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October 13, 2020

Via Email

Mr. Larry White
Presiding Official, Office of Chief Counsel
Pipeline and Hazardous Materials Safety Administration
1200 New Jersey Ave. SE
Washington, D.C. 20590

Re: CPF 3-2020-5005
Express Holdings (USA), LLC
Document Submission

Dear Mr. White:

In accordance with 49 CFR § 190.211, Express Holdings (USA), LLC (“Express”), a subsidiary of Enbridge Inc., submits the attached documents to be presented at the hearing on October 23, 2020, regarding the above-referenced Notice of Probable Violation and Proposed Civil Penalty (“NOPV”).

Background:

Express owns and operates Platte Pipeline (Line 41), a crude oil pipeline system, based in Casper, WY. Platte Pipeline is approximately 933 miles in length, begins at Casper, WY, terminates at Wood River, IL, and consists of nineteen pump stations and six terminals. Platte Pipeline was previously owned by Kinder Morgan, Inc. (“KMI”). In 2013, Spectra Energy Corp. (“Spectra”) acquired Platte Pipeline from KMI. KMI continued to operate Platte Pipeline until February 2014, at which time Spectra became the pipeline operator. Enbridge (U.S.) Inc. (“Enbridge”) acquired Spectra in February 2017.

PHMSA conducted an onsite inspection of Platte Pipeline at its Casper, WY terminal between November 14, 2016 and February 3, 2017, when Spectra owned the pipeline asset. PHMSA then issued several document and information requests, when Enbridge owned the pipeline asset.

PHMSA issued an NOPV on March 19, 2020, alleging eight violations. The alleged violations occurred when Spectra owned the pipeline asset. At issue in this hearing are Items 1, 2, 3, 6, 7, and 8. Express accepts PHMSA’s findings and the issuance of Warnings with respect to Items 4 and 5, alleging violations of Sections 195.410(a)(1) and (a)(2)(ii), respectively. Express took the following measures to correct the violations alleged in Items 4 and 5: After the conclusion of the PHMSA inspection, Pipeline Operations replaced the line markers discussed in the exit interviews in each inspection unit. After Enbridge acquired Spectra, the line markers and signage were

rebranded to Enbridge in 2018. Express also adopted the Enbridge LP Book 3 maintenance procedure that includes a standard to inspect 25% of the line markers across their pipelines annually, so it is highly unlikely that there will be a reoccurrence in the future. In addition, after the issuance of the NOPV, Pipeline Operations re-inspected each location to re-verify that the correct line markers are in place.

Express has been adopting Enbridge’s Operations and Maintenance procedures and programs over a period of time. As such, Express had implemented corrective measures and other best practices consistent with Enbridge’s procedures prior to the issuance of the NOPV. Therefore, PHMSA did not order any corrective actions.

Document Submission:

- 1. Item 1:** PHMSA alleges that Express violated Section 195.401(b)(1) (General Requirements) in that it failed to implement certain recommendations identified in the Kinder Morgan Platte Pipeline Transient Study (“KMI Transient Study”) dated June 1, 2011. Express respectfully states that it complied with Section 195.401(b)(1), and requests that this Item be vacated. In the alternative, Express respectfully disagrees with PHMSA’s proposed civil penalty with respect to Item 1, and requests that the penalty be reduced consistent with Section 190.225. Express submits the following documents and information:
 - a. The KMI Transient Study was commissioned by the prior owner/operator of the pipeline, Kinder Morgan (“KMI”).
 - i. The KMI Transient Study contained recommendations to install an Automated Pipeline Shutdown (“APS”) to be set up in the SCADA system if the mainline valves fail-closed. However, the KMI Transient Study did not contain any mandates, only recommendations.
 - ii. KMI implemented certain, but not all, of the recommendations.
 - iii. When Spectra assumed ownership of the pipeline in 2013, Spectra elected not to implement the remaining recommendations at the time.
 - iv. The KMI Transient Study was based on a 2007 model, which was prior to the Control Room Management (“CRM”) standard set forth in Section 195.446, which PHMSA adopted on December 3, 2009.
 - v. The KMI Transient Study concluded that due to no surge mitigation at certain pump stations, the pipeline would not comply with ASME B31.4-2009 (“Pipeline Transportation Systems for Liquid Hydrocarbons and Other Liquids”) if the mainline valves fail-closed, because the maximum surge pressure would exceed 110% of the Maximum Operating Pressure (“MOP”).
 - vi. The KMI Transient Study did not identify any other alleged non-compliance with ASME B31.4-2009, and did not allege any violations of any PHMSA standards.
 - vii. Notably, the KMI Transient Study did not factor in multiple overpressure controls that were in place when KMI and Spectra operated the pipeline system, including but not limited to, certain CRM controls and procedures.

