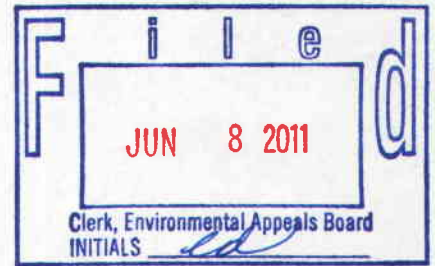


**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY**

BEFORE THE ENVIRONMENTAL APPEALS BOARD

IN THE MATTER OF)
)
Penn National Gaming, Inc.;)
Hollywood Casino Aurora, Inc.;)
Alton Gaming Company;)
Empress Casino Joliet Corporation;)
Belle of Sioux City, L.P.;)
Louisiana Casino Cruises, Inc.;)
BTN, Inc.;)
BSL, Inc.;)
Indiana Gaming Company L.P.;)
HWCC-Tunica, Inc; and)
The Missouri Gaming Company)
)
Respondents)
_____)

Docket No. HQ-2011-5015



CONSENT AGREEMENT

I. PRELIMINARY STATEMENT

1. Complainant, the United States Environmental Protection Agency (“EPA”), and Respondents, Hollywood Casino Aurora, Inc., an Illinois Corporation, Alton Gaming Company, an Illinois corporation, Empress Casino Joliet Corporation, an Illinois Corporation, Belle of Sioux City, L.P., an Iowa limited partnership, Louisiana Casino Cruises, Inc., a Louisiana corporation, BTN, Inc., a Mississippi corporation, BSL, Inc., a Mississippi Corporation, Indiana Gaming Company L.P., an Indiana limited partnership, HWCC-Tunica, Inc., a Texas corporation, and The Missouri Gaming Company, a Missouri corporation, all subsidiaries of Penn National Gaming, Inc. (“Penn National”), a Pennsylvania corporation, (collectively the “Penn National Subsidiaries,” and together with Penn National, “Respondents”), having consented to the terms of this Consent Agreement (“Agreement”) and the attached proposed

Final Order, hereby incorporated by reference, and before the taking of any testimony and without the adjudication of issues of law or fact herein, agree to comply with the terms of this Agreement and attached Final Order.

2. This is a civil administrative action instituted under Section 3008(a) of the Solid Waste Disposal Act, as amended by the Resource Conservation Recovery Act of 1976 and the Hazardous and Solid Waste Amendments (“HSWA”) of 1984 (collectively “RCRA”), 42 U.S.C. § 6928(a).

3. Rosemarie A. Kelley, Director, Waste and Chemical Enforcement Division, Office of Civil Enforcement, Office of Enforcement and Compliance Assurance, is authorized, by lawful delegation, to institute and settle civil administrative actions brought pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

4. Complainant and Respondents, having sought to informally settle the matter, have agreed to the terms of this Agreement in order to resolve this action without trial or other litigation.

5. Penn National is one of the largest publicly-traded gaming companies in the United States with ownership interests in twenty-three gaming and racing facilities located in fifteen states. The various Penn National Subsidiaries operate State-licensed casinos, racinos, and pari-mutuel wagering facilities. As part of their gaming offerings, several of Penn National’s casinos operate table games such as poker, blackjack, and roulette. Patrons wager at these table games with gaming chips that are exchanged for money. Wagering activity is highly regulated in each casino under the respective state’s gaming statutes and regulatory scheme. In addition, because gaming chips are used as currency, there are numerous detailed state regulations related to gaming chips. Every time new lines or sets of gaming chips are ordered or manufactured, each

set of gaming chips must be approved by state gaming regulators before they are put to use in the casinos.

6. Paulson Gaming, now known as Gaming Partners International (“GPI”), is the largest manufacturer of gaming chips in the United States. At all relevant times, GPI has been a licensed manufacturer of gaming chips in each jurisdiction in which the Penn National Subsidiaries used GPI chips. All gaming chips sold to Penn National and the Penn National Subsidiaries were specifically approved by the applicable state’s gaming regulators.

7. In late 2007, Penn National learned from industry sources that gaming chips manufactured by GPI before 1998 contained significant concentrations of lead. GPI had not previously informed Penn National that any of the gaming chips it sold to casinos contained any concentration of lead, and, as a result, Penn National was unaware that any GPI gaming chips contained lead.

8. Upon learning that some of the chips they purchased from GPI contained lead, Penn National and the Penn National Subsidiaries decided to replace all of their old GPI chip inventories with new gaming chips. In addition, Penn National and the Penn National Subsidiaries were concerned that environmental laws, including hazardous waste laws, could have been violated when old GPI chips were taken out of circulation and destroyed under the procedures set forth by gaming regulators. Because the concentrations of lead in GPI’s gaming chips varied over time and by denomination, Penn National and the Penn National Subsidiaries decided to undertake a voluntary self-evaluation in order to evaluate whether gaming chips and gaming chip residues had been properly disposed of under environmental laws. By letter dated February 15, 2008 (“Self-Disclosure Letter”), Penn National notified EPA that Penn National, along with other industry members, had recently learned that significant levels of lead were

present in certain gaming chips produced by GPI, specifically those manufactured before 1998. The Self-Disclosure Letter further indicated that Penn National was carrying out a voluntary self-evaluation of the current and historical operations at its facilities in order to determine what violations of RCRA may have occurred and to be eligible for penalty mitigation under EPA's Audit Policy, entitled Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations, 65 Fed. Reg. 19,618 (Apr. 11, 2000). The purpose of EPA's Audit Policy is "to enhance protection of human health and the environment by encouraging regulated entities to voluntarily discover, disclose, correct and prevent violations of Federal environmental law. Benefits available to entities that make disclosures under the terms of the Policy include reductions in the amount of civil penalties and a determination not to recommend criminal prosecution of disclosing entities." 65 Fed. Reg. 19,618, 19,618. Penn National and the Penn National Subsidiaries are the first casinos using the GPI chips containing lead to self-disclose under the audit policy to EPA regarding chip disposal.

9. By letter dated May 15, 2008, Penn National informed EPA of the results of its voluntary self-evaluation. Although Penn National was not able to determine whether all discarded GPI gaming chips and/or chip residues constituted hazardous waste, Penn National reported to EPA that it was presuming that they did. As a result, Penn Gaming reported to EPA that on some occasions when gaming chip residues were discarded pursuant to the specific procedures required under state gaming laws, the chip residues may have constituted "hazardous waste" under the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §§ 6901 et seq. ("RCRA"), the regulations at 40 C.F.R. Parts 260-270, and the corresponding state equivalent requirements. Similarly, Penn Gaming reported to EPA that on one occasion when gaming chips were discarded following Hurricane Katrina, the discarded gaming chips may have constituted

“hazardous waste” under RCRA, the regulations at 40 C.F.R. Parts 260-270, and the corresponding state equivalent regulations.

