

November 20, 2020

**Via Electronic Mail to: [mary.mcdaniel@dot.gov](mailto:mary.mcdaniel@dot.gov)**

Ms. Mary McDaniel, Director  
Southwest Region, Pipeline and Hazardous Materials Safety Administration  
8701 S. Gessner Rd, Suite 630  
Houston, Texas 77074

Re: CPF 4-2020-5012

Dear Ms. McDaniel,

Magellan Pipeline Company, L.P. ("Magellan") received a Notice of Probable Violation (NOPV), Proposed Civil Penalty, and Proposed Compliance Order, CPF 4-2020-5012, on September 18, 2020. In accordance with *Response Options for Pipeline Operators in Enforcement Proceedings*, Magellan requested on September 24, 2020 an extension of time to prepare an appropriate response to the Notice. Pursuant to 49 CFR 190.209, Magellan also included in this request a copy of the Case File to review the factual basis for the allegations and a copy of the Proposed Civil Penalty Worksheet. On September 25, 2020 Magellan received the Pipeline Safety Violation Report and the Proposed Civil Penalty Worksheet. On October 16, 2020 Magellan requested and was granted an extension until November 20, 2020 to respond to the Notice. On November 11, 2020, Magellan met with the Director of the Southwest Region to discuss the Notice. Magellan hereby submits the following response in accordance with the *Response Options for Pipeline Operators in Enforcement Proceedings*.

The NOPV alleged that Magellan committed four probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (C.F.R.) during the construction of the Orion West Pipeline project. The NOPV also includes a Proposed Compliance Order and Proposed Civil Penalty. **Magellan hereby contests all or part of each of the four probable violation, the proposed Civil Penalty for probable violation Item 3, and the need for the proposed Compliance Order as explained below. Magellan also requests a hearing on this matter, but believes that there is common ground to fully resolve it prior to a hearing.**

**1. §195.202 Compliance with specifications or standards.**

**Each pipeline system must be constructed in accordance with comprehensive written specifications or standards that are consistent with the requirements of this part.**

Magellan failed to construct its Orion West pipeline in accordance with comprehensive written specifications or standards consistent with the requirements of Part 195. First, Magellan failed to follow its written construction specification for welding on its pipeline. Section 8.7.1.7.1 of Magellan Specification 100 – Construction and Fabrication of Pipelines and Related Piping Systems, Revision 13 dated 03/08/2019, states "*At a minimum, but no less than once per day volts, amps, heat input, travel speed, etc. shall be monitored on welders randomly and documented to ensure welding is performed within the parameters of the*

welding procedure.” The procedure further requires that the actual observed welding parameters be recorded on Magellan Welding Report 07-FORM-0722. Magellan did not record the actual parameters used to weld the Orion West pipeline in accordance with its written procedures.

On January 8, 2020, while onsite, the PHMSA inspector requested Magellan’s record documenting the measured welding parameters as required by Specification 100. The welding inspector was unable to provide the record of this information for January 8, 2020, (or any of the previous days of the same week). The information provided by the welding inspector did not show that the welding parameters had been documented once per day nor had the information been recorded on 07-FORM-0722, as required by the Operators written specification.

Second, Magellan also failed to follow its written construction specification when Magellan’s Welding inspector was found to be using an incorrect version of the Magellan Specification 100. The version of the procedure that was current at the time of the PHMSA inspection was WE-ADM-003, Revision 13, dated 03/08/2019. When asked for the version being used, the Magellan welding inspector provided the PHMSA inspector WE-ADM- 003, Revision 5, dated 03/09/2011.

Not only did Magellan fail to verify and document the welding parameters as required by their specification, its welding inspector was not using the correct version of the written construction specification.

#### **MAGELLAN RESPONSE:**

Magellan asserts that it met the substantive requirements of §195.202 and its relevant procedures, but admits that the information was not transferred from a working template to the correct form, 07-FORM-0722 - Welding Report. The Magellan inspector onsite captured all pertinent welding parameters on January 8, 2020 in accordance with 07-FORM-0722 on a working template, but these parameters were not transferred onto 07-FORM-0722 - Welding Report in accordance with Specification 100 – Construction and Fabrication of Pipeline and Related Piping Systems. As provided to the inspector on February 18, 2020 and provided by PHMSA in Exhibit A, welding parameters were taken on January 8, 2020. Magellan hereby submits the welding parameters transferred onto 07-FORM-0722 – Welding Report for the Deleon Pump Station in Attachment A and requests the Proposed Compliance Order be rescinded.

