U.S. Department
of Transportation

**Pipeline and
Hazardous Materials
Safety Administration**

820 Bear Tavern Road, Suite 103
West Trenton, NJ 08628
609.771.7800

AMENDED NOTICE OF PROBABLE VIOLATION
PROPOSED CIVIL PENALTY
and
AMENDED PROPOSED COMPLIANCE ORDER

OVERNIGHT EXPRESS DELIVERY

July 31, 2017

Thomas S. (Scott) Collier
Vice President, Performance Assurance
Buckeye Partners, L.P.
Five TEK Park
9999 Hamilton Boulevard
Breinigsville, PA 18031

CPF 1-2016-5007

Dear Mr. Collier:

From October 2, 2015 to November 13, 2015, inspectors from the New York State Department of Public Service (NYSDPS), acting as agents of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code, inspected Buckeye Partners, L.P.'s (Buckeye) construction project for the relocation of the exposed WL803CD segment of the AB803RC petroleum products pipeline at the Genesee River, located in the Towns of Avon and Caledonia in Livingston County, New York.

As a result of the inspection, PHMSA issued to Buckeye a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Original Notice) on August 25, 2016.

In a letter dated May 4, 2017, PHMSA notified Buckeye that it sought to amend and clarify the remedial action required under the original PCO. In that letter, PHMSA stated: "if Buckeye finds the amended terms to be unacceptable, PHMSA will issue an amended NOPV, with a revised PCO, at which point Buckeye will have an opportunity to respond."

In a letter dated June 1, 2017 (Response), Buckeye contested the amended PCO terms, requested a hearing, and requested entry of a Consent Agreement allowing the company to utilize its

preferred method of completing the remedial action required under the original PCO. Pursuant to 49 C.F.R. §190.207(c), PHMSA is issuing this Amended Notice of Probable Violation, including an Amended Proposed Compliance Order (Amended Notice).

As a result of the inspection, it appears that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violation is:

1. §195.214 Welding Procedures

(a) Welding must be performed by a qualified welder or welding operator in accordance with welding procedures qualified under section 5, section 12 or Appendix A of API Std 1104 (incorporated by reference, see §195.3), or section IX of ASME Boiler and Pressure Vessel Code (BPVC) (incorporated by reference, see §195.3). The quality of the test welds used to qualify welding procedures must be determined by destructive testing.

Buckeye failed to perform butt welding of girth welds in accordance with welding procedures qualified under section 5, section 12 or Appendix A of API Standard 1104 (incorporated by reference, see §195.3), or section IX of ASME Boiler and Pressure Vessel Code (BPVC) (incorporated by reference, see §195.3).

On October 2, 2015, NYSDPS inspectors conducted an inspection of the new piping that Buckeye was installing on the west side of the Genesee River, approximately 15 miles southwest of Rochester, NY. NYSDPS inspectors observed that X-52 line pipe had been delivered to the site for welding. NYSDPS inspectors observed field welding, reviewed the records associated with the project, and noted the following:

1. There were thirty-six X-52 to X-52 butt weld joints on this project.
2. Buckeye had a qualified welding procedure, Weld Procedure Specification (WPS) P2A, in place for welding X-52 to X-52 pipe.
3. WPS P2A specified that E-6010 electrodes must be used for the first pass and that E-8010 electrodes must be used for passes 2 through 5.
4. The thirty-six butt weld joints had all been welded using WPS P2A with non-qualified E-7010-P1 electrodes.
5. A contractor welding girth welds was using WPS P2A with non-qualified E7010-P1 electrodes. NYSDPS inspectors, the Buckeye Compliance Manager, and the Buckeye Area Operations Manager were present when the welding was being performed.

On November 6, 2015, NYSDPS sent an email to Buckeye requesting clarifications related to welding procedures and radiographic reports. NYSDPS inspectors also requested a copy of the welding procedure that was used to weld the pipe on October 2, 2015, including qualification of that procedure by destructive testing and documentation by weld map, visual, report, radiographic report, or other record.

On November 20, 2015, Buckeye responded, stating the following:

> *"During Buckeye's investigation of the welding procedure and welding rods used for the project, it was confirmed that the welders who welded the API 5L X52 line pipe for the*

relocation used Lincoln Electric's Shield-ARC HYP+ electrodes, which have an E7010-P1 designation, to join the API 5L X52 line pipe.

To demonstrate the suitability of the welding electrodes that were used for the relocated section, Buckeye qualified a welding procedure using Lincoln Shield-Arc HYP+ electrodes and surplus API 5L X52 line pipe material from the project. The use of Shield-Arc HYP+ electrodes for the API 5L X52 line pipe material exceeds the requirements in API 1104, thus there is no safety or pipeline integrity concern."

Please see Buckeye's qualified welding procedure using Lincoln Shield-Arc HYP+ electrodes and surplus API 5L X52 line pipe in the attachment on this correspondence."

The WPS referenced by Buckeye in their email was WPS No. P12, dated 11/13/2015. It was created after the 36 welds referenced above had been completed. The piping, constructed with welds made using WPS 2A with the non-qualified E-7010-P1 electrodes, had been placed in service.

Thus, Buckeye failed to perform butt welding of girth welds in accordance with welding procedures qualified under section 5, section 12 or Appendix A of API Standard 1104 (incorporated by reference, see §195.3), or section IX of ASME Boiler and Pressure Vessel Code (BPVC) (incorporated by reference, see §195.3).

