# EXECUTIVE SUMMARY - ENFORCEMENT MATTER



**DOCKET NO.:** 2008-0906-AIR-E **TCEQ ID:** RN100244979 **CASE NO.:** 35999

**RESPONDENT NAME:** Magellan Pipeline Terminals, L.P.

| **ORDER TYPE:** | | |
|---|---|---|
| X 1660 AGREED ORDER | __FINDINGS AGREED ORDER | __FINDINGS ORDER FOLLOWING SOAH HEARING |
| __FINDINGS DEFAULT ORDER | __SHUTDOWN ORDER | __IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER |
| __AMENDED ORDER | __EMERGENCY ORDER | |
| **CASE TYPE:** | | |
| X AIR | __MULTI-MEDIA (check all that apply) | __INDUSTRIAL AND HAZARDOUS WASTE |
| __PUBLIC WATER SUPPLY | __PETROLEUM STORAGE TANKS | __OCCUPATIONAL CERTIFICATION |
| __WATER QUALITY | __SEWAGE SLUDGE | __UNDERGROUND INJECTION CONTROL |
| __MUNICIPAL SOLID WASTE | __RADIOACTIVE WASTE | __DRY CLEANER REGISTRATION |

**SITE WHERE VIOLATION(S) OCCURRED:** Odessa Terminal, 2700 South Grandview Avenue, Odessa, Ector County

**TYPE OF OPERATION:** Petroleum storage and distribution plant

**SMALL BUSINESS:** ___ Yes __X__ No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** No one other than the ED and the Respondent has expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on November 17, 2008. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney/SEP Coordinator:** None

**TCEQ Enforcement Coordinator:** Mr. Terry Murphy, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-5025; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171

**Respondent:** Mr. Devin Koele, Air Specialist, Magellan Pipeline Terminals, L.P., 87 East Greywing Circle, The Woodlands, Texas 77382

Mr. Rick Olson, Senior Vice President, Magellan Pipeline Terminals, L.P., 87 East Greywing Circle, The Woodlands, Texas 77382

**Respondent's Attorney:** Not represented by counsel on this enforcement matter

## VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|---|---|---|
| **Type of Investigation:**<br>__ Complaint<br>_X_ Routine<br>__ Enforcement Follow-up<br>__ Records Review<br><br>**Date(s) of Complaints Relating to this Case:** None<br><br>**Date of Investigation Relating to this Case:** April 28, 2008<br><br>**Date of NOV/NOE Relating to this Case:** May 23, 2008 (NOE)<br><br>**Background Facts:** This was a routine investigation.<br><br>**AIR**<br><br>Failure to timely submit a deviation report. Specifically, the deviation report for the period October 1, 2006 through March 31, 2007 was not submitted until October 31, 2007, while the due date was May 1, 2007 [30 TEX. ADMIN. CODE § 122.145(2)(B) and (C), and TEX. HEALTH & SAFETY CODE § 382.085(b)]. | **Total Assessed:** $2,450<br><br>**Total Deferred:** $490<br>_X_ Expedited Settlement<br><br>__Financial Inability to Pay<br><br>**SEP Conditional Offset:** $0<br><br>**Total Paid to General Revenue:** $1,960<br><br>**Site Compliance History Classification**<br>__ **High** _X_ **Average** __ **Poor**<br><br>**Person Compliance History Classification**<br>__ **High** _X_ **Average** __ **Poor**<br><br>**Major Source:** _X_ Yes __ No<br><br>**Applicable Penalty Policy:** September 2002 | **Corrective Actions Taken:**<br><br>The Executive Director recognizes that the Respondent submitted the deviation report for the period October 1, 2006 through March 31, 2007, on October 31, 2007, and implemented increased oversight over the deviation reporting program. |

