

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

MAGELLAN TERMINALS HOLDINGS, L.P.

AI # 2236

PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT

LA. R.S. 30:2001, ET SEQ.

* Settlement Tracking No.
* SA-AE-16-0007
*
* Enforcement Tracking No.
* AE-CN-14-00865
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SETTLEMENT

The following Settlement is hereby agreed to between Magellan Terminals Holdings, L.P. (“Respondent”) and the Department of Environmental Quality (“DEQ” or “the Department”), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (“the Act”).

I

Respondent is a partnership that owns and/or operates a marine bulk petroleum products storage facility located in Jefferson Parish, Louisiana (“the Facility”).

II

On November 18, 2014, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-14-00865, which was based upon the following findings of fact:

“The Respondent owns and/or operates the Marrero East (East Terminal) and Marrero West (West Terminal) Terminals, marine bulk petroleum products storage terminals, located at 5200 River Road in Marrero, Jefferson Parish, Louisiana. The East Terminal operates under Air Permit No. 1340-00334-01 and the West Terminal operates under Air Permit No. 1340-00063-06.

According to a Notification of Change of Ownership/Operator or Name Change Form, the Respondent became the owner and operator of the East Terminal effective October 30, 2009. Prior to the Respondent acquiring the East Terminal, this facility's agency interest number was 148538 and was later merged into agency interest number 2236. Air Permit No. 1340-00334-01 was transferred to the Respondent effective October 30, 2009. The Respondent submitted an Application for Modification dated January 2012 to consolidate the permits of its West Terminal, Air Permit No. 1340-00063-06, and its East Terminal, Air Permit No. 1340-00334-01.

The Department has received numerous emergency and citizen complaints for odors in and around the vicinity of the facility. According to the Respondent's condensate transfer log for the time period of January 4, 2014, through April 26, 2014, the Respondent received odor complaints on February 21, 2014, and April 23 through 24, 2014. During the course of the May 17, 2014 inspection, the inspector observed odors near Tanks 7410 and 7079 (both fixed roof tanks), when Tank 7410 was being mixed with RVP 3 Condensate. On or about November 5, 2014, the Department received and responded to an odor complaint. After further investigation, it was determined that No. 6 Fuel was being loaded into Tank 7410 and mixed with RVP 3 Condensate. Additionally, according to the Respondent's Odor Control Procedures, condensate has an obnoxious odor and when transferred to tanks without floating roofs can emit this odor into the atmosphere.

Tank 7079 (EQT 0011) was permitted in Air Permit No. 1340-00334-00 on May 28, 2008. Air Permit Modification Application dated July 17, 2009, requested the removal of Tank 7079 from the permit. Tank 7079 was removed from Air Permit No. 1340-00334-01 issued on August 21, 2009. The Department received the Respondent's Notification of Case-By-Case

Insignificant Activity dated November 24, 2009, to include Tank 7079 as an insignificant activity in the permit. Tank 7079 is currently permitted as an insignificant activity.

On or about May 5, 16, and 27, 2014, and July 29, 2014, the Department performed inspections of the Respondent's facility to determine the degree of compliance with the Act and the Air Quality Regulations. While the Department's investigation is not yet complete, the following violations were noted during the course of the inspections:

- A. According to the air permit application dated May 8, 2008, and Air Permit No. 1340-00334-01, Tanks 4.0 was used to calculate the emissions from Tank 7410 (EQT 0012), a fixed roof tank, using No. 6 Fuel Oil as the material stored, 100°F as the temperature, and .0002 pounds per square inch absolute (psia) as the vapor pressure. As per the Respondent's November 24, 2009 Case-By-Case Insignificant Activity Notification, Tank 7079 is an insignificant activity. The Respondent used Tanks 4.0 to calculate the emissions from Tank 7079, a fixed roof tank, using Residual Oil No. 6, an average temperature of 120°F, and .0002 psia as the vapor pressure. On May 17, 2014, the inspector noticed odors near Tanks 7410 and 7079. The inspector reported Tank 7410 was being mixed with RVP 3 Condensate, which has a maximum Reid vapor pressure of 3 psi, from Tanks 808 and/or 7499 (these tanks are both fixed internal floating roof tanks) at the time the odors were observed. According to the Respondent's May 16, 2014 e-mail, condensate transfer to Tank 7410 would begin between 1700 and 1800 hours and continue for approximately two (2) hours with about sixteen (16) hours of mixing. According to operational logs reviewed by the inspector on May 27, 2014, Tank 7410 was heated and maintained between 130 °F to 135 °F. The inspector also reported the same condensate was transferred to Tank 7079 and heated. Therefore, the storing of a

material in Tank 7410 (EQT 0012) or Tank 7079 (insignificant activity) with a higher vapor pressure and at a higher temperature than what was used to calculate pollutant emissions could result in an increase in emissions above the permitted limit. The failure to submit a permit application and receive approval from the permitting authority prior to construction, modification, or operation of a facility which may ultimately result in an increase in emissions is a violation of LAC 33:III.501.C.2, LAC 33:III.501.C.1, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2). The Respondent submitted a permit modification application dated January 6, 2012, which uses 84.21 °F as the maximum temperature and 0.0175 psia as the maximum vapor pressure to calculate emissions for Tank 7079 and 82.47 °F as the maximum temperature and 0.0165 psia as the maximum vapor pressure to calculate emissions for Tank 7410. Based on the current operations, the Respondent's failure to submit correct information in a permit application is a violation of LAC 33:III.517.C.

- B. According to the Air Permit Modification Application for Air Permit No. 1340-0063-02 dated September 22, 2006, the Respondent used Tanks 4.0 to calculate the emissions for the below listed tanks. The temperature used to calculate emissions was based on an average of approximately 75°F. According to the inspector's review of daily operator logs on May 27, 2014, the tanks listed below are heated and maintained at temperatures between 120-130°F, which could increase emissions.

West Terminal Tanks	
Tank Description	Tank ID No.
Fixed Roof Tank 763	EQT 0084
Fixed Roof Tank 764	EQT 0085
Fixed Roof Tank 761	EQT 0086
Fixed Roof Tank 735	EQT 0099
Fixed Roof Tank 737	EQT 0101

West Terminal Tanks	
Tank 739	EQT 0103
External Floating Roof Tank 740	EQT 0104
Fixed Roof Tank 776	EQT 0113
Fixed Roof Tank 778	EQT 0115
Fixed Roof Tank 780	EQT 0116
Fixed Roof Tank 782	EQT 0117
Fixed Roof Tank 785	EQT 0120
Fixed Roof Tank 734	EQT 0132
Fixed Roof Tank 786	EQT 0133
Fixed Roof Tank 789	EQT 0136
East Terminal Tanks	
Storage Tank 7441	EQT 0013
Storage Tank 7411	EQT 0015

The failure to submit a permit application and receive approval from the permitting authority prior to construction, modification, or operation of a facility which may ultimately result in an increase in emissions is a violation of LAC 33:III.501.C.2, LAC 33:III.501.C.1, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2). The Respondent submitted a permit modification application dated January 6, 2012, which included Tank 4.0 calculations with an average temperature of approximately 75°F. The Respondent's failure to submit correct information in a permit application is a violation of LAC 33:III.517.C.

- C. According to the inspection report, the Respondent failed to keep records of the vapor pressure on-site at the West Terminal for CRG 0001. The failure to keep records of vapor pressure on-site and available for inspection is a violation of Specific Requirement No. 36 of Air Permit No. 1340-000063-06, LAC 33:III.501.C.6, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).”

III

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

IV

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of Two Thousand Two-Hundred Eight and 94/100 Dollars (\$2,208.94), which represents the Department's enforcement costs, in settlement of the claims set forth in this agreement.

