



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

November 10, 2021

Ms. Erica Jackson
Manager, Community Outreach and Support
FracTracker Alliance
112 Sherman Street
Pittsburgh, PA 15209

Dear Ms. Jackson:

Thank you for your letter of August 4, 2021, in which you expressed concerns about the Shell Pipeline Company, LP (Shell) Falcon Ethane Pipeline System. We acknowledge your continued safety concerns and I assure you that the Pipeline and Hazardous Materials Safety Administration (PHMSA) is committed to protecting the people, property, and environment in the Commonwealth of Pennsylvania and across the Nation by administering a national pipeline safety regulatory program. Following are responses to your questions:

1. What actions has PHMSA taken, or plans to take, to hold Shell Pipeline Company LP (Shell) accountable?

Response: PHMSA requires all operators to comply with the Federal Pipeline Safety Regulations (PSRs). Ensuring compliance with the Federal PSRs involves regularly inspecting pipeline operator programs, facilities, and records. If compliance violations are identified, appropriate enforcement tools such as a Corrective Action Order, Safety Order, Notice of Probable Violation, Warning Letter, or Notice of Amendment are issued. To date, PHMSA has issued the following enforcement actions to Shell in connection with the construction of the Falcon Ethane Pipeline System:

- a) Notice of Amendment, CPF No.: 1-2020-5011M, dated July 16, 2020, which cited Shell for inadequate written specifications or standards for pipeline system construction and welding procedures. This case is closed.
- b) Warning Letter, CPF No.: 1-2021-049WL, dated July 16, 2021, which cited Shell for failing to construct its pipeline system in accordance with its written specification or standards regarding support of coated pipe during handling. This case is closed.

PHMSA will continue to inspect the construction of the Falcon Ethane Pipeline System, and thereafter, to ensure compliance with the Federal PSRs.

- 2. The Secretary of the PA DEP has stated that PHMSA's inquiry into issues with the Falcon Ethane Pipeline System, referenced in PHMSA's May 4th correspondence, were incomplete. What actions has PHMSA taken since the PA DEP correspondence?***

Response: Since PHMSA's May 4, 2021, correspondence to the FracTracker Alliance, the agency has continued to inspect the construction of the Falcon Ethane Pipeline System to ensure compliance with the Federal PSRs. During the construction inspections, PHMSA has focused its attention on pipeline coating and reviewed coating application procedures and implementation of those procedures, which includes observation of the coating application on the pipe in the field. Pursuant to those inspections, as noted above, PHMSA issued a Warning Letter to Shell on July 16, 2021, which cited Shell for failing to construct its pipeline system in accordance with its written specification or standards regarding support of coated pipe during handling. This case is closed.

PHMSA has also reviewed Shell's record of its baseline in-line inspection (ILI) that was conducted in November 2020. There were no anomalies detected that required remedial work. Shell also conducted a Close Internal Survey (CIS) in April and May 2021. We have and will continue to review Shell's CIS records. If there are cathodic protection or coating issues found during these reviews, then remedial action(s) will be taken. From 2019 to 2021, Shell installed a cathodic protection system on the Falcon Ethan Pipeline System, which will help prevent and mitigate corrosion from occurring on the exterior of the pipe. PHMSA will continue to inspect the construction of the Falcon Ethan Pipeline System, and thereafter, to ensure compliance with the Federal PSRs.

- 3. Did PHMSA alert regulatory agencies in Ohio and West Virginia to the issues surrounding inadvertent returns, as it did with the Pennsylvania Department of Environmental Protection? If not, why not?***

Response: In August 2019, PHMSA proactively reached out to the Pennsylvania Department of Environmental Protection (DEP) to share information we received regarding inadvertent returns in Pennsylvania. PHMSA is not aware of inadvertent returns related to the Falcon Ethan Pipeline System in the states of Ohio and West Virginia. As discussed in our May 4, 2021 correspondence to the FracTracker Alliance, inadvertent returns do not fall within the authority of PHMSA. The state DEPs have authority over inadvertent returns.

