

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-0211-AIR-E **TCEQ ID:** RN102180486 **CASE NO.:** 37161

RESPONDENT NAME: Magellan Terminals Holdings, L.P.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Galena Park Terminal, 12901 American Petroleum Road, Galena Park, Harris County</p> <p>TYPE OF OPERATION: Petroleum storage terminal</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 6, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732 TCEQ Enforcement Coordinator: Ms. Suzanne Walrath, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-2134; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Ms. Cindy Kraft, Plant Manager, Magellan Terminals Holdings, L.P., One Williams Center, Tulsa, Oklahoma 74121 Mr. Rick Olson, Senior Vice President, Magellan Terminals Holdings, L.P., One Williams Center, Tulsa, Oklahoma 74121 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: January 7 through 14, 2009</p> <p>Date of NOV/NOE Relating to this Case: February 5, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>AIR</p> <p>Failure to timely submit a compliance report. Specifically, the Respondent was required to submit the initial compliance report for organic liquids distribution operations at major sources of hazardous air pollutants by July 31, 2007 but did not submit it until January 20, 2009, 539 days late [30 TEX. ADMIN. CODE § 101.20(2), 40 CODE OF FEDERAL REGULATIONS § 63.2386(b)(1)(i), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$2,750</p> <p>Total Deferred: \$550 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$1,100</p> <p>Total Paid to General Revenue: \$1,100</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent provided training to the appropriate staff and identified tools to be used to prevent reporting errors on January 14, 2009, and submitted the compliance report on January 20, 2009.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p>

Additional ID No(s): HG0017W

Attachment A
Docket Number: 2009-0211-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Magellan Terminals Holdings, L.P.
Payable Penalty Amount: Two Thousand Two Hundred Dollars (\$2,200)
SEP Amount: One Thousand One Hundred Dollars (\$1,100)
Type of SEP: Pre-approved
Third-Party Recipient: Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program
Location of SEP: Harris County

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

1. Project Description

A. Project

The Respondent will contribute to Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program in Harris County. The contribution will be used in accordance with the *Supplemental Environmental Project Agreement between the Houston-Galveston AERCO and the Texas Commission on Environmental Quality*. SEP monies will be used to aid local school districts and area transit agencies in reaching local match requirements mandated by the Federal Highway Administration's ("FHWA") Congestion Mitigation/Air Quality funding program. SEP monies will be disbursed to school districts and transit agencies in need of funding assistance in the Houston-Galveston non-attainment area. Those SEP monies will be used exclusively by the school districts and transit agencies as supplements to meet the local match requirements of the EPA. SEP monies will be used to pay for the cost of replacing older diesel buses with alternative fueled or clean diesel buses. The old buses will be permanently retired and only sold for scrap. The schools and transit agencies will also use the SEP monies to retrofit more buses to reduce emissions. Houston-Galveston AERCO will send the TCEQ verification in the form of paid invoices and other documentation to show that the retrofits were completed. Retrofit technologies include particulate matter traps, diesel particulate matter filters, NOx reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by EPA or the California Air Resources Board.

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

Magellan Terminals Holdings, L.P.
Agreed Order – Attachment A

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions of buses by more than 90% below today's level and reducing hydrocarbons below measurement capability.

C. Minimum Expenditure

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

2. Performance Schedule

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

Houston-Galveston Area Council
Houston-Galveston AERCO
P.O. Box 22777
Houston, Texas 77227-2777

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

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

Magellan Terminals Holdings, L.P.
Agreed Order – Attachment A

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

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	9-Feb-2009			
	PCW	10-Feb-2009	Screening	10-Feb-2009	EPA Due

RESPONDENT/FACILITY INFORMATION		
Respondent	Magellan Terminals Holdings, L.P.	
Reg. Ent. Ref. No.	RN102180486	
Facility/Site Region	12-Houston	Major/Minor Source
		Major

CASE INFORMATION			
Enf./Case ID No.	37161	No. of Violations	1
Docket No.	2009-0211-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Bryan Elliott
		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)	<i>Subtotal 1</i>	\$2,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		

Compliance History	35.0% Enhancement	<i>Subtotals 2, 3, & 7</i>	\$875
Notes	The penalty was enhanced due to one NOV for similar violations, six NOVs for dissimilar violations, and one findings order. The penalty was reduced due to five NOAs and one DOV.		

Culpability	No	0.0% Enhancement	<i>Subtotal 4</i>	\$0
Notes	The Respondent does not meet the culpability criteria.			

