



USD Partners LP

Via Overnight Courier and E-Mail

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January 4, 2017

Mr. Chris Hoidal
Director, Wester Region
U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
12300 W. Dakota Avenue, Suite 100
Lakewood, CO 80228

**Re: Response to Notice of Probable Violation and Proposed Compliance Order
(CPF 5-2016-6007) and Request for Hearing**

Dear Mr. Hoidal:

USD Partners LP (“*USDP*” or the “*Partnership*”) respectfully responds to the above referenced Notice of Probable Violation (“*NOPV*”) and Proposed Compliance Order and requests a Hearing under 49 C.F.R. §190.211 in connection therewith. The *NOPV* was issued to the Partnership by the Western Region of the Pipeline and Hazardous Materials Safety Administration (“*PHMSA*”) on October 17, 2016 based on *PHMSA*’s inspection of the CCR Pipeline System (the “*CCR Pipeline*”) owned by the Partnership’s wholly-owned subsidiary, CCR Pipeline, LLC (“*CCR Pipeline*”), from April 11 through April 14, 2016. The Partnership requested an extension of the time within which to respond to the *NOPV* through January 5, 2017, which was granted by the Western Region of *PHMSA* by letter dated December 1, 2016. Accordingly, this letter is being submitted timely.

PHMSA alleges three probable violations of pipeline safety regulations in the *NOPV*. *USDP* takes pipeline safety and any allegation of violation of pipeline safety regulations seriously. As described more fully below, *USDP* believes that the third alleged probable violation (i.e. Item 3) and the related Proposed Compliance Order was incorrectly alleged. Accordingly, *USDP* respectfully requests that Item 3 alleged in the *NOPV* and the Proposed Compliance Order be withdrawn.

USDP is making this request for Hearing to preserve its rights, but hopes to resolve these issues amicably through informal meetings if at all possible. For that reason, *USDP* respectfully requests that *PHMSA* stay the scheduling of any Hearing date, allowing *USDP* to meet and confer with *PHMSA* informally on these issues. Please be advised that *USDP* intends to have its internal counsel present at any informal meetings or Hearings that may be scheduled for this matter.



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In connection with the Request for Hearing contained in this letter, and in accordance with the requirements of 49 C.F.R. §190.211(a), USDP intends to raise the following issues at any Hearing for this matter:

Issue—NOPV Item 3:

§195.402 Procedural manual for operations, maintenance, and emergencies.

(c) Maintenance and normal operations. The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:

(13) Periodically reviewing the work done by operator personnel to determine the effectiveness of the procedures used in normal operation and maintenance and taking corrective action where deficiencies are found.

PHMSA Allegation: USD Partners LP failed to periodically review the work done by its personnel to determine the effectiveness of its procedures used in normal operation and maintenance, and take corrective action where deficiencies were found pursuant to 49 C.F.R. §195.402(c)(13). Section 11.3 of the Casper Crude to Rail Liquid Pipeline Operations, Maintenance, & Emergency Manual (O&M) contains a 19-step procedure for valve inspection. However, USD Partners LP used the Operator Qualification Task Specific Field Evaluation form to perform valve inspection reviews but the form contained only 5 steps. Therefore, USD Partners LP failed to adequately review its 19-step valve inspection procedure set forth in its O&M to determine its effectiveness and take corrective action where deficiencies were found in violation of 49 C.F.R. §195.402(c)(13).

USDP Response: USDP respectfully disputes this allegation and believes it was in compliance with 49 C.F.R. §195.402(c)(13) at the time of the inspection. USDP acquired CCR Pipeline from an unrelated entity on November 17, 2015, and prepared and implemented the Casper Crude to Rail Liquid Pipeline Operations, Maintenance, & Emergency Manual (the “*O&M Manual*”) at that time. In conjunction with preparing and implementing the O&M Manual in November 2015, the Partnership’s on-site operation manager, the supervisor of the third party operator the Partnership engaged to operate the CCR Pipeline, the Partnership’s Director of Health, Safety & Environmental and the Partnership’s outside consultants reviewed the work done by operator personal to determine the effectiveness of procedures used in the operation and maintenance of the CCR Pipeline and incorporated their observations and improvements in the O&M Manual.