- viii. Furthermore, there is no requirement in Part 195 to install APS, including under the CRM standard.
 - ix. Additionally, ASME B31.4 is not incorporated by reference in Section 195.401(b)(1). ASME B31.4 is only incorporated by reference in Sections 195.110(a) and 195.452(h). (49 CFR § 195.3).
 - x. In 2018, after Enbridge assumed ownership of the pipeline asset, Enbridge commissioned its own transient study, which contained recommendations, but not mandates. Enbridge implemented the recommendations set forth in its transient study. While those recommendations were not required to be implemented under Part 195, Enbridge implemented said recommendations as a good business practice and to provide an additional layer of overpressure protection in the Platte Pipeline to ensure compliance with Section 195.406(b).
- b. Memo identifying overpressure protections in use when Spectra was the owner/operator, including a list of applicable procedures related to overpressure protection. (Exhibit 1-A)
 - c. Copies of Spectra’s applicable procedures related to overpressure protection. (Group Exhibit 1-B)
- 2. Item 2:** PHMSA alleges that Express exceeded the MOP on 22 separate occasions in violation of Section 195.406(a)(3) (Maximum Operating Pressure). Express respectfully states that it complied with Section 195.406(a)(3), and requests that this Item be vacated. In the alternative, Express respectfully disagrees with PHMSA’s proposed civil penalty with respect to Item 2, and requests that the penalty be reduced consistent with Section 190.225. Express submits the following documents and information:
- a. Table identifying each alleged of the 22 alleged exceedances of the MOP, and the reasons/defenses for each alleged incident. (Exhibit 2-A)
 - i. Twelve of the incidents were surges or other variations from normal operations, as permitted under Section 195.406(a). Express did not operate above 80% of the MOP during normal operations.
 - ii. Six of the incidents were pressure transmitter (“PT”) calibrations, not exceedances. The pipeline does not experience pressure as a result of PT calibrations.
 - iii. Three of the incidents were within the MOP, not exceedances.
 - iv. One of the alleged incidents lasted 2 hours, 11 minutes, but was caused by a downstream station shutdown. The MOP at that location was 1104 psi, and the recorded discharge pressure was 1123.995302 psi, which was only 1.8% above the MOP, and well below the 110% of the MOP limit set forth in Section 195.406(b).
 - b. SCADA graphs with time-stamped tables demonstrating that twelve of the alleged incidents were permissible transient surges, and that three of the alleged incidents were within the MOP. (Exhibit 2-B)
 - c. Work Orders reflecting the six calibrations. (Group Exhibit 2-C)
- 3. Item 3:** PHMSA alleges that Express did not provide adequate controls to prevent the operating pressure of the pipeline system from exceeding 110% of the MOP because the

pressure (relief) set points for six pressure relief valves (“PSVs”) were set too high, in violation of Section 195.406(b) (Maximum Operating Pressure). Express acknowledges that the relief set points were set too high, and states that the relief set points were corrected prior to the issuance of the NOPV. Express respectfully disagrees with PHMSA’s proposed civil penalty, and requests that the penalty be reduced consistent with Section 190.225.

- 4. Item 6:** PHMSA alleges that Express did not conduct appropriate inspections of the rights-of-way (“ROW”) at 21 locations in violation of Section 195.412(a) (Inspections of Rights-of-Way). Express respectfully disagrees with PHMSA’s proposed civil penalty with respect to Item 6, and requests that the penalty be reduced consistent with Section 190.225. Express submits the following documents and information:
- a. PHMSA alleges there was excessive vegetation and/or tree canopy overgrowth at seventeen ROW locations that prevented a clear view of the ROW.
 - i. Express concedes that these seventeen locations were not identified in the aerial patrol reports. Express relied on a qualified pilot operator from Hawkeye Helicopter, a reputable and qualified third-party vendor, to perform these aerial inspections, and he did not identify any of these seventeen locations in his reports. Therefore, Express did not perform follow up inspections at these locations using other appropriate methods. Express has since inspected each location, disqualified the Hawkeye Helicopter pilot, and adopted Enbridge’s Right-of-Way Monitoring Procedure, which is more robust than the previous procedure in place. Under Enbridge’s procedures, Enbridge’s own operator qualified pilots perform the aerial inspections. (Exhibit 6-A)
 - ii. Express’s reliance on the third-party pilot’s reports were in good faith, as the pilot was operator qualified and the reports appeared to be thorough. Several sample reports from Hawkeye Helicopter are attached. (Group Exhibit 6-B)
 - iii. Express met with management from Hawkeye Helicopter regarding the situation. The pilot from Hawkeye Helicopter was subsequently retrained and requalified.
 - b. PHMSA alleges there was a structure with a concrete base constructed over the ROW near Chain of Lakes, MO, and that the structure was not identified in the patrol records.
 - i. Express concedes the ROW location was not identified in the aerial patrol reports. Express relied on the same operator qualified pilot from Hawkeye Helicopter referenced above. Express has since inspected this location, disqualified the Hawkeye Helicopter pilot, and adopted Enbridge’s Right-of-Way Monitoring Procedure.
 - c. PHMSA alleges there were three ROW locations (Richmond, KS, Lawson, MO, and Atchison, MO) where the pipe was exposed to the atmosphere, which were unknown to Express.
 - i. Richmond, KS – Express concedes the ROW location was not identified in the aerial patrol reports. Express relied on the same operator qualified pilot from Hawkeye Helicopter referenced above. Express has since inspected