With regards to the incorrect version of the construction specification being presented to the PHMSA inspector, the Magellan Inspector was utilizing a current version of Specification 100 as evidenced by daily recording of the welding parameters which is a requirement of Revision 13, and inadvertently presented the PHMSA inspector with a prior version which was provided from their laptop onsite.

#### **2. §195.202 Compliance with specifications or standards.**

**Each pipeline system must be constructed in accordance with comprehensive written specifications or standards that are consistent with the requirements of this part.**

Magellan failed to construct its Orion West pipeline in accordance with comprehensive written specifications or standards consistent with the requirements of Part 195. Specifically, Magellan failed to follow its written specification for hydrostatic testing to require the review and approval of hydrostatic test documentation by the Project Engineer, Test Supervisor, and Test Inspector. Section 3.9.4.5 of Magellan Specification 7.07 -ADM-001 – Pressure Testing Specification, Revision 4 dated 11/02/2016, requires the Hydrostatic Test Form 07-FORM-0013 be completed and signed by the specified project personnel.

During the inspection week of February 10, 2020, PHMSA identified that page 4 of the Hydrostatic Test forms (07-FORM-0013) was not signed by the Magellan Project Manager for the pressure test records for all three construction spreads of the Orion West expansion project. After PHMSA communicated this inspection finding to Magellan, the Operator subsequently signed the forms and provided copies to PHMSA via email.

**MAGELLAN RESPONSE:**

Magellan asserts that it complied with Part 195 and its own procedures, and hereby requests that this item be removed from the Probable Violations and the proposed Warning Item rescinded. Magellan's procedure 7.03-ADM-001 - Pressure Testing requires the Project Manager, under section 3.10.4.5, to complete and sign the hydrostatic test section documentation, but intentionally does not require a time frame regarding the signing of Page 4 by the Project Manager. This is due to the Project Manager's inability to sign these documents while the documentation resides at the project location. At the time of the hydrostatic testing, the Project Manager provided written acceptance and approval of the test over email but had yet to sign the Page 4 hydrostatic test form. A copy of the email approval and signed Page 4 documentation were provided to the PHMSA inspector in accordance with the requirement in 7.03-ADM-001 during the inspection.

Further, prior to commissioning the Orion West Pipeline project, Magellan reviewed and approved the hydrostatic test documentation and established a maximum operating pressure in accordance with SIP-ADM-7.07 – Operating Pressures and 7.03-ADM-001 – Pressure Testing.

**3. §195.202 Compliance with specifications or standards.**

**Each pipeline system must be constructed in accordance with comprehensive written specifications or standards that are consistent with the requirements of this part.**

**§195.246 Installation of pipe in a ditch.**

**(a) All pipe installed in a ditch must be installed in a manner that minimized the introduction of secondary stresses and the possibility of damage to the pipe**

**§195.252 Backfilling.**

**When a ditch for a pipeline is backfilled, it must be backfilled in a manner that:**

**(a) Provides firm support under the pipe; and**

**(b) Prevents damage to the pipe and pipe coating from equipment or from the backfill material.**

Magellan failed to construct its Orion West pipeline in accordance with comprehensive written specifications or standards consistent with the requirements of Part 195. Specifically, Magellan failed to install its newly constructed Orion West pipeline in the ditch consistent with the requirements of §195.246 and §195.252. Moreover, Section 6.0 of Magellan's Specification 'Padding, Backfill, and Ditch Breakers, Revision 2, dated 05/20/2015,' written specification requires the installation of rock shield or the use of padding to protect the pipeline from damage in rocky areas.

On September 19, 2019, at the CR 209 in Callahan County, Texas, PHMSA observed that the pipe had been lowered into the ditch in a rocky area with no rock shield or padding. In addition, the rocks in the spoil from trenching had not been segregated from the material to be used for backfilling. Magellan failed to follow its written procedure to ensure construction of its pipeline in accordance with the specifications or standards related to installation of pipe in the ditch along with the proper backfilling.

