

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA	*	CRIMINAL NO.:
	*	
v.	*	SECTION:
	*	
TIN, INC.	*	
d/b/a TEMPLE INLAND	*	
	*	
	*	
*	*	*

FACTUAL BASIS

The United States Attorney’s Office for the Eastern District of Louisiana and the defendant TIN, Inc., d/b/a Temple Inland (Temple Inland), hereby agree that this Joint Factual Statement is a true and accurate statement of the Defendant’s criminal conduct, that it provides a sufficient basis for the Defendant’s plea of guilty to the charges contained in the Bill of Information in the above-captioned matter and as set forth in the plea agreement signed this same day, and had this matter proceeded to trial, the following facts would be established beyond a reasonable doubt through competent evidence and testimony.

Temple Inland was a Wilmington, Delaware, corporation with its principal place of business at 1300 South Mopac Expressway, Austin, Texas, 78746. Temple Inland manufactured a wide array of building and paper products at 16 facilities in the United States. One of Temple

Inland's facilities was a paper mill located in Bogalusa, Louisiana (Bogalusa Facility), in the Eastern District of Louisiana.

Temple Inland was required by the Federal Water Pollution Control Act, commonly referred to as the Clean Water Act (CWA), administered by Louisiana Department of Environmental Quality (LDEQ) and the United States Environmental Protection Agency (EPA), to possess and operate the Bogalusa Facility pursuant to a National Pollutant Discharge Elimination System (NPDES) permit, specifically Permit No. LA007901(Permit) issued by LDEQ. The Permit imposed limitations on the amount of pollutants that could be discharged from the Bogalusa Facility into the Pearl River, a navigable water of the United States. Additionally, the Permit required that the defendant Temple Inland maintain a certain Biological Oxygen Demand (BOD) level.

During the manufacturing process of turning pulpwood into paper pulp, a substance called liquor was produced. The liquor contains lignin separated from wood pulp. The process breaks down lignin and robs the water of oxygen. The amount of oxygen that has been removed during the process can be determined through a Biological Oxygen Demand (BOD) test. The BOD test measures the chemical oxidation of inorganic matter i.e., the extraction of oxygen from water by means of chemical reaction.

BOD directly affects the amount of dissolved oxygen in rivers and streams. The greater the BOD, the more rapidly oxygen is depleted in rivers and streams. This means less oxygen is available to fish and higher forms of aquatic life. The consequences of high BOD are the same as those for low dissolved oxygen: aquatic organisms become stressed, suffocate, and die.

Therefore, treatment of the liquor was required to ensure that the BOD levels were within **TI**'s specific permitted limit.

On two occasions, in the early morning hours of August 9, 2011, and again late on August 9, 2011, a piece of equipment called an "evaporator" became clogged. As a result of the clogged evaporator, an extremely excessive quantity of liquor overflowed from the boil-out tank. The liquor flowed out of the containment area to the wastewater treatment plant and effluent pond, and ultimately into the Pearl River. The discharge reached the Pearl River sometime beginning Wednesday, August 10, 2011, and continued to at least Saturday, August 13, 2011, when the Facility was shut down.

The discharge of the liquor resulted in a fish-kill in the Pearl River of over 500,000 fish due to high level of BOD. Temple Inland negligently caused the discharge of a pollutant, that is, liquor, from a point source, the Bogalusa Facility, into the Pearl River, a water of the United States, which exceeded the BOD limits of its Permit. The sample of the discharge collected on August 12, 2011, recorded the discharge as having a 5-day Biological Oxygen Demand (BOD₅) of 116,000 lbs/day exceeding the daily maximum permitted limit of 35,610 lbs/day.

The National Wildlife Refuge System, which was created by Congress and administered by the Secretary of Interior, Department of Interior, comprised a national network of lands and waters for the conservation, management and where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans. The National Wildlife Refuge System law enacted by Congress prohibited the disturbance, injury or destruction of property and the taking of fish on a National Wildlife Refuge.

The Bogue Chitto National Wildlife Refuge (Refuge), a federal wildlife refuge created in 1980, encompassing 36,000 acres of the Pearl River Basin, is located northeast of Slidell, Louisiana, in the Eastern District of Louisiana. The southern swampland is one of the least disturbed in the country. The Pearl River and its tributaries run through the Refuge.

On August 15, 2011, black water, dead fish, and mussels were observed by the United States Fish and Wildlife Service in waters on the Bogue Chitto National Wildlife Refuge. All fish observed were intact and included recognizable species such as catfish, sturgeon and fresh water drum. Mussels were seen intact with their shells floating in the water. Many were floating in the center of the water and others were grouped and caught by branches in the water. The numbers of fresh dead fish and mussels seen in refuge waters within the water body known as the Government Ditch equaled 1,000 or more each. Temple Inland negligently caused the taking of fish from the Bogue Chitto National Wildlife Refuge.

TIN, Inc., d/b/a Temple Inland

by: Ronnie A. Howell, Esq. Date
Corporate Representative

Dorothy M. Taylor Date
Assistant United States Attorney

Patrick Fanning, Esq. Date
Attorney for defendant

Spiro G. Latsis Date
Assistant United States Attorney