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December 8, 2023

Mr. Dustin Hubbard
Director, Western Region, Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration
12300 W. Dakota Ave. Suite 110
Lakewood, CO 80228

Re: Response to Findings -- PHMSA Notice Of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order -- CPF 5-2023-031-NOPV

Dear Mr. Hubbard:

From October 4 through 7, 2022, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) conducted an on-site pipeline safety inspection of the eight-inch oil pipeline from Platform Irene to the Lompoc Oil and Gas Plant in Lompoc California.

As a result of the inspection, PHMSA issued a Notice Of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order dated October 11, 2023, addressing thirteen probable violations of the pipeline safety regulations in 49 C.F.R. Part 195. With respect to items 1 through 13, PHMSA proposed to issue a Compliance Order (PCO) which was enclosed and made a part of the Notice. With respect to item nine, PHMSA recommended a civil penalty of \$87,800.

Freeport-McMoRan Oil & Gas (FMOG) has committed significant resources to proactively manage our pipeline assets and we are proud of our pipeline safety programs. FMOG also understands that improvements and enhancements are integral to the success of our programs. PHMSA inspections provide a valuable opportunity to identify new improvements and to acknowledge those that have already occurred. Improvements were acknowledged by PHMSA during the 2023 inspection.

The purpose of this letter and attached Response to Findings is to provide a response to the Compliance Order and provide additional clarifying information for each of the thirteen items. It is FMOG's intent to comply with all PHMSA and other regulatory requirements, as well as to address any known findings/deficiencies. Many of the thirteen items pertain to our inability to produce certain documentation during the subject inspection. We had migrated a vast amount of compliance documentation to a new system several months prior to this inspection and it was an unfortunate circumstance that our staff responding to the PHMSA inspector were not as familiar

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with the filing systems as needed to retrieve the requested documents on demand. You will see this as a common thread through much of our response. We believe that the explanations and actions taken to correct the violations, as described in our attached responses, will address PHMSA's concerns

With consideration of the records provided in this letter, and the significant progress FMOG has made to ensure pipeline compliance and integrity, FMOG respectfully requests reconsideration of the proposed civil penalty for item nine.

Please contact Dave Willis at (435) 549-7031, or at dwillis@dcorllc.com if there are any questions or comments.

Sincerely,

A handwritten signature in blue ink, appearing to read "David Rose", with a stylized, flowing script.

David Rose
Director, Environmental Health & Safety

ATTACHMENTS

- 1) Response to Findings
 - a. Oil spill response drills
 - b. IMT training records
 - c. Oil Spill Response Plan submittal verification
 - d. O&M Manual updates
 - e. ERP Drills and reviews
 - f. ROW Inspections
 - g. SDV Valve inspections
 - h. Public Awareness Documentation
 - i. ILI review, 2022 MFL Ultra ILI report
 - j. Cathodic Protection Surveys

ATTACHMENT 1 - RESPONSE TO FINDINGS

Each item below is taken from the PHMSA documents and is followed by a response from FMOG.

1. § 194.7 Operating restrictions and interim operating authorization. (a)
(b) An operator must operate its onshore pipeline facilities in accordance with the applicable response plan.

FMOG failed to operate its onshore pipeline facilities in accordance with the applicable response plan. Specifically, at the time of PHMSA inspection, FMOG could not provide records demonstrate that the oil spill response drill had been conducted as required by its Oil Spill Response Plan, Section 9.2 - Spill Response Drills.

FMOG response: At the time of inspection the pipeline integrity manager was unable to locate the existing and current oil spill response drill records. These records have since been located and brought into a central file. These documents are included as Attachment 1(a)

2. § 194.117 Training.

(a)

(b) Each operator shall maintain a training record for each individual that has been trained as required by this section. These records must be maintained in the following manner as long as the individual is assigned duties under the response plan:

- (1) Records for operator personnel must be maintained at the operator's headquarters; and
- (2) Records for personnel engaged in response, other than operator personnel, shall be maintained as determined by the operator.