10. On July 29, 2008, EPA requested that Penn National provide additional information in order to determine if Penn National met EPA’s Audit Policy. On September 11, 2008 Penn National provided by letter additional voluntary disclosures to EPA regarding potential violations of:

- a. Generator requirements under RCRA, 42 U.S.C. §§ 6901 et seq., and the regulations at 40 C.F.R. Part 262;
- b. 415 ILL. COMP. STAT. 5/7.2, 22.4, and 27, and the regulations at ILL. ADMIN. CODE tit. 35, Part 722;
- c. IND. CODE § 13-22-2, and the regulations at 329 IND. ADMIN. CODE § 3.1-7;
- d. IOWA CODE § 455B, and the regulations at IOWA ADMIN. CODE r. 567-141.3;¹
- e. LA. REV. STAT. § 30:2188, and the regulations at LA ADMIN. CODE tit. 33, Part V, Ch. 11;
- f. MISS. CODE §§ 17-17-15, 17-17-27, and the regulations at 08-030-001 MISS. ADMIN. CODE Part 262 (HW-1); and
- g. MO. REV. STAT. §§ 260.350 et seq., and the regulations at MO. CODE. REGS. tit. 10, § 25-5.262.

11. Penn National’s voluntary self-disclosures in its February 15, 2008, May 15, 2008, and September 11, 2008 letters to EPA resulted in a final list of alleged violations, including violations of generator, disposal, and permitting requirements under RCRA and the corresponding state requirements, found in Attachment A, hereby incorporated by reference, which are the subject of this Agreement.

¹ Iowa does not have an authorized hazardous waste program, and as such, EPA is not seeking to enforce its requirements. EPA enforces the federal hazardous waste requirements for any facilities located in Iowa.

12. EPA has determined that Respondents have satisfied all the conditions set forth in the Audit Policy with respect to the alleged violations listed in Attachment A and thereby qualify for a 100% reduction of the gravity component of the civil penalty, described further in Section VI (Terms of Agreement) of this Agreement.

13. The terms of this Agreement and attached Final Order constitute a full and final settlement between the parties for all claims for civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for the alleged violations of RCRA as specified in Section V (Conclusions of Law) of this Agreement. Compliance with this Agreement and attached Final Order shall not be a defense to any other actions commenced pursuant to federal, state, or local environmental laws for violations other than the alleged violations specified in Section V (Conclusions of Law) of this Agreement.

14. Respondents agree to pay the civil penalty specified in Section VI (Terms of Agreement) as full and final settlement for all claims specified in this Agreement per 40 C.F.R. § 22.18(b).

15. Respondents admit to the stipulated facts in Section IV (Stipulated Facts). 40 C.F.R. § 22.18(b).

II. JURISDICTION/WAIVER OF RIGHT TO HEARING

16. This Agreement is entered into pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits," 40 C.F.R. Part 22 (hereinafter the "Consolidated Rules").

17. The Consolidated Rules provide that where the parties agree to the settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a consent agreement and final order. 40 C.F.R. §

22.18(b). The parties agree to the commencement and conclusion of this cause of action as prescribed by the Consolidated Rules, 40 C.F.R. Part 22, and more specifically by 40 C.F.R. § 22.18(b).

18. Based upon the facts which Penn National voluntarily disclosed to EPA, Respondents stipulate that EPA has the authority to bring an administrative action for these alleged violations, to compel compliance, and to assess civil penalties pursuant to RCRA § 3008(a), 42 U.S.C. § 6928(a).

19. Respondents hereby waive their right to request a judicial or administrative hearing on any issue of law or fact set forth in this Agreement and their right to seek judicial review of the proposed Final Order accompanying this Agreement per 40 C.F.R. § 22.18(b).

20. For purposes of this proceeding, Respondents stipulate that EPA has jurisdiction over the subject matter which is the basis of this Agreement per 40 C.F.R. § 23.13(b). For purposes of this proceeding, Respondents stipulate that the Environmental Appeals Board ("EAB") has jurisdiction over the subject matter which is the basis of this Agreement and personal jurisdiction over Respondents per 40 C.F.R. § 22.18(b).

21. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, the EPA Administrator may authorize a state to administer the RCRA hazardous waste program in lieu of the federal program when the Administrator finds that the state program meets certain conditions. Any violation of regulations promulgated pursuant to Subtitle C of RCRA, 42 U.S.C. §§ 6921-6939e, or of any state provision authorized pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, constitutes a violation of RCRA, subject to the assessment of civil penalties and issuance of compliance orders as provided by Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

22. Pursuant to RCRA § 3006(b), 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, the following states, where the Penn National Subsidiaries' casinos subject to this Agreement are located, have been authorized to carry out hazardous waste programs:

Illinois: Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the EPA Administrator granted the State of Illinois final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program, effective January 31, 1986 (51 Fed. Reg. 3778 (Jan. 30, 1986)). The EPA Administrator granted final authorization to administer additional RCRA and certain HSWA requirements effective March 5, 1988 (53 Fed. Reg. 126 (Jan. 5, 1988)); April 30, 1990 (55 Fed. Reg. 7320 (Mar. 1, 1990)); August 15, 1994 (59 Fed. Reg. 30,525 (Jun. 14, 1994)); November 13, 1989 (54 Fed. Reg. 37,649 (Sep. 12, 1989)); March 31, 1992 (57 Fed. Reg. 3722 (Jan. 31, 1992)); May 14, 1996 (61 Fed. Reg. 10,684 (Mar. 15, 1996)); June 3, 1991 (56 Fed. Reg. 13,595 (Apr. 3, 1991)); and October 4, 1996 (61 Fed. Reg. 40,520 (Aug. 5, 1996)). The EPA-authorized Illinois regulations are codified at ILL. ADMIN. CODE tit. 35, Subtit. G, Part 703 et seq. *See also* 40 C.F.R. § 272.700 et seq.

Indiana: Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the EPA Administrator granted the State of Indiana final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program, effective January 31, 1986 (51 Fed. Reg. 3953 (Jan. 31, 1986)). The EPA Administrator granted final authorization to administer additional RCRA and certain HSWA requirements effective December 31, 1986 (51 Fed. Reg. 39,752 (Oct. 31, 1986)); January 19, 1988 (53 Fed. Reg. 128 (Jan. 5, 1988)); September 11, 1989 (54 Fed. Reg. 29,557 (July 13, 1989)); September 23, 1991 (56 Fed. Reg. 33,717 (July 23, 1991));

September 23, 1991 (56 Fed. Reg. 33,866 (July 24, 1991)); September 27, 1991 (56 Fed. Reg. 35,831 (July 29, 1991)); September 30, 1991 (56 Fed. Reg. 36,010 (July 30, 1991)); October 21, 1996 (61 Fed. Reg. 43,018 (Aug. 20, 1996)); November 30, 1999 (64 Fed. Reg. 37,692 (Sept 1, 1999)); January 4, 2001 (66 Fed. Reg. 733 (Jan. 4, 2001)); December 6, 2001 (66 Fed. Reg. 63,331 (Dec. 6, 2001)); October 29, 2004 (69 Fed. Reg. 63,100 (Oct. 29, 2004)); and November 23, 2005 (70 Fed. Reg. 70,740 (Nov. 23, 2005)). The EPA-authorized Indiana regulations are codified at 329 IND. ADMIN. CODE 3.1-1-1 et seq. *See also* 40 C.F.R. § 272.751 et seq.

