

December 13, 2019

VIA EMAIL AND CERTIFIED MAIL:

Mr. Scott Schingen
Vice President, Natural Gas Liquids Operations
ONEOK NGL Pipeline, L.L.C.
100 W. Fifth Street
Tulsa, Oklahoma 74103

RE: In the Matter of ONEOK NGL Pipeline, L.L.C. – CPF No. 4-2016-5014S

Dear Mr. Schingen:

Enclosed please find the fully executed Consent Agreement and Order that resolves the issues underlying the Notice of Proposed Safety Order issued by PHMSA on May 16, 2016, in the above-referenced proceeding. Your receipt of this Consent Agreement and Order constitutes service, as provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosure

cc: Ms. Mary McDaniel, Director, Southwest Region, Office of Pipeline Safety, PHMSA
Ms. Linda Daugherty, Deputy Associate Administrator for Field Operations, Pipeline Safety, Office of Pipeline Safety, PHMSA
Mr. Walter Allen, Vice President, Natural Gas Liquids Transportation
Mr. David Keglovits, Vice President and Associate General Counsel
Mr. Vince Murchison, Murchison Law Firm, 325 North St. Paul Street, Suite 2700,
Dallas, Texas 75201

**U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590**

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In the Matter of)	
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ONEOK NGL Pipeline, L.L.C.)	CPF No. 4-2016-5014S
)	
Respondent)	
)	

CONSENT AGREEMENT AND ORDER

On May 16, 2016, pursuant to 49 C.F.R. § 190.239, the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), issued a Notice of Proposed Safety Order (Notice) to ONEOK NGL Pipeline, L.L.C. (Respondent). The Notice alleged that Respondent’s 16-inch hazardous liquid pipeline system designated as the Sterling III Pipeline contains an apparent condition that, without corrective measures, could pose a pipeline integrity risk to public safety, property, or the environment. No accident or release from the Sterling III Pipeline was alleged to have occurred.

Specifically, the Notice alleged that onsite inspections of the Sterling III Pipeline by PHMSA in March 2016 identified a risk condition involving the aboveground station piping on the discharge piping of several of the pumping stations. Respondent had taken mitigative steps to address mechanical vibration resulting from Variable Frequency Drive pumping units.

On June 13, 2016, Respondent responded to the Notice by submitting a timely written response and request for an informal consultation. An informal consultation was held between representatives from Respondent and PHMSA wherein the Parties engaged in good faith negotiations to address the alleged risk condition according to the provisions of 49 C.F.R. § 190.239(b)(2). PHMSA subsequently provided written notification to Respondent on May 9, 2017 of the intent to conclude the informal consultation effective May 19, 2017. On May 30, 2017, Respondent submitted a timely written request for a hearing.

Respondent proceeded with non-destructive examination (NDE) of three of the most frequently operated stations on the Sterling III Pipeline and in August 2017, commenced the testing. The Presiding Official made a determination to delay scheduling of a hearing to allow the Parties an opportunity to reach agreement on the scope of future NDE.

Having agreed that settlement of this proceeding will avoid further administrative proceedings or litigation and that entry of this Consent Agreement and Order (Agreement and Order) is the most appropriate means of resolving the Notice, pursuant to 49 C.F.R. Part 190, without adjudication of any issue of fact or law, and upon consent and agreement of Respondent and PHMSA (the Parties), the Parties agree as follows:

I. General Provisions

1. Respondent acknowledges that the Sterling III Pipeline is regulated by PHMSA, and, therefore, as the operator, Respondent is subject to the jurisdiction of the Federal pipeline safety laws, 49 U.S.C. 60101, *et seq.*, and the regulations and administrative orders issued thereunder. For purposes of this Agreement and Order, Respondent further acknowledges that it received proper notice of PHMSA's action in this proceeding and that the Notice states claims upon which relief may be granted pursuant to 49 U.S.C. 60101, *et seq.*, and the regulations and administrative orders issued thereunder.