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Section 1.9 of the O&M Manual as in effect in April 2016 stated that the operation manager (or his designee) must annually “review all work done by operator and contract personnel . . . to determine the effectiveness and adequacy of the procedures used.” Section 1.9 as in effect in April 2016 laid out a process for conducting this review, which included a review of all work done by operations personnel, the preparation of a list of all abnormal operating conditions, safety related conditions and incidents that occurred on the CCR Pipeline and a requirement that the Operations Manager “[e]nsure procedures listed in the [O&M Manual] were followed during inspections, responses to abnormal operating conditions, safety related conditions and incidents.” At the time of the inspection in April 2016, it was only approximately five months after the preparation and implementation of the O&M Manual and the Partnership’s last review of the effectiveness of the CCR Pipeline’s operating and maintenance procedures. As of April 2016, the Partnership had not yet conducted the annual review of effectiveness of the CCR Pipeline’s operating and maintenance procedures for 2016, including the effectiveness of the valve inspection procedure set forth in Section 11.3 of the O&M Manual. The Partnership does not believe that conducting the annual review this close to the preparation and implementation of the new O&M Manual was warranted, and as described below, the Partnership did complete the annual review on a timely basis on November 9, 2016.

The Operator Qualification Task Specific Field Evaluation form identified by the PHMSA inspector (“*Form CT 22*”) and cited in Item 3 of the NOPV was neither intended nor utilized for the purpose of conducting the annual evaluation of the effectiveness of the valve inspection procedures in compliance with Section 1.9 of the O&M Manual or 49 C.F.R. §195.402(c)(13). Form CT 22 is a predefined set of field evaluation criteria used to document the review of work done by operators in order to ensure operators were qualified to the procedure. This form is a condensed question set used by field evaluators so that the questions asked were consistent and did not vary between operator evaluations. Having the field evaluator use a predefined set of evaluation criteria was designed to prevent the evaluators from becoming unintentionally biased between evaluations.

On November 9, 2016, the Partnership conducted its annual review of the O&M Manual in accordance with Section 1.8 of the O&M Manual and 49 C.F.R. §195.402(a). This review was documented on Form 20.2 in accordance with the O&M Manual, which completed form can be made available to PHMSA for review if desired, either as part of an informal resolution of the issue, or at a Hearing. As a result of that review and based on guidance received from the PHMSA inspector during the April 2016 inspection, the Partnership modified Section 1.9 of the O&M Manual to more clearly explain the Partnership’s expectations for how annual evaluations of operating and maintenance procedures are to be conducted. A copy of revised Section 1.9 is



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attached to this letter as Appendix A. As revised, Section 1.9 articulates seven methods that the Partnership can utilize to evaluate the effectiveness of operating and maintenance procedures, including observing performance of the procedures, conducting mock drills, and observations in conjunction with regulatory audits or pre-audits. Revised Section 1.9 also allows for the Partnership to utilize other methods that it determines to be effective. A new form (Form 20.18) was created to document the results of this annual review of operating and maintenance procedures. New Form 20.18, which is attached to this letter as Appendix B, specifically references 49 C.F.R. §195.402(c)(13) and has an area to indicate the methods utilized to perform the procedural review.

The Partnership also completed its annual review of the effectiveness of the operating and maintenance procedures set forth in the O&M Manual on November 9, 2016. The Partnership did not identify any issues with the effectiveness of the valve inspection procedures contained in Section 11.3 of the O&M Manual at that time. The Partnership did identify a deficiency in the procedures related to the inspection of pressure limiting devices contained in Section 9.4 of the O&M Manual, and in response revised that section of the O&M Manual to include additional procedures. If desired, the Partnership can provide a copy of the completed and executed Form 20.18 and the revised Section 9.4 of the O&M Manual to PHMSA for review either as part of an informal resolution of the issue, or at a Hearing.

In addition, in part based on guidance received from the PHMSA inspector during the April 2016 inspection, the Partnership has determined that in conducting future field evaluations associated with its operator qualification program, the Partnership will utilize the relevant sections in the O&M Manual rather than an abbreviated checklist.

Based on the above information, we are hopeful that you will agree with our position that the Partnership was at the time of the April 2016 inspection and remains in full compliance with 49 C.F.R. §195.402(c)(13) with respect to the evaluation of its valve inspection procedures contained in Section 11.3 of the O&M Manual. We are therefore hopeful you will agree to withdraw Item 3 of the NOPV and the Proposed Compliance Order without the need for a Hearing. In the alternative, the Partnership respectfully requests a Hearing at which we can present our arguments in accordance with 49 C.F.R. §190.211.



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USDP Response to other Items in NOPV

NOPV Item 1

§195.266 Construction records.

A complete record that shows the following must be maintained by the operator involved for the life of each pipeline facility:

(a) The total number of girth welds and the number nondestructively tested, including the number rejected and the disposition of each rejected weld.

PHMSA Allegation: During construction of this pipeline USD Partners LP opted to conduct 100% nondestructive testing of all girth welds. USD Partners LP failed to produce a signed result sheet during the inspection showing a repair for weld number MLX 5 rejected by the operator's weld inspector.

On April 28, 2016 USD Partners LP provided via email a report showing weld number MLX5 repair x-ray was inspected by a level II technician on April 22, 2016.