this location, disqualified the Hawkeye Helicopter pilot, and adopted Enbridge's Right-of-Way Monitoring Procedure.

- ii. Lawson, MO – Express states that the GPS location (39.602330, -94.247046) identified in the NOPV lines up with a known span 7-1058+46-5960. However, in PHMSA's Exit Briefing, dated December 1, 2016, PHMSA stated that a new wash out was found at a different GPS location (39.60229, -94.24495), which may be the location that PHMSA intended to include in the NOPV. This new wash out was not known to Express prior to the PHMSA inspection.
- iii. Atchison, MO – Express states that this location was known at the time of the audit. Express performed geohazard surveys at this location in 2006, 2008, 2011, 2014, 2015, 2018, and 2019, because it was identified as an area for potential erosion. Express did not discover any exposures at this location during any of the surveys. The geohazard reports are attached. (Exhibit 6-C)

5. Item 7: PHMSA alleges that Express failed to clean and coat a pipeline segment that was exposed to the atmosphere in violation of Section 195.581(a) (Atmospheric Corrosion). Express respectfully states that it complied with Section 195.581(a), in that it operated in compliance with the exclusion set forth in Section 195.581(c), and requests that this Item be vacated. In the alternative, Express respectfully disagrees with PHMSA's proposed civil penalty with respect to Item 7, and requests that the penalty be reduced consistent with Section 190.225. Express submits the following documents and information:

- a. Section 195.581(c) provides: “[The operator] need not protect against atmospheric corrosion any pipeline for which you demonstrate by test, investigation, or experience appropriate to the environment of the pipeline that corrosion will: (1) Only be a light surface oxide; or (2) Not affect the safe operation of the pipeline before the next scheduled inspection.” (49 CFR § 195.581(c)).
- b. Through Express's in-line inspection (“ILI”) program, Express can demonstrate that the alleged corrosion that PHMSA observed during its onsite inspection did not affect the safe operation of the pipeline before the next scheduled ILI. The location identified in Item 7 had been inspected by ILI in 2008 and 2013, and 2018, and there was no measurable corrosion, so it did not affect the safe operation of the pipeline before the next scheduled inspection, which was scheduled for 2018 based on a five-year interval. PHMSA's inspection took place in 2016. The location was inspected again by ILI in 2018, per the schedule, and there was no measurable corrosion, which confirms that it did not affect the safe operation of the pipeline. (Exhibit 7-A)
- c. The Atmospheric Inspection Reports in 2017 and 2018 further confirm there was no corrosion that would affect the safe operation of the pipeline before the next scheduled inspection. (Group Exhibit 7-B)
- d. The pipeline was remediated in 2019. The exposed pipe was re-coated and the pipe was reburied with enhanced riprap erosion control. The post-remediation Field Report confirms through non-destructive examination (“NDE”) there was no measurable corrosion. (Exhibit 7-C).

