EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 33879
JAMES J. FLANAGAN SHIPPING CORPORATION d/b/a James J. Flanagan Stevedores
RN101880219
Docket No. 2013-0653-PST-E

Order Type:
Findings Agreed Order

Findings Order Justification:
Indifference to legal duty based on violation of a previous order.

Media:
PST

Small Business:
No

Location(s) Where Violation(s) Occurred:
1111 E. Navigation Blvd., Houston, Harris County

Type of Operation:
fleet refueling facility

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date:	March 14, 2014
Comments Received:	None

Penalty Information

Total Penalty Assessed:	$48,750
Total Paid to General Revenue:	$1,360
Total Due to General Revenue:	$47,390

Payment Plan: 35 payments of $1,354 each

SEP Conditional Offset:	N/A

Compliance History Classifications:
Person/CN – Unsatisfactory
Site/RN – Unsatisfactory

Major Source:	No
Statutory Limit Adjustment:	None
Applicable Penalty Policy:	September 2002

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: September 20, 2012

Date(s) of NOV(s): N/A

Date(s) of NOE(s): March 1, 2013

Violation Information

Failed to provide a method of release detection capable of detecting a release from any portion of the UST system which contained regulated substances [TEX. WATER CODE § 26.3475(c)(1); 30 TEX. ADMIN. CODE § 334.50(a)(1)(A)); and TCEQ Agreed Order Docket No. 2007-0978-PST-E, Ordering Provision No. 2.b.i.].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The USTs at the Facility were placed temporarily out-of-service as of October 21, 2013.

Technical Requirements:

1. Within 30 days, submit an updated UST registration and self-certification form to update the operational status of the USTs at the Facility.
2. Within 45 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: June 12, 2013

Date Answer(s) Filed: July 3, 2013

SOAH Referral Date: August 7, 2013

Hearing Date(s):
Preliminary Hearing: September 19, 2013 (waived)
Evidentiary Hearing: December 18, 2013 (continued); January 24, 2014 (scheduled)

Settlement Date: January 21, 2014

Contact Information

TCEQ Attorneys: Jennifer Cook, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Vic McWherter, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Mike Meyer, Enforcement Division, (512) 239-6933

TCEQ Regional Contact: Jason Ibarra, Houston Regional Office, (817) 588-5890

Respondent Contact: James J. Flanagan, Director and Vice President, JAMES J. FLANAGAN SHIPPING CORPORATION, 595 Orleans, Suite 1500, Beaumont, Texas 77701

Respondent's Attorney: William Thompson, GRISSOM & THOMPSON, LLP, 509 W. 12TH Street, Austin, Texas 78701

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) *PCW Revision October 30, 2008*

DATES					
Assigned	4-Mar-2013				
PCW	3-Dec-2013	Screening	28-Mar-2013	EPA Due	

RESPONDENT/FACILITY INFORMATION			
Respondent	JAMES J. FLANAGAN SHIPPING CORPORATION dba James J. Flanagan Stevedores		
Reg. Ent. Ref. No.	RN101880219		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	33879	No. of Violations	1
Docket No.	2013-0653-PST-E	Order Type	Findings
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Clinton Sims
		EC's Team	Enforcement Team 6
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* **$37,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **30.0%** Enhancement *Subtotals 2, 3, & 7* **$11,250**

Notes: Enhancement for one order containing a denial of liability and for unsatisfactory performer classification.

Culpability No **0.0%** Enhancement *Subtotal 4* **$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments *Subtotal 5* **$0**

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

Total EB Amounts $327
Approx. Cost of Compliance $1,500

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 *Final Subtotal* **$48,750**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** *Adjustment*

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$48,750**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **$48,750**

DEFERRAL **0.0%** Reduction *Adjustment* **$0**

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

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY **$48,750**

Screening Date	28-Mar-2013	**Docket No.**	2013-0653-PST-E	**PCW**
Respondent	Stevedores			*Policy Revision 2 (September 2002)*
Case ID No.	33879			*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN101880219			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Clinton Sims			

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 (*number of NOVs meeting criteria*)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were submitted)*	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%
		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 20%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unsatisfactory Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance History Notes

Enhancement for one order containing a denial of liability and for unsatisfactory performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 30%

Screening Date	28-Mar-2013	**Docket No.** 2013-0653-PST-E	**PCW**
Respondent	Stevedores		*Policy Revision 2 (September 2002)*
Case ID No.	33879		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN101880219		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Clinton Sims		

Violation Number 1

Rule Cite(s) TCEQ Agreed Order Docket No. 2007-0978-PST-E, Ordering Provision No. 2.b.i. and 30 Tex. Admin. Code § 334.50(a)(1)(A) and Tex. Water Code § 26.3475(c)(1)

Violation Description Failed to provide a method of release detection capable of detecting a release from any portion of the underground storage tank ("UST") system which contained regulated substances.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

OR

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

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: 15 — 1347 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $37,500

Fifteen quarterly events are recommended from the July 20, 2009 order effective date to the March 28, 2013 screening date.

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 $37,500

Economic Benefit (EB) for this violation

Estimated EB Amount $327

Statutory Limit Test

Violation Final Penalty Total $48,750

This violation Final Assessed Penalty (adjusted for limits) $48,750

Economic Benefit Worksheet

Respondent JAMES J. FLANAGAN SHIPPING CORPORATION dba James J. Flanagan Stevedores
Case ID No. 33879
Reg. Ent. Reference No. RN101880219
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)	$1,500	20-Jul-2009	28-Nov-2013	4.36	$327	n/a	$327

Notes for DELAYED costs Estimated cost to monitor the USTs for releases. The date required is the order effective date, and the final date is the 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 $1,500

TOTAL $327

The TCEQ is committed to accessibility.
To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.

