

STATE OF CONNECTICUT

v.

Magellan Terminal Holdings, LP

CONSENT ORDER NUMBER COWSMT 16-003

DATE ISSUED: July 5, 2016

A. The Commissioner of Energy and Environmental Protection (“the Commissioner”) finds:

1. Magellan Terminal Holdings, LP (“Respondent”) is a Delaware limited partnership with its’ main office located at One Williams Center, Suite 2800 in Tulsa, Oklahoma, 74172.
2. Respondent is the owner of property known as 134 Forbes Avenue, New Haven, Connecticut (“the Forbes Avenue Site”). Such property is further described in a deed which was recorded on July 6, 2001 at Volume 5891 on Page 244, Map 081, Block 0974, Lot 00300 in the City of New Haven Tax Assessor’s Office.
3. Respondent operates a marine terminal licensed by the Department of Energy and Environmental Protection (DEEP) at the Forbes Avenue Site with license number MT078, where petroleum products are stored in above ground storage tank systems (ASTs).
4. On or about September 11, 2000, Williams Energy Ventures, Inc. executed and submitted to the Commissioner a “Form III” for the Forbes Avenue Site as the “certifying party” as those terms are defined in Connecticut’s Property Transfer Act, Connecticut General Statutes (“CGS”) § 22a-134 et seq.
5. From February 2001 through September 2003 Williams Energy Ventures, Inc. went through a series of corporate name changes, including a name change to Williams Terminal Holdings, L.P. and the most recent name change to Magellan Terminal Holdings, L.P.
6. On or about November 21, 2000, the Commissioner notified Respondent that investigation and remediation of the Forbes Avenue Site could be verified by a Licensed Environmental Professional (“LEP”) pursuant to CGS § 22a-134a(h) requiring the Respondent be responsible for completing the investigation of the Forbes Avenue Site within two (2) years of November 21, 2000, initiate remediation within three (3) years of November 21, 2000, and submit to DEEP reports related to the investigation and remediation of the Forbes Avenue Site on an annual basis.

7. In a Phase III Environmental Site Assessment dated October 24, 2002 (“the Report”) and in a letter dated March 21, 2014 the Respondent identified that, “Additional off-site sources and impacts, including impacts to sediments, should be evaluated prior to development of a site Remedial Action Plan”.

8. The Report identifies that soil and groundwater at the Forbes Avenue Site is contaminated with Volatile Organic Compounds (“VOCs”), Semi-Volatile Organic Compounds (“SVOCs”), metals and Total Petroleum Hydrocarbons (“TPH”).

9. The Respondent has not completed the investigation at the Forbes Avenue Site within the statutory timeframe of two (2) years pursuant to CGS § 22a-134a(g). The Respondent neither requested nor received an extension from the Commissioner to complete the investigation pursuant to CGS § 22a-134a(h).

10. By virtue of above, the Respondent has created and/or is maintaining a condition which can reasonably be expected to create sources of pollution of the waters of the state, and maintained a discharge of wastes in violation of CGS § 22a-430 and § 22a-427.

11. By virtue of the above, Respondent is in violation of the Property Transfer Act.

12. By agreeing to the issuance of this Consent Order, the Respondents make no admission of fact or law with respect to the matters addressed herein.

B. With agreement of Respondent, the Commissioner, acting under CGS §§ 22a-6, 22a-134a(j), 22a-424, 22a-425, 22a-427, 22a-430, 22a-431, 22a-432 and 22a-449. orders Respondent as follows:

1. Upon issuance of this Consent Order, the Commissioner has determined, pursuant to CGS § 22a-134a(g)(1)(A), that the Commissioner’s review and written approval is necessary and by this Consent Order notifies the certifying party of such and that the investigation and remediation of the Forbes Avenue Site may no longer be verified by a LEP.

2. a. On or before thirty (30) days after the issuance of this Consent Order Respondent shall retain one or more qualified consultants acceptable to the Commissioner to prepare the documents and implement or oversee the actions required by this Consent Order and shall, by that date notify the Commissioner in writing of the identity of such consultants. Respondent shall retain one or more qualified consultants acceptable to the Commissioner until this Consent Order is fully complied with, and, within ten (10) days after retaining any consultant(s) other than one(s) originally identified under this Paragraph, Respondent shall notify the Commissioner in writing of the identity of such other consultant(s). The consultant(s) retained to prepare the documents and implement or oversee the actions required by this Consent Order shall be qualified environmental professionals licensed pursuant to CGS § 22-133v. Respondent shall submit to the Commissioner a description of a consultant’s education, experience and training which is relevant to the work required by this Consent Order within ten (10) days after a request

for such a description. Nothing in this Paragraph shall preclude the Commissioner from finding a previously acceptable environmental consultant unacceptable.