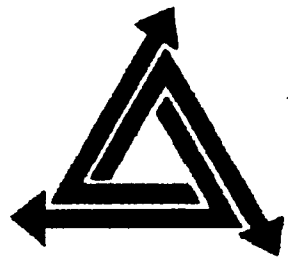
USDP Response: USDP does not dispute PHMSA's finding that at the time of the 2016 inspection, the repair record for Weld Number MLX 5 could not be located at the site. As noted in the NOPV, USDP provided a repair record for weld number MLX 5 to PHMSA on April 28, 2016. USDP also notes that it was not the owner of the facility at the time the decision was made to conduct 100% nondestructive testing of all girth welds.

NOPV Item 2

2. §195.436 Security of facilities.

Each operator shall provide protection for each pumping station and breakout tank area and other exposed facility (such as scraper traps) from vandalism and unauthorized entry.

PHMSA Allegation: USD Partners LP failed to provide protection for each pumping station, breakout tank area, and other exposed facility from vandalism and unauthorized entry pursuant to 49 C.F.R. §195.436. At the time of the inspection, it was discovered that the Casper terminal facility did not have a fence or other protection around its pumping stations and other exposed facilities. Therefore, by failing to erect a fence or other protection around the Casper terminal and ensure its pumping stations and other exposed facilities are protected from vandalism and unauthorized entry, USD Partners LP violated 49 C.F.R. §195.436.



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USDP Response: USDP respectfully submits that at the time of the April 2016 inspection, there was a security plan in operation at the CCR Pipeline which included 24-hour video surveillance and periodic physical inspections in compliance with 49 C.F.R. §195.436. However, USDP does not dispute that at the time of the inspection the previously scheduled installation of fencing around the entire facility had not been completed. Construction of the fencing commenced in May 2016 and was completed in July 2016.

Conclusion

USDP appreciates your consideration of our Response to Notice of Probable Violation and Proposed Compliance Order. USDP is fully committed to the important goals of ensuring public safety and enhancing the integrity of its pipeline system and desires to work with PHMSA toward these goals. Please feel free to contact the undersigned by telephone at (832) 991-8514 or by e-mail at kbenson@usdg.com with any questions regarding this letter.


Sincerely,

Keith Benson,
General Counsel

Appendix A

Revised Section 1.9 of O&M Manual

[See Attached]

	Liquid Pipeline Operations, Maintenance & Emergency Manual	
	SECTION 1 INTRODUCTION	
	PAGE NUMBER 1-8	LAST REVISION DATE November 9, 2016

1.9 Operating Personnel Procedure Reviews

CCR periodically reviews the work done by operator and contract personnel (including their response to abnormal operating conditions, safety-related conditions, and incidents) to determine the effectiveness and adequacy of the procedures used.

CCR shall annually review O&M procedures being used by operating personnel to determine the effectiveness and adequacy of the procedures. The operation manager or designee shall utilize a minimum of one (1) site specific procedures and evaluate the procedure by any of the following methods:

- Performing the procedure
- Conducting a Mock Drill
- Meet in a Classroom
- Through Regulatory Pre-Audits
- Through Regulatory Audits
- Hands on Training,
- In Combination with OQ Evaluations, or
- Through other methods that prove methods to be effective.

Both Operations and Operations Manager (Designee) shall document the review using FORM 20.18 – Periodic Review of Work Performed for O&M Procedures. Modifications to the procedure shall be made as appropriate and a management of change shall be documented if changes to the procedure were made.”

Appendix B

New Form 20.18

[See Attached]

Form 20.18

Periodic Review of Work Performed for O&M Procedures

Operator	Casper Crude to Rail LLC
System Name	24" Casper Crude to Rail

Requirement: 195.402(c)(13) - Periodically reviewing the work done by operator personnel to determine the effectiveness of the procedures used in normal operation and maintenance and taking corrective action where deficiencies are found. **195.402(d)(8)** - Periodically reviewing the response of operator personnel to determine the effectiveness of the procedures controlling abnormal operation and taking corrective action where deficiencies are found.

Periodic Review	Procedure(s) Satisfactory	Deficiency Found	O&M Procedure Reviewed
	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	

Method Utilized
(Indicate the method used for the review of work performed.)

<input type="checkbox"/> Performance in Field	<input type="checkbox"/> Mock Drill	<input type="checkbox"/> Classroom Setting
<input type="checkbox"/> Regulatory Pre-Audit	<input type="checkbox"/> Regulatory Audit	<input type="checkbox"/> Hands On Training
<input type="checkbox"/> Combined with OQ Eval.	<input type="checkbox"/> Other (Please Indicate)	

Recommended Action
(Attach Addition Supporting Documentation, As Applicable)

Operation Manager: _____ **Date:** _____

Regulatory: _____ **Date:** _____