Pipeline Safety TRUST

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June 3, 2025

Ben Kochman, Acting Administrator
U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

Re: PHMSA's Corrective Action Order on South Bow's Keystone Pipeline

Dear Mr. Kochman:

I am writing on behalf of the Pipeline Safety Trust regarding our concerns about the continued operation of Keystone Pipeline. Pipeline Safety Trust (PST) is a nonprofit watchdog organization dedicated to protecting people and the environment from the devastating impacts of pipeline disasters. We pursue our mission of education and advocacy by increasing access to information, and by building partnerships with residents, safety advocates, government, and industry, that result in safer communities and a healthier environment.

We would first like to commend the Pipeline and Hazardous Materials Safety Administration (PHMSA) for issuing a Corrective Action Order (CAO) against South Bow Infrastructure Operations, Inc. (South Bow) for its recent failure near Fort Ransom, ND in which an estimated 3,500 barrels of crude oil was spilled after a rupture.[1] As you are well aware, this pipeline has a troubling history of 13 significant incidents in the 15 years since its operation began.[2] In the last decade, Keystone pipeline has spilled over 1 million gallons of crude oil into the environment.[3] We agree with PHMSA that this is an unacceptable track record. As such, we request that PHMSA consider whether taking the additional step of issuing a Safety Order and/or revoking Keystone's special permit on the basis that this special permit is inconsistent with pipeline safety, is appropriate.

PHMSA has authority to issue a Safety Order in situations in which the Secretary determines that a pipeline facility has a condition that poses a pipeline integrity risk to public safety, property or the environment. 49 U.S.C. § 60117(m)(1). In making this determination, the Secretary shall consider (1) the characteristics of the pipeline and its location, recommendations of the National Transportation Safety Board, and other factors as deemed appropriate by the Secretary, 49 U.S.C. § 60112(b)(1)–(7); (2) the likelihood that the condition will impair the serviceability of a pipeline; (3)

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[1] U.S. Dep't of Transp., PHMSA, *Corrective Action Order: In the Matter of South Bow Infrastructure Operations, Inc.*, CPF No. 3-2025-018-CAO (Apr. 11, 2025) https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2025-04/PHMSA%20CAO_South%20Bow-Keystone%20CPF%203%202025%20018.pdf.

[2] Pipeline Safety Trust, *Keystone Pipeline Ruptures and Spills Unknown Amount of Crude Oil Near Fort Ransom, North Dakota* (April 8, 2025) https://pstrust.org/keystone-pipeline-ruptures-and-spills-unknown-amount-of-crude-oil-near-fort-ransom-north-dakota/.

[3] *Id.*

the likelihood that the condition will worsen over time; and (4) the likelihood that the condition is present or could develop on other areas of the pipeline. *Id.* at § 60117(m)(2). PST believes that given the history and background of incidents on this pipeline, a Safety Order may be appropriate.

The latest rupture that occurred in Fort Ransom, ND is similar to two previous failures: The December 7, 2022 incident near Washington, Kansas (spilling 14,000 barrels) and the November 16, 2017 incident near Amherst, SD (spilling 6,592 barrels). All three of these segments were allowed to be operated at pressures higher than that currently permitted under 49 C.F.R. § 195.106, which requires a design factor of 0.72 times the specified minimum yield strength (SMYS). The higher pressure approved by a PHMSA special permit was based upon a design pressure of 0.80 times the SMYS. This higher design factor represents a nearly 30% reduction in the margin to the yield strength.[4] PHMSA's evaluation of Keystone's pipeline petition for waiver acknowledged the 0.80 design factor would result in accelerated fatigue crack growth and called for increased inspections.[5]

PST also notes that none of the 51 conditions established by PHMSA in the special permit to allow the use of a 0.80 design factor address manufacturing defect stability. PHMSA's code states that a manufacturing defect can be considered stable only if the pipe has been subjected to hydrostatic pressure testing satisfying the criteria of subpart J of at least 1.25 times MAOP. 49 C.F.R. § 192.917(e)(3). While the special permit segments were tested to 1.25 MAOP, the underlying study that PHMSA commissioned to support § 192.917(e)(3) was based on line pipe with a design factor 0.72 and does not address line pipe with a design factor 0.80. As a result, manufacturing defects in pipe with a 0.80 design factor should not be considered stable even though the line pipe was tested to 1.25 MAOP.