b. On or before sixty (60) days from the issuance of this Consent Order, Respondent shall submit for the Commissioner's review and written approval a scope of study for an investigation of the environmental contamination that exists at and from the Forbes Avenue Site and the potential impact of such conditions on human health and the environment both on-site and off-site, including but not limited to the existing and potential extent and degree of soil, ground water, surface water, and sediment. Such scope of study shall include at least the proposed location and depths of ground water monitoring wells and soil, sediment and surface water sampling, a proposed sampling and analytical program including at least the parameters to be tested, proposed sampling and analytical methods, and quality assurance and quality control procedures, and a schedule for conducting the investigation.

c. If the investigations carried out under an approved scope of study does not fully characterize the extent and degree of soil, surface water, sediment and groundwater pollution to the satisfaction of the Commissioner, additional investigations shall be performed in accordance with a supplemental plan and schedule approved in writing by the Commissioner. Unless otherwise specified in writing by the Commissioner, the supplemental plan and schedule shall be submitted for the Commissioner's review and written approval on or before thirty (30) days after notice from the Commissioner that they are required.

d. Respondent shall perform the investigations and other actions specified in the approved scope of study and in any approved supplemental plans in accordance with the approved schedule. Respondent shall notify the Commissioner in writing of the date and time of installation of monitoring wells and of each soil, sediment and water sampling event at least five (5) business days prior to such installation or sampling.

e. Except as may be provided in the investigation schedule approved by the Commissioner, on or before forty-five (45) days after the approved date for completion of the investigation, Respondent shall submit for the Commissioner's review and written approval a comprehensive and thorough report which: describes in detail the investigation performed; identifies the type, quantity and location of all wastes on site; defines the existing and potential extent and degree of soil, ground water, surface water and sediment pollution which is on, is emanating from or has emanated from the Forbes Avenue Site; and evaluates the alternatives for remedial actions to abate such pollution, including but not limited to any alternative specified by the Commissioner; states in detail the most expeditious schedule for performing each alternative, and lists all permits and approvals required for each alternative, including but not limited to any permits required under CGS §§ 22a-32, 22a-42a, 22a-342, 22a-361, 22a-368, or 22a-430 or 22a-467; proposes a preferred remedial alternative with supporting justification for the preferred alternative; and proposes a detailed program and schedule to perform the preferred remedial actions, including but not limited to a schedule for applying for and obtaining all permits and approvals required for such remedial actions. Such report shall also include but not be limited to a soil, ground water, surface water and

sediment monitoring program to determine the degree to which the approved remedial actions have been effective, and a schedule for performing the approved monitoring program.

f. Unless another deadline is specified in writing by the Commissioner, on or before thirty days after approval of the report described in the preceding paragraph, Respondent shall submit for the Commissioner's review and written approval contract plans and specifications for the approved remedial actions, a revised list of all permits and approvals required for such actions, and a revised schedule for applying for and obtaining such permits and approvals. Respondent shall use best efforts to obtain all required permits and approvals.

g. Respondent shall perform the approved remedial actions in accordance with the approved schedules. Within fifteen (15) days after completing such actions, Respondent shall certify to the Commissioner in writing that the actions have been completed as approved.

h. Respondent shall perform approved monitoring programs to determine the effectiveness of the remedial actions in accordance with the approved schedules. Respondent shall notify the Commissioner of the date and time of each soil sediment or water sampling event at least five (5) business days before such event. If the approved remedial actions do not result in prevention and abatement of soil, sediment, surface water and groundwater pollution to the satisfaction of the Commissioner, additional remedial actions and measures for monitoring and reporting on the effectiveness of those actions shall be performed in accordance with supplemental plans and schedules prepared by Respondent and approved in writing by the Commissioner. Unless otherwise specified in writing by the Commissioner, the supplemental plans and schedules shall be submitted for the Commissioner's review and written approval on or before thirty (30) days after the notice from the Commissioner that they are required.

i. On schedules established by the Commissioner or if no schedules are established, on a quarterly basis beginning no later than ninety (90) days after initiation of this approved remedial actions or, as applicable, supplemental remedial actions, Respondent shall submit for the Commissioner's review and written approval reports describing the results to date of the monitoring programs to determine the effectiveness of the remedial actions at the Forbes Avenue Site.

j. Respondent may, by written request, ask that the Commissioner approve, in writing, revisions to any document approved hereunder in order to make such document consistent with law or for any other appropriate reason.

k. If qualified consultants overseeing the initial site investigation determine that free product is present, Respondent shall, as soon as possible after such determination, develop and implement a plan to remove free product to the maximum extent technically practicable. Such initial site investigation shall determine the presence and extent of free product resulting from releases, groundwater pollution resulting from the release that may threaten the quality of drinking water wells or exceed RSR volatilization criteria within 15 feet of any overlying

buildings; and, if the release has resulted in pollution of soil vapor that exceeds RSR soil vapor criteria.

