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Before the
U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
Office of Pipeline Safety

In the Matter of Phillips 66 Pipeline LLC, Respondent	CPF No. 4-2016-5002 Notice of Probable Violation and Proposed Compliance Order **RESPONSE TO NOTICE OF** PROBABLE VIOLATION AND PROPOSED COMPLIANCE ORDER

The Regional Director of the Southwest Region of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS or the Agency), issued a Notice of Probable Violation and Proposed Compliance Order (Notice or NOPV) to Phillips 66 Pipeline LLC (Phillips 66 or the Company) on February 24, 2016. The Notice consists of one item that alleges that Phillips 66 failed to develop written specifications to ensure that the operation of pulling multiple pipes through a single HDD bore could be done without damaging the pipes in compliance with applicable Part 195 requirements.

The Notice was issued following PHMSA's multiple inspections between April 13, 2015 and September 17, 2015 of Phillips 66 HVL Pipeline construction in various locations in Texas. Without admitting the allegations, facts or conclusions set forth in the Notice, Phillips 66 seeks a Hearing on the alleged inadequacies described in the Notice. In addition, the Company respectfully requests that, given the information submitted in these pleadings, the Notice be withdrawn.

NOPV Allegations

The Notice alleges that that Phillips 66 failed to develop written specifications to ensure that the operation of pulling multiple pipes through a single HDD bore could be done without damaging the pipes in compliance with applicable Part 195 requirements including specifically 49 CFR Part 195.202, 195.246 and 195.563. Further, PHMSA proposes to issue a Compliance Order to Phillips 66 that would require Phillips to develop, submit and execute a plan to evaluate the integrity of the multiple pipes that were installed in this manner.

The Company believes that its written specifications and procedures fully comply with applicable law, standards, and guidance, and that the probable violation and compliance order are not justified. Phillips 66's specific responses to the allegations in the Notice are set forth below:

1. **<u>Alleged failure to develop written procedures to ensure the operation of pulling multiple pipes through a single HDD bore could be done without damaging the pipes and in compliance with applicable Part 195 requirements</u>**

<u>Summary of Allegation</u>: The Notice alleges that Phillips 66 failed to develop written specifications to ensure that the operation of pulling multiple pipes through a single HDD bore could be done without damaging the pipes in compliance with applicable Part 195 requirements.

<u>Phillips 66 Response</u>: The Notice addresses one specific HDD in which two 10-inch pipes were bundled and installed in a single bore hole under the San Bernard River. This particular HDD was a part of a project that included four bundled HDD's. For these bundled HDD's, Phillips 66 developed written procedures which satisfy the requirements of Part 195. Specifically for this bundled HDD, Phillips 66 had a written standard, P66PL-TIP-4010 Horizontal Directional Drilling. A copy of this standard is attached hereto as Exhibit A. This standard provides guidance on horizontal directional drilling in support of pipeline installation. It standardizes procedures for site selection and preparation, engineering, drilling, installation and testing of piping and site reclamation. In order to address additional requirements associated with a bundled HDD, P66PL-TIP-4010 was supplemented by a Specification Deviation Request which was developed specifically for the installation of the HDD across the San Bernard River by bundling two 10" pipes. A copy of the Specification Deviation Request is attached hereto as Exhibit B. In addition, Phillips 66 worked with experienced contractors including its contractor for the drill, Hard Rock Directional Drilling, which had performed such bundled HDD's and had processes and procedures for such projects including this specific project. Further specifications were provided by Phillips 66's contractor, Troy Construction, associated with the welding procedure specifications. Collectively, these standards, plans and procedures, which were developed specifically for this project or applied to this project, provide the necessary specifications as required by Part 195 in general and specifically 49 CFR §195.202.

Phillips 66 has continued to develop its procedures for bundled HDD's by incorporating the processes used in these bundled HDD's and amended P66PL-TIP-4010 to include an Appendix that addresses bundled HDD's. The amended standard was provided in draft form to PHMSA on April 17, 2015 and the amended standard was adopted as final on April 23, 2015.

The Notice references a probable violation of 49 CFR §195.246. In response, Phillips 66 provided the bore profile as it would for any other bore. The pull pressures observed during the HDD indicated that there were no undue stress levels on the pipes. Phillips 66 performed core sampling on the San Bernard river crossing in question and determined that the results were suitable for performing the HDD. Phillips 66 has satisfied the requirements of 49 CFR §195.246 through its procedures and data compiled during and after the HDD which confirm that the pipes were not subject to undue stress or damage.

The Notice references a probable violation of 49 CFR §195.563(a) which relates to cathodic protection. Specifically, the referenced subsection states that it is required that each buried or submerged pipeline have cathodic protection and that such cathodic protection be in place not later than one year after construction. Phillips 66 recognizes this obligation and will complete the installation of cathodic protection within the prescribed year. However, any reference as of the date of this notice is premature and should be withdrawn.

As a result of the written procedures and the inspections done during the process, inspections and testing done after the operation, Phillips 66 is able to document that the specifications were satisfied and the pipes are in compliance with applicable Part 195 requirements.

2. Alleged Failure to install multiple lines through a single HDD without comprehensive written specifications mandates that a compliance order be issued which requires Phillips 66 to develop a plan to evaluate the integrity of the multiple pipes installed in this manner.

Summary of Allegation: The Notice alleges that the installation of multiple pipes through a single HDD was done without a comprehensive written specifications, Phillips must be subject to the proposed compliance order.

Phillips 66 Response: Phillips 66 has comprehensive written specifications for the bundled HDD operation which satisfy the regulatory requirements of 49 CFR Part 195. Further, Phillips 66 conducted inspections and testing of the bundled pipes to verify that the specifications and the operation resulted in pipes that satisfy the regulatory requirements.

The Notice has alleged a lack of comprehensive written specifications but has not identified any specific deficiency in the construction of the pipes or the bundled operations as completed. Further, Phillips 66 will provide documentation demonstrating the completion of the construction and the bundled operations and that inspections and testing of the pipes indicate that it is in compliance with regulatory requirements.

The Notice does not satisfy the requirements of 49 CFR part 190.217 in that PHMSA may only issue a compliance order if the nature of the violation and the public interest so warrant. As previously addressed, the specifications were in place, the bundled operations were performed and the resulting inspections and testing did not indicate any damage to the pipes and that the operation satisfied the regulatory requirements. For the sake of assuming that the initial specifications were deemed to be inadequate, the remedy would be a requirement to amend the procedures which can be administered by a notice of amendment. However, the regulatory requirements for the issuance of a compliance order were not met. Further, the sole purpose of the compliance order is to evaluate the integrity of the pipes and since Phillips 66 can demonstrate the integrity of the pipes through its construction inspections and testing, the proposed compliance order is arbitrary and

capricious. Finally, since the proposed compliance order is not based on actual inspection of the condition of the pipes, there are concerns with the specific conditions of the proposed compliance order as being vague and ambiguous.

Conclusion

For the reasons discussed above and in the related Statement of Issues, and other matters as justice may require, the Company respectfully requests that PHMSA withdraw the NOPV.

Respectfully submitted,

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