SUNOCO LP

Gary Koegeboehn
Vice President – Pipeline Operations

February 21, 2024

Mr. Gregory Alan Ochs
Director, Central Region
U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
901 Locust Street, Suite 462
Kansas City, MO 64106

RE: NuStar Pipeline Operating Partnership, L.P.
Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order,
CPF 3-2024-008-NOPV
Contest of Allegation and Proposed Penalty Mitigation
Supplemental Response

Dear Mr. Ochs,

NuStar Pipeline Operating Partnership L.P. (NuStar[1] or the Company) supplements its initial written response submitted on November 22, 2024, regarding the Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice) issued by the Pipeline and Hazardous Materials Safety Administration (PHMSA or the Agency) on October 25, 2024 (Appendix 1.). On January 21, 2025, NuStar and PHMSA met for an informal consultation. This supplemental written response addresses PHMSA's requests during that meeting. Specifically, we provide more background on our proposed procedural edits and requested penalty adjustment for Item1 and Item 2. We also provide more background and context on Item 3.

NuStar contests the following: (1) the proposed compliance order (PCO) and proposed civil penalties associated with Item1 and Item 2; and (2) Item 3 in its entirety. We contest the PCO for Item 1 and Item 2 because, as written, PHMSA's expectations regarding the proposed procedural revisions are unclear. In the spirit of cooperation, but without admission, NuStar does not contest the alleged violation described in Item 1 and Item 2.

Regarding the **PCO for Item 1**, NuStar amended its procedures in response to the enforcement actions. First, per PCO A.1. and A.2., NuStar has added the applicable regulatory definitions to NuStar *Operations and Maintenance Manual,* Procedure 207 "Pipeline Safety Accident Reporting."[2] (Appendix 2.) Per PCO A.3, NuStar included the relevant factors for considering property damage to explicitly state each factor in accordance with PHMSA F 7000-1 Instructions.

Also, before the PHMSA brought the enforcement action against NuStar, the Company edited its Control Room Management Program (CRMP) procedures (Appendix 3.) in September and October 2022 in accordance with the Rupture Mitigation Rule.[3] Those edits provide the NuStar Control Room and field operations response personnel with clear procedures (Appendix 4. Procedure 202 and Appendix 5.

[1] You may be aware of Sunoco LP's recent acquisition of NuStar Energy L.P through an all-stock purchase. All NuStar operating companies, including NuStar Pipeline Operating Partnership L.P., still own and operate the same assets as before the transaction. In other words, no asset transfer or change of operational control has occurred. For the sake of clarity, this correspondence only references NuStar; however, our communications going forward will be on Sunoco letterhead and from the Sunoco.com email domain.
[2] These definitions included "Confirmed Discovery," "Accident," "Discovery," and "Significant Event."
[3] Pipeline and Hazardous Materials Safety Administration, *Pipeline Safety: Requirement of Valve Installation and Minimum Rupture Detection Standards*, 87 Fed. Reg. 20940 (Apr. 8, 2022) (hereinafter the "Rupture Mitigation Rule").

Procedure 203) on initiating emergency notification upon a detected pressure abnormality. In fact, if the pressure drop occurred today, NuStar procedures would explicitly require reporting.

Regarding the **PCO for Item 2**, in its amended Procedure 209, "Initial Estimate of Product Released from a Pipeline Facility," (Appendix 6.) NuStar now explicitly incorporates the Company's SCADA and Advanced Leak Detection (ALD) capabilities, which enable the company to calculate the time and amount of released product. Furthermore, if another calculation methodology is not usable within the applicable notification period, NuStar will use the volumes calculated within isolated segments between the nearest isolation points to calculate release volumes for the purposes of emergency notifications. In support of that effort, the Company's Engineering Group has developed an Excel workbook to facilitate timely computation. Lastly, NuStar reiterated in all applicable procedural sections product that release volumes will be reported to PHMSA in barrels or gallons.

Given the above information, NuStar respectfully requests that PHMSA accept its proposed procedural changes as satisfying the PCO for Items 1 and 2.