V

Respondent, in addition to agreeing to pay the amount specified in Paragraph IV above and as part of this Settlement, agrees to expend no less than Two Hundred Thousand and No/100 Dollars (\$200,000.00) to implement and/or perform the following beneficial environmental project:

- A. The Respondent has agreed to install, operate, and monitor an odor management system on Tanks 7410 (EQT 0186) and 7079 (EQT 0254) while receiving, mixing/blending, heating, or cleaning condensate in these tanks. The initial odor management system will consist of a scrubber and carbon canister (canister) connected to the exhaust of Tanks 7410 and 7079. Prior to commencing any modification to the odor management system, the Respondent shall submit additional information, including the rationale for the modification, as well as emissions information that demonstrates the modification will not increase emissions. The Respondent will also incorporate odor control best practices into its Best Management Plan (BMP) for odors.
- B. Respondent shall submit monthly reports regarding its progress on the projects. Progress reports shall be submitted to the Department pursuant to Paragraph I (F) of the Administrative Order on Consent as detailed in Paragraph VI, below. Upon

completion of all projects required under this Settlement, Respondent shall submit a final report to include a summary of all the information previously submitted and a total amount spent on the projects listed above. It shall also contain a certification that the projects were completed as described.

- C. If Respondent does not spend the amount of \$ 200,000.00, then it shall, in its final report, propose additional projects for the Department's approval, or pay to the Department in an amount equal to the difference between the amount of money agreed to be spent and the amount of money actually spent.
- D. The total amount of money expended by Respondent on cash payments to the Department and on beneficial environmental projects, as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

VI

Upon signing this Settlement, the Department will issue an Administrative Order on Consent which will include the provisions in Paragraph V (A) as an enforceable order of the Department. The Administrative Order on Consent is attached as Exhibit 1 and is incorporated herein by reference.

VII

Respondent further agrees that the Department may consider the inspection report(s)/permit record(s), the Consolidated Compliance Order & Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being

considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VIII

This agreement shall be considered a final order of the Secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

IX

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in La. R. S. 30:2025(E) of the Act and the rules relating to beneficial environmental projects set forth in LAC 33:I.Chapter 25.

X

As required by law, the Department has submitted this Settlement Agreement to the Louisiana Attorney General for approval or rejection. The Attorney General's concurrence is appended to this Settlement Agreement.

XI

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Jefferson Parish, Louisiana. The advertisement, in form and wording approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted an

original proof-of-publication affidavit and an original public notice to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

XII

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

XIII

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XIV

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his or her respective party, and to legally bind such party to its terms and conditions.

MAGELLAN TERMINALS HOLDINGS, L.P.

BY:

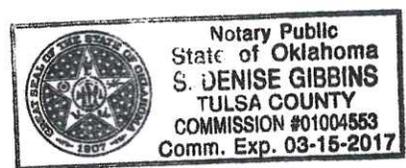
[Handwritten Signature]
(Signature)



LARRY J. DAVIED
(Printed)

TITLE: SENIOR VICE PRESIDENT

THUS DONE AND SIGNED in duplicate original before me this 17th day of January, 20 17, at Tulsa, Oklahoma.



[Handwritten Signature]
NOTARY PUBLIC (ID # 01004553)

S. Denise Gibbins
(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Chuck Carr Brown, Ph.D., Secretary

BY:

[Handwritten Signature]

Lourdes Iturralde, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 5th day of April, 20 17, at Baton Rouge, Louisiana.

[Handwritten Signature]
NOTARY PUBLIC (ID # 19181)

Perry Theriot
(stamped or printed)

Approved: *[Handwritten Signature]*
Lourdes Iturralde, Assistant Secretary

CERTIFIED MAIL (7012 2210 0001 1915 9234)
RETURN RECEIPT REQUESTED

MAGELLAN TERMINALS HOLDINGS, L.P.
c/o C T Corporation System
Agent for Service of Process
3867 Plaza Tower Drive
Baton Rouge, Louisiana 70816

**RE: ADMINISTRATIVE ORDER ON CONSENT
ENFORCEMENT TRACKING NO. AE-AOC-16-00456
AGENCY INTEREST NO. 2236**

Dear Sir:

Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, *et seq.*), the attached **ADMINISTRATIVE ORDER ON CONSENT** is hereby served on **MAGELLAN TERMINALS HOLDINGS, L.P. (RESPONDENT)**.

