

WARNING LETTER

ELECTRONIC MAIL - RETURN RECEIPT REQUESTED

July 13, 2022

Steven Kean
President
SFPP, LP
1001 Louisiana Street, Suite 100
Houston, Texas 77002

CPF 4-2022-054-WL

Dear Mr. Kean:

From March 3, 2022, to May 5, 2022, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected SFPP, LP's PHMSA drug and alcohol (D&A) program in Houston, Texas.

As a result of the inspection, it is alleged that SFPP, LP has committed a probable violation of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The item inspected and the probable violation is as follows:

1. § 199.1 Scope.

This part requires operators of pipeline facilities subject to part 192, 193, or 195 of this chapter to test covered employees for the presence of prohibited drugs and alcohol.

SFPP, LP, an operator of pipeline facilities subject to part 192, 193, or 195 of this chapter¹ tested employees not covered by the PHMSA drug and alcohol (D&A) regulations for the presence of prohibited drugs and alcohol as specified in 49 CFR part 40.

Section 199.3 defines a covered employee to mean a person who performs a covered function, including persons employed by operators, contractors engaged by operators, and persons employed by such contractors. In addition, §199.3 defines a covered function to mean an operations, maintenance, or emergency-response function regulated by part 192, 193, or 195 that is performed on a pipeline or on an LNG facility.

In accordance with §199.115 and §199.245, SFPP, LP allows its contractors to carry out the PHMSA D&A testing program required by Part 199. NDT Global, a contractor for SFPP, LP, performed D&A testing on its employees in calendar years 2019, 2020, and 2021 that did not perform covered functions on PHMSA regulated pipelines in those calendar years and who were not PHMSA covered employees.

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, SFPP, LP is subject to a civil penalty not to

¹ Title 49, Subtitle, Chapter I, Subchapter D

exceed \$239,142 per violation per day the violation persists, up to a maximum of \$2,391,142 for a related series of violations. For violations occurring on or after May 3, 2021, and before March 21, 2022, the maximum penalty may not exceed \$225,134 per violation per day the violation persists, up to a maximum of \$2,251,334 for a related series of violations. For violations occurring on or after January 11, 2021, and before May 3, 2021, the maximum penalty may not exceed \$222,504 per violation per day the violation persists, up to a maximum of \$2,225,034 for a related series of violations. For violations occurring on or after July 31, 2019, and before January 11, 2021, the maximum penalty may not exceed \$218,647 per violation per day the violation persists, up to a maximum of \$2,186,465 for a related series of violations. For violations occurring on or after November 27, 2018, and before July 31, 2019, the maximum penalty may not exceed \$213,268 per violation per day, with a maximum penalty not to exceed \$2,132,679. For violations occurring on or after November 2, 2015, and before November 27, 2018, the maximum penalty may not exceed \$209,002 per violation per day, with a maximum penalty not to exceed \$2,090,022.

We have reviewed the circumstances and supporting documents involved in this case and have decided not to conduct additional enforcement action or penalty assessment proceedings at this time. We advise you to correct the items identified in this letter. Failure to do so will result in SFPP, LP being subject to additional enforcement action.

No reply to this letter is required. If you choose to reply, in your correspondence please refer to **CPF 4-2022-054-WL**. Be advised that all material you submit in response to this enforcement action is subject to being made publicly available. If you believe that any portion of your responsive material qualifies for confidential treatment under 5 U.S.C. 552(b), along with the complete original document you must provide a second copy of the document with the portions you believe qualify for confidential treatment redacted and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. 552(b).

Sincerely,

Mary L. McDaniel, P.E.
Director, Southwest Region, Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration