

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO. 2010-0771-PST-E

RN101890291

CASE NO. 39680

**RESPONDENT NAME: JORGE VARELA (aka JORGE VARELA MAR and JORGE VARELA-MAR)
d/b/a MAGNOLIAS TRANSMISSION**

ORDER TYPE:		
<input checked="" type="checkbox"/> 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"/> IMMEDIATE AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" 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

SITE WHERE VIOLATION(S) OCCURRED: 702 East Main Street, Nacogdoches, Nacogdoches County

TYPE OF OPERATION: automotive repair facility

SMALL BUSINESS: Yes No N/A

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

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

COMMENTS RECEIVED: The *Texas Register* comment period expired February 8, 2011. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Steven M. Fishburn, Litigation Division, MC 175, (512) 239-3400
Lena Roberts, Litigation Division, MC 175, (512) 239-3400

TCEQ Enforcement Coordinator: Cheryl Thompson, Air Enforcement Section, MC R-04, (817) 588-5886

TCEQ Regional Contact: Derek Eades, Beaumont Regional Office, MC R-10, (409) 898- 3838

Respondent: Jorge Varela, Owner, 702 East Main Street, Nacogdoches, Texas 75961

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

**RESPONDENT NAME: JORGE VARELA (aka JORGE VARELA MAR
and JORGE VARELA-MAR) d/b/A MAGNOLIAS TRANSMISSION
DOCKET NO. 2010-0771-PST-E**

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaint: N/A</p> <p>Date of Investigation: April 15, 2010</p> <p>Date of NOE: April 29, 2010</p> <p>Background Facts: The EDPRP was filed on September 24, 2010. The Agreed Order was signed December 20, 2010.</p> <p>Current Compliance Status: Respondent has not yet submitted documentation demonstrating compliance with the technical requirements. Respondent does not have a delivery certificate.</p> <p>PST: Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, a UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements. [30 TEX. ADMIN. CODE § 334.47(a)(2)].</p>	<p>Total Assessed: \$2,625</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid/Due to General Revenue: \$125/\$2,500</p> <p>Respondent paid \$125 of the administrative penalty. The remaining amount of \$2,500 shall be paid in 25 monthly payments of \$100 each.</p> <p>Compliance History Classifications: <i>Person/CN – Average</i> <i>Site/RN – Average</i></p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Within 30 days, permanently remove the UST system from service. 2. Within 45 days, submit written certification demonstrating compliance.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	3-May-2010			
	PCW	14-Sep-2010	Screening	12-May-2010	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	Jorge Varela-Mar dba Magnolias Transmission				
Reg. Ent. Ref. No.	RN101890291				
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	39680	No. of Violations	1		
Docket No.	2010-0771-PST-E	Order Type	1660		
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No		
Multi-Media		Enf. Coordinator	Cheryl Thompson		
		EC's Team	Enforcement Team 3		
Admin. Penalty \$ Limit	Minimum	\$0	Maximum	\$10,000	

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$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	5.0% Enhancement	Subtotals 2, 3, & 7	\$125
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Notes	The Respondent received one NOV for the same violation.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$2,993	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$10,500	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,625
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$2,625
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,625
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY	\$2,625
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Screening Date 12-May-2010

Docket No. 2010-0771-PST-E

PCW

Respondent Jorge Varela-Mar dba Magnolias Transmission

Policy Revision 2 (September 2002)

Case ID No. 39680

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101890291

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Cheryl Thompson

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	0	0%
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	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)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<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) 5%

>> 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 Respondent received one NOV for the same violation.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 12-May-2010	Docket No. 2010-0771-PST-E	PCW	
Respondent Jorge Varela-Mar dba Magnolias Transmission		<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 39680		<i>PCW Revision October 30, 2008</i>	
Reg. Ent. Reference No. RN101890291			
Media [Statute] Petroleum Storage Tank			
Enf. Coordinator Cheryl Thompson			
Violation Number	1		
Rule Cite(s)	30 Tex. Admin. Code § 334.47(a)(2)		
Violation Description	Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, an underground storage tank ("UST") system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.		
	Base Penalty	\$10,000	
>> Environmental, Property and Human Health Matrix			
OR	Release	Harm	
		Major Moderate Minor	
	Actual	<input type="text"/>	<input type="text"/>
	Potential	x	<input type="text"/>
		Percent	25%
>>Programmatic Matrix			
	Falsification	Major	Moderate
	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Percent	0%
Matrix Notes	Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.		
	Adjustment	\$7,500	
			\$2,500
Violation Events			
	Number of Violation Events	1	27
			Number of violation days
	<i>mark only one with an x</i>	daily	<input type="text"/>
		weekly	<input type="text"/>
		monthly	x
		quarterly	<input type="text"/>
		semiannual	<input type="text"/>
		annual	<input type="text"/>
		single event	<input type="text"/>
		Violation Base Penalty	\$2,500
	One monthly event is recommended from the period of April 15, 2010 (date of investigation) and May 12, 2010 (date of screening).		
Good Faith Efforts to Comply			
	0.0%	Reduction	\$0
		Before NOV NOV to EDPRP/Settlement	
	Extraordinary	<input type="text"/>	<input type="text"/>
	Ordinary	<input type="text"/>	<input type="text"/>
	N/A	x	(mark with x)
	Notes	The Respondent does not meet the good faith criteria for this violation.	
		Violation Subtotal	\$2,500
Economic Benefit (EB) for this violation			
	Estimated EB Amount	\$2,993	Statutory Limit Test
			Violation Final Penalty Total
			\$2,625
		This violation Final Assessed Penalty (adjusted for limits)	\$2,625