- e. These documents demonstrate that the disbonded coating PHMSA observed during its onsite inspection in 2016 did not threaten the integrity of the pipeline or affect the safe operation of the pipeline before the next scheduled inspection. Therefore, Express was not required to repair the disbonded coating at the time of the PHMSA inspection.
- 6. Item 8:** PHMSA alleges that Express failed to give particular attention to atmospheric corrosion at three locations in violation of Section 195.583(b) (Atmospheric Corrosion). Express respectfully states that it complied with Section 195.583(b), and requests that this Item be vacated. In the alternative, Express respectfully disagrees with PHMSA’s proposed civil penalty with respect to Item 8, and requests that the penalty be reduced consistent with Section 190.225. Express submits the following documents and information:
- a. Section 195.583(b) provides: “During inspections you must give particular attention to pipe at soil-to-air interfaces, under thermal insulation, under disbonded coatings, *at pipe supports*, in splash zones, at deck penetrations, and in spans over water.” (49 CFR § 195.583(b)) (Emphasis added).
 - i. Therefore, contrary to PHMSA’s assertion, this section does not require the removal of pipe supports, nor does it require the operator to inspect under pipe supports. Rather, this section requires the operator to give particular attention to the pipe *at* the pipe supports. This interpretation is buttressed by the plain language of the section, which expressly requires inspections *under* thermal insulation and *under* disbonded coatings, but it only requires inspections *at* pipe supports. If PHMSA intended the operator to inspect under pipe supports, PHMSA would have written the rule accordingly.
 - b. Meng Span near Blair, KS – The NOPV alleges that Express failed to inspect under all pipe supports of the Meng cable suspended over a span of water. The NOPV specifically alleges that there were nine pipe supports, but only two were removed to inspect under the supports.
 - i. Express’s operator qualified contractor, Acuren, inspected the span on March 12, 2014. Acuren specifically noted, among other things, that all of the pipeline cradles (pipe supports) and wear pads were in good condition. Acuren further noted that it removed two of the pipeline support cradles and no significant corrosion was detected. (Exhibit 8-A). Therefore, Express complied with Section 195.583(b) by giving particular attention *at* the pipe supports.
 - ii. Acuren’s inspection is supported by the ILI data. The Meng span had been inspected by ILI in 2008 and 2013, and there was no corrosion that would affect the safe operation of the pipeline before the next scheduled inspection. (Exhibit 8-B)
 - iii. Acuren correctly noted that the deadline for the next atmospheric inspection was in three years. Under Section 195.583(a), the frequency for atmospheric inspections of this pipe segment is every three years, not to exceed 39 months. Therefore, Express was not required to reinspect the Meng span until 2017. PHMSA conducted its inspection in 2016, before

Express was required to reinspect the location. Express remediated this location by horizontal directional drilling in 2017.

- c. Child Guards – The NOPV alleges that Express failed to remove metallic “child guards” from the pipeline span at two locations to allow visual inspection under the mounting brackets for atmospheric corrosion.
 - i. Express inspected Span 9-1446+87-9350 for atmospheric corrosion on April 28, 2014, as part of its scheduled atmospheric corrosion inspections. The inspection on Span 9-1446+87-9350 reported the interfaces had a fence and the insulators looked good, the coating was not damaged and had good adhesion, there was no mechanical or other damage, there was no pitting, and there was no evident corrosion, including at the location at issue. The photographs in the report also depict no apparent corrosion at the child guards or mounting brackets. (Exhibit 8-C) Therefore, Express gave particular attention to the areas at issue in Item 8. The next inspection was scheduled to take place in 2017, but PHMSA conducted its inspection in 2016, before Express was required to reinspect the location.
 - ii. Express inspected Span 6-5526+67-5260 for atmospheric corrosion on April 7, 2015, as part of its scheduled atmospheric corrosion inspections. The inspection on Span 6-5526+67-5260 reported no evident corrosion, areas of atmospheric corrosion with no pitting, no mechanical damage, and the photographs in the report depict no apparent corrosion at the child guards or mounting brackets. (Exhibit 8-D) PHMSA conducted its inspection in 2016, before Express was required to reinspect the location.
 - iii. As stated, Section 195.583(b) does not require the removal of pipe supports, nor does it require the removal of child guards to inspect under the mounting brackets. The 2014 and 2015 reports show that no corrosion existed at that time of the respective inspections at the child guards or mounting brackets and, therefore, it was not necessary to remove the child guards to inspect under the mounting brackets.

The individuals listed below may attend all or part of the hearing on behalf of Express. In the interest of efficiency and depending on availability of personnel, Express reserves the right to amend this list.

General

- David Stafford, Manager, US Pipeline Compliance
- Charles Drayton, Managing Legal Counsel, U.S. Liquids Pipelines Law
- Jim Ramnes, Sr. Compliance Advisor, Audits and Inspections, US Pipeline Compliance
- Brenden Jehlicka, Regional Compliance Advisor, US Pipeline Compliance

Item 1

- Terry Delong
- Stan Ziemniak
- Shaun Dawe
- Angela Cardinal

Item 2

- Stan Ziemniak
- Tom Munoz

Item 6

- Brenden Jehlicka
- AC Hanneman

Item 7

- Bradley Krug
- Len Krissa
- Keith Parker
- Ingrid Pederson
- Suzanne Ward

Item 8

- Kacee Kelley
- Brenden Jehlicka
- Bradley Krug
- Len Krissa
- Keith Parker
- Ingrid Pederson
- Suzanne Ward

Should you have any questions or require any additional information, please do not hesitate to call me at (312) 741-0973 or email me at darren@huntermasalski.com.

Sincerely,



Darren J. Hunter

cc: Melanie Lampton, PHMSA, Attorney Advisor
David Stafford
Charles Drayton
Michael Koby