Iowa: Iowa has not been authorized by EPA to carry out a hazardous waste program under Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), therefore, Subtitle C of RCRA, 42 U.S.C. §§ 6921-6939e, and the federal regulations promulgated thereunder, 40 C.F.R. Parts 260-270, apply in Iowa.

Mississippi: Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of EPA granted the State of Mississippi final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program, effective June 27, 1984 (49 Fed. Reg. 24,377 (June 13, 1984)). The Administrator of the EPA granted final authorization to administer additional RCRA and certain HSWA requirements effective October 17, 1988 (53 Fed. Reg. 31,000 (Aug. 17, 1988)); October 9, 1990 (55 Fed. Reg. 32,624 (Aug. 10, 1990)); May 28, 1991 (56 Fed. Reg. 13,079 (Mar. 29, 1991)); August 27, 1991 (56 Fed. Reg. 29,589 (June 26, 1991)); July 10, 1992 (57 Fed. Reg. 20,056 (May 11, 1992)); June 7, 1993 (58 Fed. Reg. 18,162 (Apr. 8, 1993)); December 20, 1993 (58 Fed. Reg. 54,044 (Oct. 20, 1993)); May 17, 1994 (59 Fed. Reg. 12,857 (Mar. 18, 1994)); July 31, 1995 (60 Fed. Reg. 28,539 (June 1, 1995)), October 30,

1995 (60 Fed. Reg. 5718 (Aug. 30, 1995)); April 25, 2005 (70 Fed. Reg. 8731 (Feb. 23, 2005)); October 3, 2008 (73 Fed. Reg. 45,170 (Aug. 4, 2008)). The EPA-authorized Mississippi regulations are codified at 08-030-001 MISS. ADMIN. CODE (HW-1).

Missouri: Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of EPA granted the State of Missouri final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program, effective December 4, 1985 (50 Fed. Reg. 47,740 (Nov. 20, 1985)). The Administrator of the EPA granted final authorization to administer additional RCRA and certain HSWA requirements effective April 28, 1989 (54 Fed. Reg. 8190 (Feb. 27, 1989)); March 12, 1993 (58 Fed. Reg. 3497 (Jan. 11, 1993)); July 29, 1997 (62 Fed. Reg. 29,301 (May 30, 1997)); Dec. 30, 1997, (63 Fed. Reg. 683 (Jan. 7, 1998)) (correcting 62 Fed. Reg. 29,301 (May 30, 1997)); July 5, 1999 (64 Fed. Reg. 23,740 (May 4, 1999)); April 28, 2000 (65 Fed. Reg. 10,405 (Feb. 28, 2000)); November 30, 2001 (66 Fed. Reg. 49,841 (Oct. 1, 2001)); and June 27, 2006 (71 Fed. Reg. 25,079 (Apr. 28, 2006)). The EPA-authorized Missouri regulations are codified at MO. CODE. REGS. tit. 10, § 25-1.010 et seq. *See also* 40 C.F.R. § 272.1300 et seq.

23. EPA provided the states of Illinois, Indiana, Louisiana, Mississippi, and Missouri with prior notice of this action in accordance with RCRA § 3008(a)(2), 42 U.S.C. § 6928(a)(2).

III. PARTIES BOUND

24. This Agreement and attached Final Order, when issued by the EAB, apply to and are binding upon Complainant and Respondents, as well as Respondents' officers, agents, successors, and assignees. Any change in ownership or corporate status of any Respondent including but not limited to any transfer of assets or real or personal property shall not alter such

Respondent's responsibilities under this Agreement, including the obligation to pay the civil penalty referred to in Section VI (Terms of Agreement).

25. Each Party certifies that at least one of its undersigned representatives is fully authorized by the Party whom he or she represents to enter into the terms and conditions of this Agreement, to execute it on behalf of that Party, and to legally bind the Party on whose behalf he or she signs this Agreement.

IV. STIPULATED FACTS

26. Penn National is the parent company of the Penn National Subsidiaries. Each Penn National Subsidiary is the owner and operator of one or more casinos that operate table games that use gaming chips as follows: Hollywood Casino Aurora, Inc. (Hollywood Casino Aurora, 40 West Galena Boulevard, Aurora, IL 60506); Alton Gaming Company (Argosy Casino Alton, #1 Piasa Street, Alton, IL 62002); Empress Casino Joliet Corporation (Hollywood Casino Joliet, formerly known as Empress Casino Joliet, 777 Hollywood Boulevard, Joliet, IL 60436); Belle of Sioux City, L.P. (Argosy Casino Sioux City, 100 Larsen Park Road, Sioux City, IA 51101); Louisiana Casino Cruises, Inc. (Hollywood Casino – Baton Rouge, 1717 River Road North, Baton, Rouge, LA 70802); BTN, Inc. (Boomtown Casino Biloxi, 676 Bayview Avenue, Biloxi, MS 39530); BSL, Inc. (Hollywood Casino – Bay St. Louis, 711 Hollywood Boulevard, Bay St. Louis, MS 39520); Indiana Gaming Company, L.P. (Hollywood Casino Lawrenceburg formerly known as Argosy Casino Lawrenceburg, 777 Hollywood Boulevard, Lawrenceburg, IN 47025); HWCC-Tunica, Inc. (Hollywood Casino Tunica, 1150 Casino Strip Resort Boulevard, Tunica Resorts, MS 38664); and The Missouri Gaming Company (Argosy Casino Riverside, 777 NW Argosy Parkway, Riverside, MO 64150). Together, these casinos owned and operated by the Penn National Subsidiaries are hereinafter referred to as the "Facilities".

27. After learning in late 2007 that the Facilities may have disposed of gaming chips manufactured before 1998 and/or residues from shredded chips manufactured before 1998, which contained significant levels of lead such that the discarded chips and/or chip residues may have failed the Toxicity Characteristic Leaching Procedure (“TCLP”), making the discarded chips and/or chip residues D008 hazardous waste, Penn National hired a consulting firm, ENVIRON, in order to undertake a voluntary self-evaluation of the Facilities’ current and historical operations.

28. Penn National sent three letters to EPA (February 15, 2008, May 15, 2008, and September 11, 2008) informing EPA of its intent to carry out a voluntary evaluation of the Facilities, providing EPA with results of the evaluation, including disclosing potential violations of RCRA, setting forth its future procedures for managing the pre-1998 chips, and estimating the costs that would have been incurred had its lead-containing chips been managed as hazardous wastes. Penn National provided additional information to EPA on disposal of gaming chips by the Hollywood Casino-Bay St. Louis following Hurricane Katrina in an e-mail dated April 28, 2010.

29. The results of the evaluation regarding chip destruction events, in which a significant (but unknown fraction) of the chips and chip residues are assumed to have pre-dated 1998 and thus are assumed to be D008 hazardous waste when discarded, that occurred at the Facilities are as follows:

a. ARGOSY CASINO ALTON - #1 PIASA STREET, ALTON, IL 62002

i. In April 2001, an estimated twenty (20) pounds of chips were destroyed off-site by an outside vendor, Osborne Coinage, and the disposition of the resulting chip debris by the vendor is unknown.

