

Executive Summary – Enforcement Matter – Case No. 41618
Magellan Terminals Holdings, L.P.
RN102180486
Docket No. 2011-0717-IWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

IWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Galena Park Terminal, located on company property abutting the north shore of the Houston Ship Channel at a point approximately 0.5 mile downstream from the Washburn Tunnel and approximately one mile south of Interstate Highway 10, Harris County

Type of Operation:

Marine fuel tank farm

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: August 26, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$2,660

Amount Deferred for Expedited Settlement: \$532

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$2,128

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

**Executive Summary – Enforcement Matter – Case No. 41618
Magellan Terminals Holdings, L.P.
RN102180486
Docket No. 2011-0717-IWD-E**

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: April 14, 2011
Date(s) of NOE(s): April 28, 2011

Violation Information

Failed to comply with permitted effluent limits for oil and grease, total organic carbon, and pH [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0000671000, Effluent Limitations and Monitoring Requirements No. 1, for Outfall Nos. 002 and 003].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

Within 90 days, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0000671000, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Heather Brister, Enforcement Division, Enforcement Team 1, MC R-09, (254) 761-3034; Debra Barber, Enforcement Division, MC 219, (512) 239-0412.
TCEQ SEP Coordinator: N/A
Respondent: Melanie Little, Vice President of Operations, Magellan Terminals Holdings, L.P., P.O. Box 22186, MD27-3, Tulsa, Oklahoma 74121
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	2-May-2011	Screening	9-May-2011	EPA Due	
	PCW	9-May-2011				

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

CASE INFORMATION		No. of Violations	1
Enf./Case ID No.	41618	Order Type	1660
Docket No.	2011-0717-IWD-E	Government/Non-Profit	No
Media Program(s)	Water Quality	Enf. Coordinator	Heather Brister
Multi-Media		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1		
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>		
Compliance History	33.0% Enhancement	Subtotals 2, 3, & 7
		\$660

Notes: Enhancement for three months of self-reported effluent violations, five NOVs for dissimilar violations, and one Agreed Order with denial of liability. Reduction for eight Notices of Intent and two Disclosures of Violations.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
<small>Total EB Amounts</small>	\$251	<small>*Capped at the Total EB \$ Amount</small>	
<small>Approx. Cost of Compliance</small>	\$3,000		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,660
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>			

Notes:

Final Penalty Amount	\$2,660
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,660
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DEFERRAL	20.0% Reduction	Adjustment	-\$532
<small>Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>			

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$2,128
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Screening Date 9-May-2011

Docket No. 2011-0717-IWD-E

PCW

Respondent Magellan Terminals Holdings, L.P.

Policy Revision 2 (September 2002)

Case ID No. 41618

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102180486

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	3	15%
	Other written NOVs	5	10%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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 (<i>number of judgements or consent decrees meeting criteria</i>)	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 (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	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 (<i>number of audits for which notices were submitted</i>)	8	-8%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	2	-4%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 33%

>> **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

Enhancement for three months of self-reported effluent violations, five NOVs for dissimilar violations, and one Agreed Order with denial of liability. Reduction for eight Notices of Intent and two Disclosures of Violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 33%

Screening Date 9-May-2011

Docket No. 2011-0717-IWD-E

PCW

Respondent Magellan Terminals Holdings, L.P.

Policy Revision 2 (September 2002)

Case ID No. 41618

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102180486

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0000671000, Effluent Limitations and Monitoring Requirements No. 1, for Outfall Nos. 002 and 003

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on April 14, 2011. See attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

>> Programmatic Matrix

Matrix Notes	Harm			Percent
	Major	Moderate	Minor	
Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.				0%

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2 93 Number of violation days

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

Violation Base Penalty \$2,000

Two quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$251

Violation Final Penalty Total \$2,660

This violation Final Assessed Penalty (adjusted for limits) \$2,660

Economic Benefit Worksheet

Respondent Magellan Terminals Holdings, L.P.
Case ID No. 41618
Reg. Ent. Reference No. RN102180486
Media Water Quality
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				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$3,000	31-May-2010	31-Jan-2012	1.67	\$251	n/a	\$251

Notes for DELAYED costs

Estimated cost to determine the cause of non-compliance and to make necessary adjustments to achieve compliance with the permitted effluent limits. Date required is the initial month of non-compliance. Final date is the anticipated 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

\$3,000

TOTAL

\$251

Effluent Limit Violation Table

table rev.

