



July 7, 2023

VIA ELECTRONIC MAIL

Gregory A. Ochs
Director, Central Region
U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
901 Locust Street, Suite 462
Kansas City, Missouri 64106-2641
Gregory.Ochs@dot.gov

Re: Notice of Probable Violation, Proposed Civil Penalty and Proposed Compliance Order (“Notice”) CPF 3-2023-008-NOPV

Dear Mr. Ochs:

This letter responds to the above-referenced Notice issued on June 2, 2023, in connection with the inspection conducted at Coffeyville Resources Crude Transportation, LLC’s (CRCT) Hazardous Liquids Crude Pipeline System in Oklahoma and Kansas from August 23, 2021 to October 4, 2021. Documents referenced in CRCT’s response can be downloaded through the link that was provided in the email. The documents have been placed in folders corresponding to the items in the Notice.

Pursuant to 49 CFR § 190.208, CRCT is not contesting the allegations but is providing a written explanation, information, and other materials CRCT believes warrant mitigation or elimination of the proposed civil penalty. Following PHMSA’s review of the additional information contained in this response, CRCT requests an opportunity to further discuss these matters and CRCT’s response. On June 7, 2023, PHMSA granted CRCT’s request for an extension of time to respond to the Notice, giving CRCT until July 7, 2023 to respond. CRCT appreciates the additional time to respond. CRCT also appreciates PHMSA providing its case file.

It is CRCT’s position that the preliminary penalties assessed by PHMSA for the alleged violations are either not warranted or did not take into consideration all of the factors under 49 CFR § 190.225. Please consider the following.

Notice of Probable Violation

Below are CRCT's responses to each of the items identified in the Notice:

1. § 195.412 Inspection of rights-of-way and crossings under navigable waters.

(a) Each Operator shall, at intervals not exceeding 3 weeks, but at least 26 times each calendar year, inspect the surface conditions on or adjacent to each pipeline right-of-way. Methods of inspection include walking, driving, flying or other appropriate means of traversing the right-of-way.

CRCT Response:

In its Proposed Civil Penalty Worksheet, PHMSA assessed a total civil penalty of \$24,200 for Item 1. It is CRCT's position that a civil penalty is not warranted or should be substantially reduced for this Item.

CRCT completed the required inspections of the right-of-way of the Hooser-Broome 8" pipeline segment west of the Bee Creek Valve. Documents demonstrating the completed inspections between September 2020 through August 2021 are included in Folder 1.

Prior to PHMSA's inspection, CRCT recognized that the tree cover over this section of the right-of-way potentially interfered with aerial inspections. The tree cover in this section of the right-of-way had been scheduled to be addressed **before** PHMSA's inspection as part of CRCT's annual right-of-way program. The work was performed on October 22, 2021, **shortly after** the inspection had concluded. Photographs showing the improved right-of-way are included in Folder 1. These photographs were taken on October 22, 2021.

In assessing civil penalties, PHMSA must consider "the degree of the respondent's culpability." *See* 49 CFR § 190.225. CRCT's good faith and documented actions to address any potential non-compliance prior to PHMSA's inspection should be taken into consideration. As noted by PHMSA in its Proposed Civil Penalty Worksheet, there was no reported accident or incident and the Gravity factor was assessed at "1." Under the Culpability factor, CRCT should receive an adjustment of "-12" which would result in a zero penalty for this Item. PHMSA should withdraw this Item from the Notice and issue as a Warning pursuant to 49 CFR § 190.205.

Without admission of liability, CRCT will agree to the terms of the Proposed Compliance Order but notes that all of the work has been completed. Please see the response below to Proposed Compliance Order and referenced attachments.

2. § 195.573 What must I do to monitor external corrosion?

(a) Protected pipelines. You must do the following to determine whether cathodic protection required by this subpart complies with § 195.571:

(1) Conduct tests on the protected pipeline at least once each calendar year, but with intervals not exceeding 15 months. However, if tests at those intervals are impractical for separately protected short sections of bare or ineffectively coated pipelines, testing may be done at least once every 3 calendar years, but with intervals not exceeding 39 months.

CRCT Response:

CRCT acknowledges that PHMSA issued a Warning in CPF #320195021 related to the Shidler pipeline segment cathodic protection test surveys completed on February 28, 2018 and June 17, 2019.

