

VIA EMAIL TO: al.monaco@enbridge.com, rick.kivela@enbridge.com, and michele.harradence@enbridge.com

Mr. Al Monaco
President and Chief Executive Officer
Enbridge, Inc.
200, Fifth Avenue Place
425 - 1st Street S.W.
Calgary, Alberta, Canada T2P 3L8

Re: CPF No. 2-2019-1001

Dear Mr. Monaco:

Enclosed please find the Final Order issued in the above-referenced case to your subsidiary, Sabal Trail Transmission, LLC. It makes one finding of violation, assesses a reduced civil penalty of \$19,000, and specifies actions that need to be taken by Sabal Trail Transmission, LLC, to comply with the pipeline safety regulations. The penalty payment terms are set forth in the Final Order. When the civil penalty has been paid and the terms of the compliance order completed, as determined by the Director, Southern Region, this enforcement action will be closed. Service of the Final Order by e-mail is effective upon the date of mailing as provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. James Urisko, Director, Southern Region, Office of Pipeline Safety, PHMSA
Mr. Rick Kivela, Manager, Operational Compliance, Enbridge, Inc.
Ms. Michele Harradence, Vice President, Gas Transmission & Midstream Operations,
Sabal Trail Transmission, LL

VIA EMAIL – CONFIRMATION OF RECEIPT REQUESTED

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

| | | |
|---|---|---------------------|
| In the Matter of |) | |
| |) | |
| Sabal Trail Transmission, LLC, a subsidiary of Enbridge, Inc., |) | CPF No. 2-2019-1001 |
| |) | |
| Respondent. |) | |
| |) | |

FINAL ORDER

From October 16, 2016, through April 7, 2017, pursuant to 49 U.S.C. § 60117, representatives 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 Sabal Trail Transmission, LLC (STT or Respondent), in Alabama, Georgia, and Florida. STT, a subsidiary of Enbridge, Inc., operates a 517-mile interstate natural gas transmission pipeline running through Alabama, Georgia, and Florida.¹

As a result of the inspection, the Director, Southern Region, OPS (Director), issued to Respondent, by letter dated March 19, 2019, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice), which also included warnings pursuant to 49 C.F.R. § 190.205. In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that STT had violated 49 C.F.R. § 192.225(a) and proposed assessing a civil penalty of \$52,500 for the alleged violation. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violation. The warning items required no further action but warned the operator to correct the probable violations or face possible future enforcement action.

After requesting and receiving an extension of time to respond, Enbridge, Inc., responded to the Notice on behalf of STT, by letter dated May 31, 2019 (Response). The company contested one of the instances of alleged violation, provided an explanation of its actions, and requested that the proposed civil penalty be reduced or eliminated. The company also contested one of the warning items set forth in the Notice, and requested a hearing if the warning item were not withdrawn. However, in accordance with 49 C.F.R. § 190.205, warning items are not adjudicated so therefore a hearing is unavailable.

¹ STT's website, available at <http://sabaltrailtransmission.com/> (last accessed March 13, 2020).

FINDING OF VIOLATION

The Notice alleged that Respondent violated 49 C.F.R. Part 192, as follows::

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 192.225(a) which states:

§ 192.225 Welding procedures.

(a) Welding must be performed by a qualified welder or welding operator in accordance with welding procedures qualified under section 5, section 12, Appendix A or Appendix B of API Std 1104 (incorporated by reference, *see* § 192.7), or section IX of the ASME Boiler and Pressure Vessel Code (ASME BPVC) (incorporated by reference, *see* § 192.7) to produce welds meeting the requirements of this subpart. The quality of the test welds used to qualify welding procedures must be determined by destructive testing in accordance with the applicable welding standard(s).

The Notice alleged that Respondent violated 49 C.F.R. § 192.225(a) by failing to perform welding in accordance with procedures qualified under Section 5 of API Standard 1104. Specifically, the Notice alleged that PHMSA representatives observed pre-heat temperatures for at least two welds that were not maintained at a minimum of 250° F immediately prior to welding, as required by API Standard 1104, Section 5.4.2.13, during construction activity at the Hildreth Compressor Station in December 2016 and on Spread 3 of the main line construction in February 2017. The two allegations are discussed below separately.

Hildreth Compressor Station

The Notice alleged that the PHMSA representatives observed construction activity at the Hildreth Compressor Station being performed under STT's Welding Procedure Specification BCS-122.2 (*Specification 122.2*) and that STT failed to maintain the required pre-heat temperature of 250° F immediately prior to welding.

