

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7  
11201 RENNER BOULEVARD  
LENEXA, KANSAS 66219

2019 DEC 17 AM 9:11

IN THE MATTER OF:

Magellan Midstream Partners, L.P.  
Kansas City, Kansas  
Mason City, Iowa  
Omaha, Nebraska

CONSENT AGREEMENT AND  
FINAL ORDER

Docket No. CAA-07-2019-0260

**PRELIMINARY STATEMENT**

This proceeding for the assessment of a civil administrative penalty was initiated on or about September 4, 2019, pursuant to Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d), when the United States Environmental Protection Agency Region 7 (Complainant or EPA) issued a Complaint and Notice of Opportunity for Hearing (Complaint) to Magellan Midstream Partners, L.P. (Respondent).

The Complaint charged Respondent with violations of Sections 111 and 112 of the Clean Air Act ("CAA"), as amended, 42 U.S.C. §§ 7411, 7412. The Complainant and Respondent subsequently entered negotiations in an attempt to settle the allegations in the Complaint. This Consent Agreement and Final Order is the result of such negotiations, and resolves the violations contained in the Complaint.

**CONSENT AGREEMENT**

1. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:
  - a. Admits the jurisdictional allegations of the Complaint;
  - b. Neither admits nor denies the specific allegations contained in the Complaint;
  - c. Consents to the assessment of a civil administrative penalty as stated below;
  - d. Waives any right to contest the allegations set forth in the Complaint; and
  - e. Waives its rights to appeal the Final Order accompanying this Consent Agreement.
2. For the purpose of this proceeding, Respondent:
  - a. Agrees that the Complaint states a claim upon which relief may be granted against Respondent;

- b. Acknowledges that this Consent Agreement constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;
- c. Waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in the Complaint, including any right of judicial review under Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1);
- d. Consents to personal jurisdiction in any action to enforce this Consent Agreement and Final Order in the United States District Court; and
- e. Waives any rights it may possess at law or in equity to challenge the authority of the EPA to bring a civil action in a United States District Court to compel compliance with the Consent Agreement and Final Order, and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action.

#### **A. Penalty Payment**

3. Respondent agrees that, in settlement of the claims alleged in the Complaint, Respondent shall pay a compromised civil administrative penalty of \$70,000 ("EPA Penalty"), within thirty days of the Effective Date of the Final Order.

4. Payment of the penalty may be submitted on-line at *www.pay.gov* by entering "SFO 1.1" in the "Search Public Forms" field. Open the on-line form and complete required fields to complete payment. Respondent shall print a copy of each payment receipt and mail a copy of each receipt to EPA's representative identified in this paragraph:

Regional Hearing Clerk  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 7  
11201 Renner Blvd.  
Lenexa, Kansas 66219

and to

Joe Terriquez  
ECAD - AB  
U.S. Environmental Protection Agency, Region 7  
11201 Renner Blvd.  
Lenexa, Kansas 66219.

Payments may also be made by cashier or certified check made payable to "Treasurer of the United States" and remitted to:

US Environmental Protection Agency  
Fines and Penalties - CFC  
PO Box 979077  
St. Louis, Missouri 63197-9000.

The Respondent shall reference the EPA Docket Number on the check. A copy of the check shall be provided to EPA's representatives identified in this paragraph.

5. If Respondent fails to timely pay any portion of the EPA Penalty assessed under this Consent Agreement, the EPA may:

- a. Request the Attorney General to bring a civil action in an appropriate district court to recover: the amount assessed; interest at rates established pursuant to 26 U.S.C. § 6621(a)(2); the United States' enforcement expenses; and a 10 percent quarterly nonpayment penalty, 42 U.S.C. § 7413(d)(5);
- b. Refer the debt to a credit reporting agency or a collection agency, 42 U.S.C. § 7413(d)(5); 40 C.F.R. §§ 13.13, 13.14, and 13.33;
- c. Collect the debt by administrative offset (i.e. the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes but is not limited to, referral to the Internal Revenue Service for offset against tax refunds, 40 C.F.R. Part 13, Subparts C and H; and
- d. Suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds, 40 C.F.R. § 13.17.

#### **B. Additional Conditions**

6. The provisions of this Consent Agreement shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns.

7. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement will be available to the public and agrees that this Consent Agreement does not contain any confidential business information or personally identifiable information.

8. By signing this Consent Agreement, the undersigned representative of Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to execute and enter into the terms and conditions of this Consent Agreement and Final Order and has the legal capacity to bind the party he or she represents to it.

