



U.S. Department
of Transportation

1200 New Jersey Avenue, SE
Washington, DC 20590

**Pipeline and Hazardous
Materials Safety Administration**

June 10, 2024

Mr. Vince Murchison
Murchison Law Firm, PLLC
325 North St. Paul Street
Suite 2700
Dallas, TX 75201

Re.: 49 CFR § 195.1 Interpretation for US Venture, Inc.

Dear Mr. Murchison:

In a letter to the Pipeline and Hazardous Materials Safety Administration (PHMSA), dated June 30, 2023, you requested an interpretation of the Federal pipeline safety regulations in 49 Code of Federal Regulations (CFR) Part 195 with respect to the scope of the part under § 195.1 to the US Venture, Inc. (USV) facilities including eight terminals (with a total of 45 storage tanks) and interfacility transfer lines which connect those terminals in Green Bay, Wisconsin.

You stated all product to the terminals is supplied by either vessel, truck, or rail modes. You stated product departs only via vessel, rail, or truck. You stated the tanks at all terminals provide storage only for vessel, rail and/or truck product movements.

You stated the interfacility transfer lines move product from one terminal to another, and serve either vessel, rail, or truck terminal facilities. You stated that each of the interfacility transfer lines operate at less than 20 percent SMYS, are less than one mile long (measured outside facility grounds), do not cross an offshore area, and, with one exception, do not cross a waterway currently used for commercial navigation.

You stated the exception is Line GY254FX which contains a segment that crosses the Fox River. You stated Line GY254FX is a 3,135 feet long pipeline (measured outside facility grounds). You stated the segment of the Line GY254FX pipeline that crosses the Fox River is 1,258 feet long and it was removed from service in November 2022 by purging the line of product and filling with a nitrogen blanket under pressure. You stated USV management has approved permanent abandonment of Line GY254FX, and USV program personnel currently are developing an abandonment plan.

You stated that about 90 percent of the product is delivered by truck to local and regional consumer markets (i.e., gas stations) and vessel or rail will be used for delivery to more distant markets. You stated given the idling and imminent abandonment of the Fox River crossing

pipeline, product movements by pipeline on the west side of the river are separate and distinct from movements by pipeline on the east side of the river – on the west side, product is routed among the terminals by pipeline to segregated storage or for inventory management and on the east side of the river, all product is moved in and out by truck.

You stated all terminals on the west side of the Fox River are under oversight of the United States Coast Guard (USCG) because product may be moved by pipeline between any tank and the vessel dock at Fox River Terminal. Also, you stated the Fox River Terminal vessel dock and transfer lines are covered by the USCG safety regulations. Therefore, you asked PHMSA whether the regulatory exception under § 195.1(b)(3) applies to this facility.

You mentioned, in your request letter, you had discussions with Mr. Greg Ochs, the Director of PHMSA's Central Region as to the applicability of 49 CFR Part 195 to this facility. Mr. Ochs informed the interpretation team that he and his team had meetings with you and with the USCG.

On August 9, 2023, PHMSA requested the facility operation manual to confirm your assertion that all terminals on the west side of the Fox River are under oversight of the USCG for operation manuals, security, and facility response plans. On August 25, 2023, you provided the operation manual. Careful examination of the operation manual shows that the manual is limited to the vessel dock, the pipelines that originate from the vessel loading dock to the first valve located inside secondary containment, and the first valve located inside secondary containment to vessel loading dock. The operational manual does not include the valves, gauges, and pipelines beyond those valves which are under the regulatory authority of the USCG.

Also, regarding the pipeline crossing the navigable waterway (Line GY254FX), on August 16, 2023, you informed PHMSA that on July 7, 2023, the segment of pipeline was abandoned, and you mailed a report to PHMSA National Pipeline Mapping System (NPMS) shortly after abandonment.

Your request is that PHMSA evaluate the regulatory conclusions presented in your request letter which are reprinted below.

1. All interfacility transfer lines are excepted from the application of Part 195 pursuant to 49 CFR § 195.1(b)(3)(ii).
2. All interfacility transfer lines on the west side of the Fox River are also excepted from the application of Part 195 pursuant to 49 CFR § 195.1(b)(3)(i).
3. As of the date of abandonment of Line GY254FX, Part 195 no longer applies to that line.
4. None of the storage tanks at any of the terminals is classified as a breakout tank given that (a) no tank is used to relieve surges, and (b) no movements either into or out of the terminals is by pipeline to which Part 195 applies.