Good Faith Effort to Comply Total Adjustments	<i>Subtotal 5</i>	\$625
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Economic Benefit	0.0% Enhancement*	<i>Subtotal 6</i>	\$0
Total EB Amounts	\$74	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$1,000		

SUM OF SUBTOTALS 1-7	<i>Final Subtotal</i>	\$2,750
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	<i>Adjustment</i>	\$0
Reduces or enhances the Final Subtotal by the indicated percentage.			

Notes		<i>Final Penalty Amount</i>	\$2,750
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STATUTORY LIMIT ADJUSTMENT	<i>Final Assessed Penalty</i>	\$2,750
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DEFERRAL	20.0% Reduction	<i>Adjustment</i>	-\$550
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)			

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$2,200
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Screening Date 10-Feb-2009

Docket No. 2009-0211-AIR-E

PCW

Respondent Magellan Terminals Holdings, L.P.

Policy Revision 2 (September 2002)

Case ID No. 37161

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102180486

Media [Statute] Air

Enf. Coordinator Bryan Elliott

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	6	12%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
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)	5	-5%
	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) 35%

>> 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 due to one NOV for similar violations, six NOVs for dissimilar violations, and one findings order. The penalty was reduced due to five NOAs and one DOV.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 35%

Screening Date 10-Feb-2009	Docket No. 2009-0211-AIR-E	PCW		
Respondent Magellan Terminals Holdings, L.P.	<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 37161	<small>PCW Revision October 30, 2008</small>			
Reg. Ent. Reference No. RN102180486				
Media [Statute] Air				
Enf. Coordinator Bryan Elliott				
Violation Number <input type="text" value="1"/>				
Rule Cite(s)	30 Tex. Admin. Code § 101.20(2), 40 Code of Federal Regulations § 63.2386(b)(1)(i), and Tex. Health & Safety Code § 382.085(b)			
Violation Description	Failed to timely submit a compliance report, as documented during an investigation conducted from January 7 through 14, 2009. Specifically, the Respondent was required to submit the initial compliance report for organic liquids distribution operations at major sources of hazardous air pollutants by July 31, 2007 but did not submit it until January 20, 2009, 539 days late.			
Base Penalty		<input type="text" value="\$10,000"/>		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="0%"/>
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="25%"/>
Matrix Notes	100% of the rule requirement was not met.			
Adjustment				<input type="text" value="\$7,500"/>
				<input type="text" value="\$2,500"/>
Violation Events				
Number of Violation Events		<input type="text" value="1"/>	Number of violation days	
		<input type="text" value="539"/>		
<small>mark only one with an x</small>	daily	<input type="text"/>		
	weekly	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input checked="" type="text" value="x"/>		
One single event is recommended based on the one report.				Violation Base Penalty <input type="text" value="\$2,500"/>
Good Faith Efforts to Comply			<input type="text" value="25.0%"/> Reduction	<input type="text" value="\$625"/>
	Extraordinary	Before NOV	NOV to EDPRP/Settlement Offer	
	Ordinary	<input checked="" type="text" value="x"/>	<input type="text"/>	
	N/A	<input type="text"/>	<small>(mark with x)</small>	
Notes	The Respondent came into compliance on January 20, 2009.			
Violation Subtotal				<input type="text" value="\$1,875"/>
Economic Benefit (EB) for this violation			Statutory Limit Test	
Estimated EB Amount		<input type="text" value="\$74"/>	Violation Final Penalty Total <input type="text" value="\$2,750"/>	
This violation Final Assessed Penalty (adjusted for limits)				<input type="text" value="\$2,750"/>

Economic Benefit Worksheet

Respondent: Magellan Terminals Holdings, L.P.
Case ID No.: 37161
Reg. Ent. Reference No.: RN102180486
Media: Air
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$1,000	31-Jul-2007	20-Jan-2009	1.48	\$74	n/a	\$74
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 cost to submit the required report and develop procedures to prevent the reoccurrence of untimely reporting. Date Required is based on the due date of the report and Final Date is the date of compliance.

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:	\$74
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Compliance History Report

Customer/Respondent/Owner-Operator: CN600134639 Magellan Terminals Holdings, L.P. Classification: AVERAGE Rating: 2.77
 Regulated Entity: RN102180486 GALENA PARK TERMINAL Classification: AVERAGE Site Rating: 4.04

ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD002524874
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	32007
	WASTEWATER	PERMIT	WQ0000671000
	WASTEWATER	PERMIT	TPDES0007145
	WASTEWATER	PERMIT	TX0007145
	AIR NEW SOURCE PERMITS	PERMIT	27951
	AIR NEW SOURCE PERMITS	PERMIT	27952
	AIR NEW SOURCE PERMITS	PERMIT	37753
	AIR NEW SOURCE PERMITS	PERMIT	37863
	AIR NEW SOURCE PERMITS	PERMIT	41427
	AIR NEW SOURCE PERMITS	PERMIT	45733
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG0017W
	AIR NEW SOURCE PERMITS	PERMIT	2068
	AIR NEW SOURCE PERMITS	PERMIT	4850
	AIR NEW SOURCE PERMITS	PERMIT	5848
	AIR NEW SOURCE PERMITS	PERMIT	12969
	AIR NEW SOURCE PERMITS	PERMIT	13233
	AIR NEW SOURCE PERMITS	PERMIT	13634
	AIR NEW SOURCE PERMITS	PERMIT	15298
	AIR NEW SOURCE PERMITS	PERMIT	22796
	AIR NEW SOURCE PERMITS	PERMIT	24908
	AIR NEW SOURCE PERMITS	PERMIT	53390
	AIR NEW SOURCE PERMITS	AFS NUM	4820100062
	AIR NEW SOURCE PERMITS	PERMIT	56469
	AIR NEW SOURCE PERMITS	PERMIT	73685
	AIR NEW SOURCE PERMITS	REGISTRATION	77093
	AIR NEW SOURCE PERMITS	REGISTRATION	77145
	AIR NEW SOURCE PERMITS	REGISTRATION	77147
	AIR NEW SOURCE PERMITS	REGISTRATION	79263
	AIR NEW SOURCE PERMITS	REGISTRATION	82802
	AIR OPERATING PERMITS	ACCOUNT NUMBER	HG0017W
	AIR OPERATING PERMITS	PERMIT	1128
	VOLUNTARY CLEANUP PROGRAM	ID NUMBER	1811
	IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	32007

Location: 12901 AMERICAN PETROLEUM RD, GALENA PARK, TX, 77547

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: February 12, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: February 12, 2004 to February 12, 2009

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

Name: Bryan Elliott Phone: 239 - 6162

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? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

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: 04/29/2005

ADMINORDER 2004-0487-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.300

30 TAC Chapter 116, SubChapter B 116.115(c)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT Y 63.563(b)(1)

Rqmt Prov: 4850 PERMIT

Description: Failure to conduct the performance test for Thermal Oxidizers (EPNs: EASTMVCS, & WESTMVCS) as required by federal and permit standards.

Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.300
30 TAC Chapter 116, SubChapter B 116.115(c)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT Y 63.567(e)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: 4850 PERMIT

Description: Failure to submit the summary reports and/or excess emissions report for the calendar year 2002 which were due on January 2003.

Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.300
30 TAC Chapter 116, SubChapter B 116.115(c)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT Y 63.567(j)(1)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: 4850 PERMIT

Description: Failure to submit the calendar year 2002 annual report of the sources's HAP control efficiency calculated using the procedures specified in 40 Code of Federal Regulations (CFR) §63.565(l).

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.113b(a)(5)

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to notify the degassing and refilling of Tank No. 375 which occurred on November 16, 2002.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
30 TAC Chapter 122, SubChapter B 122.145(2)(B)

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

Description: Failure to report all instances of deviations in the report dated February 18, 2003.

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	02/23/2004	(296252)
2	03/22/2004	(296256)
3	04/22/2004	(352510)
4	05/24/2004	(352511)
5	06/21/2004	(352512)
6	07/02/2004	(275285)
7	07/22/2004	(352513)
8	08/20/2004	(352514)
9	09/20/2004	(352515)
10	10/21/2004	(352516)
11	11/03/2004	(334301)
12	11/16/2004	(382010)
13	12/20/2004	(382011)
14	12/28/2004	(333895)
15	01/20/2005	(382012)
16	02/22/2005	(430071)
17	03/21/2005	(382009)
18	04/26/2005	(430072)
19	04/28/2005	(345900)
20	05/23/2005	(430073)
21	06/20/2005	(430074)
22	07/21/2005	(430075)
23	08/22/2005	(440979)
24	09/21/2005	(440980)
25	10/19/2005	(468701)

