



**REGION 6**  
DALLAS, TX 75270

March 7, 2024

David Kennebeck  
Air Specialist Consultant  
Magellan Midstream Partners, L.P.  
One Williams Center, OTC-8  
Tulsa, Oklahoma 74172

Sent via email: David.Kennebeck@magellanlp.com

Re: Clean Air Act Notice of Violation and Opportunity to Confer

Dear Mr. Kennebeck:

The U.S. Environmental Protection Agency, Region 6 ("EPA") is providing this Notice of Violation and Opportunity to Confer ("NOVOC" or "Notice") under Section 113(a)(1) and (3) of the Clean Air Act (the "Act" or "CAA"), 42 U.S.C. § 7413(a)(1) and (3), to inform Magellan Pipeline Terminals, L.P. ("Magellan") of violations set forth in detail below at Magellan's Dallas Terminal located at 4200 Singleton Boulevard, Dallas, Texas (the "Facility"). Section 113(a)(1) of the CAA, 42 U.S.C. § 7413(a)(1), requires the Administrator of the EPA to notify any person in violation of a State Implementation Plan ("SIP") or permit of the violation, and this NOVOC serves as such notice. The authority to issue this NOVOC has been delegated to the Director of the Enforcement and Compliance Assurance Division, EPA Region 6.

Based on information currently available, EPA alleges violations at the Facility of Title 40 of the Code of Federal Regulations ("C.F.R") Part 60 Subpart Kb: Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984; Title 40 C.F.R Part 60 Subpart XX: Standards of Performance for Bulk Gasoline Terminals; and Title 40 C.F.R Part 63 Subpart BBBB: the National Emission Standards for Hazardous Air Pollutants

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(“NESHAP”) for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities. EPA also alleges the Facility is in violation of the requirements and prohibitions of Texas’s federally-approved SIP.

By this letter, EPA is providing Magellan with the opportunity to request a conference with EPA to discuss the violations alleged in this NOVOC. This conference will provide Magellan with the opportunity to present information on the identified violations, any efforts it has undertaken to comply, and the steps it will take to prevent future violations. You may have legal counsel represent and accompany you at this conference.

**I. Statutory and Regulatory Background**

1. The purpose of the CAA is “to protect and enhance the quality of the [United States] air resources so as to promote the public health and welfare and the productive capacity of its population.” CAA Section 101(b)(1), 42 U.S.C. § 7401(b)(1).

**A. Texas State Implementation Plan**

2. Section 108(a) of the CAA, 42 U.S.C. § 7408(a), requires the Administrator of EPA to identify and prepare air quality criteria for each air pollutant, emissions of which may endanger public health or welfare, and the presence of which results from numerous or diverse mobile or stationary sources. For each such “criteria” pollutant, Section 109 of the CAA, 42 U.S.C. § 7409, requires EPA to promulgate national ambient air quality standards (“NAAQS”) requisite to protect the public health and welfare.
3. Under Section 107(d) of the CAA, 42 U.S.C. § 7407(d), each state is required to designate those areas within its boundaries where the air quality either meets or does not meet the NAAQS for each criteria pollutant, or where the air quality cannot be classified due to insufficient data. An area that meets the NAAQS for a particular criteria pollutant is termed an “attainment” area with respect to such pollutant. An area that does not meet the NAAQS for a particular criteria pollutant is termed a “nonattainment” area with respect to such pollutant.
4. Section 110(a) of the CAA, 42 U.S.C. § 7410(a), requires each state to adopt and submit to the Administrator of EPA a plan that provides for implementation, maintenance, and enforcement, for each promulgated NAAQS, in each air quality control region (or portion thereof). Each such plan (i.e., SIP), must include enforceable emission limitations and other control measures as well as a permit program to regulate the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that NAAQS are achieved. Section 110(a)(2)(A) and (C) of the CAA, 42 U.S.C. § 7410(a)(2)(A) and (C). The SIP must also provide for the establishment and operation of appropriate devices, methods, systems, and procedures necessary to monitor, compile, and analyze data on

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ambient air quality and, upon request, make such data available to EPA. Section 110(a)(2)(B) of the CAA, 42 U.S.C. § 7410(a)(2)(B).

