BUCKEYE PARTNERS, L.P.

Thomas S. (Scott) Collier
Vice President, Performance Assurance
(610) 904-4922
E-Mail: tcollier@buckeye.com

Five TEK Park
9999 Hamilton Blvd.
Breinigsville, PA 18031

RECEIVED AUG 2 9 2017

August 25, 2017

Mr. Robert Burrough
Acting Director, Eastern Region
Pipeline & Hazardous Materials Safety Administration
820 Bear Tavern Road, Suite 103
West Trenton, New Jersey 08628

RE: Buckeye Partners, Genesee River Crossing Relocation; CPF No. 1-2016-5007

Dear Robert:

Attached please find a Request for Hearing and related documents on the Pipeline & Hazardous Materials Safety Administration's (PHMSA's) Amended Notice of Probable Violation, Proposed Civil Penalty, and Amended Proposed Compliance Order (collectively the Amended NOPV and Amended PCO) recently issued to Buckeye Partners, L.P. (Buckeye) through letter dated July 31, 2017, regarding the above referenced matter. As described in the attached materials, PHMSA's Eastern Region issued to Buckeye the original Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (collectively the NOPV) dated August 25, 2016. The enforcement action followed an inspection by a New York State inspector of a project to relocate our crossing of the Genesee River. The NOPV alleged one violation of 49 C.F.R. Part 195.214, concerning girth welds on the project (alleging that the welding rod used in the 36 girth joints was not consistent with the welding procedure qualified by Buckeye). The NOPV assessed a proposed civil penalty of $38,200 and contained a Proposed Compliance Order (PCO). The PCO directed Buckeye to either (1) cut out all 36 girth welds and re-weld them consistent with 49 C.F.R. Part 195.214(a), *or* (2) qualify a new welding procedure with the rod used in the project, and then create and analyze four field test welds using that procedure. If any of the four field test welds did not pass subsequent analysis then Buckeye was directed to remove and re-weld all 36 girth welds associated with the project.

Buckeye did not contest the NOPV, agreeing to pay the civil penalty and qualify a new welding procedure, and then analyze four field test welds using that procedure, consistent with PCO. Prior to issuance of the NOPV, Buckeye had already qualified a new procedure with that welding rod at issue. After receipt of the NOPV, Buckeye paid the Proposed Civil Penalty, and began preparations for the field test demonstration, using the same steel and welding rod used in the relocation project. Notably, the welding rod that was used in the project, and the associated procedure, is one that is common throughout the industry, thus the Agency should be on notice

that such a procedure is fully compliant with API Standard 1104 (incorporated by reference into Part 195). The Agency clearly recognizes that this welding procedure does not present any public safety concern. If it did, we would expect PHMSA to have issued a Corrective Action Order or Safety Order, not a NOPV with a relatively low penalty.

Buckeye shares the Agency's commitment to pipeline safety and it takes these issues seriously, which is why it accepted the NOPV and PCO. As such, Buckeye has already demonstrated that no safety issue exists by substantiating the qualification of the procedure and the integrity of the welds through nondestructive and hydrostatic testing.

Since Buckeye did not contest the NOPV and was in the process of preparing to implement the terms of the original Compliance Order, we were greatly surprised to receive the May 4, 2017 letter from the Region nine months after the NOPV issued, revising the PCO. Without any explanation or stated rationale, this letter directs Buckeye to use only pipe left over from an "over pull" of the crossing project. By conference call and subsequent letter, Buckeye advised PHMSA that there was no such over pull leftover pipe, but the Company proposed to use steel left over from the project to make field test welds and qualify them with same welding procedure consistent with the original PCO. In a subsequent letter dated May 22, 2017, PHMSA responded and stated expressly that Buckeye could not use leftover steel from the project with no rationale provided as to this position.

The original PCO allowed Buckeye the option of *either* removing the river crossing to re-inspect or re-weld the 36 girth weld joints, *or* conduct a field test of 4 welds on similar pipe using the welding process from the project. The Agency's revised PCO – again, without any explanation – made the alternative to qualify the welds without distributing the river crossing illusory, requiring the Company to cut out and replace at least 4 welds in the river crossing at considerable expense and causing considerable environmental disturbance. Further, the welding method used in the project is common throughout the industry, and Buckeye qualified it in its own procedures shortly after the inspection. The New York State inspector may not have been familiar with that fact, but PHMSA should be on notice of it.

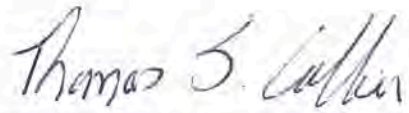
Buckeye agreed to conduct 4 field tests as required in the original PCO, to demonstrate that the process used was safe. PHMSA obviously had no serious safety concerns about the process, as it made no finding of endangerment, and the proposed penalty was moderate in amount. The Agency's revisions to the PCO, made many months after there was no contested issue, has converted this action to a very expensive proposal, not warranted by the facts and presenting unnecessary environmental disturbance.

In summary the Amended NOPV and Amended Proposed Compliance order was issued without alleging any new facts or legal violations, yet significantly revises the terms of the compliance order. Buckeye is not aware of PHMSA ever before modifying a Compliance Order (beyond once correcting inadvertent omissions) in this manner after a Respondent had not contested a NOPV and paid a proposed penalty.

Buckeye has proposed options that remove any further environmental damage to address PHMSA's concerns that were only first raised after this matter was otherwise resolved in our acceptance of the original NOPV, payment of the Proposed Penalty and acceptance of the Proposed Compliance Order. We remain open to discussing these options.

We respectfully request that PHMSA re-consider the Amended Proposed Compliance Order in this matter, and the issues are resolved in a reasonable manner.

Sincerely,



Thomas S (Scott) Collier

cc: Alan K. Mayberry, PHMSA Associate Administrator
Todd Russo, Esq., Senior Vice President, General Counsel and Secretary, Buckeye
Cheryl Dibona, Esq., Assistant General Counsel, Buckeye
Claudia Pankowski, Director Regulatory Compliance, Buckeye
Robert Hogfoss, Esq.