

OIL INDUSTRY SUPPLY COORDINATION COMMITTEE

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April 26, 2013

REF: 200-21B

Mr. Patrick Nyoike, CBS
The Permanent Secretary
Ministry of Energy
Nyayo House
P. O. Box 30582-00100
NAIROBI

Dear Sir,

RE: REINSTATEMENT OF 11,500M³ AGO ULLAGE FOR VIVO ENERGY

Reference is made to your letter Ref: ME/CONF/3/2/37 dated 25.04.2013.

We are surprised at this turn of events particularly after the deliberations held in your office on April 19, 2013 between the CEOs of KenolKobil, Libya Oil, Total Kenya and Vivo Energy and a decision reached.

To begin with, we expected a letter from yourself that you promised to issue after the above meeting advising of the decision reached wherein the ullage for Vivo Energy would be adjusted by deducting the volume that was moved into the mainline ex VTTI after 01.03.13, but nett-off the volume for replenishing the linefill overdrawn. The decision to nett-off the linefill overdraw was agreed upon after a lengthy deliberation that reviewed all the facts. This letter was never issued, and to the contrary, we only received your above letter in which you suggest to reverse the earlier decision to deduct Vivo Energy's ullage simply because no OMC raised any comments to the Vivo letter dated 22.04.2013.

We wish to highlight that the letter from Vivo Energy was addressed to yourself and did not necessarily warrant any response from any OMC particularly in view of the fact that these issues were already exhaustively deliberated in your presence by the CEOs mentioned hereabove, at the above meeting of 19.04.2013, and a decision reached.



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Nevertheless, and in view to progress the matter, we advise our comments on the Vivo letter to MOE Ref: VEK/MOE/22/04/13 dated April 22nd 2013 as follows;

A] ADVANCE EVACUATION.

We wish to clarify that any advance evacuation by any OMC from the KPC system can only be done to the extent of the respective OMC's linefill allocation. Any attempt to suggest otherwise is misleading and distorting the facts. As of the 26th of March 2013, Vivo Energy, from their declarations, had product at VTTI and were not stocked out since this product could still be accessed to them through other means and not necessarily through the mainline. In our opinion therefore, there was no justification for a linefill advance request.

Nevertheless, we can only recognize the 4,162 M³ AGO linefill volume as evacuated in advance. However, replenishment of linefill is done via advance declaration to Pipecor /KRA/MOE for manifestation of the volume as linefill. If indeed the product was used to replenish linefill, it should be with clear documentation demonstrating that taxes were not paid for the product. Given the many requests from Vivo on linefill advance, we are unclear as to whether the necessary declaration as mentioned hereabove was indeed carried out for the above 4,162 M³ AGO.

We have established that the 6,249 M³ AGO was product from a private import that was moved into KPC mainline in March 2013 and was sold to Vivo's customers through their Nairobi depot. Please note that this product did not enhance the evacuation as claimed by Vivo. In fact, this product should not have entered the mainline in the first place and contrary to their claim, it has only served to compound the current delays in the discharge of the OTS vessels. We wish to clarify that in the recent past, the mainline has not been constrained by lack of evacuation in Nairobi but rather due to other factors like power outage, equipment breakdown, pipeline damage etc; that have contributed to close to 90% of the pipeline downtime that has slowed down the movement of products in the mainline from a planning rate of 650 m³/hr to the actual average rate of 570 m³/hr in March 2013.

Any purported evacuation in Nairobi therefore did not create additional ullage in KOSF. To the contrary, the private import product batches delayed evacuation from KOSF/KPRL thereby delaying discharge of OTS products and hence denying other OMC's access to products.

Their assertions therefore can only be deemed as a cover scheme to move private import material from VTTI into KPC against the Industry set rules and practice. Moreover, the Industry has in the past discussed and agreed that should an OMC be required to replenish linefill, this requirement would be included in the subsequent OTS volumes to avoid any private imports.



B] AGO BATCH FROM VTTI.

This private import batch was never scheduled for entry into the KPC mainline. In fact, on the same date, there was a batch scheduled for the mainline ex KOSF to create ullage at KOSF for a scheduled OTS vessel that was awaiting discharge. Surprisingly though, the KOSF batch was replaced by the above mentioned batch from VTTI into the mainline without any Industry consultations and/or agreements. The effect of this blatant move lead to the unfortunate situation where other OMCs were denied access to AGO, whilst Vivo enjoyed preferential treatment.

C] ULLAGE CREATION.

It is common knowledge that the co-ordination of pipeline movements is done through PIPECOR and an OMC cannot purport to individually coordinate the operations "with KPC" for the common user facility.

As can be demonstrated in the various past vessel scheduling committee meetings, the idle capacity referred to in the KPC system is non existent. In fact, KPC has consistently operated below plan, hence the perennial lack of ullage at KOSF.

The claim by Vivo that they assisted OTS vessels to berth on schedule is incorrect and misleading as demonstrated on the table below ;

VESSEL	ORIGINAL BERTH DATES (V.S. 13.03.2013)	ACTUAL BERTH DATES (Due to Ullage Constraints)
SILVAPLANA	25 th - 27 th March 2013	10 th - 13 th April 2013
PACIFIC BERYL	06 th - 08 th April 2013	Yet to complete discharge

We also take this opportunity to highlight that the continuous disregard of the scheduling arrangements in place by Vivo continue to adversely affect the ullage creation at KOSF. Another case in point is the recent discharge of 18,000 M³ AGO from the vessel M/T MEARSK PROSPER that had earlier been scheduled to discharge into VTTI but was discharged, instead, into KOSF without any regard to the schedules already place. Please note that this caused further delay in discharge of OTS vessels that had been scheduled to discharge material earlier. Such selfish moves can only be seen to serve the interest of one OMC at the expense of the entire Industry.

In view of the above, it is clear that the information provided by Vivo in their letter to you dated 22nd April is incorrect, misleading and a complete misrepresentation of the facts. The letter only serves to demonstrate Vivo's utter disregard of the Industry's set rules and practices which, regrettably, will only serve to perpetuate disorder in the Industry. This should not be allowed to continue.



In addition, MOE in the past has encouraged self regulation and good order in the Industry by respecting decisions of the Oil Industry Supply Coordination Committee (SUPPLYCOR) and must be seen to uphold this.

In view of the foregoing, **we strongly object and will not accept** the suggestion to reinstate the ullage already deducted from Vivo Energy.

We trust this letter puts the matter to rest and that the decision reached in the meeting of 19th April 2013 in your office remains upheld.

Yours faithfully,

For: **Supply Co-ordination Committee**



D. S. Ohana

Chairman – Oil Industry Supply Co-ordination Committee

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