

December 20, 2018

Mr. Kelcy L. Warren  
Chief Executive Officer and Chairman of the Board of Directors  
Energy Transfer Partners, LP  
8111 Westchester Drive  
Dallas, TX 75225

**Re: CPF No. 4-2017-5021**

Dear Mr. Warren:

Enclosed please find the Corrected Final Order issued in the above-referenced case to your subsidiary, Sunoco Pipeline, LP. The Final Order issued in this case on September 18, 2018 miscalculated the total civil penalty assessment and the balance that was still due. I apologize for these computational errors, which have been rectified in this Corrected Final Order. The new order makes no other substantive changes to the Final Order.

The Corrected Final Order makes findings of violation, assesses a reduced civil penalty of \$90,000, and specifies actions that need to be taken to comply with the pipeline safety regulations. This is to acknowledge receipt of payment of the full penalty amount by three separate wire transfers, dated October 4, 2017, October 4, 2018, and October 9, 2018, respectively.

When the terms of the compliance order have been completed, as determined by the Director, Southwest Region, this enforcement action will be closed. Service of the Corrected Final Order by certified mail is effective upon the date of mailing, as provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Alan K. Mayberry  
Associate Administrator  
for Pipeline Safety

Enclosure

cc: Ms. Mary McDaniel, Director, Southwest Region, Office of Pipeline Safety, PHMSA  
Mr. Ryan Coffey, Executive Vice President of Operators, Energy Transfer Partners, LP,  
1 Fluor Daniel Drive, Bldg. A, Level 3, Sugar Land, TX 77478

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

**U.S. DEPARTMENT OF TRANSPORTATION  
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION  
OFFICE OF PIPELINE SAFETY  
WASHINGTON, D.C. 20590**

<b>In the Matter of</b>	)	
	)	
<b>Sunoco Pipeline, LP,</b>	)	<b>CPF No. 4-2017-5021</b>
<b>a subsidiary of Energy Transfer Partners, LP,</b>	)	
	)	
<b>Respondent.</b>	)	
	)	

**CORRECTED FINAL ORDER**

From September 6 through October 14, 2016, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the facilities and records of Sunoco Pipeline, LP (Sunoco or Respondent), in Texas.<sup>1</sup> Sunoco Pipeline, LP, a subsidiary of Energy Transfer Partners, LP, operates the Nederland to Kilgore hazardous liquid pipeline in Texas.

As a result of the inspection, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated August 14, 2017, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice), which also included warning items pursuant to 49 C.F.R. § 190.205. In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Sunoco had committed five violations of 49 C.F.R. Part 195 and proposed assessing a civil penalty of \$129,800 for the alleged violations. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violations. The warning items required no further action but warned the operator to correct the probable violations or face possible future enforcement action.

Energy Transfer Partners, LP, on behalf of Sunoco, responded to the Notice by letter dated September 22, 2017 (Response).<sup>2</sup> The company contested several of the allegations of violation and provided information concerning the corrective actions it had taken. Sunoco partially paid the proposed civil penalty, in the amount of \$35,500, by wire transfer dated October 4, 2017. Respondent did not request a hearing and therefore has waived its right to one.

On September 18, 2018, PHMSA issued a Final Order in this case that incorrectly calculated

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<sup>1</sup> Inspection locations included Longview, Goodrich, Aldine and Houston, Texas.

<sup>2</sup> On September 7, 2017, Sunoco requested a time extension to respond to the Notice, which was granted by PHMSA on September 13, 2017.

\$54,500 as the total civil penalty assessed for the findings of violation, rather than the balance due. It incorrectly stated the balance owed by Energy Transfer Partners, LP, was \$19,000. This Corrected Final Order replaces and supersedes the September 18, 2018 Final Order to correct the total civil penalty assessment as being \$90,000. Respondent made additional partial payments of \$19,000 and \$35,500 by wire transfers on October 4, 2018 and October 9, 2018, respectively. Combined with the first partial payment of \$35,500 on October 4, 2017, Respondent has now paid the full penalty amount of \$90,000.