#### **MAGELLAN RESPONSE:**

Magellan asserts that it complied with §195.246, §195.252, and its relevant procedures, and hereby requests that this item be removed from the Probable Violations and the proposed Compliance Order and Civil Penalty rescinded. During the field inspection on September 19, 2019, the PHMSA inspector visited an active pipeline construction site at County Road 209 (CR 209). The construction site at CR 209 was observed to have an open construction ditch with new pipe as noted by the inspector and was not yet backfilled. The pipeline construction was installed via road bore and tied into a section of lowered in pipe with proper ditch padding and rock shield installed. As seen on Page 3 of PHMSA's Exhibit C, the pipe without rock shield is coated in Abrasion Resistant Overcoating (ARO) which is evidence of the road bore installation method. There is no practical method to effectively install a pipeline via road bore with rock shield installed, nor is it required by Magellan's procedure due to the installation method.

The "Padding, Backfill, and Ditch Breaker" specification also states, "Immediately before padding and backfilling, ditch and backfill material shall be inspected and rocks, large clods, stumps, skids, trash and other foreign material shall be removed." Magellan applied rock shield to the road bore piping and inspected the backfill material prior to backfilling the open excavation at CR 209.

Based upon daily reports and photos from the construction project, Magellan has supporting evidence that the pipeline constructed in this area was installed per Magellan's Specification "Padding, Backfill, and Ditch Breaker". The location identified by the PHMSA inspector was properly protected with rock shield and spoils were inspected prior to backfilling the construction site at CR 209. The supportive photographic evidence of Magellan's position has been provided in Attachment B.

#### **4. §195.228 Welds and welding inspection: Standards of acceptability.**

##### **(a) Each weld and welding must be inspected to insure compliance with the requirements of this subpart. Visual inspection must be supplemented by nondestructive testing.**

Magellan's welding inspector failed to perform visual inspections of production welds as required by §195.228(a). On January 8, 2020, at the De Leon pump station, PHMSA observed that several welds were completed without the welding inspector performing any visual inspections. Additionally, at the

time of the inspection, the welding inspector was unable to provide records showing that visual inspections had been performed on previously completed welds.

**MAGELLAN RESPONSE:**

Magellan asserts that it complied with §195.228(a), and hereby requests that this item be removed from the Probable Violations and the proposed Warning Item rescinded. Magellan has previously submitted documentation to PHMSA that visual inspection as well as non-destructive testing were performed on each weld on the day in question.

Magellan interprets the requirement in 195.228 to mean a Magellan representative or inspector is to visually inspect the welds after they are complete and prior to conducting non-destructive testing. Magellan's interpretation is consistent with Part 195 Incorporated by Reference API Standard, API 1104 - Welding of Pipelines and Related Facilities which states, "Each production weld shall be inspected visually and radiographically after the flash removal and post-heat treatment are complete". Magellan hereby submits photographic evidence to support Magellan's position that visual inspection of the welds was completed and markings were made adjacent to the welds upon completion of the visual inspection. The supportive photographic evidence of Magellan's position has been provided in Attachment C.

In summary, Magellan requests the Proposed Violation, Proposed Compliance Order, Proposed Civil Penalty of \$50,100 associated with Allegation #3 be removed from the Notice as Magellan has provided documentation evident that the probable violation is not factually based. Magellan also requests that the Proposed Compliance Order associated with Item Number 1 be removed as the documentation to show that the welding inspector recorded the welding parameters for all welding activities at the Deleon pump station was provided to PHMSA and therefore, compliance has already been achieved. Lastly, Magellan requests that probable violations for Warning Items 2 and 4 be rescinded as not factually based.

If you have any questions or need additional information, please contact me by phone at (918) 574-7073 or e-mail at [mark.materna@magellanlp.com](mailto:mark.materna@magellanlp.com) to discuss.

Sincerely,



Mark Materna  
Director, Pipeline Integrity

Cc: Jason Smith, Vice President, Asset Integrity, Magellan