Before the
U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
Office of Pipeline Safety
Washington, D.C.

In the Matter of	)	
Sunoco Pipeline, LP, a subsidiary of Energy Transfer, LP,	)	CPF No. 4-2024-015-NOPV
Respondent.	)	

PETITION FOR RECONSIDERATION

The Pipeline and Hazardous Materials Safety Administration ("PHMSA" or the "Agency") issued a Final Order to Sunoco Pipeline, LP ("SPLP" or the "Company"), a subsidiary of Energy Transfer, LP ("Energy Transfer"), on September 26, 2025, in connection with a Notice of Probable Violation ("NOPV") issued to the Company on March 25, 2024.[1] The Final Order finds that SPLP violated five provisions of 49 C.F.R. Part 195 and imposes a civil penalty and Compliance Order that requires corrective action related to four of those alleged violations within sixty (60) days.

SPLP respectfully seeks reconsideration of Item 5 of the Agency's Final Order.[2] Specifically, the Company requests that PHMSA reconsider its finding that the Company violated § 195.563(a) by failing to install cathodic protection ("CP") for breakout tanks 510 and 511 at SPLP's Montello station. SPLP constructed and installed these tanks in a manner consistent with federal pipeline safety regulations and applicable industry standards. SPLP also provided sufficient evidence to demonstrate that its tank design configurations achieve an adequate level of safety. For these reasons, and as explained further below, the Final Order (including the Compliance Order) should be withdrawn in its entirety as to Item 5. This Petition is not meant to be exhaustive, and SPLP incorporates by reference its prior filings, including its Response to PHMSA's NOPV, in this matter in support of its challenges to PHMSA's determinations.

Given the time and resources necessary to prepare this Petition and to implement the Compliance Order, SPLP respectfully requests that PHMSA partially stay the Compliance Order (just as to Item 5) pursuant to 49 C.F.R. § 190.243(c) while the Agency considers this Petition.

I. Procedural Background

The NOPV and Final Order arise out of an on-site inspection of SPLP's Big Flats to Montello hazardous liquid pipeline system in New York and Montello, Pennsylvania from June 6

[1] *Sunoco Pipeline, LP*, CPF No. 4-2024-015, Final Order (Sept. 26, 2025) ("Final Order").

[2] 49 C.F.R. § 190.243(a).

to December 1, 2022.[3] In relevant part, the NOPV alleged that SPLP failed to install CP not later than one (1) year after it replaced the tank bottoms on tanks 510 and 511 at the Montello station in 2006 and 2004, respectively, in violation of § 195.563(a).[4] The accompanying Proposed Compliance Order listed a compliance action for Item 5 that compelled SPLP to revise its procedures and provide the revised procedures to PHMSA within 90 days of receipt of the Final Order.[5] SPLP filed its Response to the NOPV on May 17, 2024.[6] The Response provided four reasons why SPLP could not be in violation of § 195.563(a) and why PHMSA should withdraw Item 5.[7] First, the double-bottom tank design on tanks 510 and 511 inhibits the passage of electric currents between an anode and cathode (tank bottom), rendering CP unnecessary and ineffective for corrosion control. Second, because the new tank bottoms lie on a homogenous concrete foundation, which lies above a liquid impervious liner, the new tank bottoms are not in a corrosive environment. Third, with this configuration, CP would also be ineffective at controlling external corrosion because the new tank bottom is isolated by concrete and the liner. Finally, SPLP confirmed the lack of a corrosive environment at tanks 510 and 511 by installing two corrosion probes in their respective concrete pads and measuring negligible rates of corrosion of steel coupons in the same environment as the new tank bottom.