Any questions concerning this action should be directed to Alissa Cockerham at (225) 219-3785.

Sincerely,

Celena J. Cage
Administrator
Enforcement Division

CJC/ARC/arc
Alt ID No. 1340-00063 & 1340-00334
Attachment



STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

IN THE MATTER OF	*	
	*	
MAGELLAN TERMINALS HOLDINGS, L.P.	*	ENFORCEMENT TRACKING NO.
JEFFERSON PARISH	*	
ALT ID NOS. 1340-00063 & 1340-00334	*	AE-AOC-16-00456
	*	
	*	AGENCY INTEREST NO.
	*	
PROCEEDINGS UNDER THE LOUISIANA	*	2236
ENVIRONMENTAL QUALITY ACT,	*	
La. R.S. 30:2001, ET SEQ.	*	

ADMINISTRATIVE ORDER ON CONSENT

The following **ADMINISTRATIVE ORDER ON CONSENT** is issued this day to **MAGELLAN TERMINALS HOLDINGS, L.P. (RESPONDENT)** by the Louisiana Department of Environmental Quality (the Department), under the authority granted by the Louisiana Environmental Quality Act (the Act), La. R.S. 30:2001, *et seq.*, and particularly by La. R.S. 30:2011(D)(6) and (D)(14). The Respondent consents to the requirements set forth below.

FINDINGS OF FACT

I.

The Respondent owns and/or operates the Marrero East (East Terminal) and Marrero West (West Terminal) Terminals, marine bulk petroleum products storage terminals, located at 5200 River Road in Marerro, Jefferson Parish, Louisiana. The East Terminal operates under Air Permit No. 1340-00334-01 and the West Terminal operates under Air Permit No. 1340-00063-07.

II.

The Respondent was issued Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-14-00865 (CONOPP) on November 18, 2014.

III.

The Department and Respondent entered into a Settlement Agreement to resolve and settle, the violations included in the Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-14-00865. As part of this Settlement Agreement, the Respondent agreed to a

compliance schedule under which certain projects and/or activities would be undertaken and further agreed to the issuance of this Administrative Order on Consent.

IV.

The Respondent has agreed to install, operate, and monitor an odor management system on Tanks 7410 (EQT 0186) and 7079 (EQT 0254) while receiving, mixing/blending, heating, or cleaning condensate in these tanks. The odor management system will consist of a scrubber and carbon canister (canister) connected to the exhaust of Tanks 7410 and 7079. The Respondent will also incorporate odor control best practices into its Best Management Plan (BMP) for odors. According to the Respondent, there will be no physical changes or change in the method of operation of the facility that will result in an increase of emissions. This odor management system is not required to comply with any proposed or final federal or state regulations.

ADMINISTRATIVE ORDER

Based on the foregoing, the Department **hereby orders**, and the Respondent hereby **agrees** that:

I.

The Respondent shall implement the following projects and/or activities under the compliance schedule set forth herein:

- A. The Respondent shall submit, within thirty (30) days after start-up of the odor management system operation, a copy of the facility's Standard Operating Procedures (SOP) and/or BMP which incorporates the best practices for the odor management system which shall include the following: efficiency, usage, method of monitoring, frequency of monitoring, and record keeping requirements for the odor management system and any other physical and operational changes to the Enforcement Division. The SOP/BMP shall contain procedures for controlling emissions when: the canisters are out of service, being changed, or malfunctioning. The procedures shall also contain the breakthrough threshold of the canisters, as well as when the canisters would be in use such as when mixing/blending materials, transferring materials, loading and unloading activities, and/or procedures for when the emissions of H₂S or VOC are detected above the threshold limits. The Respondent shall operate and maintain the odor management system on Tanks 7410 and 7079 while receiving, mixing/blending, heating, or cleaning condensate in the two (2) tanks.
- B. In the event that any changes are made to the SOP and/or BMP, the Respondent shall provide a written copy to the Enforcement Division within ten (10) days until termination of this

ADMINISTRATIVE ORDER.