Additional ID No(s).: EB0115M

# Penalty Calculation Worksheet (PCW)

*Policy Revision 2 (September 2002)* — *PCW Revision June 12, 2008*

TCEQ

| DATES | | | | | |
|---|---|---|---|---|---|
| Assigned | 2-Jun-2008 | | | | |
| PCW | 18-Jun-2008 | Screening | 4-Jun-2008 | EPA Due | 7-Apr-2009 |

**RESPONDENT/FACILITY INFORMATION**

| | | | |
|---|---|---|---|
| Respondent | Magellan Pipeline Terminals, L.P. | | |
| Reg. Ent. Ref. No. | RN100244979 | | |
| Facility/Site Region | 7-Midland | Major/Minor Source | Major |

**CASE INFORMATION**

| | | | |
|---|---|---|---|
| Enf./Case ID No. | 35999 | No. of Violations | 1 |
| Docket No. | 2008-0906-AIR-E | Order Type | 1660 |
| Media Program(s) | Air | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Terry Murphy |
| | | 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* $2,500

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

**Compliance History** 23.0% Enhancement — *Subtotals 2, 3, & 7* $575

Notes: The penalty was enhanced by one 1660-style agreed order and three NOVs for dissimilar violations, and reduced by one NOA and one DOV.

**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* $625

**Economic Benefit** 0.0% Enhancement* — *Subtotal 6* $0

Total EB Amounts $25
Approx. Cost of Compliance $1,000

**Capped at the Total EB $ Amount*

**SUM OF SUBTOTALS 1-7** — *Final Subtotal* $2,450

**OTHER FACTORS AS JUSTICE MAY REQUIRE** 0.0% — *Adjustment* $0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

*Final Penalty Amount* $2,450

**STATUTORY LIMIT ADJUSTMENT** — *Final Assessed Penalty* $2,450

**DEFERRAL** 20.0% Reduction — *Adjustment* -$490

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

Notes: Deferral offered for expedited settlement.

**PAYABLE PENALTY** $1,960

**Screening Date** 4-Jun-2008 **Docket No.** 2008-0906-AIR-E **PCW**

**Respondent** Magellan Pipeline Terminals, L.P.

*Policy Revision 2 (September 2002)*

**Case ID No.** 35999

*PCW Revision June 12, 2008*

**Reg. Ent. Reference No.** RN100244979

**Media [Statute]** Air

**Enf. Coordinator** Terry Murphy

# 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*) | 0 | 0% |
| | Other written NOVs | 3 | 6% |
| Orders | Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*) | 1 | 20% |
| | 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)* | 1 | -1% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*) | 1 | -2% |

| | | *Please Enter Yes or No* | |
|---|---|---|---|
| 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)*** 23%

## >> Repeat Violator (Subtotal 3)

No

***Adjustment Percentage (Subtotal 3)*** 0%

## >> Compliance History Person Classification (Subtotal 7)

Average Performer

***Adjustment Percentage (Subtotal 7)*** 0%

## >> Compliance History Summary

**Compliance History Notes**

The penalty was enhanced by one 1660-style agreed order and three NOVs for dissimilar violations, and reduced by one NOA and one DOV.

***Total Adjustment Percentage (Subtotals 2, 3, & 7)*** 23%

**Screening Date** 4-Jun-2008 **Docket No.** 2008-0906-AIR-E **PCW**

**Respondent** Magellan Pipeline Terminals, L.P.

*Policy Revision 2 (September 2002)*

**Case ID No.** 35999

*PCW Revision June 12, 2008*

**Reg. Ent. Reference No.** RN100244979

**Media [Statute]** Air

**Enf. Coordinator** Terry Murphy

**Violation Number** 1

**Rule Cite(s)** 30 Tex. Admin. Code § 122.145(2)(B) and (C) and Tex. Health & Safety Code § 382.085(b)

**Violation Description** Failed to submit a deviation report. Specifically, a deviation report, due May 1, 2007 for the period October 1, 2006 through March 31, 2007, was not submitted, in spite of deviations having occurred during that period, as documented during an investigation conducted on April 28, 2008.