9. By signing this Consent Agreement, Respondent certifies that the information it has supplied concerning this matter was at the time of submission true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.

10. Except as qualified by Paragraph 5, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.

### **C. Effect of Consent Agreement**

11. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this Consent Agreement resolves only Respondent's liability for federal civil penalties for the violations and facts specifically alleged in the Complaint.

12. Penalties paid pursuant to this Consent Agreement shall not be deductible for purposes of federal taxes.

13. This Consent Agreement constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof.

14. The terms and conditions of this Consent Agreement may not be modified or amended except upon the written agreement of both parties, and approval of the Regional Judicial Officer.

15. Any violation of this Consent Agreement may result in a civil judicial action for an injunction or civil penalties of up to \$99,681 per day per violation, or both, as provided in Section 113(b)(2) of the Act, 42 U.S.C. § 7413(b)(2), as well as criminal sanctions as provided in Section 113(c) of the Act, 42 U.S.C. § 7413(c). The EPA may use any information submitted under this Consent Agreement in an administrative, civil judicial, or criminal action.

16. Nothing in this Consent Agreement shall relieve Respondent of the duty to comply with all applicable provisions of the CAA and other federal, state, or local laws or statutes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

17. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

18. This Consent Agreement shall automatically terminate upon the payment by Respondent of the EPA Penalty described in Paragraph 3. Upon termination EPA shall provide written notice to Respondent acknowledging that the Consent Agreement has terminated.

19. Respondent shall comply with all terms of the Consent Agreement. The terms of this Consent Agreement shall apply to and be binding upon Complainant and Respondent, and Respondent's agents, successors and/or assigns.

#### **D. Effect of Consent Agreement**

20. Respondent and Complainant agree to issuance of the attached Final Order. Upon filing, the EPA will transmit a copy of the filed Consent Agreement to the Respondent. This Consent Agreement and attached Final Order shall become effective after execution of the Final Order by the Regional Judicial Officer, on the date of filing with the Hearing Clerk.

FOR COMPLAINANT:

U.S. ENVIRONMENTAL PROTECTION AGENCY

12/13/19  
Date

Wendy Lubke for  
David Cozad  
Director, Enforcement and Compliance Assurance Division  
Region 7

December 13, 2019  
Date

Alex Chen  
Alex Chen  
Senior Counsel, Air  
U.S. Environmental Protection Agency  
Region 7

FOR RESPONDENT:  
MAGELLAN MIDSTREAM PARTNERS, L.P.  
BY: MAGELLAN GP, LLC, ITS GENERAL PARTNER

12/13/19  
Date

R. Daniel Scroggins  
Signature

R. Daniel Scroggins  
Printed Name

Senior Attorney  
Title

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7  
11201 RENNER BOULEVARD  
LENEXA, KANSAS 66219

2019 DEC 17 AM 11:38

IN THE MATTER OF:

Magellan Midstream Partners, L.P.  
Kansas City, Kansas  
Mason City, Iowa  
Omaha, Nebraska

CONSENT AGREEMENT AND FINAL  
ORDER  
CAA Docket No: 07-2019-0260

Pursuant to 40 C.F.R. § 22.18(b) of the EPA's Consolidated Rules of Practice and section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), the attached Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified.

The Respondent is ORDERED to comply with all terms of the Consent Agreement, effective immediately.

So ordered.

December 17, 2019

Date

Karina Borromeo

Karina Borromeo  
Regional Judicial Officer



IN THE MATTER OF Magellan Midstream Partners, L.P., Respondent  
Docket No. CAA-07-2019-0260

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy via email to Complainant

chen.alexander@epa.gov

AND

Copy via First Class Mail to Respondent

The Corporation Company, Inc.  
Registered Agent  
Magellan Midstream Partners, L.P.  
112 SW 7<sup>th</sup> Street Suite 3C  
Topeka, Kansas 66603

Date:

12/17/2019

Anna M. Rork for  
Lisa Haugen  
Regional Hearing Clerk  
Region 7



IN THE MATTER OF Magellan Midstream Partners, L.P., Respondent  
Docket No. CAA-07-2019-0260

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Order Authorizing Facsimile Filing was sent this day in the following manner to the addressees:

Copy via email to Complainant


chen.alexander@epa.gov

AND

Copy via First Class Mail to Respondent

The Corporation Company, Inc.  
Registered Agent  
Magellan Midstream Partners, L.P.  
112 SW 7<sup>th</sup> Street Suite 3C  
Topeka, Kansas 66603

Date: 12/17/2019

  
\_\_\_\_\_  
Lisa Haugen  
Regional Hearing Clerk  
Region 7