

**Executive Summary – Enforcement Matter – Case No. 48556  
Pelican Island Storage Terminal, LLC  
RN100224120  
Docket No. 2014-0549-AIR-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

AIR

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

Pelican Island Storage Terminal, 3801 GTI Boulevard, Pelican Island, Galveston, County

**Type of Operation:**

Petroleum and petroleum products bulk station and terminal

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** July 11, 2014

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$7,875

**Amount Deferred for Expedited Settlement:** \$1,575

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$6,300

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** Yes

**Statutory Limit Adjustment:** \$0

**Applicable Penalty Policy:** April 2014

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** January 27, 2014

**Date(s) of NOE(s):** March 28, 2014

**Executive Summary – Enforcement Matter – Case No. 48556  
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RN100224120  
Docket No. 2014-0549-AIR-E**

***Violation Information***

Failed to prevent nuisance odor conditions. Specifically, an investigator with the Galveston County Health District, a TCEQ contracted agency, documented strong, offensive petroleum odors downwind of the Plant for about 30 minutes on November 9 and 14, 2013 that were a result from operations at the Plant [30 TEX. ADMIN. CODE §§ 101.4 and 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(a) and (b), and New Source Review Permit No. 8680, Special Conditions No. 4].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require the Respondent to:

- a. Within 30 days, implement measures designed to prevent nuisance odor conditions; and
- b. Within 45 days, submit written certification demonstrating compliance with Ordering Provision a.

***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:** Carol McGrath, Enforcement Division, Enforcement Team 5, MC R-13, (210) 403-4063; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

**TCEQ SEP Coordinator:** N/A

**Respondent:** L.P. Byler, President, Pelican Island Storage Terminal, LLC, 5373 West Alabama, Suite 502, Houston, Texas 77056

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

<b>DATES</b>	<b>Assigned</b>	7-Apr-2014	<b>Screening</b>	14-Apr-2014	<b>EPA Due</b>	
	<b>PCW</b>	15-Apr-2014				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	Pelican Island Storage Terminal, LLC		
<b>Reg. Ent. Ref. No.</b>	RN100224120		
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	48556	<b>No. of Violations</b>	1
<b>Docket No.</b>	2014-0549-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Carol McGrath
		<b>EC's Team</b>	Enforcement Team 5
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

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

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

**Compliance History**  Enhancement **Subtotals 2, 3, & 7**

Notes

**Culpability**   Enhancement **Subtotal 4**

Notes

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit**  Enhancement\* **Subtotal 6**

Total EB Amounts   
 Approx. Cost of Compliance  *\*Capped at the Total EB \$ Amount*

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

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

Notes

**PAYABLE PENALTY**

Screening Date 14-Apr-2014

Docket No. 2014-0549-AIR-E

PCW

Respondent Pelican Island Storage Terminal, LLC

Policy Revision 4 (April 2014)

Case ID No. 48556

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100224120

Media [Statute] Air

Enf. Coordinator Carol McGrath

### 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> )	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	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 ( <i>number of judgments 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> )	0	0%
	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> )	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)

Satisfactory Performer

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

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same/similar violations.

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

>> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 5%

Screening Date 14-Apr-2014

Docket No. 2014-0549-AIR-E

PCW

Respondent Pelican Island Storage Terminal, LLC

Policy Revision 4 (April 2014)

Case ID No. 48556

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100224120

Media [Statute] Air

Enf. Coordinator Carol McGrath

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 101.4 and 116.115(c), Tex. Health & Safety Code § 382.085(a) and (b), and New Source Review Permit No. 8680, Special Conditions No. 4

Violation Description Failed to prevent nuisance odor conditions. Specifically, an investigator with the Galveston County Health District, a TCEQ contracted agency, documented strong, offensive petroleum odors downwind of the Plant for about 30 minutes on November 9 and 14, 2013 that were a result from operations at the Plant.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	15.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes 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.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2 Number of violation days 2

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

Violation Base Penalty \$7,500

Two single events are recommended for each day a nuisance odor was documented.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/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 \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$372