In its Response, STT contested the allegation on several grounds. First, it contended that PHMSA did not actually observe inadequate pre-heating at the Hildreth Compressor Station during the inspection but merely expressed "a concern about possible confusion in the pre-heat language" in *Specification 122.2* regarding preheat requirements.² Second, it argued that the weld was properly made under *Specification 122.2* because it provided that the welder must preheat to 100° F prior to welding, unless any of five conditions were met, in which case the pre-heat temperature had to be 250° F. According to STT, one of those five conditions was whether the ambient temperature was less than or equal to 50° F,³ in which case the pre-heating

² Response, at 2.

³ The other conditions that require a preheat to 250°F are set forth in the "PREHEATING" section on page 2 of STT's WPS, BCS-122.2. Pipeline Safety Violation Report (Violation Report), (April 1, 2019) (on file with PHMSA), Exhibit A.

temperature had to be 250° F. The company argued that on this particular occasion, the ambient temperature was *above* 50° F and therefore the pre-heating temperature only needed to be 100°. ⁴

Upon review of the record, I find that certain information needed to make a finding of violation is missing from the record and that PHMSA therefore failed to meet its burden of proving that STT failed to perform welding at the Hildreth Compressor Station in accordance with API 1104. First, the Notice alleged that the PHMSA representatives actually observed inadequate pre-heating immediately prior to welding, but STT claims that they did not. Neither side provided any documentation or other evidence to support its position.

Second, PHMSA has not provided any evidence to prove that none of the five exceptions to the 100° pre-heat requirement in *Specification 122.2* applied here and that the higher pre-heat temperature of 250° had to be met. Specifically, I cannot find anything in the record that documented either the actual pre-heat temperature immediately prior to welding or a record of the ambient temperature immediately prior to welding at that location.

Third, the Region Recommendation stated that the operator did not contest this allegation of violation. This is not accurate. As I read the Response, STT contested this allegation regarding the Hildreth Compressor Station but not the one discussed below. Furthermore, the Recommendation failed to address the defenses laid out in the Response and are therefore unrefuted.

For these reasons, I find that PHMSA has failed to meet its burden of proof in regard to this instance of violation at the Hildreth Compressor Station and therefore order that this allegation of violation be withdrawn.

Spread 3 of the Main Line

In its Response, STT did not contest the allegation of violation that it failed to adhere to pre-heat temperature requirements for welding set forth in API Standard 1104, Section 5.4.2.13 on Spread 3 of the main line construction in February 2017. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.225(a) by failing to perform welding in accordance with welding procedures qualified under Section 5 of API Standard 1104 on Spread 3 of the main line construction.

This finding of violation will be considered a prior offense in any subsequent enforcement action taken against Respondent.

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to an administrative civil penalty not to exceed \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any

⁴ Response, at 2.

related series of violations.⁵ In determining the amount of a civil penalty under 49 U.S.C. § 60122 and 49 C.F.R. § 190.225, I must consider the following criteria: the nature, circumstances, and gravity of the violation, including adverse impact on the environment; the degree of Respondent's culpability; the history of Respondent's prior offenses; any effect that the penalty may have on its ability to continue doing business; and the good faith of Respondent in attempting to comply with the pipeline safety regulations. In addition, I may consider the economic benefit gained from the violation without any reduction because of subsequent damages, and such other matters as justice may require. The Notice proposed a total civil penalty of \$52,500 for the violation cited above.

Item 1: The Notice proposed a civil penalty of \$52,500 for Respondent's violation of 49 C.F.R. § 192.225(a), for failing to perform welding in accordance with welding procedures qualified under Section 5 of API Std 1104. In its Response, STT requested a reduction in or elimination of the proposed civil penalty. STT alleged that the violation was a single isolated occurrence, occurring only on Spread 3 of the mainline construction and not at its Hildreth Compressor Station, and that there was a lack of evidence of the potential for hydrogen-assisted cracking (HAC) to remain in the girth welds on the STT pipeline and, implicitly, that there was a minimal safety risk.⁶ STT also noted that it did not gain economic benefit from this violation. I will address each of these arguments below.

First, the one allegation of violation relating to the Hildreth Compressor Station in December 2016 has been withdrawn. Therefore, I am reducing the number of instances of violation in this case from two to one and lowering the proposed penalty amount accordingly.

Second, STT alleged that there is a lack of evidence of the potential for HAC to remain in the girth welds on the STT pipeline. In its Response, the operator noted that modern pipelines do not have a prevalent history of HAC with cellulosic welding, and its pipelines follow this historical trend due to the use of low-carbon-equivalent pipe under conditions with a low risk of HAC. After the PHMSA inspection, STT conducted radiographic testing of all the girth welds to determine if HAC was a systemic issue on its pipeline, and determined it was not. Part E6 of the Violation Report provides that the lowest level of gravity should be attributed to this violation since there was minimal impact on pipeline safety, despite occurring within a high consequence area (HCA) or an HCA could-affect area. Accordingly, I find that the penalty assessment criterion for gravity should be reduced from Category 3 to Category 5, thus justifying a substantial penalty reduction.