Based on our review of the Fort Ransom, ND CAO, it seems the rupture was likely caused by a seam weld failure. Because this pipe failed at 1,261 psig, well below the maximum operating pressure of 1440 psig, fatigue crack growth likely contributed to the failure. The required metallurgical failure analysis should confirm this. Given the nature of these three failures and the limited time that these segments were operating at 0.80 times the SMYS raises questions about the efficacy of the special permit and indicate a potential pipeline integrity risk that is likely to continue to impact the pipeline's serviceability and worsen over time. 49 U.S.C. § 60117(m)(2)(B)–(C). Additionally, because the condition has already appeared on three occasions in different locations on the same pipeline, it seems that the same conditions that produced several failures already could develop on other areas of the pipeline. *Id.* at § 60117(m)(2)(D).

Further, at the request of lawmakers, the Government Accountability Office (GAO) investigated the pipeline after two large spills in 2017 and 2019.[6] In the report, GAO found that construction issues contributed to spills on this pipeline more frequently than on other pipeline systems. It also stated that the large spills were "caused by issues related to the original design, manufacturing of the

[4] (0.80 - 0.72) / (1.0 - 0.72) x 100 = 28.6%.
[5] U.S. Dep't of Transp., Pipeline and Hazardous Materials Safety Admin., Special Permit of TransCanada Keystone Pipeline, L.P., 2, 12–13 (Apr. 30, 2007) https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/docs/TC_Keystone_2007-04-30_508compliant.pdf.
[6] U.S. Gov't Accountability Office, *Pipeline Safety: Information on Keystone Incidents and DOT Oversight* (July 2021) https://www.gao.gov/assets/gao-21-588.pdf [GAO REPORT].

pipe, or construction of the pipeline."[7] This finding also seems to indicate both that the condition of the pipeline is likely to impair its serviceability and that it is likely to worsen over time.

While PST is appreciative of the provisions found in the CAO calling for South Bow to complete an evaluation of its adherence to the special permit, we have some suggestions. PST believes that this evaluation should be expanded beyond Fort Ransom, ND area to include all Keystone Pipeline segments allowed to operate 0.80 times the SMYS under the special permit.[8]

The Fort Ransom, ND CAO also requires that the evaluation must be supplemented or facilitated by an independent third-party acceptable to the PHMSA Regional Operations Director and document the decisionmaking process and all factors taken into consideration. PST questions the independence of such an evaluation that is contracted by South Bow Pipeline. PST recommends that the evaluation be under the control of PHMSA and that it address the efficacy of operating hazardous liquid pipelines with a design factor of 0.80 times the SMYS. PHMSA should conduct a detailed evaluation of the special permit terms and consider whether revocation or modification of the special permit is necessary.

PST also strongly believes that the results of this evaluation should be presented in a public meeting, and that PHMSA should consider re-noticing this special permit in a public docket with new or modified conditions that address the numerous failures that have occurred under the existing terms.

At a minimum, the special permit should be amended to require a state-of-the-art seam defect assessment tool run. As written, the special permit does not require this type of assessment, but this technology could detect problem areas, allow PHMSA and South Bow to more closely monitor the condition of the pipe, and allow for better evaluation of the appropriateness of the special permit conditions.

It is PST's position, however, that South Bow has apparently miscalculated the crack growth rate on Keystone and may have overestimated the remaining life of defects in the pipeline, calling into question the appropriateness of the special permit. As stated in the permit itself:

> Should Keystone fail to comply with any conditions of this special permit, or should PHMSA determine this special permit is no longer appropriate or that this special permit is inconsistent with pipeline safety, PHMSA may revoke this special permit and require Keystone to comply with the regulatory requirements in 49 CFR 195.106.[9]

Given the repeated incidents on Keystone Pipeline and the likelihood that the incidents reflect non-compliance with the special permit conditions, PST believes it is possible that this threshold has been met and that this special permit is inconsistent with pipeline safety.

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[7] *Id.* at 25.

[8] South Bow's evaluation must include whether additional, modified, or more stringent conditions should be incorporated into the special permit to prevent incidents like the April 8, 2025, failure, or any other reportable accident that has occurred since the Keystone Pipeline went into service.

[9] GAO REPORT at 16.

PHMSA should strongly consider revocation of South Bow's special permit to ensure pipeline safety and the protection of people and the environment.

Thank you for your consideration of our request. Please contact me at erin@pstrust.org or (360) 543-5686 x107 if you have any questions or would like to discuss this letter.

Sincerely,

Erin Sutherland
Policy & Program Director/Counsel

CC: Linda Daugherty, Acting Associate Administrator for Pipeline Safety
Keith Coyle, Chief Counsel