26	11/21/2005	(468702)
27	12/19/2005	(468703)
28	01/05/2006	(451048)
29	01/18/2006	(468704)
30	02/13/2006	(395064)
31	02/16/2006	(468698)
32	02/27/2006	(407304)
33	02/27/2006	(418351)
34	03/16/2006	(468700)
35	04/14/2006	(498386)
36	05/18/2006	(498387)
37	05/30/2006	(451679)
38	06/20/2006	(498388)
39	07/20/2006	(480247)
40	07/20/2006	(520395)
41	08/15/2006	(497315)
42	08/16/2006	(520396)
43	09/20/2006	(520397)
44	10/24/2006	(575677)
45	11/20/2006	(575678)
46	12/01/2006	(512667)
47	12/20/2006	(575679)
48	01/22/2007	(575680)
49	02/20/2007	(575672)
50	03/20/2007	(575673)
51	04/20/2007	(575674)
52	05/21/2007	(575675)
53	06/20/2007	(575676)
54	07/20/2007	(607590)
55	08/20/2007	(607591)
56	09/24/2007	(607592)
57	10/04/2007	(574086)
58	10/19/2007	(619651)
59	11/16/2007	(599472)
60	11/21/2007	(619652)
61	12/18/2007	(619653)
62	01/17/2008	(672175)
63	02/13/2008	(672174)
64	03/20/2008	(690083)
65	04/22/2008	(690084)
66	05/16/2008	(690085)
67	06/20/2008	(690086)
68	07/18/2008	(710869)
69	08/19/2008	(640983)
70	08/20/2008	(710870)
71	01/07/2009	(722785)
72	02/05/2009	(722686)

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

Date: 10/31/2005 (468702)

CN600134639

Self YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date: 07/20/2006 (480247)

CN600134639

Self NO Classification Moderate

Citation: 0671-000 PERMIT

30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to calibrate the flow meter annually, as required.

Self NO Classification Moderate

Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)

30 TAC Chapter 319, SubChapter A 319.7(c)

Description: Failure to maintain a temperature log for the sample storage refrigerator.

Date: 12/01/2006 (512667)

CN600134639

Self NO Classification Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.10(e)(3)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT R 63.428(h)

5C THC Chapter 382, SubChapter D 382.085(b)

Title V Permit O-01128, SC 10G OP

Description: Failed to submit excess emissions reports on a semiannual basis as required by 40 CFR 63, Subpart R.

Self NO Classification Moderate

Citation: 30 TAC Chapter 116, SubChapter F 116.615(2)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT R 63.422(b)
5C THC Chapter 382, SubChapter D 382.085(b)
Standard Permit 76724 PERMIT
Title V Permit O-01128, SC 15 OP

Description: Magellan Galena Park Terminal failed to meet the emission standards for the railcar/tank truck vapor combustor unit (VCU) from its loading gasoline operations during the period from October 1, 2005 through October 31, 2005.

Self NO Classification Minor

Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT R 63.428(c)(1)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Magellan Galena Park Terminal failed to operate correctly the data recorder for the continuous monitoring system for the VCU during the period from November 9, 2005 through January 29, 2006.

Self NO Classification Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.115b(b)(3)(iii)
5C THC Chapter 382, SubChapter D 382.085(b)
Title V Permit O-01128, SC 1A OP

Description: Magellan Galena Park Terminal failed to keep a record of the calculations on a seal gap surface area of Tank 393 as described in 40 CFR 115b(b)(3)(iii) for the seal gap of 0.5" wide and 20' long found on the primary seal of the tank during the tank inspection of November 28, 2005.

Self NO Classification Minor

Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT R 63.424(a)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Magellan Galena Park Terminal failed to demonstrate that monthly leak inspections of equipment in gasoline service located in the West Road Pipeline Rack & West Road Pump Station were conducted in 2005. In addition, Magellan Galena Park Terminal failed to demonstrate that leak inspections of equipment in gasoline serv

Self NO Classification Minor

Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT R 63.428(e)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Magellan Galena Park Terminal failed to keep the leak record for a leak was found in the Colex area during the leak inspection conducted in July 2005.

Self NO Classification Moderate

Citation: 30 TAC Chapter 118 118.5
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Magellan Galena Park Terminal failed to develop and maintain an Emission Reduction Plan as required by 30 TAC 118.5.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THC Chapter 382, SubChapter D 382.085(b)
Title V Permit O-01128, General Terms OP

Description: Magellan Galena Park Terminal failed to report all instances of deviations in the deviation reports dated February 17, 2006 and August 16, 2006. The following instances of deviations were not included in the reports: 30 TAC 118.5; 40 CFR 115b(b)(3)(iii); 40 CFR 63.424(a); and 40 CFR 63.428(e).

Date: 05/31/2007 (575676) CN600134639

Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2008 (690084) CN600134639

Self Report? YES Classification Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date: 08/15/2008 (609602) CN600134639

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 115, SubChapter F 115.542(a)(5)
5C THSC Chapter 382 382.085(b)
OP O-1128, Special Condition 7(A)(ii) OP

Description: Failed to conduct tank degassing in accordance with 30 TAC § 115.542(a)(5).