To respond to your question, the relevant code section from Part 195 is reprinted below.

§ 195.1(b) Excepted. This Part does not apply to any of the following:

- (3) Transportation of a hazardous liquid through any of the following low-stress pipelines:
 - (i) A pipeline subject to safety regulations of the U.S. Coast Guard; or
 - (ii) A pipeline that serves refining, manufacturing, or truck, rail, or vessel terminal facilities, if the pipeline is less than one mile long (measured outside facility grounds) and does not cross an offshore area or a waterway currently used for commercial navigation

In addition, the definition of “pipeline” under § 195.2 is reprinted below:

Pipeline or pipeline system means all parts of a pipeline facility through which a hazardous liquid or carbon dioxide moves in transportation, including, but not limited to, line pipe, valves, and other appurtenances connected to line pipe, pumping units, fabricated assemblies associated with pumping units, metering and delivery stations and fabricated assemblies therein, and breakout tanks.

As to item 1 of your request regarding the application of § 195.1(b)(3)(ii) to all interfacility transfer lines, you provided a block diagram of your Green Bay System Pipelines on the last page (page 5) of your request. The table below summarizes the pipeline length outside of the facility grounds for each pipeline.

Table 1 – US Venture Inc. Green Bay System Pipelines

Pipeline Length (in feet) Outside of Facility Grounds		
Location	Product	
	Gasoline	Diesel
Fox River to Buckeye	318	323
Buckeye to Bylsby	1,927	1,889
Buckeye to Hurlbut North	3,552	3,980
Buckeye to Hurlbut South	2,949	3,110
PL East to Quincy North	1,004	

When applying the exception at § 195.1(b)(3)(ii), a pipeline that serves refining, manufacturing, or truck, rail, or vessel terminal facilities, will qualify for the exception if it is less than one mile long (measured outside facility grounds) and does not cross an offshore area or a waterway currently used for commercial navigation. PHMSA understands that the pipelines operated by USV in Table 1 do not cross an offshore area or a waterway currently used for commercial navigation.

In terms of identifying whether a pipeline meets the one-mile criterion at § 195.1(b)(3)(ii), the length of a pipeline would consist of the mileage measured outside of facility grounds, of all parts of the pipeline facility, as identified by the operator, through which a hazardous liquid moves in transportation. If that mileage is equal to one mile or more, the pipeline, including, but not limited to associated breakout tanks, would not qualify for the exception at § 195.1(b)(3)(ii)

and, therefore, would be regulated under the Part 195 regulations. If that mileage is less than one mile, the pipeline, including, but not limited to associated breakout tanks, would qualify for the exception at § 195.1(b)(3)(ii) and, therefore, would not be regulated under the Part 195 regulations.

The PL East to Quincy North pipeline appears to meet the criteria in § 195.1(b)(3)(ii), consistent with USV's determination. For the remainder of the pipelines operated by USV in Table 1, PHMSA has not received information necessary to determine if any of these pipelines could be operated in a way such that they would be considered a single pipeline. If any combination of segments listed in Table 1 could be considered a single pipeline with a length that exceeds the one-mile distance (measured outside facility grounds) needed to qualify for the exception, that pipeline would not qualify for the exception and would be regulated.

As to item 2 of your request regarding the application of § 195.1(b)(3)(i) to interfacility transfer lines on the west side of the Fox River, your operation manual confirms that the USCG only regulates from the vessel loading dock to the first valve inside the secondary containment for product unloading to the facility, or from the first valve inside the secondary containment to the vessel loading dock for product loading to a vessel. Therefore, other than the vessel loading and unloading area, the tanks and the piping system of the facility are not regulated by USGS and, therefore, this exception does not apply to the pipelines on the west side of the Fox River.

As to item 3 of your request regarding the applicability of Part 195 to Line GY254FX, PHMSA agrees, that as of the date of abandonment of Line GY254FX, Part 195 would no longer apply provided the abandonment was performed in accordance with the requirements of USV's procedures and the requirements at §§ 195.59 and 195.402(c)(10).