PHMSA's regional staff rejected each of SPLP's arguments and issued a region recommendation to find the Company in violation of § 195.563(a).[8] On September 26, 2025, the Acting Associate Administrator for Pipeline Safety issued the Final Order and determined that the Company violated § 195.563(a) as set forth in Item 5 of the NOPV. The associated Compliance Order requires SPLP to "revise its existing procedures to ensure that any such tanks that receive a new bottom receive a cathodic protection system and provide the revised procedures to the Director, Southwest Region, within 90 days of receipt of the Final Order."[9] Because SPLP disputes that the regulations can be reasonably read to require cathodic protection on all new tank bottoms, it also requests reconsideration and withdrawal of the Compliance Order as to Item 5.

PHMSA's regulations require that a petition for reconsideration of a final order must be "received no later than 20 days after receipt of the order by the respondent."[10] SPLP received the Final Order on September 26, 2025, by e-mail. This Petition is therefore timely.

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[3] *See Sunoco Pipeline, LP*, CPF No. 4-2024-015, Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Mar. 25, 2024) ("NOPV").

[4] *Id*. at 4.

[5] *See id.* at 8.

[6] *Sunoco Pipeline, LP*, CPF No. 4-2024-015, Operator Response to Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (May 17, 2024) ("Response").

[7] The Company did not contest any other Item in the NOPV.

[8] *See Sunoco Pipeline, LP*, CPF No. 4-2024-015, Region Recommendation (Aug. 29, 2024); *Sunoco Pipeline, LP*, CPF No. 4-2024-015, Revised Region Recommendation (June 3, 2025) (revising the civil penalty assessed for other Items of the NOPV not at issue in this Petition).

[9] Final Order at 8.

[10] 49 C.F.R. § 190.243(a).

II. PHMSA Should Reconsider and Withdraw the Finding of Violation and Compliance Order for Item 5

PHMSA should reconsider the finding of violation and compliance order for Item 5, which rely on an overly narrow and incorrect reading of § 195.563 and § 195.565. Section 195.565 explicitly incorporates by reference American Petroleum Institute ("API") Recommended Practice 651 ("RP 651"), yet PHMSA ignores that this industry standard allows operators like SPLP to effectively prevent corrosion using double-bottom tank configurations, rendering cathodic protection unnecessary and ineffective. Moreover, the Company provided PHMSA with 20 years of data demonstrating negligible corrosion rates on its new tank bottoms, proving that API RP 651 is correct. Thus, any contrary reading of these regulations and standards makes little sense and does not align with the plain language of those documents or industry consensus regarding the safety of double-bottom tank installation methods.

A. 49 C.F.R. § 195.563(a) and § 195.565 Do Not Require Cathodic Protection In All Circumstances.

Federal pipeline safety regulations recognize that cathodic protection systems help prevent corrosion on the exterior of pipeline equipment, but § 195.563(a) and § 195.565 do not require CP in all circumstances, such as here, where tank bottom design configurations provide an adequate level of protection against external corrosion. PHMSA argues that tanks 510 and 511 are "buried or submerged pipeline[s]" that are subject to the requirements in § 195.563(a) because they were "constructed, relocated, replaced, or otherwise changed after" the applicable date in § 195.401(c).[11]

PHMSA's position rests solely on the incorrect notion that one regulatory provision—§ 195.563(a)—be interpreted in isolation from other applicable sections. While § 195.563(a) generally calls for CP, that section cannot be read in a vacuum. Like statutory construction, the construction of regulatory provisions "is a holistic endeavor" and the meaning of one provision may be "clarified by the remainder of the [regulatory] scheme."[12] As explained in the neighboring provision, § 195.565, installation of CP systems must be "in accordance with ANSI/API RP 651 (incorporated by reference, *see* § 195.3)."[13] Critically, that provision clarifies that operators "don't need to comply with API RP 651," the industry standard for installing CP, "when installing any tank for which [the operator] note[s] in the corrosion control procedures . . . why complying with all or certain provisions of API RP 651 is not necessary for the safety of the tank."[14] In other words, § 195.565 creates an exception to the requirement that all tanks must have CP when operators determine, per API RP 651, it is "not necessary" for tank safety.