Regarding the **civil penalty for Item 1**, according to the Agency's "Proposed Civil Penalty Worksheet" (Appendix 7.), PHMSA calculated the associated civil penalty by imputing, among other things, a "Good Faith" penalty category of 0. Although NuStar does not contest the alleged violation, the Company contests the calculation of the proposed civil penalty and respectfully requests reconsideration of the assessed penalty category based on the information below and the provided amended procedures.

Regarding the "Good Faith" penalty category, PHMSA alleges that NuStar "did not have a reasonable justification for its non-compliance." Although NuStar does not contest the allegation of violation, the Company believes it did have a reasonable justification for its actions in response to the pressure drop. Specifically, it was unclear to NuStar that an event described in § 195.52(a) had occurred when the SCADA system first detected pressure and flow deviations.

In response to the SCADA system triggering leak alarms, the NuStar controller began to work through the Company's abnormal operating procedures to determine the cause of the pressure drop. Importantly, although the pipeline experienced a thirty percent (30%) pressure drop over an hour, the entire decrease did not occur in one sudden event. Instead, it dropped at varying rates over the course of the hour. Furthermore, given its characteristics, the NuStar staff determined that a faulty pressure gauge or other type of error could have been the cause of the detected pressure loss. Out of an abundance of caution, the Company initiated emergency procedures and isolated the applicable line segment, but decided to delay emergency notification until the Company verified that detected drop was not an error.

PHMSA regulations and guidance in place at the time of the incident did not address the level of pressure drop, or associated timeframe of a pressure drop, that would serve as constructive notice of a § 195.52(a) incident. In fact, recognizing that "there can be a significant time lag between notification of indicia of a potential rupture and verification of a rupture," PHMSA's Rupture Mitigation Rule—which was not in effect at the time of the incident—includes a pressure threshold to explicitly "provide operators with a standard to initiate rupture-mitigation measures consistently and promptly and notify emergency responders of a rupture event."[4] The same logic applies to the notification of a leak from a SCADA system due to a pressure or flow deviation and confirmation of discovery of a § 195.52(a) incident. Given this "reasonable justification" for the delayed notification, NuStar respectfully requests that this penalty factor be adjusted to -10.

Regarding the **civil penalty for Item 2**, according to the Agency's "Proposed Civil Penalty Worksheet" , PHMSA calculated the associated civil penalty by imputing, among other things, a "Good Faith" penalty category of 0. Although NuStar does not contest the allegation of violation, the Company

[4] *Rupture Mitigation Rule*, 87 FR at 20951.

respectfully requests reconsideration of the proposed civil penalty for this Item based on the information below.

PHMSA alleges that NuStar "did not have a reasonable justification for its non-compliance." NuStar readily admits that its initial reported release volume was inaccurate. Procedure 209 that was in effect at the time of the incident provided effective guidance on estimating potential release quantities. As NuStar summarized in its November 22, 2024, correspondence, the applicable version of Procedure 209 at the time of the incident accommodated multiple methodologies for calculating ammonia releases, not just those associated with visual confirmation. As referenced above, however, NuStar staff were uncertain as to whether a release had occurred and, as such, delayed completing the associated calculations until we confirmed that fact.

Regarding **Item 3**, NuStar's response letter to the NOPV dated November 22, 2024, details the basis for contesting the allegation of violation. NuStar continues to contest this Item on those grounds. In addition, during the informal consultation of January 21, 2025, NuStar verbally discussed its investigation into the incident and steps it has taken as a result of the investigation. In response, PHMSA requested that NuStar provide a written summary of its investigative actions. Below is the requested summary.

[redacted]

[redacted]

Due to this incident, NuStar plans to periodically reassess the Chatham – Hampton pipeline segment using the same methodology. [redacted]

NuStar appreciates PHMSA's cooperation and coordination regarding these issues. The Company is committed to pipeline safety and integrity. Please feel free to reach out with any questions or concerns.

Sincerely,

Gerald R Koegeboehn

Gary Koegeboehn
Vice President – Pipeline Operations

cc: Rich Pepper, Senior Director HES and Counsel
Kellie Seiter, Manager, Pipeline Safety