**Base Penalty** $10,000

## >> Environmental, Property and Human Health Matrix

OR

| Release | Harm: Major | Moderate | Minor |
|---|---|---|---|
| Actual | | | |
| Potential | | | |

**Percent** 0%

## >>Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---|---|---|---|
| | x | | |

**Percent** 25%

Matrix Notes: The Respondent failed to comply with 100% of the requirement.

**Adjustment** $7,500

$2,500

## Violation Events

Number of Violation Events: 1

183 Number of violation days

*mark only one with an x*

| | |
|---|---|
| daily | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | x |

**Violation Base Penalty** $2,500

One single event is recommended.

## Good Faith Efforts to Comply

25.0% Reduction — $625

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

Notes: The Respondent returned to compliance by October 31, 2007.

**Violation Subtotal** $1,875

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $25

## Statutory Limit Test

**Violation Final Penalty Total** $2,450

**This violation Final Assessed Penalty (adjusted for limits)** $2,450

# Economic Benefit Worksheet

**Respondent** Magellan Pipeline Terminals, L.P.
**Case ID No.** 35999
**Reg. Ent. Reference No.** RN100244979
**Media** Air
**Violation No.** 1

| Percent Interest | Years of Depreciation |
|---|---|
| 5.0 | 15 |

| Item Description (No commas or $) | 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 | $1,000 | 1-May-2007 | 31-Oct-2007 | 0.50 | $25 | n/a | $25 |
| 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) | | | | 0.00 | $0 | n/a | $0 |
| Notes for DELAYED costs | Estimated costs to prepare and submit a deviation report. The Date Required is the date the report was due, and the Final Date is the date the overdue report was submitted. | | | | | | |
| **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: $1,000

TOTAL: $25

# Compliance History

| | | | | |
|---|---|---|---|---|
| Customer/Respondent/Owner-Operator: | CN603167297 | Magellan Pipeline Terminals, L.P. | Classification: AVERAGE | Rating: 1.50 |
| Regulated Entity: | RN100244979 | ODESSA TERMINAL | Classification: AVERAGE | Site Rating: 0.57 |

ID Number(s):

| | | |
|---|---|---|
| AIR OPERATING PERMITS | ACCOUNT NUMBER | EB0115M |
| AIR OPERATING PERMITS | PERMIT | 2764 |
| INDUSTRIAL AND HAZARDOUS WASTE GENERATION | EPA ID | TXD026896290 |
| INDUSTRIAL AND HAZARDOUS WASTE GENERATION | SOLID WASTE REGISTRATION # (SWR) | 30258 |
| INDUSTRIAL AND HAZARDOUS WASTE GENERATION | SOLID WASTE REGISTRATION # (SWR) | 87755 |
| INDUSTRIAL AND HAZARDOUS WASTE STORAGE | PERMIT | 50152 |
| WASTEWATER | PERMIT | WQ0001437000 |
| WASTEWATER | PERMIT | TPDES0103683 |
| WASTEWATER | PERMIT | TX0103683 |
| AIR NEW SOURCE PERMITS | PERMIT | 9746 |
| AIR NEW SOURCE PERMITS | PERMIT | 18376 |
| AIR NEW SOURCE PERMITS | PERMIT | 21517 |
| AIR NEW SOURCE PERMITS | PERMIT | 32262 |
| AIR NEW SOURCE PERMITS | PERMIT | 35912 |
| AIR NEW SOURCE PERMITS | ACCOUNT NUMBER | EB0115M |
| AIR NEW SOURCE PERMITS | AFS NUM | 4813500008 |
| AIR NEW SOURCE PERMITS | REGISTRATION | 75342 |
| AIR NEW SOURCE PERMITS | REGISTRATION | 83565 |
| INDUSTRIAL AND HAZARDOUS WASTE POST CLOSURE | PERMIT | 50152 |
| INDUSTRIAL AND HAZARDOUS WASTE COMPLIANCE PLANS | PERMIT | 50152 |
| IHW CORRECTIVE ACTION | SOLID WASTE REGISTRATION # (SWR) | 30258 |
| WASTE WATER GENERAL PERMIT | PERMIT | TXG670072 |