- ii. In July 2004, an estimated one (1) pound of chips was destroyed by an outside vendor, Secure Mobile Destruction.
- b. HOLLYWOOD CASINO JOLIET fka EMPRESS CASINO JOLIET - 2300 EMPRESS DRIVE, JOLIET, IL 60436
 - i. In October 2005, approximately 1,450 chips (approximately twenty-nine (29) pounds) were destroyed by an outside vendor, Secure Mobile Destruction. The disposition of the resulting chip debris by this vendor is unknown.
- c. HOLLYWOOD CASINO AURORA - 40 WEST GALENA BOULEVARD, AURORA, IL 60506
 - i. In June 1993, an estimated ten (10) pounds of chips were destroyed. In June 2001, an estimated 150 pounds of chips were destroyed. In September 2002, an estimated ten (10) pounds of chips were destroyed. Casino personnel reported that these destruction events were conducted by a local metal working shop in Aurora, which handled the chips as incidental pieces along with large quantities of metallic slot tokens that were destroyed and recycled at the same time.
 - ii. In March 2006, an estimated fifty (50) pounds of chips were destroyed by an outside vendor, Secure Mobile Destruction, and in March 2007, an estimated ten (10) pounds of chips were destroyed by Secure Mobile Destruction. The disposition of the resulting chip debris by this vendor is unknown.
- d. HOLLYWOOD CASINO LAWRENCEBURG fka ARGOSY CASINO LAWRENCEBURG - 777 HOLLYWOOD BOULEVARD, LAWRENCEBURG, IN 47025
 - i. In February 2001, approximately 138,460 chips (approximately 2,770 pounds) were removed from the casino floor and destroyed by an outside vendor, Osborne Destruction. The disposition of the resulting chip debris by this vendor is unknown.

- ii. In early and mid-2004, over a period of several months, approximately 53,320 chips (approximately 1,066 pounds) were removed from the casino floor because of wear. The chips were destroyed in September 2004 by an outside vendor, Secure Mobile Destruction, and the disposition of the resulting chip debris by this vendor is unknown.
 - iii. In January 2007, approximately 170,000 chips (3,400 pounds) were removed from the casino floor as excess inventory or because of wear. These chips were shredded by casino personnel on-site using a rented chipper, and the resulting chip debris was placed in an on-site dumpster for disposal as non-hazardous waste.
- e. ARGOSY CASINO SIOUX CITY - 100 LARSEN PARK ROAD, SIOUX CITY, IA 51101
- i. In September 2002, approximately 81,000 chips (approximately 1,620 pounds) were shredded by an unknown vendor and the disposition of the resulting chip debris by this vendor is unknown.
 - ii. In August 2005, approximately 44,000 chips (approximately 880 pounds) were shredded by a local vendor, Absolute Mobile Destruction, and the disposition of the resulting chip debris by this vendor is unknown.
- f. HOLLYWOOD CASINO - BATON ROUGE - 1717 RIVER ROAD NORTH, BATON ROUGE, LA 70802
- i. On March 15, 2001, 459 chips (approximately nine (9) pounds) that had accumulated over the course of several years were shredded by an outside vendor, Southern Scrap Xpress.

- ii. On January 6, 2003, 79,080 chips (approximately 1,581 pounds) were shredded by casino personnel using a rented chipper. The resulting chip debris was placed in an on-site dumpster for disposal as non-hazardous waste.
- g. BOOMTOWN CASINO BILOXI - 676 BAYVIEW AVENUE, BILOXI, MS 39530
 - i. In August 2002, an unknown but substantial quantity of chips was removed from the casino floor and shredded by an outside vendor, Secure Mobile Destruction. Records for this destruction event, as well as most other facility records, were destroyed as a result of Hurricane Katrina in 2005. The disposition of the resulting chip debris by this vendor is unknown. Also, casino personnel reported that this destruction event included an unknown number of chips from a sister property located nearby, the Hollywood Casino - Bay St. Louis, which would have been transported by casino personnel between the locations, although that transportation could not be confirmed.
- h. HOLLYWOOD CASINO - BAY ST. LOUIS - 711 HOLLYWOOD BOULEVARD, BAY ST. LOUIS, MS 39520
 - i. In September/October 2005, the casino was severely damaged by Hurricane Katrina. The facility reportedly had approximately 100,000 chips (approximately 2000 pounds) on-hand at the time of the hurricane strike, but the facility records were destroyed and an exact count is not available. Chips were scattered as a result of the hurricane.
 - ii. With the approval of local gaming authorities, approximately 5000 chips (approximately 100 pounds) were buried on-site in a trench capped with concrete during clean-up activities following Hurricane Katrina. Facility personnel report that this trench is located about 100 yards from current re-built structures on-site.

- iii. The remaining 95,000 chips (approximately 1,900 pounds) were mixed with large quantities of debris and were hauled away by Shamrock Disposal, which operated under the direction of Roy Anderson Corporation.
 - i. HOLLYWOOD CASINO TUNICA - 1150 CASINO STRIP RESORT BOULEVARD, TUNICA RESORTS, MS 38664
 - i. In October 2003, approximately 710 chips (approximately fourteen (14) pounds) were destroyed by an outside vendor, Secure Mobile Destruction. The disposition of the resulting chip debris by this vendor is unknown.
 - ii. In June 2005, approximately 6,276 chips (approximately 125 pounds) were removed from the casino floor as excess inventory and destroyed by Secure Mobile Destruction.
 - j. ARGOSY CASINO RIVERSIDE - 777 NW ARGOSY PARKWAY, RIVERSIDE, MO 64150
 - i. In June 2000, approximately 630 chips (approximately twelve (12) pounds) were destroyed by an outside vendor, Secure Mobile Destruction.
 - ii. In June 2000, approximately 540 chips (approximately eleven (11) pounds) were destroyed by Secure Mobile Destruction.
30. Pursuant to EPA's Audit Policy, Penn National hereby agrees and certifies, with respect to Attachment A of this agreement, to the following facts upon which this Agreement is based:
- a. the alleged violations were discovered through an Environmental Audit or Compliance Management System;
 - b. the alleged violations were discovered voluntarily;
 - c. the alleged violations were promptly disclosed to EPA in writing;

- d. the alleged violations were disclosed prior to commencement of an Agency inspection or investigation, notice of a citizen suit, filing of a complaint by a third party, reporting of the violations by a “whistle blower” employee, or imminent discovery by a regulatory agency;
- e. the alleged violations have been adequately corrected;
- f. appropriate steps have been taken and will be taken to prevent a recurrence of the alleged violations set forth in Attachment A;
- g. the specific alleged violations (or closely related violations) identified in Attachment A have not occurred within three (3) years of the date of the Self-Disclosure Letter identified in Section I (Preliminary Statement), at the same facilities that are the subject of this Agreement, and have not occurred within five (5) years of the date of the Self-Disclosure Letter identified in Section I (Preliminary Statement), as part of a pattern at multiple facilities owned or operated by Respondents. For the purposes of this subparagraph, a violation is:
 - i. any violation of federal, state, or local environmental law identified in a judicial or administrative order, consent agreement or order, complaint, or notice of violation, conviction or plea agreement; or
 - ii. any act or omission for which the regulated entity has previously received penalty mitigation from EPA or a state or local agency; and
- h. the alleged violations have not resulted in serious actual harm nor presented an imminent and substantial endangerment to human health or the environment, and Respondents did not violate the specific terms of any judicial or administrative Final Order or Agreement; and

i. Respondents have cooperated as requested by EPA.