As to item 4 of your request regarding the classification of the storage tanks at any of the terminals as breakout tanks, you requested confirmation that the storage tanks associated with the pipelines listed in Table 1 are not breakout tanks as that term is defined in Part 195. The § 195.2 definition of a breakout tank is reprinted below:

Breakout tank means a tank used to (a) relieve surges in a hazardous liquid pipeline system or (b) receive and store hazardous liquid transported by a pipeline for reinjection and continued transportation by pipeline.

PHMSA understands, based on the submitted information, the tanks are not used to relieve surges, but they are used to receive and store hazardous liquid for reinjection and continued transportation throughout the facility. Therefore, the tanks' regulatory status is dependent on whether the pipelines in Table 1 associated with the tanks meet the § 195.1(b)(3)(ii) exception as described in item 1 of PHMSA's response.

If we can be of further assistance, please contact Tewabe Asebe at 202-366-5523.

Sincerely,

John A. Gale
Director, Office of Standards
and Rulemaking



June 30, 2023

Mr. John Gale
Director, Standards and Rulemaking
Office of Pipeline Safety (PHP-30)
Pipeline and Hazardous Materials Safety Administration
U.S. Department of Transportation
1200 New Jersey Avenue SE
Washington, DC 20590-0001

Via FedEx: 7726 1391 7196

Re: U.S. Venture, Inc.; Request for Written Interpretation

Dear Mr. Gale:

This letter presents a request on behalf of U.S. Venture, Inc. (USV; OPID 39966) for a written interpretation pursuant to 49 C.F.R. § 190.11(b). USV's request relates to the applicability of 49 C.F.R. Part 195 to certain terminals and interfacility transfer lines which connect those terminals. Below, USV provides background information which frames this request; describes the terminals and the interfacility transfer lines; describes product movements; describes the scope of applicable U.S. Coast Guard regulations; sets forth its regulatory conclusions regarding the applicability of Part 195 to USV's facilities based upon the provisions of 49 C.F.R. § 195.1; then sets forth its interpretation request. USV seeks PHMSA concurrence in its conclusions.

Please note that USV has had prior discussions with Greg Ochs, Director, Central Region, regarding the applicability of Part 195 to these same facilities. Those discussions have not reached any conclusions.

Background

In January 2019, USV acquired a pipeline segment which crosses the Fox River, along with related pipeline equipment, from West Shore Pipe Line Company (West Shore). USV purchased the pipeline segment to connect its terminals on either side of the Fox River. Prior to that transaction, USV owned eight terminals in Green Bay, Wisconsin, six on the west side of the Fox River, and two on the east side. Each terminal has a number of storage tanks and is connected to the other terminals by interfacility transfer lines. All of the terminals are located in near proximity to one another. The products stored at the terminals are motor gasoline of various grades (*e.g.*, Conventional Blendstock for Oxygenate Blending, intended for blending with ethanol) and diesel fuel (*e.g.*, Ultra-Low-Sulfur Diesel).

In connection with acquisition of the Fox River segment from West Shore, the West Shore mainline pipeline on either side of the eight terminals was severed from any and all piping connected to the terminals, leaving the line across the Fox River as the sole segment of the former West Shore pipeline that remains connected to the terminals. As a result, all product is supplied to the terminals by either vessel, truck, or rail modes.



Know what's below.
Call before you dig.



The Terminals

The terminals were historically supplied in part by the now-decommissioned West Shore pipeline. However, since the acquisition of the former West Shore assets, none of the product stored in or moved among the terminals arrives via pipeline; rather, product arrives and departs only via vessel, rail, or truck. All tanks at all terminals provide storage only for vessel, rail and/or truck product movements.

Table 1 below provides information relating to the modal capabilities of each of the terminals.

