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Via E-mail

October 14, 2022

Mr. Gregory Ochs
Director, Central Region
U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
901 Locust Street, Suite 480
Kansas City, MO 64106

**RE: Explorer Pipeline
CPF 3-2022-062-NOPV
Written Response and Request for Settlement Meeting**

Dear Mr. Ochs:

Explorer Pipeline Company (Explorer or the Company) is in receipt of the September 14, 2022, Notice of Probable Violation (NOPV) and Proposed Compliance Order (PCO) issued by the Pipeline and Hazardous Materials Safety Administration (PHMSA). The NOPV alleges two (2) violations of the federal pipeline safety regulations at Part 195 and seeks to impose two (2) PCO requirements. As provided more fully below, the Company is submitting this written response to contest NOPV Item 1 and to request a settlement conference to discuss the issues raised by Item 1. Subject to the clarifying information provided in this response, the Company is not contesting NOPV Item 2.

The Company is committed to safely and responsibly operating its systems, including its breakout tanks and related facilities, in accordance with the federal pipeline safety regulations. As such, Explorer believes that it has properly complied with the requirements at issue in NOPV Item 1 related to construction of impoundments around breakout tanks and requests that PHMSA withdraw this allegation and the associated PCO requirement. In the spirit of cooperation, however, the Company is – without admission – in the process of determining the best solution to address relocating valves located within dike impoundments. Additionally, to address NOPV Item 2 and the related PCO item, the Company has already verified that piping identified within the NOPV has been coated and is working to revise its procedures to better address air to soil interfaces.

In addition to this response, the Company is requesting an informal settlement conference to discuss NOPV Item 1.

I. NOPV Item 1: 49 C.F.R. § 195.264 (PCO Requirement)

A. PHMSA NOPV Allegation

§195.264 Impoundment, protection against entry, normal/emergency venting or pressure/vacuum relief for aboveground breakout tanks.

(a) ...

(b) After October 2, 2000, compliance with paragraph (a) of this section requires the following for the aboveground breakout tanks specified:

(1) For tanks built to API Spec 12F, API Std 620, and others (such as API Std 650 (or its predecessor Standard 12C)), the installation of impoundment must be in accordance with the following sections of NFPA-30 (incorporated by reference, see § 195.3);

(i) Impoundment around a breakout tank must be installed in accordance with section 22.11.2; and

Explorer failed to install impoundment around breakout tanks in accordance with Section 22.11.2 of NFPA. NFPA 30 Section 22.11.2.7.1 states that “control of drainage shall be accessible under fire conditions from outside the dike.” In the diked area with tanks 423, 424 and 433 at the Wood River tank facility, the dike drainage valves was placed within the diked area rather than having it accessible from outside the diked area. These tanks were constructed in 2003 and construction was required to following NFPA 30, per 195.264(b)(1)(i).

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B. Explorer Response

Explorer contests NOPV Item 1 and requests that PHMSA withdraw the allegation and the associated PCO item. Tanks 423, 424, and 433 were placed into service at Explorer's Wood River Tank Farm in 2003 and, as a result, the related tank impoundments were required to be constructed in accordance with Section 2-3.4.3 and 2-3.4.2 of the 1996 edition¹ of NFPA 30, which provides:

Where provision is made for draining water from diked areas, such drains shall be controlled in a manner so as to prevent flammable and combustible liquids from entering natural water courses, public sewers, or public drains, if the presence would constitute a hazard. Control of drainage shall be accessible under fire conditions from outside the dike.

As indicated on PHMSA's Exhibit B-H, Dike Drain Plan, the dike drain valves referenced in the NOPV are not the valves that would be used to "prevent flammable and combustible liquids from entering natural water courses, public sewers, or public drains." In the event of a fire condition, the dikes relevant to Tanks 423, 424 and 433 would drain into another dike, which can be controlled by a valve that is accessible outside of the dike and in the event of a fire condition. This valve, marked as the "Exterior Tank Dike Valve" on the exhibit, is the valve that would be used to prevent flammable combustible liquids from entering natural water courses, public sewers or public drains. As a result, and consistent with the regulatory requirements at 49 C.F.R. 195.264, the impoundments for Tanks 423, 424 and 433 were properly constructed in accordance with NFPA 30.

