

**DECEMBER 29, 2014**

Mr. Jeffrey Shulse  
President & CEO  
Black Elk Energy, LLC  
11451 Katy Freeway  
Houston, Texas 77079

**Re: CPF No. 4-2014-5014**

Dear Mr. Shulse:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation and specifies actions that need to be taken by Black Elk Energy, LLC, to comply with the pipeline safety regulations. When the terms of the compliance order have been completed, as determined by the Director, Southwest Region, Office of Pipeline Safety, this enforcement action will be closed. Service of the Final Order by certified mail is deemed effective upon the date of mailing, or as otherwise provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

Enclosure

cc: Mr. Rodrick M. Seeley, Director, Southwest Region, OPS  
Ms. Karen Vanacor, Environmental, Health, & Safety Supervisor, Black Elk Energy,  
LLC

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

**U.S. DEPARTMENT OF TRANSPORTATION  
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION  
OFFICE OF PIPELINE SAFETY  
WASHINGTON, D.C. 20590**

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<b>In the Matter of</b>	)	
	)	
<b>Black Elk Energy, LLC,</b>	)	<b>CPF No. 4-2014-5014</b>
	)	
<b>Respondent.</b>	)	
	)	

**FINAL ORDER**

On multiple occasions between July and November, 2013, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the facilities and records of Black Elk Energy, LLC (Black Elk or Respondent), in Conroe, Texas. Black Elk is an independent oil and gas company with aggregate interests in 675 wells on 176 platforms over 250,000 gross acres offshore in Louisiana and Texas state and federal waters.<sup>1</sup> Black Elk operates three offshore crude-oil pipelines totaling approximately 40 miles.<sup>2</sup>

As a result of the inspection, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated June 16, 2014, a Notice of Probable Violation and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Black Elk had violated 49 C.F.R. §§ 195.402(a), and 195.404(a)(4) and proposed ordering Respondent to take certain measures to correct the alleged violations.

Black Elk responded to the Notice by letter dated July 1, 2014 (Response). The company did not contest the allegations of violation, but provided information on remedial steps it had taken to comply with the regulations cited in the Notice. Black Elk did not request a hearing and therefore has waived its right to one.

**FINDINGS OF VIOLATION**

In its Response, Black Elk did not contest the allegations in the Notice that it violated 49 C.F.R. Part 195, as follows:

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<sup>1</sup> Black Elk Energy, LLC website, available at <http://www.blackelkenergy.com/about-us/properties> (last accessed October 25, 2014).

<sup>2</sup> Pipeline Safety Violation Report (Violation Report) (June 16, 2014) (on file with PHMSA) at 1.

**Item 1:** The Notice alleged that Respondent violated 49 C.F.R. § 195.402(a), which states:

**§ 195.402 Procedural manual for operations, maintenance, and emergencies.**

(a) *General.* Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a pipeline system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

The Notice alleged that Respondent violated 49 C.F.R. § 195.402(a) by failing to follow its own manual of written procedures for conducting normal operations and maintenance activities. Specifically, the Notice alleged that Black Elk failed to follow its own procedures for conducting two different activities. First, it alleged that during the PHMSA field inspection, Black Elk's contractor responsible for monitoring rectifiers was asked to demonstrate how he inspected the rectifier at Tank 45. The contractor allegedly performed the inspection by reading the amps and volts gauge, even though Black Elk's written procedures stated that rectifier output voltage and current readings must be measured by the use of a multimeter.<sup>3</sup> When the contractor was asked if he used a multimeter to obtain these measurements, he responded, "Not all the time."

Second, the Notice alleged that Respondent failed to follow its own written corrosion-control procedures. Specifically, it alleged that on September 8, 2012, October 5, 2012, and August 10, 2013, the weight loss for three corrosion-control coupons was greater than 1.0 mils per year (mpy). Respondent's written procedures for corrosion control state that any corrosion rate higher than 1.0 mpy requires additional investigation to determine whether action is needed to reduce the rate of corrosion.<sup>4</sup> Respondent was unable to demonstrate that it had taken any action either to investigate or ameliorate corrosive conditions in the pipeline.