Location: 2700 S GRANDVIEW AVE, ODESSA, TX, 79766 Rating Date: 9/1/2007 Repeat Violator: NO

TCEQ Region: REGION 07 - MIDLAND

Date Compliance History Prepared: June 04, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: June 04, 2003 to June 04, 2008

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Terry Murphy Phone: (512) 239-5025

## Site Compliance History Components

| | |
|---|---|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | Yes |
| 3. If Yes, who is/are the current owner(s)? | Magellan Pipeline Terminals, L.P.<br>Equilon Enterprises LLC<br>Magellan Midstream Partners, L.P.<br>Odessa Refining Company |
| 4. if Yes, who was/were the prior owner(s)? | Equilon Enterprises LLC<br>Magellan Midstream Partners, L.P.<br>Odessa Refining Company |
| 5. When did the change(s) in ownership occur? | March 2, 2007 |

## Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 03/05/2007 Admin. Order 2006-1439-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
30 TAC Chapter 122, SubChapter B 122.145(2)(C)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failure to submit deviation reports on time.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

| | | |
|---|---|---|
| 1 | 06/24/2003 | (322378) |
| 2 | 07/23/2003 | (322379) |
| 3 | 08/22/2003 | (322380) |
| 4 | 09/23/2003 | (322381) |
| 5 | 10/23/2003 | (322382) |
| 6 | 11/14/2003 | (255057) |
| 7 | 11/20/2003 | (322383) |
| 8 | 12/29/2003 | (322384) |
| 9 | 01/23/2004 | (322385) |
| 10 | 02/20/2004 | (322373) |
| 11 | 03/23/2004 | (322375) |
| 12 | 04/21/2004 | (322376) |
| 13 | 05/12/2004 | (265093) |
| 14 | 05/25/2004 | (364132) |
| 15 | 06/21/2004 | (364133) |
| 16 | 07/22/2004 | (364134) |
| 17 | 08/16/2004 | (288440) |
| 18 | 08/25/2004 | (364135) |
| 19 | 09/23/2004 | (364136) |
| 20 | 10/22/2004 | (364137) |
| 21 | 11/19/2004 | (371193) |
| 22 | 11/23/2004 | (388588) |
| 23 | 12/27/2004 | (364138) |
| 24 | 12/27/2004 | (364139) |
| 25 | 03/10/2005 | (426098) |
| 26 | 04/18/2005 | (426099) |
| 27 | 04/29/2005 | (372717) |
| 28 | 05/10/2005 | (426100) |
| 29 | 06/17/2005 | (426101) |
| 30 | 07/12/2005 | (446522) |
| 31 | 08/05/2005 | (446523) |
| 32 | 08/18/2005 | (404729) |
| 33 | 09/07/2005 | (446524) |
| 34 | 10/11/2005 | (479232) |
| 35 | 11/07/2005 | (479233) |
| 36 | 12/06/2005 | (497022) |
| 37 | 12/07/2005 | (479234) |
| 38 | 01/09/2006 | (479235) |
| 39 | 03/08/2006 | (479231) |
| 40 | 04/12/2006 | (505041) |
| 41 | 05/05/2006 | (505042) |
| 42 | 05/07/2006 | (464998) |
| 43 | 06/05/2006 | (505043) |
| 44 | 07/06/2006 | (527339) |
| 45 | 07/26/2006 | (485371) |
| 46 | 08/07/2006 | (527340) |
| 47 | 09/11/2006 | (527341) |
| 48 | 09/19/2006 | (513012) |
| 49 | 10/06/2006 | (551104) |
| 50 | 10/06/2006 | (551105) |
| 51 | 11/07/2006 | (551106) |
| 52 | 01/18/2007 | (587692) |
| 53 | 02/12/2007 | (587687) |
| 54 | 03/06/2007 | (587688) |
| 55 | 03/13/2007 | (543894) |
| 56 | 04/04/2007 | (587689) |
| 57 | 05/08/2007 | (587690) |
| 58 | 05/15/2007 | (559227) |
| 59 | 06/08/2007 | (587691) |
| 60 | 07/06/2007 | (605167) |
| 61 | 08/06/2007 | (605168) |
| 62 | 09/06/2007 | (605169) |
| 63 | 09/07/2007 | (593790) |
| 64 | 11/09/2007 | (628468) |
| 65 | 12/11/2007 | (628469) |
| 66 | 01/10/2008 | (676420) |
| 67 | 02/04/2008 | (614785) |
| 68 | 02/06/2008 | (676419) |
| 69 | 05/23/2008 | (671621) |
| 70 | 05/27/2008 | (654488) |