Compliance History Report

PUBLISHED Compliance History Report for CN601025018, RN101880219, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN601025018, JAMES J. FLANAGAN SHIPPING CORPORATION **Classification:** UNSATISFACTORY **Rating:** 65.00

Regulated Entity: RN101880219, JAMES J FLANAGAN STEVEDORES **Classification:** UNSATISFACTORY **Rating:** 65.00

Complexity Points: 3 **Repeat Violator:** NO

CH Group: 01 - Gas Stations with convenience Stores and other Gas Stations

Location: 1111 E NAVIGATION BLVD HOUSTON, TX 77012-1000, HARRIS COUNTY

TCEQ Region: REGION 12 - HOUSTON

ID Number(s): **PETROLEUM STORAGE TANK REGISTRATION** REGISTRATION 48086

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: March 28, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: March 28, 2008 to March 28, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Andrea Park **Phone:** (713) 422-8970

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:

1 Effective Date: 07/20/2009 ADMINORDER 2007-0978-PST-E (1660 Order-Agreed Order With Denial)

Classification: Moderate
Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)
30 TAC Chapter 37, SubChapter I 37.815(b)
Description: Failure to demonstrate financial assurance for the UST system
Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.3475(c)(1)
30 TAC Chapter 334, SubChapter C 334.50(a)(1)(A)
Description: Failure to provide release detection
Classification: Moderate
Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)
Description: Failure to maintain required records
Classification: Minor
Citation: 30 TAC Chapter 334, SubChapter A 334.7(d)(3)
30 TAC Chapter 334, SubChapter A 334.8(c)(4)(A)(vi)
Description: Failure to update UST Registration Form
Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.3467(a)
Classification: Moderate
30 TAC Chapter 334, SubChapter A 334.8(c)(5)(A)(i)
Description: Failure to possess a valid TCEQ Delivery Certificate prior to receiving fuel

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

N/A

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING JAMES J. FLANAGAN SHIPPING CORPORATION D/B/A JAMES J. FLANAGAN STEVEDORES; RN101880219	**§ § § § § § §**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2013-0653-PST-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding JAMES J. FLANAGAN SHIPPING CORPORATION d/b/a James J. Flanagan Stevedores ("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, represented by William W. Thompson, III of the law firm Grissom & Thompson, LLP, presented this Agreed Order to the Commission.

Respondent understands that it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Respondent owns and operates, as defined in 30 TEX. ADMIN. CODE § 334.2(73) and (70), an underground storage tank ("UST") system and a fleet refueling facility located at 1111 E. Navigation Blvd. in Houston, Harris County, Texas (Facility ID No. 48086) (the "Facility"). The USTs at the Facility are not exempt or excluded from regulation under the Texas Water Code or the rules of the TCEQ, and contain a regulated petroleum substance as defined in the rules of the TCEQ.

2. During an investigation conducted on September 20, 2012, a TCEQ Houston Regional Office investigator documented that Respondent failed to provide a method of release detection capable of detecting a release from any portion of the UST system which contained regulated substances.

3. Respondent received notice of the violation on or about March 6, 2013.

4. The Executive Director recognizes that the USTs at the Facility were placed temporarily out-of-service as of October 21, 2013.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the TCEQ.

2. As evidenced by Finding of Fact No. 2, Respondent failed to provide a method of release detection capable of detecting a release from any portion of the UST system which contained regulated substances, in violation of TEX. WATER CODE § 26.3475(c)(1); 30 TEX. ADMIN. CODE § 334.50(a)(1)(A); and TCEQ Agreed Order Docket No. 2007-0978-PST-E, Ordering Provision No. 2.b.i.

3. Pursuant to TEX. WATER CODE § 7.051, TCEQ has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.

4. An administrative penalty in the amount of forty-eight thousand seven hundred fifty dollars ($48,750.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Respondent paid one thousand three hundred sixty dollars ($1,360.00) of the administrative penalty. The remaining amount of forty-seven thousand three hundred ninety dollars ($47,390.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of one thousand three hundred fifty-four dollars ($1,354.00) 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.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 4, above, for violations of state statutes and rules of the TCEQ. 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 matters set forth by this Agreed Order in this action. The Commission shall not be constrained in any manner from considering or requiring corrective actions 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: JAMES J. FLANAGAN SHIPPING CORPORATION d/b/a James J. Flanagan Stevedores, Docket No. 2013-0653-PST-E" to:

   Financial Administration Division, Revenues Section
   Texas Commission on Environmental Quality
   Attention: Cashier's Office, MC 214
   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 submit an updated UST registration and self-certification form to update the operational status of the USTs at the Facility to:

      Registration and Reporting Section
      Permitting & Remediation Support Division, MC128
      Texas Commission on Environmental Quality
      P.O. Box 13087
      Austin, Texas 78711-30870

   b. Within 45 days after the effective date of this Agreed Order, Respondent shall submit written certification to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall 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 supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

      and:

      Jason Ybarra, Waste Section Manager
      Houston Regional Office
      Texas Commission on Environmental Quality
      5425 Polk Street, Suite H
      Houston TX 77023-1452

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

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. 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.

11. Pursuant to 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 this Agreed Order to 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

May 2, 2014
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 JAMES J. FLANAGAN SHIPPING CORPORATION d/b/a James J. Flanagan Stevedores, 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 Agreed 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.

Signature

1-21-14
Date

TIM FLANAGAN
Name (Printed or typed)

V.P.
Title

Authorized representative of
JAMES J. FLANAGAN SHIPPING CORPORATION d/b/a James J. Flanagan Stevedores