### **FINDINGS OF VIOLATION**

The Notice alleged that Respondent violated 49 C.F.R. Part 195, as follows:

**Item 1:** The Notice alleged that Respondent violated 49 C.F.R. § 195.56(a), which states:

**§ 195.56 Filing safety-related condition reports.**

(a) Each report of a safety-related condition under § 195.55(a) must be filed (received by OPS) within 5 working days (not including Saturday, Sunday, or Federal Holidays) after the day a representative of the operator first determines that the condition exists, but not later than 10 working days after the day a representative of the operator discovers the condition. Separate conditions may be described in a single report if they are closely related. Reports may be transmitted by electronic mail to *InformationResourcesManager@dot.gov*, or by facsimile at (202) 366-7128.

The Notice alleged that Respondent violated 49 C.F.R. § 195.56(a) by failing to file a report of a safety-related condition under § 195.55(a) within five working days after determining that the condition existed. Specifically, the Notice alleged that in October 2014 and February 2016, Sunoco issued two 20-percent pressure reductions on the Goodrich to Longview segment of its pipeline due to the discovery of two safety-related conditions that were reportable under § 195.55(a)(6) but failed to file reports with PHMSA.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.56(a) by failing to file two safety-related reports for safety-related conditions on its pipeline.

**Item 2:** The Notice alleged that Respondent violated 49 C.F.R. § 195.401(b)(1), which states:

**§ 195.401 General requirements.**

- (a) . . .
- (b) An operator must make repairs on its pipeline system according to the following requirements:
- (1) *Non Integrity management repairs.* Whenever an operator discovers any condition that could adversely affect the safe operation of its pipeline system, it must correct the condition within a reasonable time. However, if the condition is of such a nature that it presents an immediate

hazard to persons or property, the operator may not operate the affected part of the system until it has corrected the unsafe condition.

The Notice alleged that Respondent violated 49 C.F.R. § 195.401(b)(1) by failing to correct, within a reasonable time, a condition that could adversely affect the safe operation of its pipeline. Specifically, the Notice alleged that Sunoco failed, for approximately two years, to take action to repair a section of buried pipe that was exposed and sagging due to a washout.<sup>3</sup> While Respondent contended that the evidence presented by PHMSA was not conclusive to show the condition existed for more than five years, Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.401(b)(1) by failing to correct, within a reasonable time, a condition that could adversely affect the safe operation of its pipeline.

**Item 4:** The Notice alleged that Respondent violated 49 C.F.R. § 195.452(h)(4)(ii), which states:

**§ 195.452 Pipeline integrity management in high consequence areas.**

(a) . . .

(h) *What actions must an operator take to address integrity issues?*

(1) *General requirements.* An operator must take prompt action to address all anomalous conditions the operator discovers through the integrity assessment or information analysis. In addressing all conditions, an operator must evaluate all anomalous conditions and remediate those that could reduce a pipeline's integrity. . .

(4) *Special requirements for scheduling remediation –*

(i) . . .

(ii) *60-day conditions.* Except for conditions listed in paragraph (h)(4)(i) of this section, an operator must schedule evaluation and remediation of the following conditions within 60 days of discovery of condition . . . .

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(h)(4)(ii) by failing to schedule evaluation and remediation of several anomalous conditions within 60 days of discovery of the conditions. Specifically, the Notice alleged that after discovering seven 60-day conditions on its Douglass to Longview segment on October 27, 2014, Sunoco failed to remediate them within 60 days.

In its Response, Sunoco contested this allegation of violation, stating that although the remediation dates for these seven 60-day conditions fell outside the regulatory time frame, the pipeline was not in service transporting hazardous liquid at the time. Because the line was not in service, Sunoco argued that it was permitted to exceed the regulatory time frame.

The ostensible basis for Sunoco's defense is a separate regulation, § 195.452(h)(1)(i), which requires an operator to notify PHMSA if the operator cannot meet the schedule for evaluation

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<sup>3</sup> Although Sunoco inspected the segment on September 21, 2016, and aerial patrol reports for the preceding three months did not indicate that the pipe was exposed, PHMSA reviewed Google Earth satellite imagery for this location and found evidence that the pipe had been exposed since at least 2009. Notice at 2.

and remediation and cannot provide safety through a temporary reduction in operating pressure. Respondent argued that under § 195.452(h)(1)(i), an operator may exceed the schedule for evaluation and remediation in § 195.452(h)(4)(ii) if an additional measure of safety can be provided by temporarily reducing the operating pressure of the pipeline. Here, Respondent noted, the line was not in service, had been purged of hazardous liquid, and was filled with nitrogen under a low pressure. Sunoco argued that these additional safety measures permitted the company to exceed the 60-day regulatory time frame for remediation and Sunoco was not required to notify PHMSA that it could not meet the schedule. Respondent also noted that when the line became operational again on July 27, 2015, all seven of the 60-day anomalies had been repaired.