3. Progress reports. On or before the last day of each month following issuance of this Consent Order, unless another interval has been approved in writing by the Commissioner, and continuing until all actions required by this Consent Order have been completed as approved and to the Commissioner's satisfaction, Respondent shall submit a progress report for the Forbes Avenue Site to the Commissioner describing the actions which Respondent has taken to date to comply with this Consent Order.

4. Full Compliance. Respondent shall not be considered in full compliance with this Consent Order until all actions required by this Consent Order have been completed as approved and to the satisfaction of the Commissioner.

5. Civil penalty. On or before 45 days after issuance of this consent order, Respondent shall pay a penalty of \$3,752.00 as the total civil penalty to be sought by the Commissioner for those, and only those, violations described in Section A of this Consent Order.

6. Payment of penalties. Payment of penalties under this consent order shall be mailed or personally delivered to the Department of Energy and Environmental Protection, Bureau of Financial and Support Services, Accounts Receivable Office, 79 Elm Street, Hartford, CT 06106-5127, and shall be by certified or bank check payable to the "Connecticut Department of Energy and Environmental Protection" The check shall state on its face, "Bureau of Materials Management and Compliance Assurance, Emergency Response and Spill Prevention Division civil penalty, consent order COWSMT 16-003."

7. Sampling. All sampling shall be performed in accordance with procedures specified or approved in writing by the Commissioner, or, if no such procedures have been specified or approved, in accordance with most recent final version of the U. S. Environmental Protection Agency publication SW-846, entitled "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," the most recent final version of the Department's "Site Characterization Guidance Document," and relevant policies and guidelines issued by the Commissioner.

8. Sample analyses. All sample analyses which are required by this Consent Order and all reporting of such sample analyses shall be conducted by a laboratory certified by the Connecticut Department of Public Health and approved to conduct such analyses.

The Reasonable Confidence Protocols shall be used when there is a method published by Department. In all cases where the Reasonable Confidence Protocol method is used, a properly completed laboratory QA/QC certification form, certified by the laboratory shall be provided to the Commissioner with the analytical data.

In cases where a Reasonable Confidence Protocol method has not been published, the analytical data shall be generated using a method approved by the Commissioner, such method shall include and report a level of quality control and documentation equivalent to the Reasonable Confidence Protocols.

The reporting limit shall be established consistent with the Reasonable Confidence Protocols and standard industrial and laboratory practices. The Reporting Limit shall not be set at levels greater than those used in such standard practices, as determined by the Commissioner, in consultation with the Commissioner of Public Health and in no case shall be greater than the Applicable Criteria or Background Concentration established in §§ 22a-133k-1 to 22a-133k-3, inclusive, of the Regulations of Connecticut State Agencies (RCSA). The Reporting Limit for a given sample shall be corrected for specific sample weight or volume, and dilutions, and, for soil and sediment samples moisture content (reported as dry weight).

9. Approvals. Respondent shall use best efforts to submit to the Commissioner all documents required by this Consent Order in a complete and approvable form. If the Commissioner notifies Respondent that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and Respondent shall correct the deficiencies and resubmit it within the time specified by the Commissioner or, if no time is specified by the Commissioner, within 30 days of the Commissioner's notice of deficiencies. In approving any document or other action under this Consent Order, the Commissioner may approve the document or other action as submitted or performed or with such conditions or modifications as the Commissioner deems necessary to carry out the purposes of this Consent Order. Nothing in this paragraph shall excuse noncompliance or delay.

10. Definitions. As used in this Consent Order, "Commissioner" means the Commissioner or a representative of the Commissioner. "Free product" shall be defined as that term is defined in RCSA § 22a-449(d)-101(d)(33).

11. Dates. The date of "issuance" of this Consent Order is the date the order is deposited in the U.S. mail or personally delivered, whichever is earlier. The date of submission to the Commissioner of any document required by this Consent Order shall be the date such document is received by the Commissioner. The date of any notice to the Respondent by the Commissioner under this Consent Order, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is: deposited in the U.S. mail, delivered via e-mail or personally delivered, whichever is earlier, to Respondent's signatory below, or to the individuals specified by the Respondent in paragraph 24. Except as otherwise specified in this Consent Order, the word "day" as used in this Consent Order means calendar day. Any document or action which is required by this Consent Order to be submitted or performed by a date which falls on a Saturday, Sunday or a Connecticut or federal holiday shall be submitted or performed by the next day which is not a Saturday, Sunday or Connecticut or federal holiday.