FMOG failed to maintain training records for each individual. Specifically, at the time of PHMSA inspection, FMOG could not provide training records for 2019, 2020, 2021, and 2022 to show that their Incident Management Team has been trained as required by its Oil Spill Response Plan, Section 9.1 – Training.

FMOG Response: Similar to the above explanation, these records existed at the time of the audit, but staff was not able to locate them during the audit. Training records for individuals listed as part of the Incident Management Team are included as Attachment 1(b).

3. § 194.121 Response plan review and update procedures.

(a) Each operator shall update its response plan to address new or different operating conditions or information. In addition, each operator shall review its response plan in full

at least every 5 years from the date of the last submission or the last approval as follows:

- (1) For substantial harm plans, an operator shall resubmit its response plan to OPS every 5 years from the last submission date.
- (2) For significant and substantial harm plans, an operator shall resubmit every 5 years from the last approval date.

FMOG failed to review its response plan in full at least every five years from the date of the last submission or the last approval. Specifically, at the time of the PHMSA inspection, FMOG could not provide records to show that it resubmitted its response plan to PHMSA every five years from the last submission date. The last time that FMOG submitted its response plan and was approved by PHMSA was in 2017¹. The operator was due to resubmit its response plan to PHMSA in 2022.

FMOG Response: At the time of the PHMSA inspection, the Oil Spill Response Plan was in the review phase with two of the other jurisdictional agencies – namely the Bureau of Safety and Environmental Enforcement and the Office of Spill Prevention and Response. Since that time the Oil Spill Response Plan has been submitted to PHMSA. Included here is the confirmation of submittal as Attachment 1(c).

4. § 195.402 Procedural manual for operations, maintenance, and emergencies.

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 ensure 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.

FMOG failed to review at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to ensure that the emergencies response manual is effective. Specifically, at the time of the PHMSA inspection, FMOG could not provide records to demonstrate that their emergency plan had been reviewed in 2019, 2020, 2021, and 2022.

FMOG Response: At the time of the inspection, the pipeline integrity manager could not locate documentation to show recent reviews of the procedural manual. The procedural manual has been reviewed and updated. The updated manual is included here, along with the review documentation as Attachment 1(d).

5. § 195.403 Emergency response training. (a)

....

(b) At the intervals not exceeding 15 months, but at least once each calendar year, each operator shall:

- (1) Review with personnel their performance in meeting the objectives of the emergency

response training program set forth in paragraph (a) of this section; and

FMOG failed to review at the intervals not exceeding 15 months, but at least once each calendar year, with personnel their performance in meeting the objectives of the emergency response training program. Specifically, at the time of PHMSA inspection, FMOG could not provide 2019, 2020, 2021, and 2022 records to demonstrate compliance with § 195.403(b)(1).

FMOG Response: FMOG utilizes Compliance Form 17.01 which includes the Emergency Response Plan (ERP) annual drill, ERP review, and verification of supervisor knowledge. At the time of the inspection, the pipeline integrity manager did not know the location of the requested compliance records. Included at Attachment 1(e) are the requested documents. Please note this attachment covers both items five and six.

6. § 195.403 Emergency response training

(a)

(c) Each operator shall require and verify that its supervisors maintain a thorough knowledge of that portion of the emergency response procedures established under § 195.402 for which they are responsible to ensure compliance.

FMOG failed to require and verify that its supervisors maintain a thorough knowledge of that portion of the emergency response procedures established under § 195.402, for which they are responsible to ensure compliance. Specifically, at the time of PHMSA inspection, FMOG could not provide 2019, 2020, 2021, and 2022 records to demonstrate compliance with § 195.403(c).

FMOG Response: FMOG utilizes Compliance Form 17.01 which includes the Emergency Response Plan (ERP) annual drill, ERP review, and verification of supervisor knowledge. At the time of the inspection, the pipeline integrity manager did not know the location of the requested compliance records. Included at Attachment 1(e) are the requested documents. Please note this attachment covers both items five and six.

