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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6, 1201 ELM STREET, DALLAS, TEXAS 75270-2102
SPILL EXPEDITED SETTLEMENT AGREEMENT

REGIONAL HEARING CLERK
EPA REGION VI

DOCKET NO. CWA-06-2021-4502

On December 30, 2020

At: Magellan Pipeline Company, L.P., Sebastian County, AR (Respondent) discharged 85 barrels of gasoline in violation of Section 311(b)(3) of the Clean Water Act (the Act), as noted on the attached FINDINGS and ALLEGED CIVIL VIOLATIONS FORM (Form), which is hereby incorporated by reference.

The parties are authorized to enter into this Expedited Settlement under the authority vested in the Administrator of EPA by Section 311(b)(6)(B)(i) of the Act, 33 U.S.C. § 1321(b)(6)(B)(i), as amended by the Oil Pollution Act of 1990, and by 40 CFR § 22.13(b). The parties enter into this Expedited Settlement in order to settle the civil violations described in the Form for a penalty of \$5,000.00.

This settlement is subject to the following terms and conditions:

EPA finds the Respondent's conduct is subject to the discharge prohibition of Section 311(b)(3) of the Act, as described in the statute and further described by 40 CFR § 110.3. The Respondent admits he/she is subject to Section 311(b)(3) and that EPA has jurisdiction over the Respondent and the Respondent's conduct as described in the Form. The Respondent does not contest the Findings and waives any objections it may have to EPA's jurisdiction. The Respondent consents to the assessment of the penalty stated above. Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that it has investigated the cause of the spill, it has cleaned up the spill pursuant to the federal requirements, and it has taken corrective actions that will prevent future spills. The Respondent also verifies that it has sent a certified check for \$5,000.00, payable to "Environmental Protection Agency," to: "USEPA, Fines & Penalties, P.O. Box 979077, St. Louis, MO 63197-9000" and Respondent has noted on the penalty payment check "Spill Fund-311" and the docket number of this case, "CWA-06-2021-4502."

Upon signing and returning this Expedited Settlement to EPA, Respondent waives the opportunity for a hearing or appeal pursuant to Section 311 of the Act, and consents to EPA's approval of the Expedited Settlement without further notice.

If the Respondent does not sign and return this Expedited Settlement as presented within 30 days of the date of its receipt, the proposed Expedited Settlement is withdrawn without prejudice to EPA's ability to file any other enforcement action for the violations identified in the Form.

After this Expedited Settlement becomes effective, EPA will take no further action against the Respondent for the violations of the Section 311(b)(3) of the Act described in the Form. However, EPA does not waive any rights to take

any enforcement action for any other past, present, or future violations by the Respondent of Section 311(b)(3) of the Act or of any other federal statute or regulation. By its first signature, EPA ratifies the Findings and Alleged Violations set forth in the Form.

This Expedited Settlement is binding on the parties signing below and is effective upon the Enforcement and Compliance Assurance Division Director's signature.

APPROVED BY EPA:

Bryant Smalley Date: 4-21-21
Bryant Smalley
Chief
Water Enforcement Branch

APPROVED BY RESPONDENT:

Name (print): Melanie Little
Title (print): SVP, Operations + EHS+S
Melanie Little Date: 5/14/21
Signature

The estimated cost of the clean-up and corrective action is \$1,335,000.

IT IS SO ORDERED:

Cheryl T. Seager Date: May 18, 2021
Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

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EPA REGION VI
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FINDINGS AND ALLEGED CIVIL VIOLATIONS

1. Magellan Pipeline Company, L.P. is a firm qualified to do business in the State of Oklahoma with a place of business located in Tulsa, OK. The Respondent is a person within the meaning of Section 311(a)(7) of the Act, 33 U.S.C. § 1321(a)(7).
2. Respondent is the owner/operator of an onshore facility within the meaning of Section 311(a)(10) of the Act, 33 U.S.C. § 1321(a)(10), an oil storage facility, which is located in Sebastian County, AR (facility).
3. Section 311(b)(3) of the Act prohibits the discharge of oil into or upon the navigable waters of the United States or adjoining shorelines in such quantities that have been determined may be harmful to the public health or welfare or environment of the United States.
4. For purposes of Section 311(b)(3) and (b)(4) of the Act, 33 U.S.C. § 1321(b)(3) and (b)(4), discharges of oil into or upon the navigable waters of the United States in such quantities that have been determined may be harmful to the public health or welfare or environment of the United States are defined in 40 C.F.R. 110.3 to include discharges of oil that cause a film or a sheen upon or discoloration of the surface of the water or adjoining shorelines.
5. On December 30, 2020, Respondent discharged 85 barrels of oil as defined in Section 311(a)(1) of the Act, 33 U.S.C. § 1321(a)(1), and 40 C.F.R. 110.1, from its facility into or upon Mill Creek and adjoining shorelines.
6. Mill Creek enters Poteau River thence the Arkansas River and is a navigable water of the United States as defined in Section 502(7) of the Act, 33 U.S.C. § 1362(7), and 40 C.F.R. 110.1.
7. Respondent's December 30, 2020, discharge of oil from its facility caused a sheen upon or discoloration of the surface of Mill Creek and adjoining shorelines and therefore, was in a quantity that has been determined may be harmful under 40 C.F.R. 110.3, which implements Sections 311(b)(3) and (b)(4) of the Act.
8. Respondent's December 30, 2020, discharge of oil from its facility into or upon Mill Creek and adjoining shorelines in a quantity that has been determined may be harmful under 40 C.F.R. 110.3 violated Section 311(b)(3) of the Act. Pursuant to Section 311(b)(6)(B)(i) of the Act, and 40 CFR 19.4, the Respondent is liable for civil penalties of up to \$19,277 per violation, up to a maximum of \$48,192.

Docket No. CWA-06-2021-4502

CERTIFICATE OF SERVICE

I certify that the original and one copy of the foregoing "Consent Agreement and Final Order," issued pursuant to 40 C.F.R. 22.13(b), was filed on May 19, 2021, with the Regional Hearing Clerk, U.S. EPA Region 6, 1201 Elm Street, Suite 500, Dallas, TX 75270-2102, and that on the same date a copy of the same was sent to the following, in the manner specified below:

NAME: Stephen Day
ADDRESS: One Williams Center, OTC-8
Tulsa, OK 74172

**ENOCH
JOHNBULL**

Digitally signed by ENOCH JOHNBULL
DN: c=US, o=U.S. Government,
ou=Environmental Protection
Agency, cn=ENOCH JOHNBULL,
0.9.2342.19200300.100.1.1-68001000
082365
Date: 2021.05.19 09:05:34 -0500

Enoch Johnbull
OPA Enforcement Officer