

**NOTICE OF PROBABLE VIOLATION
and
PROPOSED CIVIL PENALTY**

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

March 19, 2020

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

CPF 3-2020-5005

Dear Mr. Monaco:

Between November 14, 2016, and February 3, 2017, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code (U.S.C.), conducted onsite inspections of your pipeline system Express Holdings (USA), LLC (Express) based in Casper, Wyoming. PHMSA continued to collect information through 2018 regarding this inspection. Spectra Energy Corporation (Spectra) acquired the Platte Pipe Line from Kinder Morgan Pipelines (USA) Inc. (Kinder Morgan), on March 14, 2013. On February 27, 2017, Spectra was acquired by Enbridge, Inc. (Enbridge), through a merger and subsequently renamed it Express Holdings (USA), LLC.¹

¹ Express Holdings (USA), LLC, and Platte Pipe Line Company, LLC, are both listed as subsidiaries of Enbridge, Inc. Under PHMSA registration requirements, Express Holdings (USA), LLC operates the relevant pipeline under Operator ID No. 31720. The dates referenced above are based on the notifications submitted by the operator to PHMSA (pursuant to §195.64).

As a result of the inspection, it is alleged that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The items inspected and the probable violations are:

1. § 195.401 General requirements.

(a) . . .

(b) An operator must make repairs on its pipeline system according to the following requirements:

(1) Non-Integrity management repairs. Whenever an operator discovers any condition that could adversely affect the safe operation of its pipeline system, it must correct the condition within a reasonable time. However, if the condition is of such a nature that it presents an immediate hazard to persons or property, the operator may not operate the affected part of the system until it has corrected the unsafe condition.

Express Holdings (USA), LLC (Express), when owned and operated by Spectra, violated 49 C.F.R. § 195.401(b) by failing to make non-integrity management repairs on its pipeline system within a reasonable time after it discovered a condition that could adversely affect the safe operation of its pipeline system. From July 10, 2013, to August 24, 2018, Express had a condition that could adversely affect the safe operation of the pipeline system. Specifically, Respondent operated the pipeline with a condition that permitted the pressure of the pipeline to potentially exceed 110% of the Maximum Operating Pressure (MOP) in the event of an inadvertent mainline-valve closure, power failure, loss of communications, or other abnormal operation. Despite having knowledge of such an unsafe condition, Respondent failed to correct this adverse condition within a reasonable time.

During the inspection in 2016, Spectra provided a transient study conducted by the previous owner (Transient Study) in response to a request for a copy of the company's surge analysis and hydraulic review. The Transient Study, dated June 1, 2011, included an existing surge mitigation system evaluation for the pipeline system and identified transient cases that could adversely affect the safe operation of the pipeline system. The Transient Study also outlined several recommendations designed to prevent the pipeline pressure from exceeding 110% of MOP in the event of inadvertent mainline- valve closure, power failure, or other abnormal operations.²

When Spectra acquired Platte Pipe Line in 2013, one of the recommendations identified in the Transient Study had already been implemented. This recommendation was an Automated Pipeline Shutdown (APS), which had been put in place from Salisbury to Wood River to manage pressures if downstream valves were inadvertently

²² See Exhibit A to the Pipeline Safety Violation Report, Transient Study, at 17-18.

closed. However, once Spectra acquired the pipeline system, it continued to operate the pipeline without addressing the remaining unsafe condition within a reasonable time. It was not until 2016 that Spectra changed the Wood River relief valve set point on the Platte Pipeline from 260 psig to 218 psig. Moreover, Spectra's Facility/Procedure Modification Request #2108 that received approval on March 14, 2014, identified instances at Harrisburg and Marysville Pump stations where actual maximum operating pressures were exceeded. These instances are further evidence that Spectra was aware of this adverse safety condition.

It was not until after the merger of Spectra and Enbridge in 2017, and after PHMSA had requested information, that Enbridge conducted a further review of the Transient Study and an additional investigation to determine the feasibility of installing appropriate mitigation on the pipeline system. On June 8, 2018, Enbridge issued a Management of Change (MOC) to add an APS to the mainline between Casper to Salisbury and modify the APS between Salisbury and Wood River in order for it not to exceed 110% MOP. Enbridge also completed the Pipeline Transient Analysis Summary Report Platte (Line 41) - Casper to Wood River on August 23, 2018. The analysis summary report identified abnormal conditions that could cause pressure excursions above 110% of the MOP.

Based on a review of the above information, PHMSA alleges that Express, when owned and operated by Spectra, was aware of conditions that could adversely affect the safe operation of its pipeline system and failed to correct the condition in a reasonable time, §195.401(b)(1).

2. §195.406 Maximum operating pressure.

