



Sunoco Logistics

Sunoco Pipeline L.P.
One Fluor Daniel Drive
Building A, Level 3
Sugar Land, TX 77478

May 27, 2016

Mr. Rod Seeley
Director, Southwest Region
Pipeline and Hazardous Materials Safety Administration
U.S. Department of Transportation
8701 S. Gessner Road
Suite 1110
Houston, TX 77074

VIA: Electronic Mail and FedEx

**RE: CPF 4-2016-5011 – Permian Express II Pipeline
Notice of Contest and Request for Hearing**

Dear Mr. Seeley:

Sunoco Pipeline L.P. (SPLP) is in receipt of the above-referenced Notice of Probable Violation which includes a Proposed Civil Penalty and Proposed Compliance Order (NOPV) dated and received electronically by SPLP on or about April 28, 2016. Pursuant to 49 C.F.R. §190.208, SPLP timely submits this response hereby contesting in full, and respectfully requesting an in-person oral hearing, on all matters listed in such NOPV. The NOPV concerns an inspection by PHMSA that occurred between May of 2014 and March of 2015 of SPLP's Permian Express II Pipeline (PEXII) Construction Project and, specifically, SPLP's welding procedures.

We appreciate your office previously forwarding the Violation Report and Penalty Calculation to SPLP for our review. To the extent that the case file is supplemented with any additional documentation, or the prior Violation Report and/or Penalty Calculation are amended in any way, SPLP reiterates its prior request for a complete copy of the case file and violation report for this matter pursuant to 49 C.F.R. §190.208 and §190.209.

SPLP intends to raise legal and factual issues at the hearing which will include, at a minimum, the following along with any related issues hereafter identified:

- (1) Item 1 of the NOPV alleges that SPLP failed to perform welding during construction of the PEXII according to a properly qualified procedure in accordance with 49 C.F.R. §195.214. SPLP intends to demonstrate that the welding procedure(s) utilized on PEXII were properly qualified in accordance with §195.214.
- (2) Item 2 of the NOPV alleges that SPLP failed to properly qualify welders who were used to construct PEXII in accordance with 49 C.F.R. §195.222. SPLP intends to demonstrate that welder qualifications met workmanship requirements of the qualification tests and insignificant deviations to the WPS parameters did not affect weld quality and were otherwise compliant with §195.222.
- (3) Item 3 of the NOPV alleges that SPLP failed to ensure construction and inspection of PEXII in accordance with 49 C.F.R. §§195.214 and 195.204. SPLP intends to demonstrate support for the decision to continue production welds was based on the results of the 3rd party expert evaluation of the weld procedure(s) and the results of a statistically significant number of destructively tested production welds.
- (4) Item 4 of the NOPV alleges that SPLP failed to follow its own written specifications related to the requalification of welders in accordance with 49 C.F.R. §§195.202 and 195.214. SPLP intends to



demonstrate that welder qualification testing attempts were within the parameters of SPLP written specifications and/or otherwise compliant with §195.202 and §195.214.

- (5) Item 5 of the NOPV alleges that SPLP failed to ensure the construction of PEXII in accordance with 49 C.F.R. §195.222 and §195.204. SPLP intends to demonstrate that the production welds on the PEXII were sound and fit for service based upon the in field non-destructive testing, hydrostatic pressure testing and additional destructive testing results of selected production welds. SPLP also intends to demonstrate the level of inspection oversight of the PEXII project met the requirement of §195.204 by providing an appropriate number of qualified inspectors.
- (6) Certain violations are duplicative and/or may constitute a "related series of violations" under 49 U.S.C. 60122(a).
- (7) The civil penalty sought in the amount of \$1,278,100 is unjustified under 49 C.F.R. §§190.221 and 190.223 and is excessive both individually and in the aggregate and is not consistent with penalty consideration factors specified in 49 C.F.R. §190.225, applicable statute and precedent. Further, APA standards, 5 U.S.C. §706, and Due Process considerations require that an agency give effect to the PSA's penalty provisions in a consistent manner including notice of an agency's intended application and penalty factors.
- (8) SPLP reserves the right to identify and address additional issues at a hearing upon further reflection and/or advice from counsel who will represent SPLP at the hearing.

Sunoco intends to provide a more descriptive response to each of the contested violations of the NOPV prior to the hearing, as permitted by 49 C.F.R. §190.211.

Item 1¹ of the Proposed Compliance Order, proposes that SPLP "correct all welding procedures to reflect proper qualifications," provide the Region Director with revised procedures and complete destructive testing. SPLP contests this item in the capacity that the welding procedures utilized on the PEXII project require administrative changes but that they are not out of compliance with API 1104.

Item 2² of the Proposed Compliance Order proposes that Sunoco perform destructive testing on a statistically significant number of girth welds and submit to the Region Director prior to initiating the plan. SPLP contests this item and intends to demonstrate that the 3rd party evaluation substantiates our conclusion that the number of cut outs and corresponding destructive testing represents a statistically significant number of girth welds on spread 24-3. Additionally, all girth welds were non-destructively tested and subjected to a post construction hydrostatic pressure test demonstrating that the line is fit for purpose.

Item 3³ of the Proposed Compliance Order proposes that SPLP review welder qualification testing on all other construction spreads on PEXII. SPLP does not contest this item and such review efforts are currently underway.

¹ Item 1 of the Compliance Order relates to Item 1 of the Notice. If Item 1 of the Notice is resolved favorably to SPLP then the resolution of Item 1 of the Compliance Order should be likewise resolved.

² Item 2 of the Compliance Order relates to Item 2 of the Notice. If Item 2 of the Notice is resolved favorably to SPLP then the resolution of Item 2 of the Compliance Order should be likewise resolved.

³ Paragraph 3 of the Compliance Order is not separately numbered but, because the numbering proceeds from (2) to (4), SPLP assumes for purposes of this response that the number was simply inadvertently omitted from the paragraph.



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Item 4 of the Proposed Compliance Order proposes to have Item 1 completed within 30 days of the Final Order and Item 2 submitted to the Region Director within 30 days of the Final Order. Because this item is dependent on the outcome of the other items of the Proposed Compliance Order, SPLP will take this request under advisement and address same at the hearing if and when the remaining items are fully and finally resolved.

Item 5 of the Proposed Compliance Order requests that SPLP maintain documentation of the safety improvement costs and submit same to the Region Director. Because this item is dependent on the outcome of the other items of the Proposed Compliance Order, SPLP will take this request under advisement and address same at the hearing if and when the remaining items are fully and finally resolved.

We look forward to the opportunity to discuss this matter further at the hearing. On its behalf, SPLP expects to have individuals in attendance at a hearing which may include the following: Mike Slough, myself, Leif Jensen, Jay Dresh, Todd Nardozi, counsel, 3rd party subject matter expert(s) and/or such other individuals identified by counsel. If the Region is inclined to discuss this matter at this time and/or after receipt of SPLP's more substantive response prior to a hearing, please do not hesitate to contact me at 610-859-5754.

Sincerely,

David R. Chalson
Sr. Vice President, Operations
Sunoco Pipeline L.P.

Cc: Benjamin Fred (Hearing Officer) (via e-mail); Adam Phillips (PHMSA Counsel) (via e-mail); Mike Slough; Leif Jensen; Todd Nardozi; Kevin Dunleavy (via e-mail)