Violation Final Penalty Total \$7,875

This violation Final Assessed Penalty (adjusted for limits) \$7,875

## Economic Benefit Worksheet

**Respondent** Pelican Island Storage Terminal, LLC  
**Case ID No.** 48556  
**Reg. Ent. Reference No.** RN100224120  
**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				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)	\$8,000	9-Nov-2013	14-Oct-2014	0.93	\$372	n/a	\$372

Notes for DELAYED costs

Estimated cost to implement measures designed to prevent nuisance odor conditions. The Date Required is the first date a nuisance was documented. The Final Date is the expected 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 \$8,000

**TOTAL** \$372



# Compliance History Report

**PUBLISHED** Compliance History Report for CN600131668, RN100224120, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

<b>Customer, Respondent, or Owner/Operator:</b>	CN600131668, Pelican Island Storage Terminal, LLC	<b>Classification:</b> SATISFACTORY	<b>Rating:</b> 0.19
<b>Regulated Entity:</b>	RN100224120, PELICAN ISLAND STORAGE TERMINAL	<b>Classification:</b> SATISFACTORY	<b>Rating:</b> 0.19
<b>Complexity Points:</b>	14	<b>Repeat Violator:</b>	NO
<b>CH Group:</b>	14 - Other		
<b>Location:</b>	3801 GTI BLVD, PELICAN ISLAND, GALVESTON COUNTY, TX		
<b>TCEQ Region:</b>	REGION 12 - HOUSTON		

**ID Number(s):**

<b>AIR OPERATING PERMITS</b> ACCOUNT NUMBER GB0119Q	<b>AIR OPERATING PERMITS</b> PERMIT 851
<b>WASTEWATER</b> PERMIT WQ0002466000	<b>WASTEWATER</b> EPA ID TX0086568
<b>AIR NEW SOURCE PERMITS</b> PERMIT 8680	<b>AIR NEW SOURCE PERMITS</b> ACCOUNT NUMBER GB0119Q
<b>AIR NEW SOURCE PERMITS</b> AFS NUM 4816700049	<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 98119
<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 101429	<b>AIR EMISSIONS INVENTORY</b> ACCOUNT NUMBER GB0119Q

<b>Compliance History Period:</b>	September 01, 2008 to August 31, 2013	<b>Rating Year:</b>	2013	<b>Rating Date:</b>	09/01/2013
<b>Date Compliance History Report Prepared:</b>	April 14, 2014				
<b>Agency Decision Requiring Compliance History:</b>	Enforcement				
<b>Component Period Selected:</b>	April 14, 2009 to April 14, 2014				

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Carol McGrath **Phone:** (210) 403-4063

**Site and Owner/Operator History:**

- 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 for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

**Components (Multimedia) for the Site Are Listed in Sections A - J**

- A. Final Orders, court judgments, and consent decrees:**  
N/A
- B. Criminal convictions:**  
N/A
- C. Chronic excessive emissions events:**  
N/A
- D. The approval dates of investigations (CCEDS Inv. Track. No.):**

Item 1	April 15, 2009	(771470)
Item 2	May 19, 2009	(771471)
Item 3	June 15, 2009	(814480)
Item 4	July 16, 2009	(814481)