31. Each Respondent hereby certifies and warrants as true the facts referenced in this Section, solely as they relate to each Facility owned and operated by such Respondent as set forth in Paragraph 29, and EPA accepts such certifications with respect to the alleged violations described in Attachment A.

V. CONCLUSIONS OF LAW

32. Respondents neither admit nor deny the conclusions of law set forth in this Agreement.

A. Applicable Hazardous Waste Requirements

33. Each Respondent is a "person" as defined in RCRA § 1004(15), 42 U.S.C. § 6903(15), 40 C.F.R. § 260.10, Ill. Admin. Code tit. 35, § 720.110, 329 IND. ADMIN. CODE § 3.1-4-20 (incorporating 40 C.F.R. Part 260 by reference, except as noted, and including additional requirements), LA ADMIN. CODE tit. 33, Part V, § 109, MISS. CODE § 17-17-3(u), 08-030-001 MISS. ADMIN. CODE Part 260 (HW-1) (incorporating 40 C.F.R. Part 260 by reference), MO. REV. STAT. § 260.360(17), and MO. CODE. REGS. tit. 10, § 25-3.260 (incorporating 40 C.F.R. Part 260 by reference).

34. Each Penn National Subsidiary is a "generator" as defined in federal law, 40 C.F.R. § 260.10, and as defined by the law of the state in which it operates, Ill. Admin. Code tit. 35, § 720.110, 329 IND. ADMIN. CODE § 3.1-4-20 (incorporating 40 C.F.R. Part 260 by reference), LA ADMIN. CODE tit. 33, Part V, § 109, 08-030-001 MISS. ADMIN. CODE Part 260 (HW-1) (incorporating 40 C.F.R. Part 260 by reference), MO. REV. STAT. § 260.360(10), and MO. CODE. REGS. tit. 10, § 25-3.260 (incorporating 40 C.F.R. Part 260 by reference, with some substitutions and modifications).

35. Respondent BSL, Inc. is the “owner” and “operator”, as defined in 40 C.F.R. § 260.10 and 08-030-001 MISS. ADMIN. CODE Part 260 (HW-1) (incorporating 40 C.F.R. Part 260 by reference), of the Hollywood Casino - Bay St. Louis.

36. Discarded gaming chips and gaming chip residues are solid waste under relevant provisions of federal law and applicable state laws, 40 C.F.R. §§ 261.2, Ill. Admin. Code tit. 35, § 721.102, 329 IND. ADMIN. CODE § 3.1-6-1 (incorporating 40 C.F.R. Part 261 by reference, except as noted in 329 IND. ADMIN. CODE § 3.1-6-2), LA ADMIN. CODE tit. 33, Part V, § 109, 08-030-001 MISS. ADMIN. CODE Part 261 (HW-1) (incorporating 40 C.F.R. Part 261 by reference), and MO. CODE. REGS. tit. 10, § 25-4.261 (incorporating 40 C.F.R. Part 261 by reference, with some modifications).

37. Discarded gaming chips and gaming chip residues that exhibit the hazardous characteristic of toxicity due to the toxic contaminant lead (above 5.0 mg/L) are D008 RCRA hazardous waste under 40 C.F.R. § 261.3, 40 C.F.R § 261.24, Ill. Admin. Code tit. 35, §§ 721.103, 721.124, 329 IND. ADMIN. CODE § 3.1-6-1 (incorporating 40 C.F.R. Part 261 by reference, except as noted in 329 IND. ADMIN. CODE § 3.1-6-2), LA ADMIN. CODE tit. 33, Part V, §§ 109, 4903(E), 08-030-001 MISS. ADMIN. CODE Part 261 (HW-1) (incorporating 40 C.F.R. Part 261 by reference), and MO. CODE. REGS. tit. 10, § 25-4.261 (incorporating 40 C.F.R. Part 261 by reference, with some modifications).

38. Section 3006 of RCRA, 42 U.S.C. § 6926, provides that states may be authorized to issue and enforce permits for the storage, treatment, and disposal of hazardous waste, and to administer EPA-authorized hazardous waste programs within their states. Nine of the Penn National Subsidiary’s Facilities are located in states that are authorized to administer their own hazardous waste programs, as described in Section II (Jurisdiction/Waiver of Right to Hearing).

The remaining Penn National Subsidiary Facility is located in Iowa, which has not been authorized to administer its own hazardous waste program, and as such the federal regulations apply in Iowa.

B. Conclusions on the Generation of RCRA Hazardous Waste

39. Each Penn National Subsidiary generated hazardous waste, specifically discarded gaming chips or gaming chip residues that contained lead (D008 hazardous waste) within the meaning of RCRA § 3002, 42 U.S.C. § 6922, 40 C.F.R. Part 262, 415 ILL. COMP. STAT. 5/22.4, ILL. ADMIN. CODE tit. 35, Part 722, IND. CODE § 13-22-2, 329 IND. ADMIN. CODE § 3.1-7 (incorporating by 40 C.F.R. Part 262 reference, except as otherwise provided in Indiana's regulations), LA. REV. STAT. § 30:2188, LA ADMIN. CODE tit. 33, Part V, Ch. 11, MISS. CODE § 17-17-27, 08-030-001 MISS. ADMIN. CODE Part 262 (HW-1) (incorporating 40 C.F.R. Part 262 by reference), MO. REV. STAT. § 260.380, and MO. CODE. REGS. tit. 10, § 25-5.262 (incorporating 40 C.F.R. Part 262 by reference, except as noted, and including additional requirements).

40. Generators of hazardous waste are subject to the requirements of 40 C.F.R. Part 262, ILL. ADMIN. CODE tit. 35, Part 722, 329 IND. ADMIN. CODE § 3.1-7, LA ADMIN. CODE tit. 33, Part V, Ch. 11, 08-030-001 MISS. ADMIN. CODE Parts 262 (HW-1) and 262.S1, and MO. CODE. REGS. tit. 10, § 25-5.262.

41. Based on information provided to Complainant by Respondents, EPA hereby states and alleges that each Facility failed to properly comply with all generator requirements under RCRA § 3002, 42 U.S.C. § 6922, and the corresponding regulations at 40 C.F.R. Part 262, and the applicable provisions of state law, including 415 ILL. COMP. STAT. 5/22.4, and the applicable corresponding regulations at ILL. ADMIN. CODE tit. 35, Part 722, IND. CODE § 13-22-2, and the applicable corresponding regulations at 329 IND. ADMIN. CODE § 3.1-7, LA. REV. STAT. §

30:2188, and the applicable corresponding regulations at LA ADMIN. CODE tit. 33, Part V, Ch. 11, MISS. CODE § 17-17-27, and the applicable corresponding regulations at 08-030-001 MISS. ADMIN. CODE Parts 262 (HW-1) and 262.S1, and MO. REV. STAT. § 260.380, and the applicable corresponding regulations at MO. CODE. REGS. tit. 10, § 25-5.262.