The referenced industry standard helps explain why CP is not always required under § 195.563 when an operator installs a new breakout tank. First, CP "is an effective means of corrosion control only if it is possible to pass electrical current between the anode and cathode

[11] Final Order at 5 (quoting *id.* § 195.565(a)); *see also id.* §§ 195.2, 195.553.

[12] *United Sav. Ass'n of Tex. v. Timbers of Inwood Forest Assocs., Ltd.*, 484 U.S. 365, 371 (1988).

[13] 49 C.F.R. § 195.565.

[14] *Id.*

(tank bottom)."[15] Factors that can limit the efficacy of CP include the use of other measures to reduce corrosion risk, such as: concrete tank pads, installation of a non-conductive liner between the tank bottom and anodes, and the presence of an old tank bottom left in place when a new bottom is installed.[16] Highly resistive and stable concrete pads limit the corrosive potential of steel tank bottoms and restrict oxygen and water movement at the steel interface,[17] while non-conductive liners installed between the tank bottom and anodes contain leaks, prevent groundwater contamination and intrusion, and electrically isolate the new bottom from the old bottom, reducing the failure of the new bottom due to galvanic corrosion.[18] Finally, the presence of an old tank bottom can act as a shield against cathodic protection current from the new steel floor.[19]

As explained in the Company's Response, the Company designed the double-bottom configurations for tanks 510 and 511 to incorporate these factors and limit the corrosion mechanisms that could impact the tank bottom. These design features also rendered CP "not necessary."[20] SPLP replaced its tank bottoms with a layered double-bottomed design, meaning the bottoms of the tanks are now comprised of a new steel bottom, a layer of concrete, a non-conductive plastic liner, and finally, the original bottom.[21] The combination of the concrete pads and an impervious liner creates a non-corrosive, electrically resistive environment beneath the new tank bottom, limiting the potential for corrosion. It also has the effect of limiting the efficacy and utility of a CP system.[22] Through this physical configuration, the Company mirrored the recommendations in API RP 651 that PHMSA explicitly incorporated by reference in § 195.565. Further, Section 7.2 and Appendix B of the Company's *Standard Operating Procedure, Installation of Cathodic Protection on Breakout Tanks*, memorializes these recommendations and explains the reasons why CP is ineffective for tanks such as 510 and 511—just as § 195.565 requires.[23] Thus, no requirement exists under PHMSA's regulations, the industry standards that

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[15] Am. Petroleum Inst., *Cathodic Protection of Aboveground Petroleum Storage Tanks: API Recommended Practice 651* at 12 (4th ed., Sept. 2014) (emphasis added) ("API RP 651 4th ed."); *see* 49 C.F.R. § 195.3(b)(4).

[16] *See* API RP 651 4th ed., at 12.

[17] *See id.* at 14–15; *see also id.* at 17 ("A properly designed concrete tank pad constructed on stable, properly prepared subsoil may be effective in eliminating intrusion of groundwater, soil-side corrosion, and the need for cathodic protection.").

[18] *See id.* at 25–26. The presence of a non-conductive plastic liner and concrete makes SPLP's configuration different from that displayed in Figure 8 in Section 7.2.5 of API RP 651. Figure 8 assumes the presence of conductive material such as sand between the old and new tank bottoms, which allows for electrolytic pathways and corrosion. Here, however, SPLP's old and new bottoms are separated by sealed concrete and a liner, the combination of which creates non-conductive environment between the two layers of steel. *See infra* note 36.

[19] *See id.* at 25; *see also id.* at 14 ("In this case, cathodic protection current will be shielded and may not be effective in eliminating corrosion.").

[20] 49 C.F.R. § 195.565.

[21] *See* Response at 5; *see also id.* at Attachment A.

[22] To further prove to PHMSA that these tanks are adequately controlled for corrosion, the Company included corrosion rate data in its Response that indicated that the corrosion rate of the steel tank bottom was negligible. *See* Response at 5–6; *id.* at Attachment D.

[23] "[Y]ou don't need to comply with API RP 651 when installing any tank for which you note in the corrosion control procedures . . . why complying . . . is not necessary for the safety of the tank." 49 C.F.R. § 195.565.

