this Case: August 17, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>1) Failure to submit accurate semi-annual deviation reports ("SDRs") and associated Annual Permit Compliance Certification ("ACC") reports. Specifically, the Respondent failed to include or reference all deviations which occurred during the reporting periods for the SDRs for December 22, 2006 through June 21, 2007, June 22, 2007 through December 21, 2007, and December 22, 2007 through June 21, 2008 and the ACC reports for June 22, 2006 through June 21, 2007 and for June 22, 2007 through June 21, 2008 [30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2), and 122.146(1) and (5), Federal Operating Permit ("FOP") No. O-2699, General Terms and Conditions ("GTC"), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failure to submit an SDR for the reporting period of June 22, 2008 through December 21, 2008, a period in which deviations occurred [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2), FOP No. O-2699, GTC, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>3) Failure to maintain daily records of all daily pressure differential readings on fabric filters. During the investigation, pressure differential readings records for the small wood ash baghouse, Emission Point Number 7-F, were reviewed. No readings were recorded for the period</p>	<p>Total Assessed: \$5,877</p> <p>Total Deferred: \$1,175 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$2,351</p> <p>Total Paid to General Revenue: \$2,351</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:</p> <p>a. On July 19, 2009, revised the monthly Environmental Compliance Plan and Calendar and operating procedures to ensure that:</p> <p>i. Accurate and timely SDRs and ACC reports are submitted; and</p> <p>ii. Daily inspections and pressure differential reads of the bag filters are recorded and record maintained.</p> <p>b. On July 21, 2009, submitted amended ACC reports and SDRs for the periods June 22, 2006 through June 21, 2007 and June 22, 2007 through June 21, 2008 and submitted the SDR for June 22, 2008 through December 21, 2008;</p> <p>c. On August 19, 2009, conducted the quarterly opacity observations of the emergency fire pump diesel engine; and</p> <p>d. On August 28, 2009, revised the Inspection Work Order form for the emergency fire pump diesel engine to include a section for taking and recording quarterly opacity observations.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p>

February 19, 2007 through February 28, 2007 [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), New Source Review Permit No. 9842A, Special Condition No. 7.B., FOP No. O-2699, GTC and Special Terms and Conditions ("STC") No. 3, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

4) Failure to perform quarterly opacity observations of the emergency fire pump diesel engine when the unit was operated as part of the preventive maintenance schedule during all quarters between June 22, 2006 and June 21, 2008 [30 TEX. ADMIN. CODE § 122.143(4), FOP No. O-2699, GTC and STC No. 2.A.(iv)(1), and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Additional ID No(s): JC0028R

Attachment A
Docket Number: 2009-1582-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: TIN Inc. dba Temple-Inland
Payable Penalty Amount: Four Thousand Seven Hundred Two Dollars (\$4,702)
SEP Amount: Two Thousand Three Hundred Fifty-One Dollars (\$2,351)
Type of SEP: Pre-approved
Third-Party Recipient: Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")-Abandoned Tire Clean-Up
Location of SEP: Jasper County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute to the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Texas Association of Resource Conservation and Development Areas, Inc. to be used for the RC&D Abandoned Tire Clean-Up Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to clean-up sites where tires have been disposed of illegally. Eligible sites will be limited to those where a responsible party cannot be found and where reasonable efforts have been made to prevent the dumping. SEP monies will be used to pay for the direct cost of collecting and disposing of tires. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing for the proper disposal of tires and by reducing health threats associated with illegally dumped tires. Illegal tire dumpsites can become breeding grounds for mosquitoes and rodents which carry disease. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of surface water, ground water, and soil.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 510
Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

TCEQ

DATES

Assigned
PCW24-Aug-2009
5-Oct-2009

Screening

28-Sep-2009

EPA Due

14-May-2010

RESPONDENT/FACILITY INFORMATION

Respondent TIN Inc. dba Temple-Inland
 Reg. Ent. Ref. No. RN100217132
 Facility/Site Region 10-Beaumont

Major/Minor Source Major

CASE INFORMATION

Enf./Case ID No. 38457
 Docket No. 2009-1582-AIR-E
 Media Program(s) Air
 Multi-Media

No. of Violations 4
 Order Type 1660
 Government/Non-Profit No
 Enf. Coordinator Miriam Hall
 EC's Team Enforcement Team 4

Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$6,600

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 7.0% Enhancement Subtotals 2, 3, & 7 \$462

Notes

The penalty was enhanced for one same or similar NOV and one other NOV.