I disagree. Under § 195.452(h)(4)(ii), Sunoco was required to timely schedule evaluation and remediation on seven 60-day conditions on its line. When it did not meet this schedule, the company was required, under a separate requirement in § 195.452(h)(3), to explain the reasons why it could not meet the schedule and how the changed schedule did not jeopardize public safety or the environment. Sunoco, however, failed to do either. Instead, it relied on its temporary pressure reduction to contend that it did not *need* to notify PHMSA under § 195.452(h)(1)(i) of its inability to meet the remediation schedule.<sup>4</sup>

Respondent's argument, however, is flawed because it fails to recognize the purpose and intent of the regulation, which is to require evaluation and remediation of anomalous conditions that can potentially reduce a pipeline's integrity, regardless of whether the line is in service or not. PHMSA has made clear on numerous occasions that operators must protect "inactive" or "idle" pipelines to the same extent as if they are fully operational.<sup>5</sup> Further, the text of the notification requirement in § 195.452(h)(1)(i) clearly does not exempt an operator from the other integrity-management requirements cited above. Finally, PHMSA has provided fair notice to operators that just because a pipeline "has been subjected to prior reductions in maximum operating pressure," this does not exempt them from integrity management requirements.<sup>6</sup>

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R.

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<sup>4</sup> See also, PHMSA Advisory Bulletin (ADB-2016-05) (Aug. 11, 2016) (noting that "owners or operators planning to defer certain activities for purged pipelines should coordinate the deferral in advance with regulators").

<sup>5</sup> See, e.g., *In the Matter of Enterprise Crude Pipelines, LLC*, Final Order, CPF No. 4-2012-5023 (May 6, 2013) (available at [www.phmsa.dot.gov/pipeline/enforcement](http://www.phmsa.dot.gov/pipeline/enforcement)) (noting that "[i]f a pipeline has not been abandoned in accordance with 49 C.F.R. § 195.59, then it is considered to be active and an operator must ensure that the pipeline complies with all applicable requirements of Part 195"); see also *In the Matter of Williams Olefins Feedstock Pipelines, LLC*, Final Order, CPF No. 4-2017-5001 (July 24, 2017) (available at [www.phmsa.dot.gov/pipeline/enforcement](http://www.phmsa.dot.gov/pipeline/enforcement)) (stating that although an operator noted it would complete a total inspection and rehabilitation of its pipeline, including valve replacement, atmospheric corrosion remediation, and in-line inspection prior to placing the idled line back into service, it was in violation of § 195.583(c) by failing to provide protection against corrosion as required by § 195.581 upon discovering evidence of atmospheric corrosion during several valve inspections. The Final Order noted that "PHMSA regulations do not recognize idle status, and consider pipelines to be either active and fully subject to all relevant parts of the safety regulations or abandoned.").

<sup>6</sup> PHMSA Hazardous Liquid Integrity Management FAQ 7.23, available at <https://primis.phmsa.dot.gov/iim/faqs.htm#a> (last accessed May 30, 2018).

§ 195.452(h)(4)(ii) by failing to schedule evaluation and remediation of 60-day conditions within 60 days. However, since the line was purged at the time, I find that such mitigating circumstances do warrant a penalty reduction, which is discussed more fully in the “Assessment of Penalty” section below.

**Item 5:** The Notice alleged that Respondent violated 49 C.F.R. § 195.452(h)(1)(iii), which states:

**§ 195.452 Pipeline integrity management in high consequence areas.**

(a) . . .

(h) *What actions must an operator take to address integrity issues?*

(1) *General requirements.* An operator must take prompt action to address all anomalous conditions the operator discovers through the integrity assessment or information analysis. In addressing all conditions, an operator must evaluate all anomalous conditions and remediate those that could reduce a pipeline’s integrity. . .

(4) *Special requirements for scheduling remediation*

(i) . . .

(iii) *180-day conditions.* Except for conditions listed in paragraph (h)(4)(i) or (ii) of this section, an operator must schedule evaluation and remediation of the following within 180 days of discovery of the condition:

. . . .

