April 3, 2023

<u>VIA ELECTRONIC MAIL TO: gbacon@eprod.com; compliance_regulatory@eprod.com</u>

Graham Bacon
Executive Vice President and Chief Operating Officer
Enterprise Crude Pipeline, LLC
1100 Louisiana Street, Suite 1000
Houston, Texas 77002

Re: CPF No. 4-2022-001-NOPV

Dear Mr. Bacon:

Enclosed please find the Consent Order incorporating the terms of the Consent Agreement between the Pipeline and Hazardous Materials Safety Administration (PHMSA) and Enterprise Crude Pipeline, LLC, which was executed on March 30, 2023. Service of the Consent Order and Consent Agreement by electronic mail is deemed effective upon the date of transmission and acknowledgment 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. Bryan Lethcoe, Director, Southwest Region, Office of Pipeline Safety, PHMSA
Mr. Jeff Morton, Senior Director, Transportation Compliance, Enterprise Crude Pipeline, LLC, jmorton@eprod.com
Mr. Zachary L. Craft, Counsel for Enterprise Crude Pipeline, LLC, zlcraft@eprod.com

<u>CONFIRMATION OF RECEIPT REQUESTED</u>

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

In the Matter of	)	
Enterprise Crude Pipeline, LLC,	)	**CPF No. 4-2022-001-NOPV**
Respondent.	)	

CONSENT ORDER

By letter dated August 4, 2022, the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), issued a Notice of Probable Violation and Proposed Compliance Order (Notice) to Enterprise Crude Pipeline, LLC (Enterprise or Respondent).

In response to the Notice, Respondent requested a hearing on Item 1, contesting the underlying violation and the proposed compliance order. Enterprise also asked for the opportunity to meet informally with PHMSA to discuss Item 1 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 Item 1 is reduced to a warning item, and the associated compliance order is amended.

Accordingly, the Consent Agreement is hereby approved and incorporated by reference into this Consent Order. Enterprise 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.

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

April 3, 2023

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	)	
Enterprise Crude Pipeline, LLC,	)	**CPF No. 4-2022-001-NOPV**
Respondent.	)	

CONSENT AGREEMENT

On August 4, 2022, pursuant to 49 C.F.R. § 190.207, the Pipeline and Hazardous Materials Safety Administration ("PHMSA"), Office of Pipeline Safety ("OPS" or "Agency"), issued a Notice of Probable Violation and Proposed Compliance Order ("Notice") to Enterprise Crude Pipeline, LLC ("Enterprise" or "Respondent") to initiate this proceeding. The claims in the Notice relate to a release of crude oil from a 24-inch pipeline at Enterprise's Texas City Pump Station in Galveston County, Texas on April 20, 2021.

On October 17, 2022, after receiving a time extension, Enterprise responded to the Notice by timely submitting a Request for Settlement Conference and Hearing pursuant to 49 C.F.R. § 190.208(a)(4). PHMSA and Enterprise (collectively, the "Parties") conducted settlement discussions on November 28, 2022, and virtually on January 17, 2023.

As a result of the settlement discussions, the Parties 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 C.F.R. Part 190, and upon consent and agreement of Enterprise and PHMSA, the Parties hereby agree as follows:

I. General Provisions

1. Respondent acknowledges that it is the operator of the Texas City Pump Station in Galveston County, Texas that is 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 Enterprise 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" or "Order") incorporating the terms of this Agreement. The terms of this Agreement constitute an offer of settlement until a Consent Order is issued by the Associate Administrator.

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 as 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 Enterprise, 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 compliance orders and schedules to all of Enterprise'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 Enterprise pursuant to the federal pipeline safety laws, the regulations and orders issued thereunder, or any other provision of federal or state law except as otherwise resolved through this Consent Order.