2. Respondent neither admits nor denies any allegation or conclusion in the Notice but agrees, for the purposes of this Agreement and Order, to address the alleged risk condition on the Sterling III Pipeline by completing the actions specified in Article II of this Agreement and Order (Corrective Measures), as well as to abide by the terms of this Agreement and Order. This Agreement and Order does not constitute a finding of violation of any Federal law or regulation and may not be used in any civil or administrative proceeding of any kind as evidence or proof of any fact, fault or liability, or as evidence of the violation of any law, rule, regulation or requirement, except in a proceeding to enforce the provisions of this Agreement and Order.

3. Respondent consents to the issuance of this Agreement and Order, and hereby waives any further procedural requirements with respect to its issuance. Subject to the rights granted by Section 20 hereof, Respondent waives all rights to contest the adequacy of notice, or the validity of this Agreement and Order, including all rights to administrative or judicial hearings, reviews, or appeals.

4. This Agreement and Order shall apply to, and be binding upon, PHMSA and Respondent, its officers, directors, and employees, and its successors, assigns, or other entities or persons otherwise bound by law. Respondent agrees to provide a copy of this Agreement and Order and any incorporated work plans and schedules to such of Respondent's officers, employees, and agents whose duties might reasonably include compliance with this Agreement and Order.

5. For any transfer of ownership or operating responsibility of Respondent's Sterling III Pipeline occurring during the term of this Agreement and Order, Respondent will provide a copy of this document to the prospective transferee at least 30 days prior to such transfer. Respondent shall provide written notice of the actual transfer to the Director,

PHMSA Southwest Region (Director) not later than 60 days following the consummation of any such transfer.

6. This Agreement and Order constitutes the final, complete and exclusive agreement and understanding between the Parties with respect to the settlement embodied herein. The Parties acknowledge that no representations, agreements, or understandings relate to this settlement other than those expressly contained in this Agreement and Order, except that the terms of this Agreement and Order may be construed by reference to the Notice.

7. Nothing in this Agreement and Order affects or relieves Respondent of its responsibility to comply with all applicable requirements of the Federal pipeline safety laws, 49 U.S.C. § 60101, *et seq.*, and the regulations and administrative orders issued thereunder. Nothing in this Agreement and Order alters PHMSA's right of access, entry, inspection, and information gathering, or PHMSA's authority to bring enforcement action(s) against Respondent pursuant to the Federal pipeline safety laws, the regulations and orders issued thereunder, or any other provision of Federal law, including future enforcement action relating to Respondent's Sterling III Pipeline.

8. This Agreement and Order does not waive or modify any law or regulation applicable to Respondent's Sterling III Pipeline. This Agreement and Order is not a permit, or a modification of any permit, under any laws or regulations. Respondent remains responsible for maintaining compliance with all applicable laws, regulations and permits.

9. This Agreement and Order does not create rights in, or grant any cause of action to, any third party not party to this Agreement and Order. U.S. Department of Transportation and PHMSA are not liable for any injuries or damages to persons or property arising from acts or omissions of Respondent or its officers, employees, or agents carrying out the work required by this Agreement and Order. Respondent agrees to indemnify and hold harmless the U.S. Department of Transportation, its officers, employees, agents, and representatives from any and all causes of action arising from any acts or omissions of Respondent or its contractors in carrying out the work required by this Agreement and Order.

10. This Agreement and Order resolves the underlying issues in the Notice. This Agreement and Order makes no findings of violation. The terms of this Agreement and Order constitute an offer of settlement until executed by the Associate Administrator for Pipeline Safety. Upon execution of this Agreement and Order by both Parties, any request for a hearing submitted by Respondent shall be automatically withdrawn.

11. Upon the issuance of this Agreement and Order, Respondent agrees to perform the Corrective Measures set forth in Article II below. These actions, including any work plans and schedules, are automatically incorporated into this Agreement and Order. Any work plans and schedules will be revised, as mutually determined to be necessary, to incorporate new information obtained during the activities performed.