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(h)(4)(iii) by failing to schedule evaluation and remediation of several conditions within 180 days of discovery of the conditions. Specifically, the Notice alleged that, after discovering three 180-day conditions on its Douglass to OTI segment on December 18, 2012, and one 180-day condition on its Douglas to Longview segment on October 27, 2014, Sunoco failed to remediate them within 180 days.

Respondent did not contest this allegation of violation but provided additional information that it believed warranted a reduction in the proposed civil penalty. I address that argument more fully in the “Assessment of Penalty” section below.

Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.452(h)(4)(iii) by failing to timely remediate 180-day conditions within 180 days of discovery.

**Item 6:** The Notice alleged that Respondent violated 49 C.F.R. § 195.505(g), which states:

**§ 195.505 Qualification program.**

Each operator shall have and follow a written qualification program. The program shall include provisions to:

(a) . . .

(g) Identify those covered tasks and the intervals at which evaluation of the individual’s qualifications is needed: . . . .

The Notice alleged that Respondent violated 49 C.F.R. § 195.505(g) by failing to have and follow a written qualification program that included provisions to identify covered tasks and the intervals at which evaluation of an individual's qualification is needed. Specifically, the Notice alleged that Sunoco's Operator Qualification Plan (OQ Plan) set a standard 36-month evaluation interval for all non-welding covered tasks, except for ones that extended beyond 36 months, and failed to consider intervals shorter than 36 months if the task required it. It further alleged that Appendix C of the OQ Plan included a list of covered tasks with a 36-month requalification interval and no task showed a documented justification for the requalification interval used.

Sunoco contested this allegation of violation, noting that it had adopted the recommendations of API's Consortium of Operator Qualification (COOQ), which recommends a standard 36-month interval for conducting periodic reevaluations. Sunoco noted that this standard interval was consistent with API Recommended Practice 1161, "API Recommended Practice for Pipeline Operator Qualification (OQ)," 3<sup>rd</sup> Edition, January 2014, which the company claimed "discusses that an operator has the option of utilizing evaluation intervals established by an industry association or other entity or developing their own intervals, but that an evaluation interval of 36 months is recommended based on current practice."<sup>7</sup>

Section 195.505(g) requires operators to identify "covered tasks and the intervals at which evaluation of the individual's qualifications is needed." In other words, operators must determine requalification intervals for each covered task. As noted above, Sunoco's OQ Plan lists requalification intervals for covered tasks in Appendix C of its OQ Plan and all non-welding covered task have a requalification interval of 36 months, not to exceed 39 months. I find insufficient evidence to prove that Sunoco has violated the plain meaning of the regulation in its identification of the intervals at which reevaluation is needed.

While the Notice further alleged a violation for failure to "require justification for the interval established," I fail to see how this allegation is derived from either the text or the intent of the regulation. Section 195.505(g) does not describe the *extent* to which operators must justify interval selections. I note that PHMSA has issued guidance advising operators using an "off-the-shelf" qualification program that they "must understand the basis on which reevaluation intervals have been specified."<sup>8</sup> PHMSA has also issued an Advisory Bulletin alerting the industry that "requalification intervals established by operators must reflect the relevant factors including the complexity, criticality, and frequency of the task, and be justified by appropriate documentation."<sup>9</sup>

There is nothing in the language of § 195.505(g), however, that requires each operator to conduct such an analysis itself for each covered task. In this case, Sunoco notes in its OQ Plan that it

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<sup>7</sup> Response, at 5. See, API RP 1161, Recommended Practice for Pipeline Operator Qualification (OQ), Section 9.2 (January 2014).

<sup>8</sup> PHMSA OQ FAQ 1.1., available at <https://primis.phmsa.dot.gov/oq/faqs htm#13> (last accessed May 25, 2018).

<sup>9</sup> PHMSA Advisory Bulletin 04-05, Implementation of Operator Qualification (OQ) Requirements Mandated by the Pipeline Safety Improvement Act of 2002 (Nov. 19, 2004).

adopted the COOQ recommendations for requalification intervals, which is consistent with other industry standards, including API Recommended Practice 1161.<sup>10</sup> I find no evidence in the record that Sunoco failed to understand the basis for the requalification intervals it adopted.<sup>11</sup> Moreover, Respondent's program requires separate justification only if a requalification extends beyond 36 months.