5. Pursuant to Section 113(a) and (b) of the CAA, 42 U.S.C. § 7413(a) and (b), upon EPA approval, SIP requirements are federally enforceable under Section 113.
6. Pursuant to Section 110 of the CAA, 42 U.S.C. § 7410, the State of Texas adopted regulations that comprise the SIP for Texas (the “Texas SIP”). The Texas SIP regulations as approved by EPA are set forth in 40 C.F.R § 52.2270(c). The Texas SIP incorporates provisions from Title 30, Environmental Quality, of the Texas Administrative Code (“TAC”), including the State of Texas’s New Source Review (“NSR”) permitting programs for both major and minor sources.
7. The requirements for emissions inventory reporting located at 30 TAC § 101.10 are incorporated into the Texas SIP. 30 TAC § 101.10(d)(1) requires the attestation that the information contained in the emission inventory reports is true and accurate.
8. The requirements for control of air pollution by permits for new construction or modification located in 30 TAC Chapter 116 are incorporated into the Texas SIP. 30 TAC § 116.115(c) requires the holders of permits, special permits, standard permits, and special exemptions to comply with all special conditions contained in the permit document.

**B. Clean Air Act Section 111 and New Source Performance Standards**

9. Section 111(b)(1)(A) of the Act, 42 U.S.C. § 7411(b)(1)(A), requires EPA to publish and periodically revise a list of categories of stationary sources, including those categories that, in EPA’s judgment, cause or contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare.
10. Once a category is included on the list, Section 111(b)(1)(B) of the Act, 42 U.S.C. § 7411(b)(1)(B), requires EPA to promulgate a federal standard of performance for new sources within the category, also known as a New Source Performance Standard (“NSPS”). Section 111(e) of the Act, 42 U.S.C. § 7411(e), prohibits an owner or operator of a new source from operating that source in violation of an NSPS after the effective date of the NSPS applicable to such source.
11. The NSPS rules are located in Part 60 of Title 40 of the Code of Federal Regulations.

**C. 40 C.F.R. Part 60, Subpart Kb - Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984**

12. Pursuant to 40 C.F.R. § 60.110b(a), the affected facility to which NSPS Subpart Kb applies is “each storage vessel with a capacity greater than or equal to 75 cubic meters (m<sup>3</sup>) that is used to store volatile organic liquids (VOL) for which construction, reconstruction, or modification is commenced after July 23, 1984.”
13. Affected facility is defined “with reference to a stationary source, any apparatus to which a standard is applicable.” 40 C.F.R. § 60.2.
14. For storage vessels equipped with a liquid-mounted or mechanical shoe primary seal, 40 C.F.R. § 60.113b(a)(2) requires each owner or operator to “visually inspect the internal floating roof and the primary seal or the secondary seal (if one is in service) through manholes and roof hatches on the fixed roof at least once every 12 months after initial fill.”
15. 40 C.F.R. § 60.115b(a)(2) requires that the owner or operator of each storage vessel shall “[k]eep a record of each inspection performed as required by § 60.113b (a)(1), (a)(2), (a)(3), and (a)(4). Each record shall identify the storage vessel on which the inspection was performed and shall contain the date the vessel was inspected and the observed condition of each component of the control equipment (seals, internal floating roof, and fittings).”