Given its compliance with the regulatory requirements, Explorer is requesting that NOPV Item 1 and the associated PCO be withdrawn. In the spirit of cooperation and without admission, Explorer is currently working with a third-party engineering firm to determine the best solution to address relocating the tank dike drain valves. Additionally, the Company is amending its procedures to further clarify tank dike valve location requirements per NFPA 30.

¹ The NOPV references Section 22.11.2.7.1 of the 2012 edition of NFPA 30, which was incorporated into the federal pipeline safety regulations on January 5, 2015. Final Rule, *Pipeline Safety: Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Amendments*, 80 Fed. Reg. 168, 171 (Jan. 5, 2015). Given that the tanks at issue were placed into service in 2003, the impoundments of those tanks were required to be constructed pursuant to the requirements of the 1996 edition of NFPA 30. Final Rule, *Pipeline Safety: Adoption of Consensus Standards for Breakout Tanks*, 64 Fed. Reg. 15926, 15935 (Apr. 2, 1999).

II. NOPV Item 2: 49 C.F.R. § 195.581 (PCO Requirement)

A. PHMSA NOPV Allegations

§195.581 Which pipelines must I protect against atmospheric corrosion and what coating material may I use?

(a) You must clean and coat each pipeline or portion of pipeline that is exposed to the atmosphere, except pipelines under paragraph (c) of this section.

Explorer failed to provide protection against atmospheric corrosion as required by 195.581. During the field inspections it was noted by PHMSA that the pipe-to-soil transitions in several locations had dis-bonded and flaking paint along with bare steel. In two locations, it appeared pipe was installed uncoated. At the Port Neches Station, a portion of the mainline prover relief piping was uncoated. Additionally, at the Wood River Terminal the drain valve piping to the sump was uncoated. These observations show that Explorer failed to provide protection against the atmospheric corrosion on its pipeline.

B. Explorer Response

Explorer is not contesting the alleged violation but offers additional information for clarification purposes. As required by the Company's Atmospheric Corrosion Control procedure, Explorer assets are coated and the Company conducts atmospheric inspections of assets every 3 years, not to exceed 39 months as required under 49 C.F.R. §§ 195.581; 195.583. As indicated during the inspection, Explorer's procedures use a 4-point grading system for determining when mitigation measures to address atmospheric corrosion are necessary prior to the next regularly scheduled inspection.

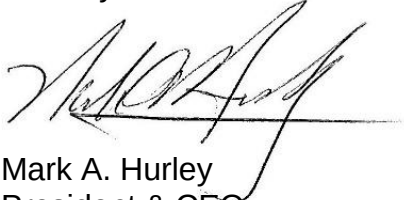
As it relates to the Port Neches Station, the entire station was sandblasted and repainted in March 2021 prior to PHMSA's inspection of the facility. The valve identified by PHMSA's inspector was uncoated at the time of PHMSA's inspection of the facility in July 2021. The Company had plans to coat the valve at the time of the inspection and did so in May 2022, prior to issuance of the NOPV.

As required by the PCO item associated with NOPV Item 2, the piping referenced in the NOPV at the Port Neches and Wood River Stations has been coated and Explorer's Cathodic Protection (CP) Department has been working to actively address pending air to soil transitions. To provide additional clarity within its procedures and processes, the Company is amending its Atmospheric Corrosion Control procedure and the related 4-point grading to ensure that all air to soil interfaces are appropriately coated.

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Please do not hesitate to contact me or Kevin Brown at kbrown@expl.com (918) 493-5104 if you have any questions or would like to discuss this response letter.

Thank you,

A handwritten signature in black ink, appearing to read 'Mark A. Hurley', written over a horizontal line.

Mark A. Hurley
President & CEO

cc: Celeste Johnson, Explorer Pipeline Co, VP/General Counsel
Lauren Sanders, Explorer Pipeline Co., VP HSSE
Kevin Brown, Explorer Pipeline Co., Mgr. DOT & Regulatory Compliance