NOTICE OF PROBABLE VIOLATION
and
PROPOSED COMPLIANCE ORDER

VIA ELECTRONIC MAIL TO: eluebke@transmontaigne.com

November 18, 2024

Mr. Edward Luebke
Vice President
Seaport Midstream Partners, LLC.
200 Mansell Court East, Suite 600
Roswell, GA 30076

CPF 5-2024-040-NOPV

Dear Mr. Luebke:

From September 24, 2024, to September 26, 2024, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code (U.S.C.), inspected Seaport Midstream Partners, LLC's (Seaport) breakout tank farm in Portland, Oregon.

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

1. § 195.432 Inspection of in-service breakout tanks.

(a) …
(b) Each operator must inspect the physical integrity of in-service atmospheric and low-pressure steel above-ground breakout tanks according to API Std 653 (except section 6.4.3, *Alternative Internal Inspection Interval*) (incorporated by

reference, see § 195.3). However, if structural conditions prevent access to the tank bottom, its integrity may be assessed according to a plan included in the operations and maintenance manual under § 195.402(c)(3). The risk-based internal inspection procedures in API Std 653, section 6.4.3 cannot be used to determine the internal inspection interval.

Seaport failed to inspect the physical integrity of in-service atmospheric and low-pressure steel above ground breakout tanks in accordance with American Petroleum Institute (API) Standard (Std) 653, as prescribed in § 195.432(b).[1] Specifically, Seaport did not perform a visual external inspection on Tanks 1 and 10 at least every 5 years, as specified under API Std 653 Section 6.3.2.1 – External Inspection. API RP 653 states:

> "All tanks shall be given a visual external inspection by an authorized inspector. This inspection shall be called the external inspection and must be conducted at least every 5 years or *RCA/4N* years (where *RCA* is the difference between the measured shell thickness and the minimum required thickness in mils, and N is the shell corrosion rate in mils per year) whichever is less. Tanks may be in operation during this inspection."

During the inspection, PHMSA requested visual external inspection records for Tanks 1 and 10. Seaport provided Tank 1's API Std 653 External Inspection Final Report, with an inspection date of May 10, 2019, and Tank 10's API Std 653 Internal Inspection Final Report, with an inspection date of May 11, 2019.

According to API Std 653, Section 6.3.2.1, Tank 1 should have received a visual external inspection no later than May 10, 2024, and Tank 10 should have received a visual external inspection no later than May 11, 2024. However, at the time of the PHMSA inspection, neither of these visual external inspections had been performed. Therefore, Seaport failed to inspect the physical integrity of Tanks 1 and 10 in accordance with § 195.432(b).

2. § 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 Secs. 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.**

Seaport failed to maintain a record of each analysis, check, demonstration, examination, inspection, investigation, review, survey, and test required Subpart H in sufficient detail to demonstrate the adequacy of corrosion control measures[2] or that corrosion requiring control measures does not exist, as required by § 195.589(c).

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[1] API Standard 653 is incorporated by reference into 49 C.F.R. Part 195, *see* 195.3(b)(1)
[2] *See*, §195.571 What criteria must I use to determine the adequacy of cathodic protection?

Specifically, Seaport failed to maintain records of voltage or IR drop consideration for Tanks 3, 4, 5, and 8 for 2022, as also required by Seaport's cathodic protection procedure noted, in part, below:

1. A negative (cathodic) potential of at least 0.850 volts as measured between the pipeline surface and a saturated copper-copper sulfate reference electrode contacting the electrolyte. Determination of this voltage is to be made with the protective current applied. Voltage drops other than those across the structure-to-electrolyte boundary must be considered for a valid interpretation of this voltage measurement.
    a. Measuring or calculating the voltage drop(s). IR drop will be measured in the off potential
    b. Reviewing the historical performance of the cathodic protection system
    c. Evaluating the physical and electrical characteristics of the pipe and its environment
    d. Determining whether or not there is physical evidence of corrosion.

During the PHMSA inspection, Seaport's Test Point Inspection Reports for the calendar years of 2022 through 2024 were reviewed. The 2022 Test Point Inspection Report did not contain cathodic potential readings with the cathodic protection current applied interrupted (Structure IRF or off potential) for Tanks 3, 4, 5, and 8, as required by Seaport's procedure (as stated above). Without off potentials, Seaport would be unable to measure or calculate voltage drops, other than those across the structure-to-electrolyte boundary, as required for valid interpretation of voltage measurement.[3] Additionally, Seaport would be unable to demonstrate a minimum of 100 mV of cathodic polarization between the structure surface and a stable reference electrode contacting the electrolyte.[4] Therefore, Seaport failed to maintain records of voltage or IR drop consideration for Tanks 3, 4, 5, and 8 for the calendar year of 2022, as required by § 195.589(c).

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

[3] *See*, NACE SP 0169, Section 6.2.2.1.1 and API RP 651, Section 8.2.2.1
[4] *See*, NACE SP 0169, Section 6.2.2.1.3 and API RP 651, Section 8.2.2.3

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 documents involved in this case, and have decided not to propose a civil penalty assessment at this time.

Proposed Compliance Order
With respect to Item 1 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Seaport. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Warning Item
With respect to Item 2, 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 this Item. 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 5-2024-040-NOPV**, and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Dustin Hubbard
Director, Western Region, Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration

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

cc: PHP-60 Compliance Registry
PHP-500 J. Luo, L. Salvador (#24-297214)
Luis De Leon, HSE Manager - ldeleon@transmontaigne.com

PROPOSED COMPLIANCE ORDER

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

A. In regard to Item 1 of the Notice pertaining to failure to inspect the physical integrity of Tanks 1 and 10 in accordance with API Std 653, as prescribed in § 195.432(b), Seaport must inspect the physical integrity of Tanks 1 and 10 within **60** days of receipt of the Final Order and submit documentation demonstrating that this action was completed to the Western Region Director.

B. It is requested (not mandated) that Seaport maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Dustin Hubbard, Director, Western 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.