Culpability

No 0.0% Enhancement

Subtotal 4 \$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments

Subtotal 5 \$1,500

Economic Benefit

Total EB Amounts \$523
 Approx. Cost of Compliance \$1,800

0.0% Enhancement*
*Capped at the Total EB \$ Amount

Subtotal 6 \$0

SUM OF SUBTOTALS 1-7

Final Subtotal \$5,562

OTHER FACTORS AS JUSTICE MAY REQUIRE

5.7%

Adjustment \$315

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

The avoided cost for Violation No. 4.

Final Penalty Amount \$5,877

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$5,877

DEFERRAL

20.0%

Reduction

Adjustment -\$1,175

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$4,702

Screening Date 28-Sep-2009

Docket No. 2009-1582-AIR-E

PCW

Respondent TIN Inc. dba Temple-Inland

Policy Revision 2 (September 2002)

Case ID No. 38457

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100217132

Media [Statute] Air

Enf. Coordinator Miriam Hall

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

The penalty was enhanced for one same or similar NOV and one other NOV.

Total Adjustment Percentage (Subtotals 2, 3, & 7)

Screening Date 28-Sep-2009

Docket No. 2009-1582-AIR-E

PCW

Respondent TIN Inc. dba Temple-Inland

Policy Revision 2 (September 2002)

Case ID No. 38457

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100217132

Media [Statute] Air

Enf. Coordinator Miriam Hall

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4), 122.145(2), and 122.146(1) and (5); Federal Operating Permit ("FOP") No. O-2699, General Terms and Conditions ("GTC"); and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to submit accurate semi-annual deviation reports ("SDRs") and associated Annual Permit Compliance Certification ("ACC") reports. Specifically, the Respondent failed to include or reference all deviations which occurred during the reporting periods for the SDRs for December 22, 2006 through June 21, 2007, June 22, 2007 through December 21, 2007, and December 22, 2007 through June 21, 2008 and the ACC reports for June 22, 2006 through June 21, 2007 and for June 22, 2007 through June 21, 2008.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
		x		10%

Matrix Notes The Respondent met 30-70% of the rule requirement

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3 Number of violation days 731

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$3,000

Three single events are recommended, one for each SDR.

Good Faith Efforts to Comply

25.0% Reduction \$750

	Before NOV	NOV to ED/PRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes On July 21, 2009, the Respondent submitted amended reports and implemented corrective procedures to prevent the recurrence of this violation. The NOE was issued on August 17, 2009.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Estimated EB Amount \$50

Statutory Limit Test

Violation Final Penalty Total \$2,599

This violation Final Assessed Penalty (adjusted for limits) \$2,599

Economic Benefit Worksheet

Respondent TIN Inc. dba Temple-Inland
Case ID No. 38457
Reg. Ent. Reference No. RN100217132
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	21-Jul-2007	21-Jul-2009	2.00	\$50	n/a	\$50

Notes for DELAYED costs

The estimated cost of preparing complete and accurate reports, along with implementing a compliance plan and procedures from the due date of the first inaccurate report to the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering Item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$50

Screening Date 28-Sep-2009

Docket No. 2009-1582-AIR-E

PCW

Respondent TIN Inc. dba Temple-Inland

Policy Revision 2 (September 2002)

Case ID No. 38457

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN100217132

Media [Statute] Air

Enf. Coordinator Miriam Hall

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and 122.145(2); FOP No. O-2699, GTC; and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to submit an SDR for the reporting period of June 22, 2008 through December 21, 2008, a period in which deviations occurred.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
	x			25%

Matrix Notes: The Respondent failed to meet 100% of the rule requirement

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 182

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
single event	x	

Violation Base Penalty \$2,500

One single event is recommended for one missed SDR.

Good Faith Efforts to Comply

	25.0% Reduction	
	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

\$625

Notes: On July 21, 2009, the Respondent submitted the SDR, and the NOE was issued on August 17, 2009.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation:

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$2,166

This violation Final Assessed Penalty (adjusted for limits) \$2,166

Economic Benefit Worksheet

Respondent TIN Inc. dba Temple-Inland
Case ID No. 38457
Reg. Ent. Reference No. RN100217132
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	20-Jan-2009	21-Jul-2009	0.50	\$2	n/a	\$2

Notes for DELAYED costs

The estimated cost for submitting the SDR from the due date to the compliance date.

