



CERTIFIED MAIL - RETURN RECEIPT REQUESTED

August 8, 2016

Mr. R.M. Seeley
Director, Southwest Region
Pipeline and Hazardous Materials Safety Administration
8701 South Gessner, Suite 1110
Houston, TX 77074

Shell Pipeline Company LP

One Shell Plaza
910 Louisiana Street
42nd Floor
Houston, Texas 77002-5316

SUBJECT: NOPV-PCP-PCO, CPF 4-2016-5023

Dear Mr. Seeley:

Shell Pipeline Company LP (SPLC) acknowledges the receipt of **CPF 4-2016-5023** Notice of Probable Violation (NOPV) and Proposed Civil Penalty (PCP) from the Pipeline and Hazardous Materials Safety Administration (PHMSA) on July 18, 2016. SPLC is committed to operational excellence and full compliance with federal, state and local regulations. SPLC is also committed to striving to meet PHMSA expectations above the requirements of 49 CFR 195; however the requirements of 49 CFR 195 alone are what should be used in determining probable violations.

Response to Notice of Proposed Violation

On August 12, 2015, SPLC submitted a notification of proposed construction for the construction of 30 miles of pipeline in the Gulf of Mexico. SPLC reported the expected date for start of construction to be September 1, 2015. This would have been only 19 days prior to construction instead of the 60 days required by the regulation but not the 233 days late as alleged by PHMSA. And in fact, field construction activities were delayed and did not begin until work on the crossing preparation started on December 17, 2015.

PHMSA alleges that “construction” began on February 20, 2015. This date is based on the dates that some of the purchase orders for the pipe were issued. While Advisory Bulletin ADB 2014-03 does encourage operators to make notification based on pipe purchase, ROW purchase and other activities that occur prior to field “construction” the ADB itself acknowledges that this is guidance and not a requirement. Specifically it states, *“While the notification prior to the first occurring construction-related activity is strongly encouraged and will benefit both PHMSA and the operator, these activities may not necessarily represent the commencement of construction for purposes of triggering the minimum 60- day notice period in the regulations subject to enforcement by PHMSA.”* Therefore, the date of purchase of the pipe does not necessarily constitute “construction” and this definition presented through an advisory bulletin should not be used in an enforcement action.

Furthermore, SPLC disagrees with the assertion in the Pipeline Safety Violation Report “Section E6 – Circumstances” that the violation was discovered by PHMSA. SPLC believes in being open and fully cooperating with our regulators, and we believe that the record bears that out in this instance.

There was no intent to hide a violation and by submitting the notification, SPLC went on record that the construction was planned to start less than 60 days from the submittal. As was the case with CPF 4-2016-5010, it is unclear to SPLC what other notification could have been provided to PHMSA in this instance. SPLC would like to know what the expectation is to self-report this type of instance in the future if a deadline for a report is missed.

Response to Proposed Civil Penalty

In accordance with the Response Options for Pipeline Operators in Compliance Proceedings, SPLC believes that the proposed penalty should be reviewed in light of the contested allegations presented above.

Thank you for your consideration. We look forward to hearing your response. If you have any questions regarding this response or need any additional information, please contact Deborah Price at (713) 241-2035.

Sincerely,



Deborah Price
Integrity & Regulatory Services Manager
Shell Pipeline Company LP