Date: 02/04/2009 (722686) CN600134639

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.132(e)(2)(A)
5C THSC Chapter 382 382.085(b)

Description: Failure to include the regulation 40 CFR 63, Subpart EEEE citation in the Federal

F. Environmental audits.

Notice of Intent Date: 06/18/2004 (334681)
Disclosure Date: 08/12/2004

Viol. Classification: Major
Citation: 30 TAC Chapter 116, SubChapter B 116.110

5C THC Chapter 382, SubChapter A 382.0518(a)

Description: Failed to obtain a permit to load products at the B Yard Railcar Loading Rack.

Viol. Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.132(e)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT Q 63.422

Description: Failure to include elements of the maximum achievable control technology standards as applicable requirements in the Title V permit.

Viol. Classification: Moderate
Citation: 40 CFR Chapter 63, SubChapter C, PT 63, SubPT Y 63.560(a)

Description: MARINE LOADING FACILITY NOT COMPLIANT W/ MACT SUBPART Y

Notice of Intent Date: 06/14/2006 (484993)
No DOV Associated

Notice of Intent Date: 02/22/2008 (641600)
No DOV Associated

Notice of Intent Date: 02/22/2008 (705496)
No DOV Associated

Notice of Intent Date: 09/27/2008 (702695)
No DOV Associated

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
MAGELLAN TERMINALS
HOLDINGS, L.P.
RN102180486

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§
§
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§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0211-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 Terminals Holdings, 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 terminal at 12901 American Petroleum Road in Galena Park, Harris 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 February 10, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Two Thousand Seven Hundred Fifty Dollars (\$2,750) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid One Thousand One Hundred Dollars (\$1,100) of the administrative penalty and Five Hundred Fifty Dollars (\$550) 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. One Thousand One Hundred Dollars (\$1,100) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent provided training to the appropriate staff and identified tools to be used to prevent reporting errors on January 14, 2009, and submitted the compliance report on January 20, 2009.
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 compliance report, in violation of 30 TEX. ADMIN. CODE § 101.20(2), 40 CODE OF FEDERAL REGULATIONS § 63.2386(b)(1)(i), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on January 7 through 14, 2009. Specifically, the Respondent was required to submit the initial compliance report for organic liquids distribution operations at major sources of hazardous air pollutants by July 31, 2007 but did not submit it until January 20, 2009, 539 days late.

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 Terminals Holdings, L.P., Docket No. 2009-0211-AIR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The Respondent shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, One Thousand One Hundred Dollars (\$1,100) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

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

Magellan Terminals Holdings, L.P.
DOCKET NO. 2009-0211-AIR-E
Page 5

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

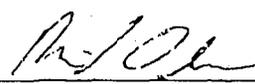
Date 6/23/2009

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

Date 4-24-09

Rick Olson

Name (Printed or typed)
Authorized Representative of
Magellan Terminals Holdings, 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.

Attachment A
Docket Number: 2009-0211-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Magellan Terminals Holdings, L.P.
Payable Penalty Amount:	Two Thousand Two Hundred Dollars (\$2,200)
SEP Amount:	One Thousand One Hundred Dollars (\$1,100)
Type of SEP:	Pre-approved
Third-Party Recipient:	Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program
Location of SEP:	Harris County

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

1. Project Description

A. Project

The Respondent will contribute to Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program in Harris County. The contribution will be used in accordance with the *Supplemental Environmental Project Agreement between the Houston-Galveston AERCO and the Texas Commission on Environmental Quality*. SEP monies will be used to aid local school districts and area transit agencies in reaching local match requirements mandated by the Federal Highway Administration's ("FHWA") Congestion Mitigation/Air Quality funding program. SEP monies will be disbursed to school districts and transit agencies in need of funding assistance in the Houston-Galveston non-attainment area. Those SEP monies will be used exclusively by the school districts and transit agencies as supplements to meet the local match requirements of the EPA. SEP monies will be used to pay for the cost of replacing older diesel buses with alternative fueled or clean diesel buses. The old buses will be permanently retired and only sold for scrap. The schools and transit agencies will also use the SEP monies to retrofit more buses to reduce emissions. Houston-Galveston AERCO will send the TCEQ verification in the form of paid invoices and other documentation to show that the retrofits were completed. Retrofit technologies include particulate matter traps, diesel particulate matter filters, NOx reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by EPA or the California Air Resources Board.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions of buses by more than 90% below today's level and reducing hydrocarbons below measurement capability.

C. Minimum Expenditure

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

2. Performance Schedule

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

Houston-Galveston Area Council
Houston-Galveston AERCO
P.O. Box 22777
Houston, Texas 77227-2777

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

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

Magellan Terminals Holdings, L.P.
Agreed Order - Attachment A

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

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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