C. Conclusions on the Disposal of RCRA Hazardous Waste

42. Owners and operators of facilities at which hazardous wastes are disposed of are subject to the disposal requirements of RCRA § 3004, 42 U.S.C. § 6924, 40 C.F.R. Part 264, MISS. CODE §§ 17-17-25 and 17-17-27, and 08-030-001 MISS. ADMIN. CODE Parts 264 (HW-1) (incorporating by reference 40 C.F.R. Part 264) and 264.S1.

43. Pursuant to RCRA Sections 3005(a) and (e), 42 U.S.C. § 6925(a) and (e), 40 C.F.R. § 270.1(b), MISS. CODE §§ 17-17-15 and 17-17-27, and 08-030-001 MISS. ADMIN. CODE Part 270 (HW-1) (incorporating by reference 40 C.F.R. § 270.1(b)), no person may own or operate a facility for the treatment, storage, or disposal of hazardous waste without first obtaining a permit or interim status for such facility.

44. BSL, Inc. did not obtain a permit for the Hollywood Casino - Bay St. Louis (*see* Paragraph 29.h), pursuant to RCRA § 3005(a), 42 U.S.C. § 6925(a), MISS. CODE §§ 17-17-15 and 17-17-27, 40 C.F.R. Part 270, and 08-030-001 MISS. ADMIN. CODE Parts 270 (HW-1) (incorporating by reference 40 C.F.R. Part 270) and 270.S1, for the disposal of hazardous waste. In addition, the Hollywood Casino - Bay St. Louis Facility did not have interim status pursuant to RCRA § 3005(e), 42 U.S.C. § 6925(e), 40 C.F.R. § 270.70, and 08-030-001 MISS. ADMIN. CODE Part 270 (HW-1) (incorporating by reference 40 C.F.R. Part 270).

45. BSL, Inc.'s Facility, Hollywood Casino - Bay St. Louis, disposed of hazardous waste, specifically gaming chips that contained lead above 5.0 mg/L (D008 hazardous waste) within the

meaning of RCRA § 3004, 42 U.S.C. § 6924, 40 C.F.R. Part 264, MISS. CODE §§ 17-17-25 and 17-17-27, and 08-030-001 MISS. ADMIN. CODE Parts 264 (HW-1) (incorporating by reference 40 C.F.R. Part 264).

46. Based on information provided to Complainant by Penn National, EPA hereby states and alleges that the Hollywood Casino - Bay St. Louis Facility failed to comply with disposal requirements, as required under RCRA §§ 3004, 42 U.S.C. § 6924, and the corresponding regulations at 40 C.F.R. Parts 264 and 270, and MISS. CODE §§ 17-17-25 and 17-17-27, and the corresponding regulations at 08-030-001 MISS. ADMIN. CODE Parts 264 (HW-1) (incorporating by reference 40 C.F.R. Part 264), 264.S1, 270 (HW-1) (incorporating by reference 40 C.F.R. Part 270), and 270.S1.

D. Conclusion on Qualification for Conditional Exemption from Generator and Disposal Requirements

47. Facilities that generate no more than 100 kilograms (220 pounds) of hazardous waste in a calendar month are conditionally exempt small quantity generators (“CESQGs”). CESQGs are exempt from complying with the above named RCRA hazardous waste generator, disposal, and permitting regulations if they meet certain requirements under 40 C.F.R. § 261.5, Ill. Admin. Code tit. 35, § 721.105, LA ADMIN. CODE tit. 33, Part V, § 108, 08-030-001 MISS. ADMIN. CODE Part 261 (HW-1) (incorporating by reference 40 C.F.R. Part 261), and MO. CODE. REGS. tit. 10, § 25-4.261 (incorporating by reference 40 C.F.R. Part 261, with some modifications).

48. Though the Argosy Casino Alton, Empress Casino Joliet, Hollywood Casino Aurora, Hollywood Casino Baton Rouge, Hollywood Casino Tunica, and Argosy Casino Riverside facilities generated under 100 kilograms of hazardous waste in certain calendar months, they did not meet all of the applicable CESQG requirements under 40 C.F.R. § 261.5, Ill. Admin. Code tit. 35, § 721.105, LA ADMIN. CODE tit. 33, Part V, § 108, 08-030-001 MISS. ADMIN. CODE Part

261 (HW-1) (incorporating 40 C.F.R. Part 261 by reference), and MO. CODE. REGS. tit. 10, § 25-4.261 (incorporating 40 C.F.R. Part 261 by reference, with some modifications) to qualify for the exemption. As such, they were not eligible for the CESQG exemption from the hazardous waste generator, disposal, and permitting regulations.

VI. TERMS OF AGREEMENT

49. Based on the foregoing, the Parties agree to the entry of this Agreement on the following terms.

A. Civil Penalty

50. The proposed penalty in this matter is consistent the "RCRA Civil Penalty Policy" (revised June 23, 2003). The RCRA Civil Penalty Policy is based upon Section 3008 of RCRA, 42 U.S.C. § 6928.

51. EPA and Respondents entered into a tolling agreement on June 30, 2010, which terminated on September 30, 2010. EPA and Respondents entered into supplemental tolling agreements on September 30, 2010 (terminated on November 30, 2010), November 30, 2010 (terminated on January 31, 2011), January 31, 2011 (terminated on April 30, 2011), and April 28, 2011 (terminating on June 15, 2011). The tolling period from June 30, 2010 to June 15, 2011, agreed to in the tolling agreements, is not included in computing the running of any statute of limitations that may be applicable to this Agreement.

52. EPA agrees, based upon the facts and information submitted by Penn National and upon Penn National's certification herein to the veracity of this information, that Penn National has satisfied all of the conditions set forth in the Audit Policy for violations described in Attachment A and thereby qualifies for a 100% reduction of the gravity component of the civil penalty.

53. Under the Audit Policy, EPA has the discretion to assess a penalty equivalent to the economic benefit each Respondent gained as a result of its noncompliance. Based on information provided by Penn National for the alleged violations described in Attachment A, EPA has determined that each Penn National Subsidiary obtained an economic benefit equal to the amount listed in Attachment B, hereby incorporated by reference, as a result of any noncompliance in this matter. Pursuant to the Audit Policy, EPA will assess a penalty equivalent to the economic benefit for the alleged violations listed in Attachment A.

54. The total civil penalty agreed upon by the parties for settlement purposes is set forth in Attachment B. The amount is comprised of the economic benefit that each Penn National Subsidiary gained as a result of any noncompliance for the alleged violations listed in Attachment A. EPA calculated the economic benefit through the use of the BEN computer model.

55. Except as otherwise provided in this Agreement and attached Final Order, compliance with this Agreement and attached Final Order shall fully and finally resolve each Respondent's civil liability for the alleged violations described in Attachment A of this Agreement and attached Final Order.

56. Each Penn National Subsidiary agrees to pay a civil penalty in the amount set forth in Attachment B for the RCRA violations alleged herein within thirty (30) calendar days of issuance of the Final Order, via wire transfers/electronic funds transfer (EFT) to the following account:

Federal Reserve Bank of New York
ABA No.: 021030004
Account No.: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency - Penn National Gaming, Inc., Docket No. HQ-2011-5015."

The Federal Reserve customer service contact may be reached at 212-720-5000.