7. §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.

FMOG failed at intervals not exceeding 3 weeks, but at least 26 times each calendar year, to inspect the surface conditions on or adjacent to each pipeline right-of-way. Specifically, at the time of the PHMSA inspection, FMOG could not provide 2019 and

2020 records to demonstrate that the onshore portion of 8” oil pipeline has been inspected.

FMOG Response: At the time of the inspection, the pipeline integrity manager could not locate records for 2019 and 2020 ROW inspections. The records have been located and brought into a central file, as well as included here for review as Attachment 1(f).

8. § 195.420 Valve maintenance.

(a)

(b) Each operator shall, at intervals not exceeding 7 ½ months, but at least twice each calendar year, inspect each mainline valve to determine that it is functioning properly.

FMOG failed to inspect at intervals not exceeding 7 ½ months, but at least twice each calendar year, each mainline valve, to determine that it is functioning properly. Specifically, at the time of the PHMSA inspection, FMOG could not provide the 2020 and 2021 records to demonstrate compliance with § 195.420(b).

FMOG Response: At the time of the inspection, the pipeline integrity manager could not locate all the required records, specifically for 2020 and 2021 valve inspections. The records have been located and brought into a central file, as well as included here for review as Attachment 1(g).

9. §195.440 Public awareness. (a)...

(c) The operator must follow the general program recommendations, including baseline and supplemental requirements of API RP 1162, unless the operator provides justification in its program or procedural manual as to why compliance with all or certain provisions of the recommended practice is not practicable and not necessary for safety.

FMOG failed to follow the general program recommendations of API RP 1162. Specifically, at the time of PHMSA inspection, FMOG could not provide 2019, 2020, 2021, and 2022 records to demonstrate that liaison with fire, police, and other appropriate public officials to learn the responsibility and resources of each government organization that may respond to a hazardous liquid pipeline emergency and acquaint the officials with the operator's ability in responding to a hazardous liquid or carbon dioxide pipeline emergency and means of communication has been established and maintained.

FMOG Response: Though the required activities were performed and documented, at the time of the inspection, the pipeline integrity manager did not have access to the online portal with Paradigm that contained this data. The required data is provided as Attachment 1(h).

10. § 195.452 Pipeline integrity management in high consequence areas.

(h) *What actions must an operator take to address integrity issues?* - (1)

....

(2) *Discovery of condition.* Discovery of a condition occurs when an operator has adequate information to determine that a condition presenting a potential threat to the integrity of the pipeline exists. An operator must promptly, but no later than 180 days after an assessment, obtain sufficient information about a condition to make that determination, unless the operator can demonstrate the 180-day interval is impracticable. If the operator believes that 180 days are impracticable to make a determination about a condition found during an assessment, the pipeline operator must notify PHMSA in accordance with paragraph (m) of this section and provide an expected date when adequate information will become available.

FMOG failed to promptly, but no later than 180 days after an assessment, obtain sufficient information about a condition. Specifically, the PHMSA inspector reviewed the In line Inspection (ILI) Final Report for the ILI survey that was conducted on November 9, 2021.² The ILI Report indicated 71 counts of 180-day conditions - corrosion of or along a longitudinal seam weld as per § 195.452 (h)(4)(iii)(H). However, FMOG could not provide records or documentation to show that they promptly, but no later than 180 days after an assessment, obtained sufficient information about the 71 counts of 180-day condition and that any required repair has been conducted.

FMOG Response: During the inspection the pipeline integrity team was unable to locate any formal review of the subject 2021 ILI report. However, since the PHMSA inspection a formal review of the ILI data has been performed and a third-party subject matter expert engineer has been contracted to assess the data. A report of this assessment will be provided to PHMSA once complete, but no longer than 6 months from the date of this letter as stated in the compliance order.

Furthermore, the 2021 ILI was conducted with a standard MFL tool. Since that time another ILI has been performed utilizing MFL ultra technology, which is improved technology over the standard tool. The results of the MFL ultra tool do not show the same 180-day conditions as shown in the 2021 ILI with the standard tool. The report for this MFL ultra tool inspection is included as Attachment 1(i).

