NOTICE OF PROBABLE VIOLATION
PROPOSED CIVIL PENALTY
and
PROPOSED COMPLIANCE ORDER

<u>VIA ELECTRONIC MAIL TO: tom.long@energytransfer.com</u>

March 25, 2024

Thomas E. Long
Co-Chief Executive Officer
Sunoco Pipeline LP, an Energy Transfer Partnership
8111 Westchester Drive
Dallas, Texas 75225

CPF 4-2024-015-NOPV

Dear Mr. Long:

From June 6 through December 1, 2022, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS) and New York Department of Public Service, pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected Sunoco Pipeline LP's (Sunoco) Big Flats to Montello pipeline system in New York and Montello, Pennsylvania.

As a result of the inspection, it is alleged that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The items inspected and the probable violations are:

1. **§ 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.

(b) . . . .

(c) . . . .

(d) After October 2, 2000, the requirements of paragraphs (a) and (b) of this section for inspection and testing of pressure control equipment apply to the inspection and testing of overfill protection systems.

Sunoco failed to inspect and test each overfill protection system 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 at intervals not exceeding 15 months, but at least once each calendar year in accordance with § 195.428(a) & (d). Specifically, Sunoco failed to inspect the overfill protection devices on twenty-two (22) breakout tanks at the Montello, PA station in 2020 and 2021. Sunoco completed the inspections for 2022 after PHMSA identified this issue during the inspection. Sunoco failed to provide inspection records for the twenty-two (22) breakout tanks in 2020 and 2021.

2. **§ 195.49 Annual report**

Each operator must annually complete and submit DOT Form PHMSA F 7000-1.1 for each type of hazardous liquid pipeline facility operated at the end of the previous year. An operator must submit the annual report by June 15 each year, except that for the 2010 reporting year the report must be submitted by August 15, 2011. A separate report is required for crude oil, HVL (including anhydrous ammonia), petroleum products, carbon dioxide pipelines, and fuel grade ethanol pipelines. For each state a pipeline traverses, an operator must separately complete those sections on the form requiring information to be reported for each state.

Sunoco failed to annually complete and submit DOT Form PHMSA F 7000-1.1 for each type of hazardous liquid pipeline facility operated in accordance with § 195.49. Specifically, Sunoco failed to submit complete and accurate annual reports for 2019, 2020, 2021, and 2022 with respect to bare pipe mileage. The 2017 annual report indicated Sunoco operated 283.2 miles of bare pipe, but zero bare pipe mileage was reported after 2017. PHMSA reviewed records indicating Sunoco operates bare pipe on the Big Flats to Montello pipeline system. This mileage has not been included in the annual report submission for the past 4 years.

3. **§ 195.452 Pipeline integrity management in high consequence areas**

(a) . . . .

(i) ***What preventive and mitigative measures must an operator take to protect the high consequence area? —***

(1) ***General requirements*****. An operator must take measures to prevent and mitigate the consequences of a pipeline failure that could affect a high consequence area. These measures include conducting a risk analysis of the pipeline segment to identify additional actions to enhance public safety or environmental protection. Such actions may include, but are not limited to, implementing damage prevention best practices, better monitoring of cathodic protection where corrosion is a concern, establishing shorter inspection intervals, installing EFRDs on the pipeline segment, modifying the systems that monitor pressure and detect leaks, providing additional training to personnel on response procedures, conducting drills with local emergency responders and adopting other management controls.**

Sunoco failed to conduct a risk analysis of each pipeline facility that could affect a high consequence area (HCA) to identify additional actions to enhance public safety or environmental protection in accordance with § 195.452(i)(1) and Section 5.2 of Energy Transfer, LP's *Pipeline Integrity Management Plan* (Rev. 6, Feb. 1, 2022), which required Sunoco to conduct a facility threat/risk analysis for new facilities and/or newly determined existing facilities within 15 months of the HCA determination and to conduct the assessment within 5 years. Specifically, Sunoco failed to conduct a risk analysis at the Tonawanda/Buffalo Sun and Rochester Sun/Alaskan facilities.

4. **§ 195.583 What must I do to monitor atmospheric corrosion control?**

(a) . . . .

(c) If you find atmospheric corrosion during an inspection, you must provide protection against the corrosion as required by § 195.581.

Sunoco failed to provide protection against corrosion that was found during an inspection in accordance with § 195.583(c). Specifically, photos from an inspection on GForm 311650 at Berne Junction in the Montello area showed corrosion on the valve body that required remediation. However, the report concluded that no remediation was required, and Sunoco has failed to remediate the corrosion.

5. **§ 195.563 Which pipelines must have cathodic protection?**

(a) Each buried or submerged pipeline that is constructed, relocated, replaced, or otherwise changed after the applicable date in § 195.401(c) must have cathodic protection. The cathodic protection must be in operation not later than 1 year after the pipeline is constructed, relocated, replaced, or otherwise changed, as applicable.

Sunoco failed to have cathodic protection in operation not later than one (1) year after its pipeline is constructed, relocated, replaced, or otherwise changed in accordance with § 195.563(a). Specifically, Sunoco replaced the tank bottoms on tanks 510 and 511 at the Montello station on May 4, 2006, and August 9, 2004, respectively. Despite this change to both tanks, Sunoco failed to install cathodic protection as required by § 195.563(a).

6. § 195.402 Procedural manual for operations, maintenance, and emergencies.