Respondent	Magellan Terminals Holdings, L.P.
ID Number(s)	WQ0000671000
Docket Number	2011-0717-IWD-E
Enf. Coordinator	Heather Brister

Corresponds to Violation Number:

1

EFFLUENT PARAMETER			
Permit Limit			
	Oil and Grease Daily Maximum Concentration 15 Milligrams per Liter	Total Organic Carbon Daily Maximum Concentration 55 Milligrams per Liter	pH Maximum 9 Standard Units
	Outfall No. 002	Outfall No. 003	Outfall No. 003
Month/Year			
May 2010	18.6	c	c
December 2010	c	118	c
January 2011	c	95.2	9.6

c = compliant



Compliance History

Customer/Respondent/Owner-Operator:	CN600134639	Magellan Terminals Holdings, L.P.	Classification: AVERAGE	Rating: 2.06
Regulated Entity:	RN102180486	GALENA PARK TERMINAL	Classification: AVERAGE	Site Rating: 3.47
ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE	EPA ID		TXD002524874
	INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION # (SWR)		32007
	WASTEWATER	PERMIT		WQ0000671000
	WASTEWATER	EPA ID		TX0007145
	AIR NEW SOURCE PERMITS	REGISTRATION		93739
	AIR NEW SOURCE PERMITS	REGISTRATION		93674
	AIR NEW SOURCE PERMITS	PERMIT		93260
	AIR NEW SOURCE PERMITS	REGISTRATION		92631
	AIR NEW SOURCE PERMITS	REGISTRATION		27951
	AIR NEW SOURCE PERMITS	REGISTRATION		27952
	AIR NEW SOURCE PERMITS	REGISTRATION		37753
	AIR NEW SOURCE PERMITS	REGISTRATION		37863
	AIR NEW SOURCE PERMITS	REGISTRATION		41427
	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	REGISTRATION		12969
	AIR NEW SOURCE PERMITS	REGISTRATION		13233
	AIR NEW SOURCE PERMITS	REGISTRATION		13634
	AIR NEW SOURCE PERMITS	REGISTRATION		15298
	AIR NEW SOURCE PERMITS	REGISTRATION		22796
	AIR NEW SOURCE PERMITS	REGISTRATION		53390
	AIR NEW SOURCE PERMITS	AFS NUM		4820100062
	AIR NEW SOURCE PERMITS	PERMIT		56469
	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		95856
	AIR NEW SOURCE PERMITS	REGISTRATION		95329
	AIR NEW SOURCE PERMITS	REGISTRATION		95898
	AIR NEW SOURCE PERMITS	REGISTRATION		82802
	AIR NEW SOURCE PERMITS	REGISTRATION		91453
	AIR OPERATING PERMITS	ACCOUNT NUMBER		HG0017W
	AIR OPERATING PERMITS	PERMIT		1128
	IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)		32007
	POLLUTION PREVENTION PLANNING	ID NUMBER		P03649
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER		HG0017W

Location: Located on company property abutting the north shore of the Houston Ship Channel at a point approximately 0.5 mile downstream from the Washburn Tunnel and approximately one mile south of Interstate Highway 10, Harris County, Texas

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: May 03, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 03, 2006 to May 03, 2011

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

Name: Heather Brister Phone: (254) 761-3034

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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: **08/23/2009** ADMINORDER 2009-0211-AIR-E
Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT EEEE 63.2386(b)(1)(i)
5C THSC Chapter 382 382.085(b)
Description: Failed to timely submit a compliance report.