11. § 195.573 What must I do to monitor external corrosion control?

a. *Protected pipelines.* You must do the following to determine whether cathodic protection required by this subpart complies with § 195.571:

(1)

(2) Identify not more than 2 years after cathodic protection is installed, the circumstances in which a close-interval survey or comparable technology is practicable and necessary to accomplish the objectives of paragraph 10.1.1.3 of NACE SP 0169 (incorporated by reference, see § 195.3).

FMOG failed to identify, within the required time frame, the circumstances in which a close interval survey or comparable technology is practicable and necessary to accomplish the objectives of paragraph 10.1.1.3 of NACE Standard SP0169-2007. Specifically, at the time of inspection, FMOG could not provide records to demonstrate compliance with § 195.573(a)(2).

FM O&G Response: A close interval survey analysis will be conducted in the first quarter of 2024 with the resulting report submitted to PHMSA upon completion.

12. § 195.583 What must I do to monitor atmospheric corrosion control? (a) . .

(b) During inspections you must give particular attention to pipe at soil-to-air interfaces, under thermal insulation, under disbonded coatings, at pipe supports, in splash zones, at deck penetrations, and in spans over water.

FMOG failed to give particular attention to pipe supports during atmospheric corrosion inspection. At the time of PHMSA field inspection, it was observed that the above-ground pipe at valve Site 1 had pipe support that is in contact with the pipe surface, which made inspection of the pipe surface for atmospheric corrosion impossible.

FMOG Response: A plan to modify existing pipe supports is currently in development, and the work will be completed, and an inspection of the pipes at the support contact points will be completed no more than six months from date of the final order.

13. § 195.589 What corrosion control information do I have to maintain?

a. ...

(c) You must maintain a record of each analysis, check, demonstration, examination, inspection, investigation, review, survey, and test required by this subpart in sufficient detail to demonstrate the adequacy of corrosion control measures or that corrosion requiring control measures does not exist. You must retain these records for at least 5 years, except that records related to §§ 195.569, 195.573(a) and (b), and 195.579(b)(3) and (c) must be retained for as long as the pipeline remains in service.

FMOG failed to maintain a record of each analysis, check, demonstration, examination, inspection, investigation, review, survey, and test required in sufficient detail to demonstrate the adequacy of corrosion control measures or that corrosion requiring control measures did not exist:

(1) At the time of PHMSA inspection, FMOG could not provide records to demonstrate that pipeline or portion of the pipeline that is exposed to the atmosphere at the Lompoc Oil and Gas Plant facility has been inspected for evidence of atmospheric corrosion at least once every 3 calendar years, but with intervals not exceeding 39 months as required by § 195.583(a).

(2) At the time of PHMSA inspection, FMOG could not provide records to demonstrate that pipeline or portion of pipeline that is exposed to the atmosphere at Platform Irene has been inspected for evidence of atmospheric corrosion at least once each calendar year but with intervals not exceeding 15 months as required by § 195.583(a).

(3) At the time of PHMSA inspection, FMOG could not provide records to demonstrate that they corrected any identified deficiency in corrosion control as required by §195.401(b). Specifically, PHMSA reviewed their Pipe-to-Soil Annual Survey, but FMOG could not provide records to demonstrate that the cathodic protection reading that did not meet the -850 mV on-criterion found in 2020 and 2021 at Valve Station #10 has been repaired.⁵

FMOG Response: At the time of the inspection, the pipeline integrity manager did not know the location of the requested compliance records. Included as Attachment 1(j) are the rectifier readings from Lompoc for 2019 to 2022. Also included are the Bi-Monthly rectifier and bond surveys performed for 2022 and 2023. The atmospheric corrosion inspection records are included here as well. The deficiency noted at Valve Station #10 was repaired during this inspection and readings met the -850mV criteria as shown in the annual report.