Economic Benefit Worksheet

Respondent Jorge Varela-Mar dba Magnolias Transmission
Case ID No. 39680
Reg. Ent. Reference No. RN101890291
Media Petroleum Storage Tank
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)	\$10,500	20-Apr-2005	31-Dec-2010	5.70	\$2,993	n/a	\$2,993

Notes for DELAYED costs

Estimated cost to permanently remove from service three USTs with a combined capacity of 14,000 gallons (one 6,000 gallon and two 4,000 gallon) at \$0.75 per gallon. The date required is the date the Respondent was required to upgrade UST system and the final date is estimated 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

\$10,500

TOTAL

\$2,993

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603673229	Jorge Varela-Mar	Classification: AVERAGE	Rating: 1.00
Regulated Entity:	RN101890291	MAGNOLIAS TRANSMISSION	Classification: AVERAGE	Site Rating: 1.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION			50118
Location:	702 E MAIN ST, NACOGDOCHES, TX, 75961			
TCEQ Region:	REGION 10 - BEAUMONT			
Date Compliance History Prepared:	May 18, 2010			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	May 12, 2005 to May 12, 2010			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:				
Name:	Cheryl Thompson		Phone:	(817) 588-5886

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: 09/01/2009 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.

N/A
 - 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	10/29/2009	(778352)
2	04/29/2010	(799322)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 10/29/2009	(778352)	CN603673229
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 334, SubChapter C 334.47(a)(2)	
Description:	Failure to perform the permanent removal of a UST that has not met technical upgrade requirements.	
 - F. Environmental audits.

N/A
 - 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

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING JORGE VARELA
(aka JORGE VARELA MAR AND
JORGE VARELA-MAR) d/b/a
MAGNOLIAS TRANSMISSION;
RN101890291**

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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2010-0771-PST-E**

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Jorge Varela (aka Jorge Varela Mar and Jorge Varela-Mar) d/b/a Magnolias Transmission ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent appear before the Commission and together stipulate that:

1. Respondent owns, as defined in 30 TEX. ADMIN. CODE §§ 334.2(73), three (3) underground storage tanks ("USTs") and an automotive repair facility located at 702 East Main Street, Nacogdoches, Nacogdoches County, Texas (the "Facility"). The USTs at the Facility are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and contain a regulated petroleum substance as defined in the rules of the TCEQ.
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of two thousand six hundred twenty-five dollars (\$2,625.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid one hundred twenty-five dollars (\$125.00) of the administrative penalty. The remaining amount of two thousand five hundred dollars (\$2,500.00) of the administrative penalty shall be payable in twenty-five (25) monthly payments of one hundred dollars (\$100.00) each. The first monthly

payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

6. 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.
7. The Executive Director of the TCEQ and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to the approval of the Commission.
8. 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 Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
9. 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.
10. 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

1. During a record review conducted on April 15, 2010, a TCEQ Beaumont Regional Office investigator documented that Respondent violated 30 TEX. ADMIN. CODE § 334.47(a)(2) by failing to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, an UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.
2. Respondent received notice of the violation on or about May 4, 2010.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and 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

**Jorge Varela (aka Jorge Varela Mar and Jorge Varela-Mar) d/b/a Magnolias Transmission
Docket No. 2010-0771-PST-E
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not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Jorge Varela (aka Jorge Varela Mar and Jorge Varela-Mar) d/b/a Magnolias Transmission, Docket No. 2010-0771-PST-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. Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order, Respondent shall permanently remove the UST system from service, in accordance with 30 TEX. ADMIN. CODE § 334.55.
- b. Within 45 days after the effective date of this Agreed Order, Respondent shall submit written certification and detailed supporting documentation, including photographs, receipts, and /or other records, to demonstrate compliance with Ordering Provision No. 2.a. 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 I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Respondent shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions 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:

Mr. Derek Eades, Waste Section Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway.
Beaumont, Texas 77703-1830

3. All relief not expressly granted in this Agreed Order is denied.
4. The provisions of this Agreed Order shall apply to and be binding upon Respondent. 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.
5. If 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, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against 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.
8. 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.
9. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of

**Jorge Varela (aka Jorge Varela Mar and Jorge Varela-Mar) d/b/a Magnolias Transmission
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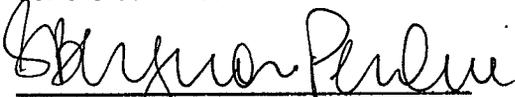
this Agreed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Jorge Varela (aka Jorge Varela Mar and Jorge Varela-Mar) d/b/a Magnolias Transmission
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

 For the Commission



For the Executive Director

2/3/2011

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of Jorge Varela (aka Jorge Varela Mar and Jorge Varela-Mar) d/b/a Magnolias Transmission, 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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.

JORGE VARELA
 Signature—Jorge Varela

(aka Jorge Varela Mar and Jorge Varela-Mar)

12-20-2010
 Date