Therefore, I find that Respondent did not violate 49 C.F.R. § 195.505(g) by adopting a standard 36-month interval for conducting required periodic reevaluations. This violation is hereby withdrawn.

I would note, however, that PHMSA encourages operators to adopt and follow a rigorous OQ program that includes a process used for establishing appropriate requalification intervals that recognize the difficulty of each individual task, its safety importance, the potential for loss of knowledge of the task over time, manufacturers' recommendations, and other critical factors. In many cases, this may necessitate unique intervals for various tasks within a particular operator's pipeline system.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

### **ASSESSMENT OF PENALTY**

Under 49 U.S.C. § 60122, Respondent is subject to an administrative civil penalty not to exceed \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any related series of violations.<sup>12</sup> In determining the amount of a civil penalty under 49 U.S.C. § 60122 and 49 C.F.R. § 190.225, I must consider the following criteria: the nature, circumstances, and gravity of the violation, including adverse impact on the environment; the degree of Respondent's culpability; the history of Respondent's prior offenses; any effect that the penalty may have on its ability to continue doing business; and the good faith of Respondent in attempting to comply with the pipeline safety regulations. In addition, I may consider the economic benefit gained from the violation without any reduction because of subsequent

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<sup>10</sup> See PHMSA OQ FAQ 5.6, available at <https://primis.phmsa.dot.gov/oq/faqs.htm> (last accessed May 30, 2018) (noting that "determination and justification of reevaluation interval should consider existing consensus standards and industry practice...").

<sup>11</sup> See Sunoco's OQ Plan, Section 5.3 Re-qualification Frequency, at 11 (describing the company's adoption of the COOQ recommendation) (Oct. 22, 2015); see also, *In the Matter of Texas Gas Transmission, LLC*, Final Order, CPF No. 2-2015-1005 (Aug. 24, 2017) (available at [www.phmsa.dot.gov/pipeline/enforcement](http://www.phmsa.dot.gov/pipeline/enforcement)) (withdrawing the proposed violation of § 192.805(g) for the company's alleged failure to demonstrate that its OQ requalification intervals were individually justified. The Final Order found that the regulation does not require operators themselves to justify requalification intervals and that the company's OQ program provided a basis for requalification intervals by adopting the Veriforce OQ Program, an "off-the-shelf" OQ plan, that was consistent with PHMSA guidance and industry standards, including ASME B31Q and that identified covered tasks and corresponding requalification intervals based on multiple factors as set forth in its OQ plan.).

<sup>12</sup> These amounts are adjusted annually for inflation. See, e.g., Pipeline Safety: Inflation Adjustment of Maximum Civil Penalties, 82 Fed. Reg. 19325 (April 27, 2017).



damages, and such other matters as justice may require. The Notice proposed a total civil penalty of \$129,800 for the violations cited above.

**Item 1:** The Notice proposed a civil penalty of \$35,500 for Respondent's violation of 49 C.F.R. § 195.56(a), for failing to file a report of a safety-related condition under § 195.55(a) within five working days after determining that the condition existed. Respondent did not contest this item and paid the penalty by wire transfer, dated October 4, 2017.

**Item 4:** The Notice proposed a civil penalty of \$32,100 for Respondent's violation of 49 C.F.R. § 195.452(h)(4)(ii), for failing to timely schedule evaluation and remediation on seven 60-day conditions. Sunoco contested this item, arguing that because the line was idled under a low pressure nitrogen blanket, safety was minimally affected. I find that even though this does not negate or justify the violation, Sunoco's interpretation of the requirement was reasonable, although incorrect, and warrants some adjustment of the proposed penalty given that the pipeline was purged. Therefore, I am utilizing the "good faith" credit allowed under PHMSA's penalty-assessment criteria for this violation and reducing the penalty to \$14,800 for violation of 49 C.F.R. § 195.452(h)(4)(ii).