**D. 40 C.F.R. Part 60, Subpart XX - Standards of Performance for Bulk Gasoline Terminals**

16. NSPS Subpart XX applies to the affected facility which is “the total of all the loading racks at a bulk gasoline terminal which deliver liquid product into gasoline tank trucks.” 40 C.F.R. § 60.500(a).
17. 40 C.F.R. § 60.501 establishes definitions of terms for purposes of NSPS Subpart XX.
18. 40 C.F.R. § 60.502(j) requires that in “[e]ach calendar month, the vapor collection system, the vapor processing system, and each loading rack handling gasoline shall be inspected during the loading of gasoline tank trucks for total organic compounds liquid or vapor leaks. For purposes of this paragraph, detection methods incorporating sight, sound, or smell are acceptable. Each detection of a leak shall be recorded and the source of the leak repaired within 15 calendar days after it is detected.”
19. 40 C.F.R. § 60.505(c) requires that “[a] record of each monthly leak inspection required under § 60.502(j) shall be kept on file at the terminal for at least 2 years. Inspection records shall include, as a minimum, the following information: (1) Date of inspection. (2) Findings (may indicate no leaks discovered; or location, nature, and severity of each leak). (3) Leak

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determination method. (4) Corrective action (date each leak repaired; reasons for any repair interval in excess of 15 days). (5) Inspector name and signature.”

**E. Clean Air Act Section 112 and National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries**

20. Section 112 of the Act requires EPA to identify categories and subcategories of major sources of hazardous air pollutants (“HAPs”), and to establish emission standards requiring the maximum degree of reduction in emissions of HAPs that EPA determines is achievable through the application of measures, processes, methods, systems or techniques including, but not limited to, the enclosure of systems or processes to eliminate emissions, and design, equipment, work practice, or other operational standards. 42 U.S.C. §§ 7412(c)(1)-(2), (d)(1)-(2).

**F. 40 C.F.R. Part 63, Subpart BBBBBB – National Emissions Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities**

21. NESHAP Subpart BBBBBB “establishes national emission limitations and management practices for hazardous air pollutants (HAP) emitted from area source gasoline distribution bulk terminals, bulk plants, and pipeline facilities. This subpart also establishes requirements to demonstrate compliance with the emission limitations and management practices.” 40 C.F.R. § 63.11080.

22. Pursuant to 40 C.F.R. § 63.11081, “[t]he affected source to which this subpart applies is each area source bulk gasoline terminal, pipeline breakout station, pipeline pumping station, and bulk gasoline plant identified in paragraphs (a)(1) through (4) of this section.”

23. 40 C.F.R. § 63.11100 establishes definitions of terms for purposes of NESHAP Subpart BBBBBB.

24. 40 C.F.R. § 63.11085(a) requires that each owner or operator of an affected source, “must, at all times, operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions.”

25. 40 C.F.R. § 63.11089(a) requires that “[e]ach owner or operator of a bulk gasoline terminal, bulk plant, pipeline breakout station, or pipeline pumping station subject to the provisions of this subpart shall perform a monthly leak inspection of all equipment in gasoline service, as defined in § 63.11100. For this inspection, detection methods incorporating sight, sound, and smell are acceptable.”

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26. 40 C.F.R. § 63.11089(c) requires that “each detection of a liquid or vapor leak shall be recorded in the log book. When a leak is detected, an initial attempt at repair shall be made as soon as practicable, but no later than 5 calendar days after the leak is detected. Repair or replacement of leaking equipment shall be completed within 15 calendar days after detection of each leak, except as provided in paragraph (d) of this section.”
27. 40 C.F.R. § 63.11094(e) requires that “[e]ach owner or operator of an affected source subject to equipment leak inspections under § 63.11089 shall record in the log book for each leak that is detected the information specified in paragraphs (e)(1) through (7) of this section. (1) The equipment type and identification number. (2) The nature of the leak (i.e., vapor or liquid) and the method of detection (i.e., sight, sound, or smell). (3) The date the leak was detected and the date of each attempt to repair the leak. (4) Repair methods applied in each attempt to repair the leak. (5) “Repair delayed” and the reason for the delay if the leak is not repaired within 15 calendar days after discovery of the leak. (6) The expected date of successful repair of the leak if the leak is not repaired within 15 days. (7) The date of successful repair of the leak.”