Item 5	August 19, 2009	(814482)
Item 6	September 22, 2009	(814483)
Item 7	November 16, 2009	(814485)
Item 8	December 17, 2009	(814486)
Item 9	January 14, 2010	(814487)
Item 10	February 19, 2010	(814479)
Item 11	March 10, 2010	(834286)
Item 12	April 15, 2010	(834287)
Item 13	May 19, 2010	(834288)
Item 14	June 14, 2010	(847316)
Item 15	June 30, 2010	(861758)
Item 16	August 16, 2010	(868160)
Item 17	August 18, 2010	(803159)
Item 18	September 16, 2010	(875086)
Item 19	October 06, 2010	(882698)
Item 20	November 08, 2010	(889109)
Item 21	December 16, 2010	(897483)
Item 22	January 06, 2011	(903376)
Item 23	February 01, 2011	(884929)
Item 24	February 17, 2011	(910289)
Item 25	March 21, 2011	(917503)
Item 26	April 11, 2011	(928542)
Item 27	May 05, 2011	(939196)
Item 28	June 20, 2011	(946617)
Item 29	July 15, 2011	(953873)
Item 30	August 11, 2011	(960468)
Item 31	September 06, 2011	(966525)
Item 32	October 05, 2011	(1032739)
Item 33	November 10, 2011	(978684)
Item 34	December 01, 2011	(963810)
Item 35	December 19, 2011	(985506)
Item 36	March 23, 2012	(1004668)
Item 37	April 11, 2012	(1011244)
Item 38	May 21, 2012	(1017601)
Item 39	June 25, 2012	(1025404)
Item 40	July 17, 2012	(1032738)
Item 41	August 13, 2012	(1039164)
Item 42	September 13, 2012	(1048120)
Item 43	September 26, 2012	(1027751)
Item 44	October 22, 2012	(1066979)
Item 45	November 07, 2012	(1066980)
Item 46	December 11, 2012	(1066981)
Item 47	January 17, 2013	(1081539)
Item 48	February 19, 2013	(1081538)
Item 49	March 18, 2013	(1090558)
Item 50	April 11, 2013	(1096911)
Item 51	May 20, 2013	(1107877)
Item 52	June 20, 2013	(1111505)
Item 53	July 16, 2013	(1126198)
Item 54	August 02, 2013	(1092891)
Item 55	August 19, 2013	(1126199)
Item 56	September 06, 2013	(1115702)
Item 57	September 16, 2013	(1130750)
Item 58	October 07, 2013	(1136514)
Item 59	November 19, 2013	(1141900)
Item 60	December 18, 2013	(1148362)
Item 61	February 12, 2014	(1154432)

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





TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
PELICAN ISLAND STORAGE  
TERMINAL, LLC  
RN100224120**

**§  
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**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2014-0549-AIR-E**

**I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Pelican Island Storage Terminal, LLC ("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 together stipulate that:

1. The Respondent owns and operates a petroleum and petroleum products bulk station and terminal at 3801 GTI Boulevard on Pelican Island in Galveston 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 Executive Director 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 April 2, 2014.
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 Seven Thousand Eight Hundred Seventy-Five Dollars (\$7,875) is assessed by the Commission in settlement of the violations

alleged in Section II ("Allegations"). The Respondent has paid Six Thousand Three Hundred Dollars (\$6,300) of the administrative penalty and One Thousand Five Hundred Seventy-Five Dollars (\$1,575) 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 and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
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 Plant, the Respondent is alleged to have failed to prevent nuisance odor conditions, in violation of 30 TEX. ADMIN. CODE §§ 101.4 and 116.115(c), TEX. HEALTH & SAFETY CODE § 382.085(a) and (b), and New Source Review Permit No. 8680, Special Conditions No. 4, as documented during an investigation conducted on January 27, 2014. Specifically, an investigator with the Galveston County Health District, a TCEQ contracted agency, documented strong, offensive petroleum odors downwind of the Plant for about 30 minutes on November 9 and 14, 2013 that were a result from operations at the Plant.

## **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: Pelican Island Storage Terminal, LLC, Docket No. 2014-0549-AIR-E" to:

Financial Administration Division, Revenue Operations 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 undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, implement measures designed to prevent nuisance odor conditions; and
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include 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 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:

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

and with a copy to:

Program Manager  
Air and Water Pollution Services Division  
Galveston County Health District  
P. O. Box 939  
La Marque, Texas 77568

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 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.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

Pam Moore  
For the Executive Director

10/8/14  
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.

L.P. Byler  
Signature

August 26, 2014  
Date

L. P. Byler  
Name (Printed or typed)  
Authorized Representative of  
Pelican Island Storage Terminal, LLC

President  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.