- C. The Respondent shall install and have the odor management system on Tanks 7410 and 7079 operational within sixteen (16) weeks after receipt of this **ADMINISTRATIVE ORDER**.
- D. The odor management system for Tanks 7079 and 7410 shall include, but not be limited to, the following: installing the appropriate number of roof vents that will be sufficient for proper relieving capacity when the tank is closed to the atmosphere; installing new nozzles on the roof of each tank to tie tank vapors into a common vapor line; install pipes and hoses to connect vapor lines from each tank into a common header; connect vapor lines to a carbon based treatment system that is adequate for treatment of vapors; scrubber. Subject to Paragraphs II and III below, prior to commencing any modification to the odor management system, the Respondent shall submit additional information, including the rationale for the modification, as well as emissions information that demonstrates the modification will not increase emissions.
- E. The Respondent shall replace a carbon canister when the threshold/breakthrough limits as defined in the BMP for VOC or H₂S are exceeded at the outlet of the carbon canister.
- F. The Respondent shall submit, within thirty (30) days after receipt of this **ADMINISTRATIVE ORDER**, monthly progress reports for status of installation of the odor management system. A final report is due within thirty (30) days after the system becomes operational.

II.

The Respondent shall operate in accordance with its effective permit(s) and all applicable state and federal regulations. This **ADMINISTRATIVE ORDER** does not supersede the permit or any applicable regulation.

III.

The Respondent shall not make physical changes or changes in methods of operation of the facility that results in an increase in emission, as it relates to the odor management system, unless permitted by the Department.

IV.

In the event that this facility discontinues receiving or mixing/blending condensate at this facility or if the condensate mercaptan concentration is lowered to a level to which the odor management system is no longer necessary, the Respondent shall provide the Department with a written request to remove the odor management system from Tanks 7410 and 7079 within thirty (30) days prior to the removal.

V.

To the extent required by law, further proceedings relating to this **ADMINISTRATIVE ORDER** will be governed by the Administrative Procedure Act, La. R.S. 49.950, *et seq.*

VI.

This **ADMINISTRATIVE ORDER ON CONSENT** may be executed in counterparts, each of which may be executed by one or more of the signatory parties hereto. Signature pages may be detached from the counterparts and attached to one or more copies of this Agreement to form multiple legally effective documents. Facsimile signatures shall be sufficient in lieu of original signatures.

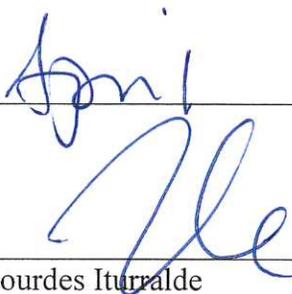
VII.

For each action or event described herein, the Department reserves the right to seek civil penalties and the right to seek compliance with its rules and regulations in any manner allowed by law, nothing herein shall be construed to preclude the right to seek such penalties and compliance.

THE RESPONDENT SHALL FURTHER BE ON NOTICE THAT:

This **ADMINISTRATIVE ORDER ON CONSENT** shall be final and effective upon signature by an authorized representative of the Department and signature by the authorized representative of the Respondent.

Baton Rouge, Louisiana, this 5th day of April, 2017.



Lourdes Iturralde
Assistant Secretary
Office of Environmental Compliance

Magellan Terminals Holdings, L.P.

By: 



Date: JANUARY 17, 2017

Name: LARRY J. DAVIED

Title: SENIOR VICE PRESIDENT