PHMSA incorporated into its regulations, or the Company's procedures to maintain CP on the breakout tank configurations at issue here.

B. PHMSA's Impermissibly Narrow Reading Does Not Align with Industry Consensus Regarding the Safety of Double-bottom Tank Installation Methods.

PHMSA should reconsider its narrow, incorrect reading of § 195.563(a) and § 195.565 because it does not align with API RP 651 and industry consensus regarding the safety of double-bottom tank installation methods. PHMSA maintains that § 195.563(a) creates a fixed "legal obligation" to "install cathodic protection" for all breakout tanks.[24] To support its interpretation, PHMSA reasons that CP must be installed on all breakout tanks because § 195.565 opens with "when you install cathodic protection," as opposed to, for example, "if you install cathodic protection."[25] PHMSA further reasons that § 195.565 "provides flexibility" only "for how cathodic protection is installed," and not for the threshold question of whether operators must install CP on breakout tanks in the first place.[26]

PHMSA's reading of these regulations falters on several points. Section 195.563(a) generally applies to all equipment covered by the regulatory definition of "pipeline" and generally mandates CP. Section 195.565, on the other hand, provides more specific directions regarding the use of CP on breakout tanks. It is a well-established canon of interpretation that general provisions cannot supersede specific provisions that more precisely govern the object at issue.[27] Therefore, regardless of the "legal obligation" created by § 195.563(a), the instructions of § 195.565 regarding the installation of CP on breakout tanks must guide and govern PHMSA's application of § 195.563(a) to these tanks. And, as noted above, a faithful application of § 195.565 makes clear that CP is not required for all breakout tanks. PHMSA must adopt an interpretation that reconciles all of these provisions.[28]

Additionally, PHMSA's emphasis on the first sentence of § 195.565 is misplaced—it is the second sentence, not the first, which is operative here. The second sentence of § 195.565 allows noncompliance with "all or certain provisions of API RP 651" when doing so is "not necessary for the safety of the tank."[29] Under PHMSA's interpretation, all operators must install CP on all breakout tanks, but they can ignore the standards of API RP 651 if they deem them unnecessary for safety. This cannot be right. If it were, operators could avoid best practices for safety when

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[24] Final Order at 5.

[25] *Id.* at 5 n.5.

[26] *Id.* at 5.

[27] *See, e.g., Morales v. Trans World Airlines, Inc.*, 504 U.S. 374, 384 (1992) ("[I]t is a commonplace of statutory construction that the specific governs the general.").

[28] *See, e.g., United States v. Moss*, 872 F.3d 304, 310 (5th Cir. 2017) ("It is a hornbook principle of interpretation that when two provisions operate *in pari materia*, they should not be read in isolation, but must be construed together." (internal quotation marks and citation omitted)); *United States v. CITGO Petroleum Corp.*, 801 F.3d 477, 485 (5th Cir. 2015) ("Regulations, like statutes, must be 'construed so that effect is given to all [their] provisions, so that no part will be inoperative or superfluous, void or insignificant.'" (alteration in original) (quoting *Corley v. United States*, 556 U.S. 303, 314 (2009))).

[29] 49 C.F.R. § 195.565 (emphasis added).

installing CP on all applicable breakout tanks. Instead, the better reading of § 195.565, and one more faithful to industry standards, allows operators to assess how to best control corrosion on breakout tanks under narrow circumstances depending on their tank design configurations and other factors that may limit the efficacy of CP.

C. PHMSA's Reference to Specific Sections of API RP 651 Weakens Its Interpretation and Supports the Company's Holistic Reading.