**G. Title V Operating Permit Requirements**

28. Section 502 of the CAA, 42 U.S.C. § 7661a, establishes requirements for specified sources to obtain operating permits (“Title V operating permits”) and sets forth the minimum elements for such permits.
29. The CAA Title V operating permit program is implemented and administered by the States. Accordingly, Section 502 of the CAA requires each State to develop and submit for EPA approval a permit program meeting the requirements of Subchapter V of the CAA. 42 U.S.C. § 7661a.
30. Section 502(a) of the CAA, 42 U.S.C. § 7661a(a), and the implementing regulations at 40 C.F.R. § 70.7(b) provide that, after the effective date of the state Title V permit program, no person may violate any requirement of a Title V permit or operate a source subject to a Title V permit except in compliance with a Title V permit.
31. EPA promulgated interim approval of the Texas Title V program on June 25, 1996. See 61 Fed. Reg. 32,693. EPA promulgated full approval of the Texas Title V program on November 30, 2001. See 66 Fed. Reg. 63,318, and 40 C.F.R. Part 70, Appendix A.
32. The Texas regulations governing the Title V permitting program are codified at 30 TAC Chapter 122.
33. 30 TAC § 122.143(4) requires a permit holder to “comply with all terms and conditions codified in the permit and any provisional terms and conditions required to be included with the permit. Except as provided for in paragraph (5) of this section, any noncompliance

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with either the terms or conditions codified in the permit or the provisional terms and conditions, if any, constitutes a violation of the Federal Clean Air Act and the Texas Clean Air Act and is grounds for enforcement action.”

**II. Findings of Fact**

- 34. Magellan owns and operates the Facility located at 4200 Singleton Boulevard, Dallas, Texas 75212.
- 35. The Facility is a bulk gasoline terminal used for petroleum storage and distribution. The Facility receives petroleum products, primarily diesel and gasoline. Products are supplied to the terminal by pipeline. Gasoline additives and distillate products are received by truck and stored in storage tanks. Magellan can transfer product off-site by tank truck or pipeline.
- 36. The Facility currently operates under Title V permit number O3110 issued January 27, 2022, and amended NSR Permit 56481 issued March 14, 2022.
- 37. EPA Region 6 inspectors conducted an announced on-site inspection of the Facility on July 27, 2021 (“EPA Inspection”).
- 38. At the time of the EPA Inspection, the Facility operated under Title V Permit O3110 issued April 15, 2020, which expired on October 5, 2021 (the “Title V Permit”).
- 39. At the time of the EPA Inspection, the Facility operated under NSR Permit 56481 issued August 10, 2018, which expires on May 6, 2026.

**A. NSR Permit and the Texas SIP**

- 40. Special Condition 7 of NSR Permit 56481 requires the loading or dispensing of gasoline be limited to gasolines meeting monthly Reid Vapor Pressure (“RVP”) standards.
- 41. After the EPA Inspection, EPA inspectors requested and received gasoline loading records including RVP measurements.
- 42. During a compliance review, EPA inspectors noted 19 instances in which the RVP of dispensed gasoline exceeded the permitted monthly RVP limits listed in Special Condition 7.
- 43. Special Condition 18 of NSR Permit 56481 establishes permit requirements for storage tanks.
- 44. Special Condition 18D of NSR Permit 56481 requires that uninsulated tank exterior surfaces exposed to sun shall be white or unpainted aluminum except for labels, logos, etc. not to exceed 15 percent of the tank total surface area.

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45. During the EPA Inspection, EPA inspectors noted that tank conditions on-site included rust, stains, and paint chipping.
46. After the EPA Inspection, EPA inspectors requested and received API 653 inspections for all tanks. During a compliance review, EPA inspectors noted that API inspectors recommended repainting tanks and the inspection records included tank coatings rated as fair condition, photographs showing black staining, comments about coating failures, paint chippings, rust, and mildew stains.
47. After the EPA Inspection, EPA inspectors requested and received annual Emissions Inventory reports.
48. During a compliance review, EPA inspectors noted that the 2019 Emissions Inventory reported the Vapor Recovery Unit ("VRU") as not being run, however, emissions were reported for the VRU. In the same year's report, the Vapor Combustion Unit ("VCU") is listed as running 8,760 hours with emissions reported. Per the facility's permit, the VCU and VRU cannot be run simultaneously.
49. During a compliance review, EPA inspectors noted that the 2020 Emissions Inventory and VCU temperature data indicated the VCU operated in 2020 but nitrogen oxides ("NOx") and carbon monoxide ("CO") were not reported.