**Item 5:** The Notice proposed a civil penalty of \$62,200 for Respondent's violation of 49 C.F.R. § 195.452(h)(4)(iii), for failing to timely schedule evaluation and remediation of four 180-day conditions. In its Response, Sunoco stated that there were only three 180-day conditions requiring remediation. After reviewing Sunoco's Response, I agree that one of the anomalies did not meet the 180-day condition criteria. Therefore, the number of instances of violation for this Item should be three, instead of four. Although the violation persisted for well beyond the regulatory deadline for remediation, the line was idled under a low-pressure nitrogen blanket. As a result, pipeline safety was minimally affected. Further, I find that Sunoco had a reasonable, although incorrect, interpretation of the requirement for not repairing these anomalies within the regulatory timeframe, given that the pipeline was purged. Therefore, I am utilizing the "good faith" credit allowed under PHMSA's penalty-assessment criteria for this violation and reducing the penalty to \$39,700 for violation of 49 C.F.R. § 195.452(h)(4)(iii).

In summary, having reviewed the record and considered the assessment criteria for each of the Items cited above, I assess Respondent a total reduced civil penalty of **\$90,000**. The full penalty amount of \$90,000 has already been paid by Respondent by wire transfer with three separate payments dated October 4, 2017, October 4, 2018, and October 9, 2018, respectively.

### **COMPLIANCE ORDER**

The Notice proposed a compliance order with respect to Items 2 and 6 in the Notice, for violations of 49 C.F.R. §§ 195.401(b)(1) and 195.505(g), respectively. Under 49 U.S.C. § 60118(a), each person who engages in the transportation of hazardous liquids or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601.

Item 6 has been withdrawn, and therefore the corresponding compliance terms are also

withdrawn. With regard to the violation of § 195.401(b)(1) (Item 2), Respondent has submitted maintenance records, corresponding sketches, and photographs showing that a permanent repair to the exposed section of the pipe has been made. Sunoco stated that this repair was completed by November 14, 2016. However, in its Recommendation, the Region noted ongoing concern with the safety of this pipeline due to its location in a riverbed. The Region stated that, although support had been added to prevent the pipe from sagging, the supports do not appear to “make permanent repairs to restore it to a safe condition,” as provided in the Proposed Compliance Order, since it does not protect the pipe from movement in other directions.

Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations:

1. With respect to the violation of § 195.401(b)(1) (**Item 2**), Respondent must submit to PHMSA an engineering analysis of the repair to confirm the safety of the repair within 90 days of issuance of the Final Order.

The Director may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent and demonstrating good cause for an extension.

It is requested that Respondent maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director. 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.

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed \$200,000, as adjusted for inflation (49 C.F.R. § 190.223), for each violation for each day the violation continues or in referral to the Attorney General for appropriate relief in a district court of the United States.

### **WARNING ITEMS**

With respect to Items 3, 7, and 8, the Notice alleged probable violations of Part 195 but did not propose a civil penalty or compliance order for these items. Therefore, these are considered to be warning items. The warnings were for:

- 49 C.F.R. § 195.452(h)(1)(i) (**Item 3**) — Respondent’s alleged failure to timely remediate an anomalous condition it discovered through integrity assessment or information analysis, and to notify PHMSA when it could not meet the remediation schedule and provide safety through a temporary reduction in operating pressure;

49 C.F.R. § 195.573(a)(1) (**Item 7**) — Respondent’s alleged failure to conduct tests on its cathodically protected pipeline at least once each calendar year, but with intervals not exceeding 15 months, to determine whether cathodic protection required by Subpart H complies with § 195.571; and

49 C.F.R. § 195.589(c) (**Item 8**) — Respondent’s alleged failure to maintain, for at least five years, a record of each analysis, check, demonstration, examination, inspection, investigation, review, survey, and test required by Subpart H of Part 195 in sufficient detail to demonstrate the adequacy of corrosion control measures or that corrosion requiring control measures does not exist.

If OPS finds a violation of any of these items in a subsequent inspection, Respondent may be subject to future enforcement action.

Under 49 C.F.R. § 190.243, Respondent may submit a Petition for Reconsideration of this Corrected Final Order to the Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2<sup>nd</sup> Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address, no later than 20 days after receipt of service of this Corrected Final Order by Respondent. Any petition submitted must contain a statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.243. The filing of a petition automatically stays the payment of any civil penalty assessed. The other terms of the order, including corrective action, remain in effect unless the Associate Administrator, upon request, grants a stay. The terms and conditions of this Corrected Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

December 20, 2018

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Alan K. Mayberry  
Associate Administrator  
for Pipeline Safety

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Date Issued