Table 1 – USV Green Bay Terminals

Terminal Name	Side of Fox River	Storage Tanks	Truck In	Truck Out	Rail	Vessel
Buckeye	West	5	X	X		
Fox River	West	4	X	X		X
Fox River West	West	8			X	
Bylsby	West	7		X		
Hurlbut North	West	7	X			
Hurlbut South	West	5	X			
Quincy North	East	4	X	X		
Quincy South	East	5				

The Interfacility Transfer Lines

The interfacility transfer lines move product from one terminal to another, and on the west side of the Fox River, each line is dedicated to either gasoline or diesel. The line crossing the Fox River and the interfacility transfer lines on the east side of the river move both gasoline and diesel in the same line. Each interfacility transfer line serves either vessel, rail, or truck terminal facilities. Each such interfacility transfer line operates at less than 20% SMYS, is less than one mile long (measured outside facility grounds), does not cross an offshore area, and with one exception does not cross a waterway currently used for commercial navigation. The exception is Line GY254FX which contains a segment that crosses the Fox River, as described in greater detail below.

Tank pumps are the source of pressure for moving product on the interfacility transfer lines.

Attached hereto as Exhibit A is a block flow diagram which identifies the interfacility transfer lines, the terminals served, the product moved, and the length of each line (measured outside facility grounds).

Line GY254FX

The line designated GY254FX is the line with a segment that crosses the Fox River. This line was acquired from West Shore in 2019. At the time of acquisition, the pipeline was idle and purged with nitrogen. The Fox River currently is used for commercial navigation. An example of such commercial navigation is the vessels which deliver product to the Fox River Terminal dock.

Line GY254FX is 3,135 feet long (measured outside facility grounds). The segment of Line GY254FX which crosses the Fox River is 1,258 feet long. Line GY254FX was removed from service in November



2022 by purging the line of product and filling it with a nitrogen blanket under pressure. USV management has approved permanent abandonment of Line GY254FX, and USV program personnel currently are developing an abandonment plan. Given that Part 195 applies to the 1,258-foot segment, USV is following its procedures developed pursuant to § 195.402(c)(10), and USV will submit a notification to PHMSA pursuant to § 195.59 upon completion of abandonment activities.

Product Movements

All product stored within the terminals arrives initially via vessel, rail or truck. Various tanks at various terminals are used for product segregation and/or inventory management. Approximately 90% of the product is delivered by truck to local and regional consumer markets (*i.e.*, gas stations). Occasionally, product will be moved out via vessel or rail for delivery to more distant markets.

Given the idling and imminent abandonment of the Fox River crossing, product movements on the west side of the river are separate and distinct from movements on the east side of the river. On the west side, product is routed among the terminals to segregated storage or for inventory management. On the east side of the river, all product is moved in and out by truck.

U.S. Coast Guard Regulations

All terminals on the west side of the Fox River are under oversight of the United States Coast Guard (USCG) for Operation Manuals, Security and Facility Response Plans pursuant to 33 C.F.R. Part 154. USCG has jurisdiction on the west side of the river since product may be moved between any tank and the vessel dock at Fox River Terminal. Additionally, the Fox River Terminal vessel dock and transfer lines are covered by the entirety of the safety regulations in 33 C.F.R. Part 154.

Accordingly, USV asked PHMSA to archive the Onshore Oil Spill Response Plans previously submitted in accordance with 49 CFR 194 for the eight (8) USV terminals, after Line GY254FX was purged of product, in November 2022. Those Onshore Oil Spill Response Plans now are archived.

Regulatory Conclusions

USV reaches the following conclusions based upon the foregoing:

1. All interfacility transfer lines are excepted from the application of Part 195 pursuant to 49 C.F.R. § 195.1(b)(3)(ii).
2. All interfacility transfer lines on the west side of the Fox River are also excepted from the application of Part 195 pursuant to 49 C.F.R. § 195.1(b)(3)(i).
3. As of the date of abandonment of Line GY254FX, Part 195 no longer applies to that line.
4. None of the storage tanks at any of the terminals is classified as a breakout tank given that (a) no tank is used to relieve surges, and (b) no movements either into or out of the terminals is by pipeline to which Part 195 applies.

Interpretation Request

USV requests that your office evaluate the foregoing and advise whether PHMSA concurs in the regulatory conclusions set forth above.



USV appreciates the time and attention necessary to address requests such as this, and we look forward to discussing this request as you may deem necessary. Please do not hesitate to contact me for any further information you might need to supplement this request; you may reach me at (214) 716-1923 or at Vince.Murchison@PipelineLegal.com.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Vince Murchison', with a long horizontal line extending to the right.