12. Certification of documents. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this Consent Order shall be signed by Respondent or, if a Respondent is not an individual, by such Respondent's chief executive officer or a duly authorized representative of such officer, as those terms are defined in RCSA § 22a-430-3(b)(2), and by the LEP(s) or other individual(s) responsible for actually preparing such document, and Respondent or Respondent(s)' chief executive officer and each such individual shall certify in writing as follows:

“I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, that the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information is punishable as a criminal offense under CGS § 53a-157b and any other applicable law.”

13. Noncompliance. This Consent Order is a final order of the Commissioner with respect to the matters addressed herein, and is non-appealable and immediately enforceable. Failure to comply with this consent order may subject Respondent to an injunction and penalties, including possible suspension or revocation of any or all Marine Terminal permit(s).

14. False statements. Any false statement in any information submitted pursuant to this Consent Order is punishable as a criminal offense under CGS § 53a-157b and any other applicable law.

15. Notice of transfer; liability of Respondent. Until Respondent has fully complied with this Consent Order, Respondent shall notify the Commissioner in writing no later than 15 days after transferring all or any portion of the facility, the operations, the Forbes Avenue Site or the business which is the subject of this Consent Order or after obtaining a new mailing or location address. Respondent obligation under this Consent Order shall not be affected by the passage of title to any property to any other person or municipality.

16. Commissioner's powers. Nothing in this Consent Order shall affect the Commissioner's authority to institute any proceeding or take any other action to prevent or abate violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for past, present, or future violations of law. If at any time the Commissioner determines that the actions taken by Respondent pursuant to this Consent Order have not successfully corrected all violations, fully characterized the extent or degree of any pollution, or successfully abated or prevented pollution, the Commissioner may institute any proceeding to require Respondent to undertake further investigation or further action to prevent or abate violations or pollution.

17. Respondent obligations under law. Nothing in this Consent Order shall relieve Respondent of other obligations under applicable federal, state and local law.
18. No assurance by Commissioner. No provision of this Consent Order and no action or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the actions taken by Respondent pursuant to this Consent Order will result in compliance or prevent or abate pollution.
19. Access to site. Any representative of the Department of Energy and Environmental Protection may enter the Forbes Street Site, including any buildings or facilities on the Forbes Street Site, without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this Consent Order.
20. No effect on rights of other persons. This Consent Order neither creates nor affects any rights of persons or municipalities that are not parties to this Consent Order.
21. Notice to Commissioner of changes. Within 15 days of the date Respondent become aware of a change in any information submitted to the Commissioner under this Consent Order, or that any such information was inaccurate or misleading or that any relevant information was omitted, Respondent shall submit the correct or omitted information to the Commissioner.
22. Notification of noncompliance. In the event that Respondent or any one or more of them become aware that they did not or may not comply, or did not or may not comply on time, with any requirement of this Consent Order or of any document required hereunder, the Respondent shall immediately notify by telephone the individuals identified in the next paragraph and shall take all reasonable steps to ensure that any noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. Within five (5) days of the initial notice, Respondent shall submit in writing the date, time, and duration of the noncompliance and the reasons for the noncompliance or delay and propose, for the review and written approval of the Commissioner, dates by which compliance will be achieved, and Respondent shall comply with any dates which may be approved in writing by the Commissioner. Notification by Respondent shall not excuse noncompliance or delay, and the Commissioner's approval of any compliance dates proposed shall not excuse noncompliance or delay unless specifically so stated by the Commissioner in writing.
23. Submission of Documents. Any document or notice required to be submitted to the Commissioner under this Consent Order shall, unless otherwise specified in writing by the Commissioner, be directed to:

David J. Keating  
Department of Energy and Environmental Protection  
Emergency Response and Spill Prevention Division  
Storage Tank and PCB Enforcement Unit



79 Elm Street  
Hartford, Connecticut 06106-5127

and

Craig Bobrowiecki  
Department of Energy and Environmental Protection  
Remediation Division  
79 Elm Street  
Hartford, CT 06106-5127

24. Notice by the Commissioner. Any notice by the Commissioner under this Consent Order shall, unless otherwise specified in writing by the Commissioner, be directed to:

RIK FAHRENKROG  
ONE WILLIAMS CENTER, OTC-8  
TULSA, OK 74172


and

ANDREA CHRISTENSEN  
ONE WILLIAMS CENTER, OTC-8  
TULSA OK 74172

Respondent consents to the issuance of this consent order without further notice. The undersigned certifies that he/she is fully authorized to enter into this consent order and to legally bind the Respondent to the terms and conditions of the consent order.

Magellan Terminal Holdings, LP

BY:

  
Name & Title

SR V. PRESIDENT



MAY 24, 2016  
Date

Issued as an Order of the Commissioner of the Department of Energy and Environmental Protection.

Dated

July 5, 2016



Michael Sullivan  
Deputy Commissioner

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