Finally, STT alleged that it did not gain an economic benefit from its non-compliance. However, the proposed civil penalty was not increased based on this assessment criterion. Therefore, I do not find any reason to reduce it based on this factor alone.

In summary, having reviewed the record and considered the assessment criteria for the Item cited above, I assess Respondent a reduced total civil penalty of **\$19,000**.

⁵ These amounts are adjusted annually for inflation. See 49 C.F.R. § 190.223.

⁶ Response, at 2.

Payment of the civil penalty must be made within 20 days of service. Federal regulations (49 C.F.R. § 89.21(b)(3)) require such payment to be made by wire transfer through the Federal Reserve Communications System (Fedwire), to the account of the U.S. Treasury. Detailed instructions are contained in the enclosure. Questions concerning wire transfers should be directed to: Financial Operations Division (AMK-325), Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 S MacArthur Blvd, Oklahoma City, Oklahoma 79169. The Financial Operations Division telephone number is (405) 954-8845.

Failure to pay the \$19,000 civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 31 C.F.R. § 901.9 and 49 C.F.R. § 89.23. Pursuant to those same authorities, a late penalty charge of six percent (6%) per annum will be charged if payment is not made within 110 days of service. Furthermore, failure to pay the civil penalty may result in referral of the matter to the Attorney General for appropriate action in a district court of the United States.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Item 1 in the Notice for violation of 49 C.F.R. §§ 192.225(a). 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 § 192.225(a) (**Item 1**), Respondent must:
 - a. Within 180 days of receipt of the Final Order, perform an in-line inspection to specifically detect and evaluate cracks in girth welds for the entire pipeline, including laterals. Thirty days prior to each run, STT must notify the Director of the planned start date(s) and completion date(s) of all inspection tool runs, and 30 days after each tool run, must make available for inspection all records and documentation of completion of the run;
 - b. Within 60 days of receipt of the Final Order, provide a written report to the Director describing the tool or tools to be used. This report shall include the validation for the selected tool(s), the tool or tools' performance specifications, and a detailed description of the criteria to be used for verification, evaluation, prioritization and corrective action of any identified integrity threats;
 - c. Within 90 days of each tool run required under 1(a), perform an analysis of the data returned from the inspection. The results shall be evaluated per a performance specification specific to girth weld anomalies by qualified individual(s);
 - d. Within 60 days of completion of 1(c), excavate a minimum of two girth

- welds to verify the tool or tools' performance;⁷
- e. Take corrective action(s) based on the prioritization of any integrity threats and anomalies that are identified. STT shall provide the Director written quarterly status reports summarizing the integrity threats and anomalies identified and the corrective action(s) taken to date; and
 - f. Make available for OPS inspection all records and documentation showing the completion of ILI assessment and any corrective actions within 30 days of completion of the last corrective action under 1(e).

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.

It is requested (not mandated) that Respondent maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director. 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.

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed \$200,000, as adjusted for inflation (49 C.F.R. § 190.223), 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.

WARNING ITEMS

With respect to Items 2 and 3, the Notice alleged probable violations of Part 192 but did not propose a civil penalty or compliance order for these items. Therefore, these are considered to be warning items. The warnings were for:

49 C.F.R. § 192.235 (**Item 2**) — Respondent's alleged failure to preserve the alignment of the pipe or component being welded while the root bead was being deposited;⁸ and

49 C.F.R. § 192.505(d) (**Item 3**) — Respondent's alleged failure to conduct a pre-installation strength test by maintaining the pressure for at least four hours for fabricated units and short sections of pipe.

⁷ This requires excavation of a minimum of two girth welds if the same ILI tool is utilized for multiple segments. If STT requires longer than 60 days to perform the excavations, it must request an extension as set forth in the Final Order.

⁸ In its Response, STT contested this item and requested a hearing if the item were not withdrawn. In accordance with § 190.205, an operator may submit a response to a warning, but is not required to do so. An adjudication under Part 190 to determine whether a violation occurred therefore is not conducted for warning items. *In the Matter of Enterprise Products Mid-America Pipeline Company*, CPF No. 4-2017-5019, 2018 WL 7350936, at *7 (Oct. 15, 2018).

If OPS finds a violation of any of these items in a subsequent inspection, Respondent may be subject to future enforcement action.

Under 49 C.F.R. § 190.243, Respondent may submit a Petition for Reconsideration of this Final Order to the Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2nd Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address, no later than 20 days after receipt of service of this Final Order by Respondent. Any petition submitted must contain a statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.243. The filing of a petition automatically stays the payment of any civil penalty assessed. The other terms of the order, including corrective action, remain in effect unless the Associate Administrator, upon request, grants a stay.

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

April 10, 2020

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued