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September 22, 2023

Via Electronic Mail to: Gregory.Ochs@dot.gov

Mr. Gregory A. Ochs, Director
Central Region, Pipeline and Hazardous Materials Safety Administration
901 Locust Street, Suite 480
Kansas City, MO 64106

Re: CPF 3-2023-022

Dear Mr. Ochs,

Magellan Pipeline Company, L.P. (“Magellan”) received a Notice of Probable Violation (NOPV), Proposed Civil Penalties and Proposed Compliance Order, CPF 3-2023-022, on August 24, 2023. Pursuant to 49 CFR 190.209, Magellan requested a copy of the Case File to review the basis for the allegations and a copy of the Proposed Civil Penalty Worksheet on August 29, 2023 which PHMSA provided on September 1, 2023. Magellan respectfully submits the following response in accordance with the *Response Options for Pipeline Operators in Enforcement Proceedings*.

Magellan contests the probable violation, proposed Civil Penalty and proposed Compliance Order for Item #5 as explained in this response. Magellan does not contest the basis for the remaining items, but does contest the Civil Penalty Calculation for Item #6. Magellan requests a hearing on this matter and also requests an informal settlement conference as it believes that this matter can be fully resolved prior to a hearing.

Item #5: § 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.

Magellan failed to inspect the surface conditions on or adjacent to each pipeline right-of-way (ROW) with an acceptable method.

Specifically, Magellan did not maintain the pipeline right-of-way conditions at a level that allowed for effective aerial inspection of the surface conditions on or adjacent to the ROW and did not select an alternate patrol method that would allow effective inspection based on the condition of the ROW. PHMSA’s onsite inspection discovered excessive vegetation cover over

the ROW in Grand Forks, North Dakota near 34th street and Desert Star Lane. This location had been aerially patrolled, however, no deficiencies in the ROW condition were called out by the patrol.

MAGELLAN RESPONSE:

Magellan contests Item #5, the associated Proposed Compliance Order and the Proposed Civil Penalty associated with this item. Magellan had been performing ground patrols of the area near 34th Street and Desert Star Lane prior to the 2022 inspection and has associated documentation of ground patrols of this area. Magellan aerial patrols this line year-round in addition to performing supplemental ground patrols seasonally due to tree foliage (typically June through October) from MP 177 to MP 179 (which includes the 34th Street and Desert Star Lane area). No deficiencies indicative of a potential release were identified on the ROW during these patrols. Please see Attachment #1 – Ground Patrols with the 2022 seasonal ground patrol records.

In addition to completing seasonal ground patrols for the area noted, Magellan has a procedure detailing the requirement for aerial patrol pilots to document vegetation overgrowth and deficiencies in the ROW condition. Please see Attachment #2, 7.05-ADM-006 Inspection of Right-of-Way Procedure.

Magellan requests that this Probable Violation Item #5, associated Proposed Compliance Order and associated Proposed Civil Penalty be rescinded from CPF 3-2023-022.

Item #6: § 195.428 Overpressure safety devices and overfill protection systems.

(a) Except as provided in paragraph (b) of this section, each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, or in the case of pipelines used to carry highly volatile liquids, at intervals not to exceed 7½ months, but at least twice each calendar year, inspect and test each pressure limiting device, relief valve, pressure regulator, or other item of pressure control equipment to determine that it is functioning properly, is in good mechanical condition, and is adequate from the standpoint of capacity and reliability of operation for the service in which it is used.

Magellan failed to inspect and test two devices at its Roland, Iowa facility for calendar year 2020.

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. This is a repeat violation found in CPF# 320195007 Item 2.

MAGELLAN RESPONSE:

Magellan requests that PHMSA remove the “repeat violation” factor from its penalty calculation and reduce the total in the Civil Penalty Calculation for Item #6, accordingly. The citation in CPF# 3-2019-5007, Item 2 involved CFR 195.428(c) for

missing overfill protection inspections on pressure vessels in Des Moines, Iowa, whereas Item 6 is associated with CFR 195.428(a) involving thermal relief valve inspection records on block valves in Roland, Iowa. Magellan asserts that these devices are distinct in function and operational use, and are located at distinct and different facilities.

Magellan appreciates the opportunity to respond and proactively work through the alleged violations with PHMSA in an effort to make the hearing unnecessary. 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 to discuss.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mark L. Materna".

Mark Materna
Director, Pipeline Integrity

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