

**NOTICE OF PROBABLE VIOLATION  
and  
PROPOSED CIVIL PENALTY  
SPECIAL PERMIT LETTER**

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

May 2, 2013

Mr. Theopolis Holeman  
Group Vice President  
Spectra Energy Transmission, LLC  
5400 Westheimer Court  
P.O Box 1642  
Houston, Texas 77251-1642

**CPF 3-2013-1006**

Dear Mr. Holeman:

On April 23, 2004, pursuant to 49 U.S.C. §60118(c) and 49 C.F.R. §190.341, Spectra Energy Transmission, LLC (SET) filed a special permit request with the Pipeline & Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), for a waiver from certain provisions of 49 C.F.R. § 192. PHMSA issues special permits to pipeline operators if the agency determines that a waiver of a particular regulation or standard is not inconsistent with pipeline safety. On March 6, 2008, PHMSA issued an order granting SET a special permit with certain conditions and limitations (Order). *See* PHMSA PHMSA-RSPA-2004-19469, SET Special Permit Scioto County, Ohio.

The Order allows SET to continue operating its pipeline without having to rebuild or conform it to changes in the code. Specifically, the Order allows SET to continue to operate two pipeline segments, Line 10 and Line 15, at the same maximum allowable operating pressure (MAOP) despite a change in class designation from Class 1 to Class 2. The two special permit segments are located approximately 5.3 miles downstream of the Texas Eastern Wheelersburg Compressor Station and are approximately 720 feet long. Each line also contains a special permit inspection area, which extends 220 yards on each side of the pipeline and up to 25 miles upstream and downstream from each end of the special permit segment.

On August 9-10, 2011, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code, inspected the pipeline facilities and records of SET to confirm the company's compliance with the Order.

As a result of the inspection, it appears that SET has committed probable violations of the Order. As stated in 49 C.F.R. § 190.203(f), when information obtained from an inspection indicates that further OPS action is warranted, OPS may initiate one or more enforcement proceedings prescribed in § 190.207 through § 190.235.

The items inspected and the probable violation(s) are:

**1. Condition "2"**

***SET must incorporate the Line 10 special permit segment and the Line 15 special permit segment into its written integrity management plan (IMP) as "covered segments" in a high consequence area (HCA) per 49 CFR § 192.903, except for the reporting requirements contained in 49 CFR § 192.945. The special permit segments included in this special permit need not be included in SET's IMP baseline assessment plan.***

SET failed to comply with Condition 2 of the Order. Condition 2 required SET to incorporate the Line 10 and Line 15 special permit segments into its written integrity management plan (IMP) as "covered segments" in a high consequence area (HCA).<sup>1</sup> Upon inspection, there is no reference to the special permit segments included in SET's IMP. Although, SET did include the special permit conditions within its Standard Operating Procedures, it failed to follow the express terms of Condition 2.

**2. Condition "3"**

***SET must perform a close interval survey (CIS) of Line 10 and Line 15 along the entire length of each special permit inspection area not later than one year after the grant of this special permit and remediate any areas of inadequate cathodic protection (CP). A CIS and remediation need not be performed on either Line 10 or Line 15 if a CIS and remediation have been performed on the corresponding special permit inspection area less than 6 years prior to the grant of this special permit. If factors beyond SET's control prevent the completion of the CIS and remediation within one year, a CIS and remediation must be completed as soon as practicable and a letter justifying the delay and providing the anticipated date of completion must be submitted to the Director, PHMSA Central Region not later than one year after the grant of this special permit.***

SET failed to comply with Condition 3 of the Order. Condition 3 required SET to conduct a CIS of Line 10 and Line 15 along the special permit segment and to remediate any areas with inadequate cathodic protection by March 6, 2009. SET conducted a CIS in 2008 but

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<sup>1</sup> An HCA is a location that is specifically defined in pipeline safety regulations as an area where pipeline releases could have greater consequences to health and safety or the environment. See §192.903.

has failed to properly remediate all the areas of inadequate cathodic protection within the proscribed time period. As indicated in SET's own records it continued to correct areas of inadequate cathodic protection originally identified in its 2008 CIS in 2010, well after the proscribed deadline.

### 3. Condition "20"

#### **Anomaly Evaluation and Repair:**

(a)...

(b) **Dents:** SET must repair dents to Line 10 and Line 15 in the special permit inspection areas in accordance with 49 CFR §192.933...

(c) ...

(d) **Response Time for ILI Results:** The following guidelines provide the required timing for excavation and investigation of anomalies based on ILI results, Reassessment by ILI will "reset" the timing for anomalies not already investigated and/or repaired. SET must evaluate ILI data by using either the ASME Standard B31G, *Manual for Determining the Remaining Strength of Corroded Pipelines* (AMSE B31G), or the modified B31G(dL) for calculating the predicted failure pressure ratio to determine anomaly responses.

i) **Special Permit Segments:**...

ii) **Special Permit Inspection Areas:** The response time must be in accordance with 49 CFR Part 192, Subpart O, AMSE B31.8S (applicable edition) and SET's IMP

SET failed to comply with Condition 20 of the Order. Condition 20 sets forth the criteria and response time for repairing dents located in Line 10 and Line 15 within the special permit inspection areas. Specifically, if an anomaly is discovered and identified to be a dent with metal loss, SET must reduce the operating pressure immediately and repair the anomaly. See §192.933(d)(1)(ii).

In this instance, SET failed to temporarily reduce their operating pressure after determining that "immediate conditions" existed on pipeline segments that are considered HCA due to the Order. SET discovered five (5) anomalies on June 30, 2012. Per Set's own description, all five (5) anomalies were dents with metal loss. On July 2, 2012, SET notified the Central Region of the anomalies. Pursuant to §192.933(d)(1)(ii), SET was required to lower its operating pressure and make the repairs immediately. SET waited three (3) days to notify the Central Region of the anomalies and only lowered its operating pressure after the Region Director demanded that it do so on July 3, 2012. SET knowingly violated Condition 20 of the Order for four (4) continuous days.

#### Proposed Civil Penalty

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$200,000 per violation per day the violation persists up to a maximum of \$2,000,000 for a related series of violations. For violations occurring prior to January 3, 2012, the maximum penalty may not exceed \$100,000 per violation per day, with a maximum penalty not to exceed \$1,000,000 for a related series of violations. The Compliance Officer has reviewed

the circumstances and supporting documentation involved in the above probable violation(s) and has recommended that you be preliminarily assessed a civil penalty of \$96,200 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$31,200
2	\$27,500
3	\$37,500

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Compliance Proceedings*. Please refer to this document and note the response options. All material you submit in response to this enforcement action may be 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). If you do not respond within 30 days of receipt of this Notice, this constitutes a waiver of your right to contest the allegations in this Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in this Notice without further notice to you and to issue a Final Order.

In your correspondence on this matter, please refer to **CPF 3-2013-1006** and for each document you submit, please provide a copy in electronic format whenever possible.

Right to Modify, Suspend, or Revoke a Special Permit

Issuance of this enforcement action does not preclude PHMSA’s authority to seek modification, suspension or revocation of the special permit issued under “PHMSA PHMSA-RSPA-2004-19469” at any time, as provided in 49 C.F.R. § 190.341(h)(1).(v). If such action is taken, PHMSA will provide SET with the opportunity to show cause why the proposed action should not be taken.

Sincerely,

David Barrett  
Director, Central Region  
Pipeline and Hazardous Materials Safety Administration

Enclosures: *Response Options for Pipeline Operators in Compliance Proceedings*