



July 7, 2009

Ms. Kathy Pendleton  
Texas Commission on Environmental Quality  
12100 Park 35 Circle, MC 164  
Austin, TX 78753

Re: Comments on the Draft Failure to Attain Rule Language

Dear Ms. Pendleton:

Magellan Terminals Holdings, L.P. (Magellan) owns and operates a marine petroleum products terminal located in Galena Park, which is in the Houston-Galveston severe non-attainment area. Our Galena Park terminal is a major source and will be subject to the proposed Draft Failure to Attain Rule language ("Draft"). We have reviewed the proposed language and are submitting the following comments.

Roof Landing Emissions

As proposed in the Draft, roof landing emissions are not included in the baseline calculations. For reasons explained below, this position is unreasonable and will skewer the baseline data and unfairly prejudice companies like Magellan that have (i) proactively worked to account for roof landing emissions in their air permits, (ii) made significant investments in control technologies to control roof landing emissions, and (iii) made significant changes to operating procedures in order to reduce roof landing emissions.

In our case, we disclosed our roof landing events as possible emission violations to the TCEQ in August 2003. At that time, we requested guidance from the TCEQ on how to manage these previously unaccounted emissions. Additionally, we proactively began reporting and paying emission fees on roof landing emissions from 2003 forward. Subsequently, in December 2006 a Compliance Agreement was executed that required Magellan to submit a permit application to authorize roof landing emissions. Magellan submitted the permit application on March 9, 2007 and a letter declaring the permit application administratively complete was received on March 30, 2007. The actual permit authorizing the roof landing emissions was not issued until June 12, 2009.

Additionally, it is our understanding that the TCEQ first recognized roof landings as a significant source of emissions in 2006. Subsequently, TCEQ began the process of authorizing roof landing emissions with the first amended permits including roof landing emissions being issued in late 2006. As the proposed rule language is currently written, it does not take into account the recognition of roof landing emissions in 2006 and the subsequent authorization of these emissions in late 2006 and beyond. Thus, as currently



drafted, roof landing emissions for many facilities may not be able to be included in the baseline calculation because they were not “authorized” emissions in 2007.

We believe roof landing emissions that were reported in annual Emissions Inventories and the appropriate fees paid should be considered as authorized emissions for purposes of establishing the “Baseline Amount”. Inclusion of reported roof landing emissions as authorized emissions would be an equitable means of dealing with an actual emissions source that has only recently been identified and in many cases is still being authorized.

Compliance with Existing Rules

In brief, Magellan (as well as many others) should not be penalized for operating within the rules that were in place from 2004 through 2007. Nor should Magellan be penalized for not preparing for implementation of a rule that was not applicable per the existing rules that were in place until June 2007.

In closing, Magellan strongly believes that the Failure to Attain Rule language must include language that clearly allows for the inclusion of historic roof landing emissions in the calculation of the “Baseline Amount”. If you have any questions regarding our comments, please contact Mr. Gary McDonald at 918-574-7268 or me at 918-574-7367.

Sincerely,

A handwritten signature in blue ink that reads "Doug Mitchell".

Doug Mitchell  
Environmental Manager  
Magellan Midstream Partners, L.P.