

January 22, 2024

VIA ELECTRONIC MAIL TO: Pierce.Norton@oneok.com

Pierce H. Norton II
President and Chief Executive Officer
ONEOK, Inc.
100 West Fifth Street
Tulsa, Oklahoma 74103

CPF No. 3-2023-022-NOPV

Dear Mr. Norton:

Enclosed please find a Consent Order incorporating the terms of the Consent Agreement between the Pipeline and Hazardous Materials Safety Administration (PHMSA) and Magellan Midstream Partners, LP which was executed on January 16, 2024. Service of the Consent Order and Consent Agreement by electronic mail is deemed effective upon the date of transmission and acknowledgement of receipt, or as otherwise 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

Enclosures: Consent Order and Consent Agreement

cc: Mr. Gregory A. Ochs, Director, Central Region, Office of Pipeline Safety, PHMSA
Mr. Danny Scroggins, Senior Attorney, ONEOK, Danny.Scroggins@oneok.com
Mr. Mark Materna, Director, Pipeline Integrity, ONEOK, Mark.Materna@oneok.com

CONFIRMATION OF RECEIPT REQUESTED

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

_____)	
In the Matter of)	
)	
MAGELLAN MIDSTREAM)	
PARTNERS, LP,)	CPF No. 3-2023-022-NOPV
)	
Respondent.)	
_____)	

CONSENT ORDER

By letter dated August 24, 2023, the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), issued a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice) to Magellan Midstream Partners, LP (Magellan or Respondent). On September 25, 2023, Magellan was acquired by ONEOK, Inc.

In response to the Notice, Respondent contested the allegation of violation, proposed civil penalty, and proposed compliance order term for Item 5, and the proposed civil penalty for Item 6. Magellan requested a hearing and the opportunity to meet informally with PHMSA to discuss Items 5 and 6 in the Notice. Respondent and PHMSA (the Parties) subsequently met to discuss the issues raised in the Response. As a result of those discussions, as explained in more detail below, the Parties have agreed to a Consent Agreement by which PHMSA makes findings of violation for Items 1, 2, 4, and 6, assesses a reduced civil penalty of **\$150,700**, withdraws Item 5, and sets out certain corrective actions that Magellan will complete.

Accordingly, the Consent Agreement is hereby approved and incorporated by reference into this Consent Order. Magellan is hereby ordered to comply with the terms of the Consent Agreement pursuant to its terms. Pursuant to 49 U.S.C. § 60101, *et seq.*, failure to comply with this Consent Order may result in the assessment of civil penalties as set forth in 49 U.S.C. § 60122 and 49 C.F.R. § 190.223, or in referral to the Attorney General for appropriate relief in a district court of the United States.

The terms and conditions of this Consent Order are effective upon service in accordance with 49 C.F.R. § 190.5.

January 22, 2024

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued

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

_____)
In the Matter of)

**MAGELLAN MIDSTREAM
PARTNERS, LP,**)

Respondent.)
_____)

CPF No. 3-2023-022-NOPV

CONSENT AGREEMENT

From February 7, 2022 through October 14, 2022, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code (U.S.C.), conducted an on-site inspection of Magellan Midstream Partners LP's (Magellan or Respondent) Central, North, and Razorback system records and facilities in Arkansas, Illinois, Kansas, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, and Wisconsin. As of September 25, 2023, Magellan was acquired by ONEOK, Inc.

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated August 24, 2023, a Notice of Probable Violation, Proposed Compliance Order, and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Magellan committed violations of six provisions of 49 C.F.R. part 195, proposed ordering Respondent to take certain measures to correct the alleged violations, and proposed a civil penalty of \$219,500. Item 3 was brought as a warning, advising the operator to correct the probable violation or face potential future enforcement action.

Magellan responded to the Notice by letter dated September 22, 2023 (Response). The company contested the violation, the proposed civil penalty, and the proposed compliance order for Item 5, and the proposed civil penalty for Item 6. Magellan requested an informal meeting with PHMSA to discuss both Items 5 and 6 and requested a hearing on these Items.

PHMSA and Respondent (the Parties) subsequently met to discuss the issues raised in the Response. As a result of those discussions and as explained in more detail below, the Parties have agreed to a Consent Agreement by which PHMSA makes findings of violations for Items 1, 2, 4, and 6, assesses a reduced civil penalty of **\$150,700**, withdraws Item 5, and sets out certain corrective actions that Magellan will complete.

Having agreed that settlement of this proceeding will avoid further administrative proceedings or litigation and will serve the public interest by promoting safety and protection of the environment, pursuant to 49 U.S.C. § 60101, *et seq.* and 49 C.F.R. Part 190, and upon consent and agreement, the Parties hereby agree as follows:

I. General Provisions

1. Respondent acknowledges that as the operator of the pipeline facilities subject to the Notice, Respondent and its referenced pipeline facilities are subject to the jurisdiction of the Federal pipeline safety laws, 49 U.S.C. § 60101, *et seq.*, and the regulations and administrative orders issued thereunder. For purposes of this Consent Agreement (Agreement), Respondent acknowledges that it received proper notice of PHMSA's action in this proceeding and that the Notice states claims upon which relief may be granted pursuant to 49 U.S.C. § 60101, *et seq.*, and the regulations and orders issued thereunder.

2. After Respondent returns this signed Agreement to PHMSA, the Agency's representative will present it to the Associate Administrator for Pipeline Safety, recommending that the Associate Administrator adopt the terms of this Agreement by issuing an administrative order (Consent Order) incorporating the terms of this Agreement. The terms of this Agreement constitute an offer of settlement until accepted by the Associate Administrator. Once accepted, the Associate Administrator will issue a Consent Order incorporating the terms of this Agreement.

3. Respondent consents to the issuance of the Consent Order, and hereby waives any further procedural requirements with respect to its issuance. Respondent waives all rights to contest the adequacy of notice, or the validity of the Consent Order or this Agreement, including all rights to administrative or judicial hearings or appeals, except for the Dispute Resolution provisions set forth herein. Respondent agrees to withdraw its request for an administrative hearing regarding the Notice.

4. This Agreement shall apply to and be binding upon PHMSA and Respondent, its officers, directors, and employees, and its successors, assigns, or other entities or persons otherwise bound by law. Respondent agrees to provide a copy of this Agreement and any incorporated work plans and schedules to all of Respondent's officers, employees, and agents whose duties might reasonably include compliance with this Agreement.

5. This Agreement constitutes the final, complete, and exclusive agreement and understanding between the Parties with respect to the settlement embodied in this Agreement. The Parties acknowledge that there are no representations, agreements or understandings relating to settlement other than those expressly contained in this Agreement, except that the terms of this Agreement may be construed by reference to the Notice.

6. Nothing in this Agreement affects or relieves Respondent of its responsibility to comply with all applicable requirements of the Federal pipeline safety laws, 49 U.S.C. § 60101, *et seq.*, and the regulations and orders issued thereunder. Nothing in this Agreement alters PHMSA's right of access, entry, inspection, and information gathering or PHMSA's authority to bring

enforcement actions against Respondent pursuant to the Federal pipeline safety laws, the regulations and orders issued thereunder, or any other provision of Federal or State law.

7. For all transfers of ownership or operating responsibility of Respondent's pipeline system referenced herein, Respondent will provide a copy of this Agreement to the prospective transferee at least 30 days prior to such transfer. Respondent will provide written notice of the transfer to the Director no later than 60 days after the transfer occurs.

8. This Agreement does not waive or modify any Federal, State, or local laws or regulations that are applicable to Respondent's pipeline systems. This Agreement is not a permit, or a modification of any permit, under any Federal, State, or local laws or regulations. Respondent remains responsible for achieving and maintaining compliance with all applicable Federal, State, and local laws, regulations and permits.

9. This Agreement does not create rights in, or grant any cause of action to, any third party not party to this Agreement. The U.S. Department of Transportation is not liable for any injuries or damages to persons or property arising from acts or omissions of Respondent or its officers, employees, or agents carrying out the work required by this Agreement. Respondent agrees to hold harmless the U.S. Department of Transportation, its officers, employees, agents, and representatives from any and all causes of action arising from any acts or omissions of Respondent or its contractors in carrying out any work required by this Agreement.

10. Except as set forth herein, this Agreement does not constitute a finding of violation of any other federal law or regulation and may not be used in any civil proceeding of any kind as evidence or proof of any fact, fault, or liability, or as evidence of a violation of any law, rule, regulation, or requirement, except in a proceeding to enforce the provisions of this Agreement or in future PHMSA enforcement actions.

II. Findings of Violation:

11. ***Item 1- 49 C.F.R. § 195.264(b)(1)(i)***: The Notice alleged that Magellan failed to satisfy the requirements of Section 22.11.2 of NFPA-30 (2012 ed.) regarding impoundment around breakout tanks. Specifically, the Notice alleged that PHMSA's field inspection of Magellan tanks 1516, 1517, 1521, and 3502 at the Kansas City East Tank Farm in Kansas City, Kansas, found that Magellan failed to subdivide the tanks, and failed to have drainage channels or intermediate dikes installed in accordance with the referenced standard and the regulation. Respondent does not contest the allegation of violation as alleged in the Notice. As such, PHMSA finds a violation of 49 C.F.R. § 195.264(b)(1)(i).

12. ***Item 2- 49 C.F.R. § 195.402(a)***: The Notice alleged that Magellan failed to follow procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. Specifically, the Notice alleged that Magellan failed to take corrective action where deficiencies were found during abnormal operations. Respondent does not contest the allegation of violation as alleged in the Notice. As such, PHMSA finds a violation of 49 C.F.R. § 195.402(a).

13. *Item 4- 49 C.F.R. § 195.404(c)(3)*: The Notice alleged that Magellan failed to maintain a record of each inspection and test required for at least two years or until the next inspection or test is performed. Specifically, the Notice alleged that Magellan failed to maintain eight records for Tank 408 in Nebraska City, Nebraska, from April of 2021 and January through July of 2022. Respondent does not contest the allegation of violation as alleged in the Notice. As such, PHMSA finds a violation of 49 C.F.R. § 195.404(c)(3).

14. *Item 6- 49 C.F.R. § 195.428(a)*: The Notice alleged that Magellan failed to inspect and test two devices at its Roland, Iowa facility for calendar year 2020. Specifically, the Notice alleged that during the field inspection and records review of Roland, Iowa, facility, PHMSA found that two devices, thermal relief MLBV 64 and thermal relief MLBV 65, were not inspected and tested. Respondent does not contest the allegation of violation as alleged in the Notice. As such, PHMSA finds a violation of 49 C.F.R. § 195.428(a).

15. Items 1, 2, 4 and 6, will be considered by PHMSA as prior offenses in any future PHMSA enforcement action taken against Respondent for the five (5)-year period following the *Effective Date* of this Agreement.

III. Warning Item:

16. *Item 3- 49 C.F.R. § 195.402(a)*: The Notice alleged that Magellan failed to follow procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. Specifically, the Notice alleged that during the field inspection and records review at Fargo, North Dakota, PHMSA found that five devices were not properly documented as required by the procedure. This Item was brought as a Warning Item and does not constitute a finding of violation. Respondent accepts the warning as alleged in the Notice.

17. For Warning Item 3, if OPS finds a violation of these provisions in a subsequent inspection, Respondent may be subject to future enforcement action.

IV. Items Withdrawn:

18. *Item 5- 49 C.F.R. § 195.412(a)*: With respect to Item 5 of the Notice, the Parties agree that this Item should be withdrawn in its entirety following review of Magellan's Response, which included Magellan's 7.05-ADM-006 Inspection of Right-of-Way Procedure and 2022 seasonal Ground Patrol records. These documents show that Respondent was not out of compliance with the regulation. Because this Item will be withdrawn, it will not constitute a finding of violation for any purpose, and no further action by Respondent is necessary to achieve compliance. As such, the allegation of violation for Item 5, the proposed civil penalty associated with this Item, and the proposed compliance order associated with this Item are withdrawn.

V. Civil Penalty:

19. *Item 4*: The Notice proposed assessing a civil penalty in the amount of \$65,100. Respondent did not contest the proposed civil penalty for this Item. As such, Respondent shall pay a civil penalty in the amount of **\$65,100** for Item 4.

20. **Item 5:** The Notice proposed assessing a civil penalty in the amount of \$68,800 for Item 5. Respondent contested the proposed civil penalty for this Item. Following discussions with Respondent, PHMSA determined that Magellan was not out of compliance with the regulation and this proposed civil penalty was withdrawn.

21. **Item 6:** The Notice proposed assessing a civil penalty in the amount of \$85,600 for Item 6. Following discussion with PHMSA, Respondent agrees to pay a civil penalty in the amount of **\$85,600** for the violation in Item 6.

22. In total, based on Paragraphs 19-21, Respondent shall pay an adjusted civil penalty in the amount of **\$150,700**, pursuant to the payment instructions at 49 C.F.R. § 190.227(a), to be paid in full no later than 20 days from the **Effective Date** of this Agreement.

VI. Compliance Order:

23. **Item 1:** The Notice proposed certain compliance order actions to address the non-compliance alleged in the Notice. Respondent did not contest the Proposed Compliance Order. As such, Respondent agrees to perform the following corrective measures:

- A. In regard to Item 1 of the Notice pertaining to Magellan's failure to satisfy the requirements of Section 22.11.2 of NFPA-30 (2012 edition) regarding the impoundment around breakout tanks, Magellan must:
 - (i) Subdivide the tanks preferably by drainage channels or at least by intermediate dikes, in accordance with NFPA 30 at the Kansas City East Terminal within twelve (12) months of receipt of the Consent Order.
 - (ii) Submit to the Director, Central Region, evidence of remediated locations to demonstrate compliance with NFPA 30.

24. **Item 2:** The Notice proposed certain compliance order actions to address the non-compliance alleged in the Notice. Respondent did not contest the Proposed Compliance Order. As such, Respondent agrees to perform the following corrective measures:

- B. In regard to Item 2 of the Notice pertaining to Magellan's failure to take corrective action on two documented abnormal operations (AO), Magellan must amend its procedures to incorporate timeframe requirements for the review, corrective action, and documentation of AOs to ensure timely corrective action is completed where deficiencies are found. The revised procedures shall be submitted to the Director, PHMSA Central Region for review and approval within 60 days of receipt of the Consent Order.
- C. It is requested that Magellan Midstream Partners, LP maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Gregory A. Ochs, Director, Central Region, OPS, 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.¹

VII. Enforcement:

25. This Agreement is subject to all enforcement authorities available to PHMSA under 49 U.S.C. § 60101, et seq., and 49 C.F.R. Part 190, including administrative civil penalties under 49 U.S.C. § 60122, of up to \$257,664 per violation for each day the violation continues and referral of the case to the Attorney General for judicial enforcement, if PHMSA determines that Respondent is not complying with the terms of this Agreement in accordance with the determinations made by the Director, or in accordance with decisions of the Associate Administrator if resolved pursuant to the Dispute Resolution process herein. The maximum civil penalty amounts are adjusted annually for inflation. See 49 C.F.R. § 190.223. All work plans and associated schedules set forth or referenced in Section VI are automatically incorporated into this Agreement and are enforceable in the same manner.