- 4. Administrator Brown's May 4th letter stated that Shell performed a baseline in-line inspection and was expected to complete a Close Internal Survey of the pipeline. There is reason to believe that employees working on this pipeline system have inaccurately reported information and that the project may have a workplace culture of fear and intimidation. Therefore, we are requesting independent integrity testing of the pipeline by a third-party. Could PHMSA require this?***

Response: PHMSA does not require an operator to hire an independent third-party to conduct an integrity test without evidence of a safety concern. To date, PHMSA is unaware of any safety concerns that would warrant an independent third-party integrity test of the Falcon Ethane Pipeline System.

5. *What do PHMSA inspections entail? How much of PHMSA's inspection and oversight relies on self-reporting by employees hired and/or contracted by Shell?*

Response: PHMSA's compliance inspection program consists of both system-wide program inspections and site-specific field inspections. System-wide program inspections cover an operator's processes and procedures, while site-specific field inspections include a physical inspection of pipeline facilities, examinations of the implementation of programs and processes, and a review of documentation and records to verify compliance with the Federal PSRs. When PHMSA promulgates a significant new regulatory program, the agency conducts focused inspections to ensure that the new regulations are fully understood and effectively implemented. If PHMSA identifies safety issues or noncompliance during an inspection, PHMSA will issue enforcement actions to achieve and maintain pipeline safety and to ensure regulatory compliance. In addition, the PSRs include self-reporting requirements, such as giving an immediate notice of certain accidents, accident report filing, and safety-related condition(s) report filing. These reports are monitored and reviewed by PHMSA.

6. *PHMSA's enforcement action website lists one Notice of Amendment, but there does not appear to be any enforcement actions and/or cases opened regarding Shell's false recording of the use of a test strip, or pipeline inspectors falsifying records or being encouraged to falsify records. Were additional cases opened beyond what's publicly available? If not, what was done in response to pipeline inspectors falsely recording data?*

Response: As stated in our May 4, 2021, letter addressed to the FracTracker Alliance, "PHMSA investigated the allegation of falsification of coating inspection reports related to the 'thickness of coating applied' but did not find any evidence supporting this allegation. PHMSA did identify a situation that warranted additional scrutiny. In the process of evaluating whether the pipe has been adequately sandblasted and cleaned, test strips are applied to determine if the surface has attained a proper profile. Different test strips are used for different profiles. The company disclosed it did not have the appropriate test strip available, and an individual used an incorrect test strip, falsely recording the use of a proper test strip. The company discovered the issue, removed the incorrect record, and recovered the actual results so that the required record accurately reflected what had occurred." PHMSA reviewed the actual results and they were within the manufacturer's recommendation.

7. *The recent E&E News article states that a representative of the coating manufacturer stated the pipeline's protective layer was "unacceptable," and also that there is no record that PHMSA followed up with the pipeline coating manufacturer. Has PHMSA followed up with the manufacturer, and if so, is that correspondence publicly available?*

Response: PHMSA is aware of concerns related to coating and has inspected and continues to inspect documentation and records related to them. PHMSA has reviewed coating application procedures, manufacturer recommendations for application, and coating application on the pipe in the field. To date, PHMSA has not identified any coating issues on the Falcon Ethane Pipeline System that are unacceptable or require repair. On July 16, 2021, PHMSA issued a Warning Letter to Shell, for failing to construct its pipeline system in accordance with its written specification or standards regarding support of coated pipe during handling. This case is closed. Operators, including Shell, must inspect all external pipe coating just prior to lowering the pipe into the ditch. PHMSA has and will continue to observe these activities during construction of the Falcon Ethane Pipeline System.

8. *The Falcon Ethane Pipeline System crosses sources of drinking water for thousands of people, from the Ambridge Reservoir and the Ohio River. Should the pipeline leak or explode, Shell has promised to provide water buffaloes for residents. What role would PHMSA play in providing water and/or restitution for the loss of it should an accident occur, and if so to what extent and how has that plan been communicated to residents?*

Response: PHMSA administers a national regulatory safety program for approximately 2.8 million miles of interstate and intrastate pipelines in the United States. This program requires that pipeline operators design, construct, operate, and maintain their pipeline facilities in compliance with the Federal PSRs found in 49 Code of Federal Regulations (CFR) Parts 190-199. PHMSA has no role in overseeing the provision of drinking water to residents or restitution for loss due to a pipeline accident.