Avoided Costs

ANNUALIZE (1) avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance (2)				0.00	\$0	\$0	\$0
ONE-TIME avoided costs (3)				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$2

Screening Date 28-Sep-2009

Docket No. 2009-1582-AIR-E

PCW

Respondent TIN Inc. dba Temple-Inland

Policy Revision 2 (September 2002)

Case ID No. 38457

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100217132

Media [Statute] Air

Enf. Coordinator Miriam Hall

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(c) and 122.143(4); New Source Review Permit No. 9842A, Special Condition No. 7.B.; FOP No. O-2699, GTC and Special Terms and Conditions ("STC") No. 3; and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to maintain daily records of all daily pressure differential readings on fabric filters. During the investigation, pressure differential readings records for the small wood ash baghouse, Emission Point Number 7-F, were reviewed. No readings were recorded for the period February 19, 2007 through February 28, 2007.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			x	1%

Matrix Notes

The Respondent met more than 70% of the rule requirement. Records from January 1, 2007 through December 31, 2008 were reviewed. Only records from the above referenced nine-day period were missing.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 9

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$25

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes Corrective actions were completed by July 19, 2009, and the NOE was issued on August 17, 2009.

Violation Subtotal \$75

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$60

Violation Final Penalty Total \$87

This violation Final Assessed Penalty (adjusted for limits) \$87

Economic Benefit Worksheet

Respondent TIN Inc. dba Temple-Inland
Case ID No. 38457
Reg. Ent. Reference No. RN100217132
Media Air
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$500	19-Feb-2007	19-Jul-2009	2.41	\$60	n/a	\$60
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost of updated work procedures for the baghouses and conducting training to ensure that the readings are taken and recorded in the logbook daily from the date the violation was first documented to the date corrective actions were completed.

Avoided Costs

ANNUALIZE (1) avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$600

TOTAL

\$60

Screening Date 28-Sep-2009

Docket No. 2009-1682-AIR-E

PCW

Respondent TIN Inc. dba Temple-Inland

Policy Revision 2 (September 2002)

Case ID No. 38457

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100217132

Media [Statute] Air

Enf. Coordinator Miriam Hall

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 122.143(4); FOP No. O-2699, GTC and STC No. 2.A.(iv)(1); and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to perform quarterly opacity observations of the emergency fire pump diesel engine when the unit was operated as part of the preventive maintenance schedule during all quarters between June 22, 2006 and June 21, 2008.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					10%
Potential			X		

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes

Human health or the environment could have been exposed to an insignificant amount of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of this violation. The engine was only operated for 10-15 minutes every two weeks.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 53

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction Before NOV NOV to EDCRP/Settlement Offer \$100

Extraordinary	
Ordinary	X
N/A	(mark with x)

Notes

Corrective actions were completed by August 28, 2009, and the NOE was issued on August 17, 2009.

Violation Subtotal \$900

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$411

Violation Final Penalty Total \$1,025

This violation Final Assessed Penalty (adjusted for limits) \$1,025

Economic Benefit Worksheet

Respondent TIN Inc. dba Temple-Inland
Case ID No. 38457
Reg. Ent. Reference No. RN100217132
Media Air
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$600	22-Jun-2006	28-Aug-2009	3.19	\$96	n/a	\$96
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost of developing procedures and updating the engine inspection work order from the date of the first violation to the date corrective actions were completed.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$100	22-Jun-2006	21-Jun-2009	3.00	\$15	\$300	\$315
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost of not conducting opacity observations once a quarter from the first quarter missed to the last quarter missed.

Approx. Cost of Compliance

\$700

TOTAL

\$411

10 03/26/2008 (636190)
11 08/17/2009 (763324)

E. Written notices of violations (NOV), (CCEDS Inv. Track. No.)

Date: 08/15/2005 (400975)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)
9842A Special Condition 7B PERMIT

Description: Failure to maintain daily records of all daily pressure differential readings on fabric filters.