57. Respondents shall forward evidence of the wire transfers to EPA, within five (5) business days of payment, to the attention of:

Clerk, Environmental Appeals Board
U.S. Environmental Protection Agency
Ariel Rios South (MC 1103B)
1200 Pennsylvania Avenue, NW
Washington, DC 20460

and

Cari Shiffman, Attorney-Adviser
Waste and Chemical Enforcement Division (2249A)
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Ave, N.W.
Ariel Rios Building, Room 4111A
Washington, DC 20460

(For deliveries by courier, UPS, or Fed Ex, please use the Zip Code 20004)

Respondents may also send evidence of payment via e-mail to Cari Shiffman at shiffman.cari@epa.gov.

58. Each Respondent's obligations under this Agreement shall end when it has paid the civil penalties as required by this Agreement and the Final Order.

59. For the purposes of state and federal income taxation, Respondents shall not be entitled, and agree not to attempt, to claim a deduction for any civil penalty payment made pursuant to the Final Order. *See* 28 U.S.C. § 162(f). Any attempt by a Respondent to deduct any such payments shall constitute a violation of this Agreement and the Internal Revenue Code. *See* 26 U.S.C. § 162(f).

60. Pursuant to 31 U.S.C. § 3717, EPA is required to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the date of entry of the Final Order, if the penalty is not paid by the date required. Any unpaid portion of a civil penalty must bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11. In addition, a penalty charge of twelve percent (12%) per year compounded annually will be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due.

B. Certification

61. By signing this Agreement, each Respondent certifies that the information it has supplied concerning this matter is, truthful, accurate, and complete. Respondents understands that there are significant penalties for submitting false or misleading information, including the possibility of fines and/or imprisonment for the knowing submission of such information, under 18 U.S.C. § 1001.

C. Remediation at Hollywood Casino - Bay St. Louis

62. Based on information provided to EPA by Penn National (*see* Paragraph 28) on BSL, Inc.'s disposal in 2005 following Hurricane Katrina of approximately 5000 chips (approximately 100 pounds) on-site in a trench capped with concrete at the Hollywood Casino - Bay St. Louis (*see* Paragraph 29.h), EPA does not believe that remediation at the site is presently necessary. However, should new or additional information come to EPA's attention, EPA reserves the right to take any lawful action to require Penn National or BSL, Inc. to remediate the site pursuant to

Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, as provided in Section VI, Subsection D (Terms of Agreement, Effect of Settlement/Reservation of Rights).

D. Effect of Settlement/Reservation of Rights

63. This Agreement and attached Final Order, when issued by the EAB, and upon payment by Respondents of civil penalties in accordance with this Section, shall resolve only the federal civil and administrative claims specified in Attachment A. Nothing in this Agreement and the Final Order shall be construed to limit the authority of EPA and/or the United States to undertake any action pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority against any Respondent, in response to any condition which EPA or the United States determines may present an imminent and substantial endangerment to the public health, welfare, or the environment. Furthermore, except as specified in this Paragraph, issuance of the Final Order does not constitute a waiver by EPA and/or the United States of its right to bring an enforcement action, either civil or criminal, against any Respondent for any violation of any federal or state statute, regulation, order, or permit not listed in Attachment A.

64. If Respondents fail to comply with any provision contained in this Agreement and the attached Final Order, Respondents waive any rights they may possess in law or equity to challenge the authority of EPA to bring a civil action in the appropriate United States District Court to compel compliance with this Agreement and attached Final Order or to seek an additional penalty for such noncompliance.

65. If and to the extent that any information or certification provided by Respondents was materially false or inaccurate at the time such information or certification was provided to EPA, EPA reserves the right to revoke this Agreement and accompanying settlement penalty and to assess and collect any and all civil penalties for any violation described herein. EPA shall give

Respondents oral notice of its intent to revoke, which shall not be effective until received by Respondents in writing.

66. As part of this Agreement, and in satisfaction of the requirements of the Audit Policy, Respondents have certified to certain facts. The parties agree that should EPA receive information that proves or demonstrates that these facts are other than as certified by Respondents, the portion of this Agreement pertaining to the affected Facilities, including mitigation of the gravity component of the civil penalty, may be voided or this entire agreement may be declared null and void at EPA's election, and EPA may proceed with an enforcement action.

67. The parties agree that Respondents reserve all of their rights and defenses should this Agreement be voided in whole or in part. The parties further agree that Respondents' obligations under this Agreement will cease should this Agreement be rejected by the EAB; provided, however that in the event that the EAB expresses any objections to, or its intent to reject this Agreement, the parties agree that they shall exercise their mutual best efforts to address and resolve the EAB's objections.

E. Submittal to the Environmental Appeals Board

68. Respondents and EPA agree to submit this Agreement to the EAB with a request that it be incorporated into the attached Final Order.

F. Effective Date

69. Respondents and EPA agree to issuance of the attached Final Order. This Agreement and attached Final Order shall become effective after execution of the Final Order by the EAB and filing with the Clerk of the EAB. Upon filing of this Agreement and Final Order with the Clerk

of the EAB, EPA will transmit a copy of the filed Agreement to Respondents and the applicable states.

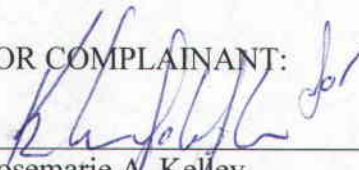
G. Other Matters

70. Each party shall bear its own costs and attorney fees in this matter.

71. All of the terms and conditions of this Agreement together comprise one settlement agreement, and each of the terms and conditions is in consideration for all of the other terms and conditions. This Agreement shall be null and void if any term or condition of this Agreement is held invalid or is not executed by all of the signatory parties in identical form, or is not approved in such identical form by the EAB.

The foregoing Agreement is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:



Rosemarie A. Kelley

5/18/11

Date

Director

Waste and Chemical Enforcement Division

U.S. Environmental Protection Agency

FOR RESPONDENTS:

Robert Spivack, 5/9/11
Penn National Gaming, Inc. Date

Timothy Luliett, 5/9/11
Hollywood Casino Aurora, Inc. Date

Timothy Luliett, 5/9/11
Alton Gaming Company Date

Timothy Luliett, 5/9/11
Empress Casino Joliet Corporation Date

Robert Spivack, 5/9/11
Belle of Sioux City L.P. Date

Robert Spivack, 5/9/11
Louisiana Casino Cruises, Inc. Date

Robert Spivack, 5/9/11
BTN, Inc. Date

Robert Spivack, 5/9/11
BSL, Inc. Date

Robert Spivack, 5/9/11
Indiana Gaming Company L.P. Date

Robert Spivack, 5/9/11
HWCC-Tunica, Inc. Date

Robert Spivack, 5/9/11
The Missouri Gaming Company Date

ATTACHMENT A

Penn National's and Penn National Subsidiaries' Alleged Violations That Have Received Audit Policy Credit