Pursuant to 49 CFR § 190.205, PHMSA does not adjudicate warnings to determine whether a probable violation occurred and PHMSA has not alleged a repeat violation. Because a Warning under 49 CFR § 190.205 provides the operator an opportunity to correct the probable violation and CRCT corrected the probable violation, it is not appropriate for PHMSA to now assess a civil penalty for those surveys.

Following the Warning, CRCT implemented measures to ensure that the cathodic protection surveys would be timely completed consistent with the requirements under 49 CFR § 195.573. In 2020, CRCT completed the cathodic protection test survey for the Shidler pipeline segment on February 17, 2020, within the interval allowed under 49 CFR § 195.573. Given the Covid-19 pandemic, CRCT was not able to timely complete the 2021 survey due to personnel and resource constraints. The 2021 annual survey was completed on July 2, 2021. Since that time, CRCT timely completed the annual surveys (April 2022 and April 2023). The 2022 and 2023 annual surveys for the Shidler pipeline segment are included in Folder 2.

PHMSA's March 20, 2020 Stay of Enforcement and Notice of Enforcement Discretion to Operators Affected by the Coronavirus (COVID-19) Outbreak recognized that there could be compliance challenges caused by the outbreak. PHMSA should take into consideration the compliance challenges caused by the Covid-19 pandemic and withdraw this Item from the Notice.

3. § 195.573 What must I do to monitor external corrosion?

(a)

(e) **Corrective action. You must correct any identified deficiency in corrosion control as required by § 195.401(b). However, if the deficiency involves a pipeline in an integrity management program under § 195.452, you must correct the deficiency as required by § 195.452(h).**

CRCT Response:

At the time of PHMSA’s inspection, Tank 270 at Hooser station was out of service and planned for demolition and removal. The tank was demolished and removed when contractors were available in our area. Images demonstrating the tank has been removed are included in Folder 3.

Since CRCT’s 2020 inspection, CRCT has taken reasonable steps to meet the cathodic protection requirements under 49 CFR § 195.571. Reference cells were installed under all three tanks in 2021 to verify the cathodic protection readings. Following the installation of the reference cells and a depolarization survey, all but one of the subsequent readings from the bottom of the tanks demonstrated that the cathodic protection on the tanks were within regulatory criteria. The prior corrosion readings which PHMSA reviewed, and which form the basis of the violation may not be accurate. The subsequent corrosion readings from 2021 are included in Folder 3. Following these results, CRCT evaluated additional actions including installing new ground beds and rectifiers to improve cathodic protection. This work is scheduled to be completed by August 31, 2023. Estimates for the scheduled work are included in Folder 3.

In its Proposed Civil Penalty Worksheet, PHMSA assessed 25 points for a repeat offense for this Item. Given the additional readings which demonstrate compliance and the good faith actions taken by CRCT to meet the cathodic protection requirements, the assessment of 25 points as a “repeat offense” is not warranted or appropriate. At most, the total civil penalty should be \$24,206 for this Item.

Without admission of liability, CRCT will agree to the terms of the Proposed Compliance Order. Please see the response below to Proposed Compliance Order and referenced attachments.

4. § 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.

CRCT Response:

Pursuant to 49 CFR § 195.583, CRCT completes the atmospheric corrosion inspections once every three years. Any deficiencies noted in the inspection are reviewed internally and addressed prior to the next inspection. Between CRCT's 2019 and 2022 inspections, the observations that PHMSA identified during its 2021 inspection were all promptly repaired prior to receipt of the Notice. Photographs showing the repairs completed in 2021 and 2022 are included in Folder 4. CRCT acknowledges that the inspection reports for 2016 identify potential conditions on the Kelley to Barnsdall segment but CRCT has not located documentation showing that the potential conditions were verified or that no actions were taken to address the observed conditions.

In assessing civil penalties, PHMSA must consider "any good faith by the respondent in attempting to achieve compliance." *See* 49 CFR § 190.225. CRCT's good faith and documented actions to address the portions of the exposed pipeline segments should be taken into consideration. CRCT should receive an adjustment under the Good Faith factor and the penalty for this Item adjusted accordingly.

Without admission of liability, CRCT will agree to the terms of the Proposed Compliance Order but notes that all of the work has been completed. Please see the response below to Proposed Compliance Order and referenced attachments.

5. § 195.589 What corrosion control information do I have to maintain?