Vince Murchison

cc: Gregory Ochs
Tewabe Asebe
Ryan McClure
Dan Morrill, USV
Sarah Klaver, USV



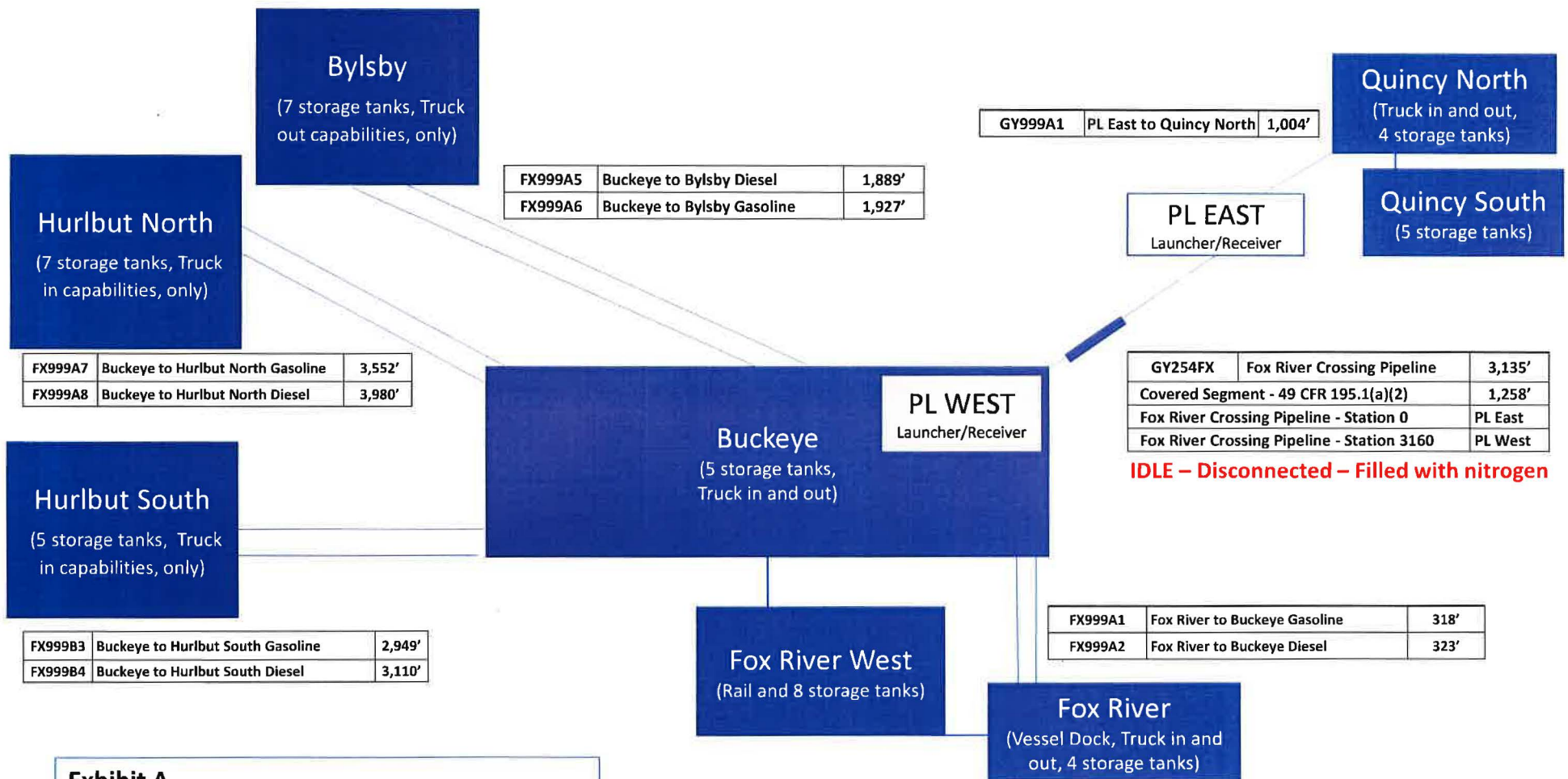


Exhibit A

USV Green Bay System Block Diagram

Note: All interfacility transfer line lengths are measured outside of facility grounds.