**B. 40 C.F.R. Part 60, Subpart Kb - Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984**

50. The Facility is an affected source with storage vessels subject to NSPS Subpart Kb.
51. After the EPA Inspection, EPA inspectors requested and received tank inspection records for inspections required by 40 C.F.R. § 60.113b.
52. During a compliance review, EPA inspectors noted that various tank inspection records indicated the tank inspector could not see the entirety of the roof, could not view the entirety of the geo-domes without breaking plane, labeled hatches as inaccessible, and only inspected sections of the roof seal.

**C. 40 C.F.R. Part 60, Subpart XX - Standards of Performance for Bulk Gasoline Terminals**

53. The Facility is a bulk gasoline terminal that includes loading racks which deliver liquid product into gasoline tank trucks and is subject to NSPS Subpart XX.

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- 54. After the EPA Inspection, EPA inspectors requested and received monthly leak detection records.
- 55. During a compliance review, EPA inspectors reviewed monthly leak detection records and noted the inspections indicated leaks observed but did not identify each detection of a leak in the record. EPA inspectors also noted that multiple inspections did not include the location, nature, and severity of each leak, the leak detection method, the corrective action, or the inspector name and signature.

**D. 40 C.F.R. Part 63, Subpart BBBBBB – National Emissions Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities**

- 56. The Facility is a bulk gasoline terminal and is subject to NESHAP Subpart BBBBBB.
- 57. During the EPA Inspection, inspectors observed various storage tanks and control equipment using a forward looking infrared (“FLIR”) camera. Emissions were observed from a perimeter vent on Tank 3410, and a perimeter vent and gooseneck vent on Tank 4280. EPA inspectors also observed emission from the vent stack of the VRU.
- 58. After the EPA Inspection, EPA inspectors requested and received monthly leak detection records.
- 59. During a compliance review, EPA inspectors reviewed monthly leak detections records and noted that various records did not include a record of each detection, the equipment type and identification number, nature of the leak, the date of each attempt to repair, repair methods, expected date of successful repair, and date of successful repair.

**E. Title V Operating Permit Requirements**

- 60. Condition 1 of the Title V Permit provides that the permit holder shall comply with requirements for emission units found in the Title V Permit’s Applicable Requirements Summary to assure compliance with the permit. The Applicable Requirements Summary lists compliance with 40 C.F.R. § 60.115b(a)(2) at specified tanks and compliance with 40 C.F.R. § 60.505(c) for loading and unloading operations.
- 61. Condition 2 of the Title V Permit requires permit holders to comply with the requirements of 30 TAC Chapter 101, including 30 TAC § 101.10 relating to Emissions Inventory requirements.
- 62. Condition 9 of the Title V Permit requires permit holders to comply with the requirements for bulk gasoline terminal specified in 40 CFR Part 63, Subpart BBBBBB, including those at 40

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C.F.R. § 63.11085(a), for operation and maintenance of the affected source, and 40 C.F.R. § 63.11094(e), for recordkeeping.

63. Pursuant to Condition 12 of the Title V Permit, permit holders shall comply with the requirements of New Source Review authorizations issued under 30 TAC Chapter 116 standard permits, and such requirements are incorporated by reference into the Title V Permit as applicable requirements.

**III. Conclusions of Law**

Based on the factual findings set forth above, EPA has reached the following conclusions of Law:

**COUNT 1: Violation of 30 TAC § 116.115(c) and 30 TAC § 122.143(4)**

64. Magellan violated 30 TAC § 116.115(c) by failing to comply with the Facility's monthly maximum RVP standards established by NSR Permit 56481 Special Condition 7, and 30 TAC § 122.143(4) by failing to comply with Condition 12 of the Title V Permit.