PHMSA's Final Order plainly misstates and misinterprets several sections of API RP 651, which make clear that CP systems may be ineffective or unnecessary in specific, limited circumstances. First, PHMSA claims that Sections 7.2.2 and 7.2.4.3 provide "guidance for installing a cathodic protection system on double-bottom breakout tanks."[30] But if PHMSA's suggestion is that this "guidance" requires CP to be installed on all double-bottom breakout tanks, that contention is wrong because these sections of API RP 651 explain that CP is not effective at controlling external corrosion on some double-bottom breakout tanks. Section 7.2.2 contemplates the possibility of replacing an old tank bottom with a double-bottom design, which can have "a significant impact on the types of cathodic protection systems that are feasible for corrosion control of the new bottom (see 7.2.4.3)."[31] Section 7.2.4.3, in turn, expounds on the limiting effect that a double-bottom has on corrosion and CP efficacy: "If [the old bottom] is not removed, [it] forms a shield that collects the cathodic current flowing through the ground and prevents cathodic protection of the new bottom."[32] Although "a galvanic cell can develop between the old and new bottom," no such threat exists if "the old bottom is removed, electrically isolated, or coated with a nonconductive material."[33] A plain and sensible reading of Section 7.2.4.3 means that operators can remove old bottoms or keep them, as long as they are electrically isolated or coated with a nonconductive material to disrupt any corrosion.[34]

Indeed, that is precisely what SPLP did here to address and mitigate corrosion. SPLP installed an HDPE liner and concrete layer between the new and old bottoms—non-conductive materials which serve to electrically isolate the steel bottoms and prevent the formation of a corrosive electrical current, as verified by the corrosion rate data submitted in Attachment D of SPLP's Response. Despite its characterizations of Sections 7.2.2 and 7.2.3.4 in API RP 651, PHMSA simply failed to engage with their actual language and explain why SPLP could not follow it here. Moreover, the standard offers no support for PHMSA's proposition that "cathodic

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[30] Final Order at 6.

[31] Am. Petroleum Inst., *Cathodic Protection of Aboveground Petroleum Storage Tanks: API Recommended Practice 651*, at 12 (2d ed., Nov. 1997) ("API RP 651 2d ed."); *accord* API RP 651 4th ed., at 24.

[32] API RP 651 2d ed., at 12.

[33] *Id.*

[34] In addition to the sections PHMSA referenced in the Final Order, the API RP 651 standard is replete with language that further supports the Company's position. Section 5, for example, is titled "Determination of Need for Cathodic Protection." *Id.* at 6. As noted in the Company's Response and Part II.A *supra*, Section 5.1.4 discusses the limitations of external cathodic protection for tanks with the characteristics of tanks 510 and 511. *Id.* Similarly, Section 7.2.4.2 explains that "[t]he method of repair or bottom replacement is of major importance in determining if cathodic protection should be installed." *Id.* at 12 (emphasis added). These additional sections of API RP 651, plus those discussed above, make clear that the need for CP depends on the design configuration of the tank.

protection is effective on double bottom tanks when installed correctly."[35] Nor could it—Sections 7.2.2 and 7.2.3.4 plainly explain how the configuration of these tank bottoms can disrupt the effectiveness of CP as a corrosion control measure. API RP 651, therefore, overwhelmingly supports the Company's position that installing CP on tanks with a cemented and lined double-bottomed design is both unnecessary and ineffective.[36]

D. Prior Agency Precedent Does Not Control Here.

Finally, PHMSA points to *Plains All American Pipeline, L.P.*, a previous enforcement action in which PHMSA rejected an apparently similar argument that § 195.565 allows operators to use alternative corrosion control measures instead of CP.[37] But the facts presented in *Plains* are different from this action in several crucial ways. The operator in *Plains* was seeking to use an alternative corrosion control technology, volatile corrosion inhibitors and resistance probes ("VCI"), in lieu of CP because "the original cathodic protection systems on certain breakout tanks became difficult to maintain."[38] In other words, the operator sought VCI as an alternative corrosion control measure because of the inconvenience of using CP systems. And that inconvenience occurred because the operator placed HPDE liners one foot below each tank bottom, making it cost prohibitive to easily replace the cathodic protection anodes and retrofit the tanks with new CP systems.[39]

Here, however, SPLP utilized double-bottomed tank configurations with liners that effectively isolate the new from the old tank bottoms and lie beneath a layer of concrete that creates a corrosion-resistant environment. In other words, SPLP constructed tanks 510 and 511 in a manner duly faithful to the same industry standards that PHMSA incorporated by reference in 49 C.F.R. Part 195 and <u>not</u> as a less costly alternative to its regulatory obligations to protect against corrosion.