VIII. Review and Approval Process:

26. With respect to any submission under Section VI (Compliance Order) of this Agreement that requires the approval of the Director, the Director may: (a) approve, in whole or in part, the submission; (b) approve the submission on specified, reasonable conditions; (c) disapprove, in whole or in part, the submission; or (d) any combination of the foregoing. If the Director approves, approves in part, or approves with conditions, Respondent will take all actions as approved by the Director, subject to Respondent's right to invoke the dispute resolution procedures with respect to any conditions the Director identifies. If the Director disapproves all or any portion of the submission, the Director will provide Respondent a written notice of the deficiencies. Respondent will correct all deficiencies within the time specified by the Director and resubmit it for approval.

IX. Dispute Resolution:

27. The Director and Respondent will informally attempt to resolve any disputes arising under this Agreement, including any decision of the Director under the terms of Section VI, Compliance Order. If Respondent and the Director are unable to informally resolve the dispute within 15 calendar days after the dispute is first raised, in writing, to the Director, Respondent may submit a written request for a determination resolving the dispute from the Associate Administrator for Pipeline Safety, PHMSA. Such request must be made in writing and provided to the Director, counsel for the Central Region, and to the Associate Administrator for Pipeline Safety, no later than 10 calendar days from the 15-day deadline for informal resolution referenced in this paragraph. Along with its request, Respondent must provide the Associate Administrator with all information Respondent believes is relevant to the dispute. Decisions of the Associate Administrator under this paragraph will constitute final agency action. The existence of a dispute and PHMSA's consideration of matters placed in dispute will not excuse, toll, or suspend any term or timeframe for completion of any work to be performed under this Agreement during the pendency of the dispute resolution process.

¹ This Proposed Compliance Order term was originally term D in the Notice.

X. Effective Date:

28. The term “Effective Date,” as used herein, is the date on which the Consent Order is issued by the Associate Administrator, PHMSA, incorporating the terms of this Agreement.

XI. Recordkeeping and Information Disclosure:

29. Unless otherwise required in this Agreement, Respondent agrees to maintain records demonstrating compliance with all requirements of this Agreement for a period of at least five (5) years following completion of all work to be performed. For any reports, plans, or other deliverables required to be submitted to PHMSA pursuant to this Agreement, Respondent may assert a claim of business confidentiality or other protections applicable to the release of information by PHMSA, covering part or all of the information required to be submitted to PHMSA pursuant to this Agreement in accordance with 49 C.F.R. Part 7. Respondent must mark the claim of confidentiality in writing on each page and include a statement specifying the grounds for each claim of confidentiality. PHMSA determines release of any information submitted pursuant to this Agreement in accordance with 49 C.F.R. Part 7, the Freedom of Information Act, 5 U.S.C. § 552, DOT and PHMSA policies, and other applicable regulations and Executive Orders.

XII. Modification:

30. The terms of this Agreement may be modified by mutual agreement of the Parties. Such modifications must be in writing and signed by both parties.

XIII. Termination:

31. This Agreement will remain in effect until the Compliance Order in Section VI is satisfied, as determined by the Director, and payment of the Civil Penalty in Section V is made. The Agreement shall not terminate until the Director confirms, in writing, that the Agreement is terminated in accordance with this paragraph. Nothing in this Agreement prevents Respondent from completing any of the obligations earlier than the deadlines provided for in this Agreement.

XIV. Ratification:

32. The Parties’ undersigned representatives certify that they are fully authorized to enter into the terms and conditions of this Agreement and to execute and legally bind such party to this document.

33. The Parties hereby agree to all findings, conditions, and terms of this Agreement.

[Signature Lines on Following Page]

For MAGELLAN MIDSTREAM PARTNERS, LP:

Jason A. Smith, Vice President of Asset Integrity

Date

For PHMSA:

Director, Central Region, Office of Pipeline Safety

Date