(a) *General.* Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a pipeline system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

Sunoco failed to follow its manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies in accordance with § 195.402(a). Specifically, Sunoco failed to follow Section 4.0 of its *Internal Corrosion Monitoring Devices* (HLD 33; Jan. 15, 2022) procedure which requires bi-annual inspections of all electric resistance (ER) probes. Sunoco failed to inspect the ER probes on the Caledonia Discharge at the Buckeye Inlet twice in 2020. Records indicated the ER probes were inspected only once in January 2020.

7. § 195.573 What must I do to monitor external corrosion control?

(a) . . . .

(c) *Rectifiers and other devices.* You must electrically check for proper performance each device in the first column at the frequency stated in the second column.

Device	**Check frequency**
Rectifier	**At least six times each calendar year, but with intervals not exceeding 2 ½ months**
Reverse current switch	
Diode	
Interference bond whose failure would jeopardize structural protection	
Other interference bond	**At least once each calendar year, but with intervals not exceeding 15 months.**

Sunoco failed to electrically check for proper performance of each rectifier at least six times each calendar year, but with intervals not exceeding 2 ½ months in accordance with § 195.573(c). Specifically, Sunoco failed to inspect the Dominion L1 critical bond (inspected 5/7/2021 and 10/8/2021) and the Route 63 NFG critical bond (inspected 7/31/2019 and 11/26/2019) at intervals not exceeding 2 ½ months.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed $266,015 per violation per day the violation persists, up to a maximum of $2,660,135 for a related series of violations. For violation occurring on or after January 6, 2023, and before December 28, 2023, the maximum penalty may not exceed $257,664 per violation per day the violation persists, up to a maximum of $2,576,627 for a related series of violations. For violation occurring on or after March 21, 2022, and before January 6, 2023, the maximum penalty may not exceed $239,142 per violation per day the violation persists, up to a maximum of $2,391,412 for a related series of violations. For violation occurring on or after May 3, 2021, and before March 21, 2022, the maximum penalty may not exceed $225,134 per violation per day the violation persists, up to a maximum of $2,251,334 for a related series of violations. For violation occurring on or after January 11, 2021, and before May 3, 2021, the maximum penalty may not exceed $222,504 per violation per day the violation persists, up to a maximum of $2,225,034 for a related series of violations. For violation occurring on or after July 31, 2019, and before January 11, 2021, the maximum penalty may not exceed $218,647 per violation per day the violation persists, up to a maximum of $2,186,465 for a related series of violations. For violation occurring on or after November 27, 2018, and before July 31, 2019, the maximum penalty may not exceed $213,268 per violation per day, with a maximum penalty not to exceed $2,132,679.

We have reviewed the circumstances and supporting documentation involved for the above probable violations and recommend that you be preliminarily assessed a civil penalty of $ 39,400 as follows:

Item number	PENALTY
1	$ 39,400

Proposed Compliance Order

With respect to Items 2, 3, 4, and 5 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Sunoco Pipeline, LP. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Warning Items

With respect to Items 6 and 7 we have reviewed the circumstances and supporting documents involved in this case and have decided not to conduct additional enforcement action or penalty assessment proceedings at this time. We advise you to promptly correct these items. Failure to do so may result in additional enforcement action.

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Enforcement Proceedings*. Please refer to this document and note the response options. All material you submit in response to this enforcement action may be made publicly available. If you believe that any portion of your responsive material qualifies for confidential treatment under 5 U.S.C. § 552(b), along with the complete original document you must provide a second copy of the document with the portions you believe qualify for confidential treatment redacted and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. § 552(b).

Following your receipt of this Notice, you have 30 days to respond as described in the enclosed *Response Options*. If you do not respond within 30 days of receipt of this Notice, this constitutes a waiver of your right to contest the allegations in this Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in this Notice without further notice to you and to issue a Final Order. If you are responding to this Notice, we propose that you submit your correspondence to my office within 30 days from receipt of this Notice. The Region Director may extend the period for responding upon a written request timely submitted demonstrating good cause for an extension.

In your correspondence on this matter, please refer to **CPF 4-2024-015-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Bryan Lethcoe
Director, Southwest Region, Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration

Enclosures: *Proposed Compliance Order*
Response Options for Pipeline Operators in Enforcement Proceedings

cc: Mr. Greg McIlwain, Executive Vice President of Operations, Energy Transfer, LP, gregory.mcilwain@energytransfer.com
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PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Sunoco Pipeline, L.P (Sunoco) a Compliance Order incorporating the following remedial requirements to ensure the compliance with the pipeline safety regulations:

A. For Item 2 of the Notice pertaining to Sunoco's failure to submit complete and accurate annual reports, Sunoco must revise and resubmit its previously submitted annual reports to accurately reflect the amount of bare pipe mileage and provide copies to the Director, Southwest Region within **30** days of receipt of the Final Order.

B. For Item 3 of the Notice pertaining to Sunoco's failure to conduct a risk analysis of each pipeline facility that could affect an HCA to identify additional actions to enhance public safety or environmental protection, Sunoco must conduct a risk analysis at the Tonawanda/Buffalo Sun and Rochester Sun/Alaskan facilities and submit records of the analysis to the Director, Southwest Region within **90** days of receipt of the Final Order.

C. For Item 4 of the Notice pertaining to Sunoco's failure to provide protection against corrosion that was found during an inspection, Sunoco must remediate the identified corrosion, retrain the technician that performed the inspection on GForm 311650, and submit records of the remediation and retraining to the Director, Southwest Region within **90** days of receipt of the Final Order.

D. For Item 5 of the Notice pertaining to Sunoco's failure to have cathodic protection in operation not later than 1 year after its pipeline is constructed, relocated, replaced, or otherwise changed, Sunoco must 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.

E. It is requested (not mandated) that Sunoco 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) total cost associated with replacements, additions and other changes to pipeline infrastructure.