Respondent will submit any such plan revisions to the Director for prior approval in accordance with Section 18.

II. Corrective Measures

12. **Item 1. Vibration Study.** Respondent will perform a comprehensive study to determine the specific circumstances and conditions in which potentially damaging vibrational effects may occur during the operation of the Sterling III pipeline system. This will include, but is not limited to, the determination of the specific locations most susceptible to damage, data collection at locations most susceptible to vibrational damage, and identification of welds, piping and piping components most susceptible to damage. This study will be completed and submitted to the Director within 60 days from the Effective Date of this Agreement.

13. **Item 2. Remedial Work Plan.** Upon completing the vibration study under Item 1, Respondent will develop and submit to the Director for review and approval a remedial work plan (RWP) to mitigate the effects of damaging vibration to its pipeline. The RWP may include, but is not limited to, piping reconfigurations, limits on operating ranges, vibration dampeners, inline vibrational dampening devices, or a combination of such mitigative measures. For the proposed mitigative measures, ONEOK must demonstrate, in the form of vibration test data, the effectiveness in preventing damaging vibration. The RWP will be submitted to the Director within 60 days of completion of the vibration study. Respondent will perform the actions in the RWP, as approved by the Director within 180 days of approval.

14. **Item 3. Engineering Solutions.** Within 90 days of the Effective Date of this Agreement, ONEOK must prepare and submit to the Director written procedures for designing any new or modified pump stations to mitigate the risk of damage due to vibration. The written procedures, upon approval by the Director, must be incorporated into ONEOK's manual of written procedures for Operations and Maintenance (O&M) and must be followed for each new or modified pump station to mitigate the risk of damage from vibration. The design procedures must be tested and validated in the same manner as provided in Item 2.

15. **Documentation.** Respondent shall retain on file documentation of compliance with the provisions of Sections 12, 13, and 14 hereof. Respondent shall provide copies of such documentation to the Director upon written request.

16. **Quarterly Reporting.** Until termination pursuant to the provisions of Section 26 hereof, Respondent must submit quarterly reports to the Director, due not more than 30 days following the end of each calendar quarter, describing the progress of the Corrective Measures being undertaken pursuant to Sections 12, 13, and 14 hereof.

17. **Documentation of Costs.** It is requested (not mandated) that Respondent maintain documentation of the safety improvement costs associated with fulfilling this

Agreement and Order and submit the total to the Director, Southwest Region, Pipeline and Hazardous Materials Safety Administration. It is requested that these costs be reported in two categories: (1) total cost associated with preparation/revision of plans, procedures, studies and analyses, and (2) total cost associated with replacements, additions and other changes to pipeline infrastructure.

III. Approvals

18. With respect to the submissions under this Agreement and Order requiring the approval of the Director, the Director shall act promptly to: (a) approve, in whole or part, the submission; (b) approve the submission on specific conditions; (c) disapprove, in whole or in part, the submission, directing that Respondent modify the submission; or (d) any combination of the above. In the event of approval, approval in part, or approval upon conditions, Respondent will proceed to take all action required by the submission, as approved or conditioned by the Director, subject to Respondent's right to invoke the dispute resolution procedures in Section 20 with respect to any conditions specified by the Director. If the Director conditions or disapproves all or any portion of a submission, the Director will in writing state with specificity the basis for the decision and Respondent will resubmit it to address the stated issues. If a resubmitted item is disapproved in whole or in part, the Director may again require Respondent to address the stated issues in accordance with the foregoing procedure, or Respondent may proceed to dispute resolution pursuant to Section 20 below.

IV. Extensions of Time

19. The Director may grant an extension of time for compliance with any of the terms of this Agreement and Order upon a written request submitted at least 15 calendar days prior to a stated deadline, demonstrating good cause for an extension. The Director shall respond within a reasonable time to any such request for extension of time.