The Company's situation is actually more analogous to *Buckeye Partners, LP*, where PHMSA withdrew its NOPV under § 195.563(a) after the operator's response indicated that its tank bottoms were managed for corrosion through their placement on concrete pads.[40] The *Buckeye* tanks' concrete pad placement separated the tank bottoms from ground contact, which took them outside of the ambit of § 195.563(a)'s coverage of "buried" pipelines. In SPLP's

[35] Final Order at 6.

[36] PHMSA also cites to Section 7.2.5 of the second edition of API RP 651 as providing "guidance for how to install cathodic protection in the instance a tank bottom has an impervious liner underneath." Final Order at 6. This section discusses a factually distinct configuration from SPLP's double bottom, where the old and new tank bottoms are separated by a "secondary containment membrane" and "sand." API RP 651 2d ed., at 14. In the configuration contemplated by the standard, the interceding layers would be open to the elements, and CP would still be effective because "[c]orrosion would tend to increase if the sand became wet." *Id.* In SPLP's construction, the interceding liner and concrete layer are sealed within the old bottom; since the system is closed, moisture is not allowed in and corrosion is inhibited. Hence, CP anodes would be unnecessary and ineffectual.

[37] *Plains All Am. Pipeline, L.P.*, CPF No. 4-2013-5007, Final Order (May 22, 2015).

[38] *Id.* at 2.

[39] *Id.*

[40] *See Buckeye Partners, LP*, CPF No. 1-2024-053, Operator Response and Request for Hearing, at 2 (Nov. 12, 2024); *Buckeye Partners, LP*, CPF No. 1-2024-053, Withdrawal of Notice Letter (Mar. 31, 2025).

double-bottomed configuration, the original tank bottom remains in contact with the soil but the new tank bottom is separated by a non-conductive liner and concrete layer, which interrupt the electrolytic pathway required for corrosion to occur and would thus inhibit corrosion. Although the original tank bottoms remain in SPLP's configuration, the effect of the new tank bottom placement isolates the tank from soil contact, as was the case in *Buckeye* where the tanks were not considered "buried" and were not subject to § 195.565(a). Further, this same system prevents the effectiveness of CP as a corrosion control tool.[41] PHMSA does not have to accept the effectiveness of SPLP's configuration to prevent corrosion based on pure assertion of scientific principles. Rather, because the Company provided PHMSA with actual data confirming the effectiveness of its double-bottom tank method, PHMSA should withdraw its Final Order here.

III. Conclusion

In its 2024 rulemaking adopting the latest edition of the API RP 651 industry standard, PHMSA declined to amend its regulations and substantively change its CP requirements for breakout tanks.[42] The Company does not ask for it to do so here. Instead, based on the foregoing, SPLP respectfully requests that PHMSA reconsider and grant SPLP's request to withdraw the finding of violation and Compliance Order as to Item 5 in the Final Order.

Additionally, as the Agency considers this Petition for Reconsideration, SPLP requests that PHMSA partially stay the Compliance Order as to Item 5 pursuant to 49 C.F.R. § 190.243(c).

Respectfully submitted,

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Dated: October 16, 2025

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[41] *See also* Letter from John A. Gale, Dir., Off. of Standards & Rulemaking, PHMSA, to Mr. Matthew Williamson, at 2 (Jan. 10, 2022) (explaining that the presence of an electrolytic path from the tank bottom to the soil is key to coverage under 49 C.F.R. § 195.563(a)).

[42] PHMSA, Pipeline Safety: Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Amendments; Final Rule, 89 Fed. Reg. 33,264, 33,270 (Apr. 29, 2024).