Date: 07/25/2006 (510279)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Self-reporting Requirements PERMIT

Description: Using unapproved self-generated Discharge Monitoring Report (DMR) forms to report monitoring results.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TIN INC. DBA TEMPLE-INLAND
RN100217132**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2009-1582-AIR-E**

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding TIN Inc. dba Temple-Inland ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a sawmill at 1652 County Road 725 in Buna, Jasper County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about August 22, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Five Thousand Eight Hundred Seventy-Seven Dollars (\$5,877) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Three Hundred Fifty-One Dollars

(\$2,351) of the administrative penalty and One Thousand One Hundred Seventy-Five Dollars (\$1,175) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Two Thousand Three Hundred Fifty-One Dollars (\$2,351) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
 - a. On July 19, 2009, revised the monthly Environmental Compliance Plan and Calendar and operating procedures to ensure that:
 - i. Accurate and timely semi-annual deviation reports ("SDRs") and Annual Permit Compliance Certification ("ACC") reports are submitted; and
 - ii. Daily inspections and pressure differential reads of the bag filters are recorded and record maintained.
 - b. On July 21, 2009, submitted amended ACC reports and SDRs for the periods June 22, 2006 through June 21, 2007 and June 22, 2007 through June 21, 2008 and submitted the SDR for June 22, 2008 through December 21, 2008;
 - c. On August 19, 2009, conducted the quarterly opacity observations of the emergency fire pump diesel engine; and
 - d. On August 28, 2009, revised the Inspection Work Order form for the emergency fire pump diesel engine to include a section for taking and recording quarterly opacity observations.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have:

1. Failed to submit accurate SDRs and associated ACC reports, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2), and 122.146(1) and (5); Federal Operating Permit ("FOP") No. O-2699, General Terms and Conditions ("GTC"); and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 14, 2009. Specifically, the Respondent failed to include or reference all deviations which occurred during the reporting periods for the SDRs for December 22, 2006 through June 21, 2007, June 22, 2007 through December 21, 2007, and December 22, 2007 through June 21, 2008 and the ACC reports for June 22, 2006 through June 21, 2007 and for June 22, 2007 through June 21, 2008.
2. Failed to submit an SDR for the reporting period of June 22, 2008 through December 21, 2008, a period in which deviations occurred, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2); FOP No. O-2699, GTC; and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 14, 2009.
3. Failed to maintain daily records of all daily pressure differential readings on fabric filters, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4); New Source Review Permit No. 9842A, Special Condition No. 7.B.; FOP No. O-2699, GTC and Special Terms and Conditions ("STC") No. 3; and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 14, 2009. During the investigation, pressure differential readings records for the small wood ash baghouse, Emission Point Number 7-F, were reviewed. No readings were recorded for the period February 19, 2007 through February 28, 2007.
4. Failed to perform quarterly opacity observations of the emergency fire pump diesel engine when the unit was operated as part of the preventive maintenance schedule during all quarters between June 22, 2006 and June 21, 2008, in violation of 30 TEX. ADMIN. CODE § 122.143(4); FOP No. O-2699, GTC and STC No. 2.A.(iv)(1); and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 14, 2009.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: TIN Inc. dba Temple-Inland, Docket No. 2009-1582-AIR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The Respondent shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Two Thousand Three Hundred Fifty-One Dollars (\$2,351) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Sullivan
For the Executive Director

2/17/2010
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

David F. Kellam
Signature

12-14-09
Date

David F. Kellam
Name (Printed or typed)
Authorized Representative of
TIN Inc. dba Temple-Inland

V.P. Solid Wood
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2009-1582-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: TIN Inc. dba Temple-Inland
Payable Penalty Amount: Four Thousand Seven Hundred Two Dollars (\$4,702)
SEP Amount: Two Thousand Three Hundred Fifty-One Dollars (\$2,351)
Type of SEP: Pre-approved
Third-Party Recipient: Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")-Abandoned Tire Clean-Up
Location of SEP: Jasper County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute to the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Texas Association of Resource Conservation and Development Areas, Inc. to be used for the RC&D Abandoned Tire Clean-Up Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to clean-up sites where tires have been disposed of illegally. Eligible sites will be limited to those where a responsible party cannot be found and where reasonable efforts have been made to prevent the dumping. SEP monies will be used to pay for the direct cost of collecting and disposing of tires. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing for the proper disposal of tires and by reducing health threats associated with illegally dumped tires. Illegal tire dumpsites can become breeding grounds for mosquitoes and rodents which carry disease. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of surface water, ground water, and soil.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 510
Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