- 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	05/30/2006	(451679)
2	08/15/2006	(497315)
3	12/01/2006	(512667)
4	11/16/2007	(599472)
5	08/19/2008	(640983)
6	02/05/2009	(722686)
7	01/07/2009	(722785)
8	09/14/2009	(775459)
9	10/23/2009	(779959)
10	01/25/2010	(781144)
11	01/07/2010	(786515)
12	03/31/2010	(794592)
13	05/21/2010	(796514)
14	04/19/2010	(799788)

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

Date: **12/01/2006** (512667) CN600134639
Self Report? 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 Report? 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 Report? 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 Report? 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 Report? 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 Report? 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 Report? 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: 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: 08/26/2009 (749581) CN600134639
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter F 115.545(1)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 7(A) OP
Description: Failure to use the approved methods for determining flow rates.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter F 115.541(a)(1)(B)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 7(A) OP
Description: Failure to maintain a destruction efficiency of at least 90%.

Date: 01/08/2010 (786515) CN600134639
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter F 115.545(1)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 7(A) OP
Description: Failure to use the approved methods for determining flow rates.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter F 115.541(a)(1)(B)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 7(A) OP
Description: Failure to maintain a destruction efficiency of at least 90%.

Date: 01/28/2010 (781144) CN600134639
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Description: Failure to submit the first semi-annual deviation report for the period of July 19, 2008 through January 18, 2009 within the required time frame (CATEGORY B3 Violation)

Date: 05/31/2010 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: 12/31/2010 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: 01/31/2011 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

F. Environmental audits.

Disclosure Date: 07/25/2007
Viol. Classification: Moderate
Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT K 60.112
Description: Excess emissions resulting from roof landings.

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
Notice of Intent Date:	05/01/2009	(759587)	
Disclosure Date:	05/27/2009		

Viol. Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.116(b)
30 TAC Chapter 116, SubChapter B 116.150
Description: Failure to comply with permit representations for tank roof fittings, to date 21 of 26 tanks have been constructed.

Notice of Intent Date: 12/11/2009 (787335)

Disclosure Date: 12/11/2009

Viol. Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter H 116.770(a)
Description: Failed to include representations for the BD loading operations in the permit change. Specifically, when the company requested that the BD flare be removed from the application, the loading operations were mistakenly removed.

Viol. Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.116(a)
Description: Failed to adhere to the yearly loading rate of 2.1 million gallons year by rail for St. Permit No. 73685.

Notice of Intent Date: 01/08/2010 (789518) No DOV Associated

Notice of Intent Date: 03/05/2010 (912062) 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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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2011-0717-IWD-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. WATER CODE chs. 7 and 26. 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 marine fuel tank farm located on company property abutting the north shore of the Houston Ship Channel at a point approximately 0.5 mile downstream from the Washburn Tunnel and approximately one mile south of Interstate Highway 10 in Harris County, Texas (the "Facility").
2. The Respondent has discharged industrial waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
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 3, 2011.
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 Six Hundred Sixty Dollars (\$2,660) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand One Hundred Twenty-Eight Dollars (\$2,128) of the administrative penalty and Five Hundred Thirty-Two Dollars (\$532) 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 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.
10. 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.
11. 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 Facility, the Respondent is alleged to have failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0000671000, Effluent Limitations and Monitoring Requirements No. 1, for Outfall Nos. 002 and 003, as documented during a record review conducted on April 14, 2011, and shown in the table below:

EFFLUENT PARAMETER			
Permit Limit			
	Oil and Grease Daily Maximum Concentration 15 Milligrams per Liter	Total Organic Carbon Daily Maximum Concentration 55 Milligrams per Liter	pH Maximum 9 Standard Units
	Outfall No. 002	Outfall No. 003	Outfall No. 003
Month/Year			
May 2010	18.6	c	c
December 2010	c	118	c
January 2011	c	95.2	9.6
c = compliant			

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. 2011-0717-IWD-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. It is further ordered that the Respondent shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0000671000, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

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 Facility 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

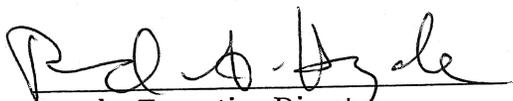
Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

8/30/11
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.

Melanie Little
Signature

7/7/11
Date

MELANIE LITTLE
Name (Printed or typed)
Authorized Representative of
Magellan Terminals Holdings, L.P.

VP, Operations
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.