Evidence for the probable violation includes observations and photographs taken by NYSDPS inspectors at the construction site, welding procedures and welding rod specifications, maps, and statements/correspondence between the NYSDPS and Buckeye.

Proposed Civil Penalty

Under 49 United States Code, §60122, you are subject to a civil penalty not to exceed $200,000 per violation per day the violation persists up to a maximum of $2,000,000 for a related series of violations. For violations occurring prior to January 4, 2012, the maximum penalty may not exceed $100,000 per violation per day, with a maximum penalty not to exceed $1,000,000 for a related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation(s) and has recommended that you be preliminarily assessed a civil penalty of $38,200 as follows:

Item number	PENALTY
1	$38,200

Proposed Compliance Order

With respect to item 1, pursuant to 49 United States Code §60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue an Amended Compliance Order to Buckeye Partners, L.P. (Buckeye). Please refer to the *Amended Proposed Compliance Order*, which is enclosed and made a part of this Amended Notice.

Response to this Amended Notice

Buckeye's request for hearing, included in its Response dated June 1, 2017, was premature. Buckeye did not request a hearing within thirty (30) days of receipt of the Original Notice and

therefore waived its right to a hearing on the Original Notice, pursuant to 49 C.F.R. §190.208. Pursuant to 49 C.F.R. §190.207(c), PHMSA may amend a notice of probable violation, including remedial actions required under a proposed compliance order, at any time prior to issuance of a final order. Following PHMSA's amendment of a notice, the respondent will have another opportunity to respond under 49 C.F.R. §190.208. At the time of Buckeye's June 1, 2017 Response, PHMSA had not yet issued an amended notice. Accordingly, no notice, to which Buckeye could request a hearing or otherwise respond, yet existed.

Enclosed as part of this Amended Notice is a document entitled *Response Options for Pipeline Operators in Compliance Proceedings*. Please refer to this document and note the response options. All materials submitted in response to this enforcement action may be made publicly available. If you believe that any portion of your responsive material qualifies for confidential treatment under 5 U.S.C. 552(b), along with the complete original document, you must provide a second copy of the document with the portions you believe qualify for confidential treatment redacted and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. 552(b). If you do not respond within 30 days of receipt of this Amended Notice, this constitutes a waiver of your right to contest the allegations in this Amended Notice, and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in this Amended Notice without further notice to you and to issue a Final Order.

Please submit all correspondence in this matter to Robert Burrough, Acting Director, PHMSA Eastern Region, 820 Bear Tavern Road, Suite 103, West Trenton, NJ 08628. Please refer to **CPF 1-2016-5007** on each document you submit and please, whenever possible, provide a signed PDF copy in electronic format. Smaller files may be e-mailed to robert.burrough@dot.gov. Larger files should be sent on a CD accompanied by the original paper copy to the Eastern Region Office.

Additionally, if you choose to respond to this (or any other case), please ensure that any response letter pertains solely to one CPF case number.

Sincerely,

Robert Burrough
Acting Director, Eastern Region
Pipeline and Hazardous Materials Safety Administration

Cc: Kevin Speicher NYSDPS

Enclosure: *Amended Proposed Compliance Order*
Response Options for Pipeline Operators in Compliance Proceedings

AMENDED PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code §60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Buckeye Partners, L.P. (Buckeye) an Amended Compliance Order incorporating the following remedial requirements to ensure Buckeye's compliance with the pipeline safety regulations:

1. In regard to Item Number 1 of the Amended Notice pertaining to Buckeye's failure to perform butt welding of girth welds in accordance with the welding procedures qualified under section 5, section 12, or Appendix A of API Std 1104(incorporated by reference, see §195.3), or section IX of ASME Boiler and Pressure Vessel Code (BPVC) (incorporate by reference, see §195.3), Buckeye must cut out all thirty-six (36) existing in-service welds, and weld new girth welds in accordance with §195.214(a);

   <u>or</u>,

   Buckeye must qualify a welding procedure using E-7010-P1 electrode welding rods in the same manner used to weld the existing thirty-six (36) in service welds; cut out four (4) field welds for testing, either from the existing thirty-six (36) in-service girth welds or from additional welded pipe that can be traced to an over-pull of the same pipe containing the girth welds currently in service, and perform tensile, nick break, and bend tests for welding procedure qualification purposes. If the four (4) field welds pass the qualification testing, then the existing girth welds may remain in service. If any of the four (4) field welds fail to pass the qualification testing, all remaining in-service girth welds must be cut out and replaced with new girth welds in accordance with §195.214(a).

   Prior to the creation of welded test samples and commencement of the testing schedule, Buckeye must provide ten (10) days advance notice to the Eastern Region to enable observation of testing. Testing is to be accomplished within 120 days of receipt of the Final Order.

2. Buckeye must complete the requirements as outlined above. All documentation demonstrating compliance with each of the items outlined in this amended proposed compliance order must be submitted to Robert Burrough, Acting Director, Eastern Region, Pipeline and Hazardous Materials Safety Administration, Suite 103, Bear Tavern Road, West Trenton, NJ for review.

3. It is requested (not mandated) that Buckeye maintain documentation of the safety improvement costs associated with fulfilling this Amended Compliance Order and submit the total to Robert Burrough, Acting Director, Eastern 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.