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

Date: 11/19/2004 (371193)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 12/06/2005 (497022)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 05/23/2008 (671621)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Description: Failure to conduct observations of stationary vents from emission units in operation at least once during each calendar quarter.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Description: Failure to comply with permit limits for VOC emissions.

F. Environmental audits.

Notice of Intent Date: 12/08/2004 (348233)
Disclosure Date: 10/04/2005
Viol. Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter A 101.10
Description: Failure to maintain the 2004 Annual Emission Inventory with actual operation emissions for various tanks.
Viol. Classification: Moderate
Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.116b(e)(2)(i)

Description: Failure to maintain calculations of a "true vapor pressure" since 10/1/04 to verify that 11 psi is not being exceeded.

Viol. Classification: Moderate
Citation: 30 TAC Chapter 106, SubChapter A 106.8
Rqmt Prov: PERMIT NSR Permit No. 9746
Description: Failure to maintain 12 month rolling total emission records for emission points in the operating permit.
Viol. Classification: Moderate
Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.7
Description: Failure to maintain NSPS notifications for Tank 2020.
Viol. Classification: Minor
Rqmt Prov: PERMIT NSR Permit No. 9746
Description: Failure to maintain the leak inspection log for the date each leak is repaired and an explanation of the repair.
Viol. Classification: Moderate
Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.112b(a)(2)(i)
Rqmt Prov: PERMIT NSR Permit No. 9746
Description: Failure to have a secondary seal between the wall and the floating roof on Storage Tank No. 228, as represented in Permit No. 9746.

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** | § | **BEFORE THE** |
| **ENFORCEMENT ACTION** | § | |
| **CONCERNING** | § | **TEXAS COMMISSION ON** |
| **MAGELLAN PIPELINE** | § | |
| **TERMINALS, L.P.** | § | |
| **RN100244979** | § | **ENVIRONMENTAL QUALITY** |

**AGREED ORDER**
**DOCKET NO. 2008-0906-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 Magellan Pipeline Terminals, L.P. ("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 petroleum storage and distribution plant at 2700 South Grandview Avenue in Odessa, Ector 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 May 28, 2008.

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 Two Thousand Four Hundred Fifty Dollars ($2,450) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Nine Hundred Sixty Dollars ($1,960) of the

administrative penalty and Four Hundred Ninety Dollars ($490) 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.

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 submitted the deviation report for the period October 1, 2006 through March 31, 2007, on October 31, 2007, and implemented increased oversight over the deviation reporting program.

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 failed to timely submit a deviation report, in violation of Site Operating Permit No. O-983, General Terms and Conditions, 30 TEX. ADMIN. CODE § 122.145(2)(B) and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the deviation report for the period October 1, 2006 through March 31, 2007 was not submitted until October 31, 2007, while the due date was May 1, 2007, as documented during an investigation conducted on April 28, 2008.

## 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: Magellan Pipeline Terminals, L.P., Docket No. 2008-0906-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 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.

3. 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.

4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

5. 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

For the Executive Director

10/16/2008
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.

Signature

8-22-08
Date

Rick Olson
Name (Printed or typed)
Authorized Representative of
Magellan Pipeline Terminals, L.P.

Sr Vice President
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.