**COUNT 2: Violation of 30 TAC § 116.115(c) and 30 TAC § 122.143(4)**

65. Magellan violated 30 TAC § 116.115(c) by failing to comply with the tank exterior condition standards established by NSR Permit 56481 Special Condition 18D, and 30 TAC § 122.143(4) by failing to comply with Condition 12 of the Title V Permit.

**COUNT 3: Violation of 30 TAC § 101.10(d)(1) and 30 TAC § 122.143(4)**

66. Magellan violated 30 TAC § 101.10(d)(1) by failing to report accurate emissions for NO<sub>x</sub> CO for the VCU in reporting year 2020, and 30 TAC § 122.143(4) by failing to comply with Condition 2 of the Title V Permit.

**COUNT 4: Violation of 40 C.F.R. § 60.115b(a)(2) and 30 TAC § 122.143(4)**

67. Magellan violated 40 C.F.R. § 60.115b(a)(2) by failing to conduct accurate and thorough tank inspections, and 30 TAC § 122.143(4) by failing to comply with Condition 1 of the Title V Permit.

**COUNT 5: Violation of 40 C.F.R. § 60.505(c) and 30 TAC § 122.143(4)**

68. Magellan violated 40 C.F.R. § 60.505(c) by failing to record the required information for each monthly leak inspection required by § 60.502(j), and 30 TAC § 122.143(4) by failing to comply with Condition 1 of the Title V Permit.

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**COUNT 6: Violation of 40 C.F.R. § 63.11085(a) and 30 TAC § 122.143(4)**

69. Magellan violated 40 C.F.R. § 63.11085(a) by failing to comply with the good air pollution control practices for minimizing emissions at Tank 3410, and 30 TAC § 122.143(4) by failing to comply with Condition 9 of the Title V Permit.

**COUNT 7: Violation of 40 C.F.R. § 63.11085(a) and 30 TAC § 122.143(4)**

70. Magellan violated 40 C.F.R. § 63.11085(a) by failing to comply with the good air pollution control practices for minimizing emissions at Tank 4280, and 30 TAC § 122.143(4) by failing to comply with Condition 9 of the Title V Permit.

**COUNT 8: Violation of 40 C.F.R. § 63.11094(e) and 30 TAC § 122.143(4)**

71. Magellan violated 40 C.F.R. § 63.11094(e) by failing to record the required information for equipment leak inspections under 40 C.F.R. § 63.11089 in a monthly leak inspection log, and 30 TAC § 122.143(4) by failing to comply with Condition 9 of the Title V Permit.

**IV. Enforcement**

The above information represents violations of the CAA and the regulations promulgated thereunder that EPA believes, at this point, are sufficiently supported by evidence to warrant the allegations in this NOVOC. EPA may find additional violations on the basis of information obtained during the course of EPA's efforts to resolve this matter.

Section 113(a)(3) of the CAA, 42 U.S.C § 7413(a)(3), provides the EPA Administrator with several enforcement options to resolve these federal violations, including issuing an administrative compliance order, issuing an administrative penalty order, bringing a judicial civil action, and bringing a judicial criminal action.

**V. Opportunity to Confer**

By this letter, EPA is extending to you an opportunity to advise the Agency via a conference call or in writing, of any further information EPA should consider with respect to the violations. The conference will enable the Facility to present evidence bearing on the finding of violations, on the nature of the violations, and on any efforts it may have taken or proposes to take to achieve compliance. The Facility has a right to be represented by counsel.

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A request for a conference must be made within ten (10) days of receipt of this NOVOC. Please contact Arati Tripathi, Assistant Regional Counsel, at [tripathi.arati@epa.gov](mailto:tripathi.arati@epa.gov) or (214) 665-7404 within ten (10) business days to request a conference.

Sincerely,

Cheryl T. Seager, Director  
Enforcement and  
Compliance Assurance Division

ec: Michael Delacruz ([michael.delacruz@tceq.texas.gov](mailto:michael.delacruz@tceq.texas.gov))