7. For all transfers of ownership or operating responsibility of Enterprise's Texas City Pump Station in Galveston County, Texas which occur while this Agreement is in effect, Enterprise will provide a copy of this Agreement to the prospective transferee at least 30 days prior to such transfer. Enterprise will provide written notice of the transfer to the Director, Southwest Region ("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. Enterprise 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 that is not a 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. Enterprise 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 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. Respondent agrees, for purposes of this Agreement and Order, to address the alleged risk conditions by completing the terms of this Agreement.

11. Upon issuance of the Consent Order, the Parties agree to the terms in Sections II & III.

II. Warning Item

12. **Item 1 of the Notice**: With respect to Item 1, the Notice alleged a violation of 49 C.F.R. § 195.579(b), which Enterprise contested. In consideration of Enterprise's agreement to the compliance requirements of this Agreement and Enterprise's commitment to follow its updated deadleg or bypass procedures throughout all of its facilities, PHMSA finds it appropriate to instead issue a warning to Enterprise for its failure to mitigate internal corrosion by ensuring the effectiveness of its internal corrosion control monitoring program in accordance with 49 C.F.R. § 195.579(b).

III. Compliance Requirement

Enterprise agrees to take the following corrective measures to address the alleged risk conditions as set forth in the Proposed Compliance Order ("PCO") of the Notice, as follows:

13. With regard to Item 1, Enterprise agrees to update its procedures to require completion of a Facility Integrity Information Analysis at a maximum of five (5) year intervals to provide for preventative and mitigative measures at all hazardous liquid facilities that meet all of the following criteria:

i. The facility is a hazardous liquid facility in crude oil service;

ii. While in crude oil service, the facility has had a reportable accident due to internal corrosion, whether in the 10-year period preceding the Effective Date or on or after the Effective Date; and

iii. At the time of the reportable accident due to internal corrosion, the facility was included in the Enterprise Integrity Management Program because it was determined that the facility could affect a High Consequence Area.

14. Enterprise agrees to provide the updated procedures and schedule for conducting the above-referenced facilities' Facility Integrity Information Analysis to Bryan Lethcoe, Director, Southwest Region within 45 days of the Effective Date of this Agreement.

15. Enterprise agrees to maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Bryan Lethcoe, Director, Southwest 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) the total cost associated with replacements, additions, and other changes to pipeline infrastructure.

IV. Enforcement

16. This Agreement, including the compliance requirement, 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 $200,000 (as adjusted) 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 determinations made by the Director, or if appealed, in accordance with decisions of the Associate Administrator. The maximum civil penalty amounts are adjusted annually for inflation. *See* 49 C.F.R. § 190.223.

V. Dispute Resolution

17. The Director and Enterprise will informally attempt to resolve any disputes arising under this Agreement, including, but not limited to, any decision of the Director. If Enterprise and the Director are unable to informally resolve the dispute within 15 calendar days after the dispute is first raised, in writing, Enterprise may submit a written request for a determination resolving the dispute from the Associate Administrator for Pipeline Safety. The written request for a determination must be provided to the Director, counsel for the Southwest Region, and to the Associate Administrator no later than 10 calendar days after the 15-day deadline for informal resolution referenced in this paragraph. Along with its request, Enterprise must provide the Associate Administrator with all information Enterprise believes is relevant to the dispute. Determinations of the Associate Administrator under this paragraph 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, except as agreed upon by the Director or Associate Administrator in writing, or ordered by a court of competent jurisdiction.

VI. Effective Date

18. 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.

VII. Modification

19. 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.

VIII. Termination

20. This Agreement will remain in effect until the Compliance Requirement in Section III. is satisfied, as reasonably and timely determined by the Director. The Consent Agreement shall not terminate until the Director confirms, in writing, that the Consent 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 or seeking dispute resolution regarding the question of whether the Compliance Requirements have been satisfied.

IX. Ratification

21. 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.

22. The Parties hereby agree to all conditions and terms of this Agreement.

For Enterprise Crude Pipeline, LLC,
By its Manager, Enterprise Crude GP LLC:

____
Graham Bacon
Executive Vice President and Chief Operating Officer

____
Date

For PHMSA:

____
Bryan Lethcoe
Director, Southwest Region

____
Date