9. *The Falcon Ethane Pipeline System, should it leak or explode, is extremely close to schools, neighborhoods, churches and communities. Some of these communities, like Maronda Farms, are within the blast zone of the pipeline. Has Shell filed and/or publicly released an emergency management plan to handle evacuations or a response should an accident occur?*

Response: Pipeline operators are not required to file or make its emergency response plan publicly available; however, the emergency response plans are reviewed during PHMSA inspections. The Federal PSRs require operators to prepare and follow an emergency response plan when the pipeline is in operation. In addition, operators are required to establish and conduct a continuing training program to instruct emergency response personnel so there is advanced knowledge of where pipelines are located in communities, the products transported in them, and how to contact and coordinate with an operator in the event of an emergency. Further, an operator must develop and implement a written continuing public education program which includes, among other things, messages to emergency responders and the public.

10. *In accordance with the Pipeline Safety Act, what role does PHMSA play in ensuring full disclosure of the risks of an ethane pipeline leak and/or explosion—including property damage, asphyxiation, burns and fatalities—to all residents, school districts, churches, businesses and hospitals within the blast zone of the Falcon Ethane Pipeline System both before its construction began and in ongoing education since that point?*

Response: The Federal PSRs require operators to prepare and follow an emergency response plan when the pipeline is in operation. The emergency response plan must establish a continuing training program to instruct emergency response personnel on the characteristics and hazards of the hazardous liquids or carbon dioxide transported, including, in case of flammable highly volatile liquids, the flammability of mixtures with air, odorless vapors, and water reactions. The continuing training program must also instruct emergency response personnel on the steps necessary to control any accidental release of hazardous liquid or carbon dioxide and to minimize the potential for fire, explosion, toxicity, or environmental damage. In addition, the Federal PSRs require operators to develop and implement a written continuing public education program for the public, government organizations, and persons engaged in excavation activities, that includes messaging on the possible hazards associated with an unintended release; physical indications that such a release may have occurred; steps that should be taken for public safety in the event of a hazardous liquid or carbon dioxide pipeline release; and procedures to report such an event. The public education program must be conducted in English and in other languages commonly understood by a significant number and concentration of the non-English speaking population in the operator's area. To help ensure that operators comply with regulatory requirements, PHMSA conducts compliance inspections.

11. *In accordance with the Pipeline Safety Act, what role does PHMSA play in ensuring full disclosure of the risks of an ethane pipeline leak—including property damage, asphyxiation, burns and fatalities—to all local emergency-preparedness personnel within the blast zone of the Falcon Ethane Pipeline System both before its construction began and in ongoing education since that point?*

Response: Please see the response to question 10.

12. *Since the heavier-than-air, traveling, asphyxiating vapor cloud formed by an ethane pipeline leak can be ignited by a spark from a car, cell phone, or doorbell, what role does PHMSA play in ensuring that the most vulnerable residents within the Shell Falcon Pipeline blast zone—i.e., children, the elderly, and people with disabilities—1) Can be swiftly and safely evacuated from a leak site on foot, uphill, and upwind without assistance from cars, cell phones, or even doorbell warnings?; 2) Are all fully informed of a feasible evacuation plan?; and 3) Are all provided with ongoing education about this plan, and are materials provided in other languages, if necessary?*

Response: Please see the response to question 10. Also, the Federal PSRs require operators to notify and coordinate with emergency responders in the event of a hazardous liquid or carbon dioxide pipeline emergency, including additional precautions necessary for an emergency involving pipeline systems that transport a highly volatile liquid.

13. *The PA Environmental Digest recently published a policy paper describing how natural gas and hazardous liquid pipelines are not required to have insurance to cover property damage, bodily harm or environmental cleanup and natural resource damage costs. What role does PHMSA play in ensuring that residents are compensated for property damage and/or bodily harm due to the Falcon Ethane Pipeline System leaking and/or exploding?*

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Response: PHMSA has no oversight or authority with regards to compensation for property damage and bodily harm due to pipeline accidents and incidents.

Thank you for your commitment to pipeline safety. Safety is our number one priority and PHMSA is committed to ensuring that pipelines are designed, constructed, operated, and maintained in accordance with the Federal PSRs. Should you have any additional questions or concerns, please contact Karen Lynch, Community Liaison Services Program Manager by email at Karen.Lynch@dot.gov or by telephone at 202-366-6855. We hope this information is helpful.

Sincerely,

William J. Rush

William Rush
Director of Field Operations