V. Dispute Resolution

20. The Director and Respondent will attempt to resolve informally any disputes arising under this Agreement and Order, including but not limited to any decision of the Director. The Director and Respondent will first confer in an effort to resolve any dispute. If the Director and Respondent are unable to resolve informally the dispute within 15 business days of notice by Respondent, Respondent may request in writing, within 10 business days of the end of said 15-day period, a written determination resolving the dispute by the PHMSA Associate Administrator for Pipeline Safety. Along with its request, Respondent will provide the Associate Administrator with all information Respondent believes is relevant to the dispute. If the request is submitted as provided herein, the Associate Administrator will promptly issue a written determination that will constitute final agency action, and be subject to judicial appeal. The existence of a dispute and PHMSA's consideration of matters placed in dispute shall not excuse, toll, or suspend any term or timeframe for completion of any Corrective Measures to be performed under

this Agreement and Order during the pendency of the dispute resolution process, except as agreed by the Director or the Associate Administrator in writing.

VI. Enforcement

21. Respondent's obligations pursuant to this Agreement and Order may be enforced by PHMSA pursuant to enforcement authorities available to PHMSA under 49 U.S.C. § 60101, *et seq.*, and 49 C.F.R. Part 190. All deadlines set forth or referenced in this Agreement and Order will be automatically incorporated into this Agreement and Order and, subject to Respondent's right to request an extension of time under Section 19 and modify this Agreement under Section 25, are enforceable in the same manner.

VII. Recordkeeping and Information Disclosure

22. Except as otherwise provided herein, Respondent agrees to maintain records demonstrating compliance with all requirements of this Agreement and Order for a period of five years following notice by Respondent of the completion of all work to be performed.

23. For any reports, plans, or other deliverables required to be submitted to PHMSA pursuant to this Agreement and Order, Respondent may assert a claim of business confidentiality or other protections applicable to the release of information by PHMSA, covering part or all of the information required to be submitted to PHMSA pursuant to this Agreement and Order in accordance with 49 C.F.R. Part 7 and 49 C.F.R. § 190.343. Respondent must mark the claim of confidentiality in writing on each page, and include a statement specifying the grounds for each claim of confidentiality. PHMSA will determine the release of any information submitted pursuant to this Agreement and Order in accordance with 49 C.F.R. Part 7, the Freedom of Information Act, 5 U.S.C. § 552, DOT and PHMSA policies, and other applicable statutes, regulations and Executive Orders.

VIII. Effective Date

24. The term "Effective Date," as used herein, is the later date on which this Agreement and Order is fully executed by each of the Parties. Unless specified to the contrary, all deadlines for actions required by this Agreement and Order run from the Effective Date.

IX. Modification

25. The terms of this Agreement and Order may be modified by mutual agreement of the Parties. Such modifications must be in writing and signed by both Parties.

X. Termination

26. This Agreement and Order terminates upon completion of all actions set forth in Article II, as determined by the Director. Respondent may request written confirmation from PHMSA when this Agreement and Order is terminated, in which case the Director will provide such written confirmation within a reasonable time. Nothing in this Agreement and Order prevents Respondent from completing any of the obligations earlier than the deadlines provided for in this Agreement and Order.

XI. Ratification

27. The Parties' undersigned representatives certify that they are fully authorized to enter into the terms and conditions of this Agreement and Order and to execute and legally bind such party to this document.

28. The Parties hereby agree to all conditions and terms of this Agreement and Order.

For Respondent:

Scott Schingen
Vice President, Natural Gas Liquids Operations
ONEOK NGL Pipeline, L.L.C.

December 10, 2019

Date

For PHMSA:

Alan K. Mayberry
Associate Administrator for Pipeline Safety
Pipeline and Hazardous Materials Safety Administration
U.S. Department of Transportation

December 12, 2019

Date