(a)

(c) You must maintain a record of each analysis, check, demonstration, examination, inspection, investigation, review, survey, and test required by this subpart in sufficient detail to demonstrate the adequacy of corrosion control measures or that corrosion requiring control measures does not exist. You must retain these records for at least 5 years, except that records relating to §§ 195.569, 195.573(a) and (b), and 195.579(b)(3) and (c) must be retained for as long as the pipeline remains in service.

CRCT Response:

CRCT has addressed the issue of record retention and now houses all inspection records in a repository with backup redundancy to ensure security of files. Any alleged deficiency with the records retention requirements was inadvertent and unintended. Given the nature of this alleged violation, PHMSA should withdraw this Item from the Notice and issue as a Warning pursuant to 49 CFR § 190.205.

Proposed Compliance Order

As discussed above, CRCT has already completed many of the requirements in the Proposed Compliance Order as follows:

- A. In regard to Item 1 of the Notice pertaining to CRCT failing to satisfy the requirements of § 195.412(a) by not using an appropriate method for inspection of the pipeline right-of-way in the area of Bee Creek Valve, CRCT must clear the right-of-way of tree cover for effective aerial patrolling or establish alternate effective patrols for this location if clearing will not be conducted. Within 180 days of the issuance of the Final Order: Provide to the Director, Central Region, a plan and schedule to complete the identified right-of-way clearing and records of completed patrols.

CRCT Response:

CRCT has addressed the tree cover for effective aerial patrolling of the right-of-way. Photographs showing the improved right-of-way and records of completed patrols can be found in Folder 1. As the work has been completed, this item should be removed from the Final Order.

- B. In regard to Item 3 of the Notice pertaining to CRCT failing to correct identified deficiencies in its corrosion control as required by § 195.401(b), CRCT must provide to the Director, Central Region, records demonstrating cathodic protection for its four noted steel breakout tanks meet the minimum protection criteria of NACE SP 0169 as required by § 195.571 within 180 days of receipt of the Final Order.

CRCT Response:

CRCT has permanently removed from service and demolished Tank 270 at Hooser station. Documents demonstrating the tank has been removed are included in Folder 3. Estimates associated with the actions proposed by CRCT to meet the cathodic protection requirements are included in Folder 3. CRCT will provide additional documentation in a follow-up response within 180 days of receipt of the Final Order.

- C. In regard to Item 4 of the Notice pertaining to CRCT failing to provide protection against atmospheric corrosion by cleaning and coating each pipeline or portion of pipeline that is exposed to the atmosphere, CRCT must provide to the Director, Central Region, evidence of repairs made to the severely degraded and dis-bonded coating on its pipeline located at the Hooser to Broome 8" line at Bee Creek Valve and Kelley to Barnsdall 8" line at exposures #78, #51, #48, #27 and #4 within 180 days of receipt of the Final Order.

CRCT Response:

CRCT has completed repairs at each of the above cited locations. Photographs showing the completed repairs can be found in Folder 4. As the work has been completed, this item should be removed from the Final Order.



- D. It is requested that CRCT maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Gregory A. Ochs, Director, Central Region, Pipeline and Hazardous Materials Safety Administration. 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.

CRCT Response:

CRCT will provide PHMSA with invoices for the right-of-way improvements and cathodic protection upgrades for the three steel breakout tanks that are identified above and remain in service once the work is completed and an invoice is received. CRCT is unable to report the costs associated with Item 4, because the work was performed internally by CRCT staff.

Because CRCT did not prepare or revise plans, procedures, studies or analyses in connection with this Notice, CRCT does not believe it has any information that is responsive to D.1).

CRCT is committed to full compliance with the requirements of PHMSA and appreciates your consideration of this additional information. CRCT respectfully requests that PHMSA take this response into consideration and reevaluate the preliminarily assessed civil penalty. We would appreciate an opportunity to discuss the Notice and this response before PHMSA issues a final order.

Please contact Blake Record at 405-250-0910 or via email at BRecord@CVREnergy.com if you have any questions or cannot access or open the documents.

Sincerely,

A handwritten signature in cursive script that reads "Keith Kuehn".

Keith Kuehn
VP-Crude Transportation
Coffeyville Resources Crude Transportation, LLC
KaKuehn@CVREnergy.com

cc: Janice T. DeVelasco, P.E. (via electronic mail)
Mr. Blake Record (via electronic mail)