In its Response, Black Elk did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.402(a) by failing to follow its own written procedures for rectifier inspections and corrosion control.

**Item 2:** The Notice alleged that Respondent violated 49 C.F.R. § 195.404(a)(4), which states:

**§ 195.404 Maps and records.**

(a) Each operator shall maintain current maps and records of its pipeline systems that include at least the following information:

(1) . . .

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<sup>3</sup> *Id.*, at Exhibit A, *Black Elk Energy, Liquid Pipeline Operations, Maintenance & Emergency Manual, Survey Step Four, Page 10-7 (June 21, 2013)*.

<sup>4</sup> *Id.*

- (4) The diameter, grade, type and nominal wall thickness of all pipe.

The Notice alleged that Respondent violated 49 C.F.R. § 195.404(a)(4) by failing to maintain current maps and records of the diameter, grade, type and nominal wall thickness of all pipe in its pipeline system. Specifically, during the PHMSA inspection, Respondent provided the inspector with transcribed records for its Sabine Pass 13 (SP 13) 8-inch pipeline specifications but they could not be verified through original records, pipe mill records, purchase requisitions, or manufacturer specification records.

In its Response, Black Elk did not contest the allegation and stated that it was unable to obtain these records from the previous owner at the time of the acquisition. Instead, Black Elk explained that it had pulled “information from the BSEE<sup>5</sup> permit to include in the pipeline records” and stated that “this information was supplied during the records review.”

Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.404(a)(4) by failing to maintain current records of the diameter, grade, type and nominal wall thickness of all pipe in its pipeline system.

These findings of violation will be considered prior offenses in any subsequent enforcement action brought against Respondent.

### **COMPLIANCE ORDER**

The Notice proposed a compliance order with respect to Items 1 and 2 in the Notice, for violations of 49 C.F.R. §§ 195.402(a) and 195.404(a)(4), respectively. Under 49 U.S.C. § 60118(a), each person who engages in the transportation of gas or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations:

1. With respect to the violation of § 195.402(a) (**Item 1**), relating to Black Elk’s failure to conduct proper rectifier inspections, Respondent must review its current procedures, make any amendments as necessary, and then review the final procedures with all personnel who perform such inspections.
2. With respect to the violation of § 195.402(a) (**Item 1**), relating to conducting further investigation of corrosion control coupons showing excessive weight loss, Black Elk must review its current procedures, make any amendments as necessary, and then review the final procedures with all personnel who are responsible for coupon monitoring.
3. With respect to the violation of § 195.404(a)(4) (**Item 2**), for failing to maintain

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<sup>5</sup> BSEE is an acronym for the Bureau of Safety and Environmental Enforcement, U.S. Department of the Interior.

current maps and records of the SA 13 pipeline system, Black Elk must:

- a. Verify flange and pipe fittings on its pipeline system at the platform and onshore facilities to be commensurate with the maximum operating pressure;
  - b. Verify pipe-wall thickness of the piping on the platform and at the onshore facility by measuring the thickness at quarter points around the pipe;
  - c. Degrade pipeline yield strength to 24,000 psi or verify pipeline yield strength by performing all of the tensile tests of [American Petroleum Institute (API)] Specification 5L on randomly specimens at every 100 feet of pipeline; and
  - d. Degrade pipe seam joint factor to .8 or verify type of seam by testing portions of the seam at various locations.
4. Black Elk must provide documentation of compliance with this Order to the Director, Southwest Region, OPS, within 30 days after receipt of the Final Order.
  5. It is requested that Black Elk maintain documentation of the safety improvement costs associated with fulfilling this Final Order and submit the total to R.M. Seeley, Director, Southwest 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.

The Director may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent and demonstrating good cause for an extension.

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed \$200,000 for each violation for each day the violation continues or in referral to the Attorney General for appropriate relief in a district court of the United States.

The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

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Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

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Date Issued