RCRA VIOLATIONS AND FACILITIES

| Facility | Alleged Violation Description | Dates of Alleged Violation | Approximate Quantity of Chips Disposed | Statutory Citation(s) | Regulatory Citation(s) | Corresponding State Statutory Citation(s) | Corresponding State Regulatory Citation(s) |
|-----------------------------------------------------------------|---------------------------------------------------------|--------------------------------------------------------------------|----------------------------------------------------------|------------------------------------------------------------|------------------------|------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|
| Argosy Casino Alton – Alton, IL | Failure to meet hazardous waste generator requirements. | Apr. 2001; July 2004 | 20 lbs.; 1lb. | RCRA § 3002, 42 U.S.C. § 6922 | 40 C.F.R. Part 262 | 415 ILL. COMP. STAT. 5/22.4 | ILL. ADMIN. CODE tit. 35, Part 722 |
| Hollywood Casino Joliet – Joliet, IL | Failure to meet hazardous waste generator requirements. | Oct. 2005 | 29 lbs. | RCRA § 3002, 42 U.S.C. § 6922 | 40 C.F.R. Part 262 | 415 ILL. COMP. STAT. 5/22.4 | ILL. ADMIN. CODE tit. 35, Part 722 |
| Hollywood Casino Aurora – Aurora, IL | Failure to meet hazardous waste generator requirements. | June 1993; June 2001; Sept. 2002; Mar. 2006; Mar. 2007 | 10 lbs.; 150 lbs.; 10 lbs.; 50 lbs.; 10 lbs. | RCRA § 3002, 42 U.S.C. § 6922 | 40 C.F.R. Part 262 | 415 ILL. COMP. STAT. 5/22.4 | ILL. ADMIN. CODE tit. 35, Part 722 |
| Argosy Casino Lawrenceburg – Lawrenceburg, IN | Failure to meet hazardous waste generator requirements. | Feb. 2001; Sept. 2004; Jan. 2007 | 2,770 lbs; 1066 lbs; 3,400 lbs. | RCRA § 3002, 42 U.S.C. § 6922 | 40 C.F.R. Part 262 | IND. CODE § 13-22-2 | 329 IND. ADMIN. CODE § 3.1- 7 (incorporates by reference 40 C.F.R. Part 262, except as otherwise provided in the Indiana's regulations) |
| Argosy Casino Sioux City – Sioux City, IA | Failure to meet hazardous waste generator requirements. | Sept. 2002; Aug. 2005 | 1620 lbs; 880 lbs. | RCRA § 3002, 42 U.S.C. § 6922 | 40 C.F.R. Part 262 | Not authorized state. Federal requirements apply. | Not an authorized state. Federal requirements apply. |
| Hollywood Casino Baton Rouge – Baton Rouge, LA ¹ | Failure to meet hazardous waste generator requirements. | Mar. 15, 2001; Jan. 6, 2003 | 9 lbs.; 1,581 lbs. | RCRA § 3002, 42 U.S.C. § 6922 | 40 C.F.R. Part 262 | LA. REV. STAT. § 30:2188 | LA ADMIN. CODE tit. 33, Part V, Ch. 11 |
| Boomtown Casino Biloxi – Biloxi, MS | Failure to meet hazardous waste generator requirements. | Aug. 2002 | Unknown | RCRA § 3002, 42 U.S.C. § 6922 | 40 C.F.R. Part 262 | MISS. CODE § 17-17-27 | 08-030-001 MISS. ADMIN. CODE Part 262 (HW-1) (incorporates by reference 40 C.F.R. Part 262) |
| Hollywood Casino Bay St. Louis – Bay St. Louis, MS ¹ | Failure to meet hazardous waste generator requirements. | Sept./Oct. 2005 | 2000 lbs. | RCRA § 3002, 42 U.S.C. § 6922 | 40 C.F.R. Part 262 | MISS. CODE § 17-17-27 | 08-030-001 MISS. ADMIN. CODE Part 262 (HW-1) (incorporates by reference 40 C.F.R. Part 262), 262.S1 |
| | Failure to meet hazardous waste disposal requirements. | Sept./Oct. 2005 | 100 lbs. | RCRA § 3004, 42 U.S.C. § 6924 | 40 C.F.R. Part 264 | MISS. CODE §§ 17-17-15, 17- 17-27 | 08-030-001 MISS. ADMIN. CODE Parts 264 (HW-1) (incorporates by reference 40 C.F.R. Part 264), 264.S1 |
| | Failure to get a permit for hazardous waste disposal. | Sept./Oct. 2005 | 100 lbs. | RCRA § 3005, 42 U.S.C. § 6925 | 40 C.F.R. Part 270 | MISS. CODE §§ 17-17-15, 17- 17-27 | 08-030-001 MISS. ADMIN. CODE Parts 270 (HW-1) (incorporates by reference 40 C.F.R. Part 270), 270.S1 |
| Hollywood Casino Tunica – Tunica Resorts, MS ¹ | Failure to meet hazardous waste generator requirements. | Oct. 2003; June 2005 | 14 lbs.; 125 lbs. | RCRA § 3002, 42 U.S.C. § 6922; 40 C.F.R. Part 262 | 40 C.F.R. Part 262 | MISS. CODE § 17-17-27 | 08-030-001 MISS. ADMIN. CODE Part 262 (HW-1) (incorporates by reference 40 C.F.R. Part 262) |
| Argosy Casino Riverside – Riverside, MO ¹ | Failure to meet hazardous waste generator requirements. | June 2000 | 22 lbs. | RCRA § 3002, 42 U.S.C. § 6922; 40 C.F.R. Part 262 | 40 C.F.R. Part 262 | MO. REV. STAT. §§ 260.380 | MO. CODE. REGS. tit. 10, § 25-5.262 (incorporates by reference 40 C.F.R. Part 262, except as noted, and including additional requirements) |

¹ Penn National asserts that these Facilities would fall into the Conditionally Exempt Small Quantity Generator (“CESQG”) category. However, the Facilities failed to meet all the requirements for CESQGs under 40 C.F.R. § 261.5 and the state equivalent regulations.

ATTACHMENT B
Penalty Information for Penn National and Penn National Subsidiaries

| Facility Owner | Facility Name | Penalty Amount |
|-----------------------------------|---------------------------------------------------------------------------------|-----------------------|
| Alton Gaming Company | Argosy Casino Alton – Alton, IL | -- |
| Empress Casino Joliet Corporation | Hollywood Casino Joliet – Joliet, IL | \$494 |
| Hollywood Casino Aurora, Inc. | Hollywood Casino Aurora – Aurora, IL | \$908 |
| Indiana Gaming Company, L.P. | Hollywood Casino Lawrenceburg fka Argosy Casino Lawrenceburg – Lawrenceburg, IN | \$1,260 |
| Belle of Sioux City, L.P. | Argosy Casino Sioux City – Sioux City, IA | \$689 |
| Louisiana Casino Cruises, Inc. | Hollywood Casino Baton Rouge – Baton Rouge, LA | -- |
| BTN, Inc. | Boomtown Casino Biloxi – Biloxi, MS | -- |
| BSL, Inc. | Hollywood Casino Bay St. Louis – Bay St. Louis, MS | \$1,485 |
| HWCC-Tunica, Inc. | Hollywood Casino Tunica – Tunica Resorts, MS | \$568 |
| The Missouri Gaming Company | Argosy Casino Riverside – Riverside, MO | -- |
| | | Total \$5,404 |