(a) Except for surge pressures and other variations from normal operations, no operator may operate a pipeline at a pressure that exceeds any of the following:

(3) Eighty percent of the test pressure for any part of the pipeline which has been pressure tested under Subpart E of this part.

Express violated 49 C.F.R. § 195.406(a)(3) by operating a part of its pipeline at a pressure that exceeded 80% of the test pressure of the pipeline portion that had been pressure tested under Subpart E of Part 195.

On March 8, 2018, in response to an information request from PHMSA, Express provided MOC Form #16-59, "Final Approval Date" of June 22, 2016, which documented that, after a record review, Express had determined that the discharge pressures for Harrisburg, Holdrege, Blue Hill, Deshler, Marysville, and Quote pump stations had been set higher than hydrotest records would allow. On May 2, 2018, a PHMSA inspector inquired if the record review was performed as a result of PHMSA's inspection, Express responded on May 14, 2018, stating that a records review and MOC #16-59 were generated because of PHMSA's inspection. On May

14, 2018, Express provided PHMSA with Facility/Procedure Modification Request #2108, which was dated with a final approval of March 14, 2014. Together, these two documents show that two of these six pump stations (Marysville and Harrisburg) had continued to operate at a discharge pressure above which the hydrostatic-test records would allow.

Additionally, the PHMSA inspectors reviewed actual discharge pressure maximums by month for the six pump stations and found that from 2013 to 2017, the discharge pressure exceeded 80% of hydrostatic test pressure for the following:

Harrisburg Pump Station Maximum Discharge			
<i>Month of Pressure Exceedance</i>	<i>Hydrostatic Test Pressure (psi)</i>	<i>80% of Test Pressure</i>	<i>Actual Discharge Pressure (psi)</i>
6/2014	1380	1104	1123.995302
9/2015	1380	1104	1126.192751
6/2016	1380	1104	1288.071509

Marysville Pump Station Maximum Discharge			
<i>Month of Pressure Exceedance</i>	<i>Hydrostatic Test Pressure (psi)</i>	<i>80% of Test Pressure</i>	<i>Actual Discharge Pressure (psi)</i>
4/2014	1424	1139.2	1144.138551
7/2014	1424	1139.2	1140.476135
11/2014	1424	1139.2	1141.941102
1/2015	1424	1139.2	1140.842412
1/2016	1424	1139.2	1166.845526
4/2016	1424	1139.2	1145.969
4/2017	1424	1139.2	1203.835849

Deshler Pump Station Maximum Discharge			
<i>Dates of Pressure Exceedance</i>	<i>Hydrostatic Test Pressure (psi)</i>	<i>80% of Test Pressure</i>	<i>Actual Discharge Pressure (psi)</i>
3/2014	1359	1087.2	1090.318087
6/2014	1359	1087.2	1092.515571

1/2015	1359	1087.2	1089.21931
10/2015	1359	1087.2	1095.079266
11/2015	1359	1087.2	1088.853098
1/2016	1359	1087.2	1089.585593

Blue Hill Pump Station Maximum Discharge			
<i>Dates of Pressure Exceedance</i>	<i>Hydrostatic Test Pressure (psi)</i>	<i>80% of Test Pressure</i>	<i>Actual Discharge Pressure (psi)</i>
9/2015	1351	1080.8	1126.576529

Holdredge Pump Station Maximum Discharge			
<i>Dates of Pressure Exceedance</i>	<i>Hydrostatic Test Pressure (psi)</i>	<i>80% of Test Pressure</i>	<i>Actual Discharge Pressure (psi)</i>
3/2014	1373	1098.4	1104.235482
11/2015	1373	1098.4	1104.967977
6/1/2016	1373	1098.4	1125.477823

Quote Pump Station Maximum Discharge			
<i>Dates of Pressure Exceedance</i>	<i>Hydrostatic Test Pressure (psi)</i>	<i>80% of Test Pressure</i>	<i>Actual Discharge Pressure (psi)</i>
6/2016	1457	1165.6	1211.179607
8/2016	1457	1165.6	1351.452409

3. §195.406 Maximum operating pressure

(a) . . .

(b) No operator may permit the pressure in a pipeline during surges or other variations from normal operations to exceed 110 percent of the operating pressure limit established under paragraph (a) of this section. Each operator must provide adequate controls and protective equipment to control the pressure within this limit.

Express violated 49 C.F.R. § 195.406(b) by failing to provide adequate controls and protective equipment to control the operating pressure of the pipeline system to prevent it from exceeding 110% of the MOP established under 49 C.F.R. §195.406(a) during surges or other variations from normal operations at the Ogallala, Yoder, and Guernsey pump stations.

During the 2016 PHMSA inspection, Express provided a Facility/Procedure Modification Request form, dated March 19, 2014, and approved on March 21, 2014, that indicated six station pressure-safety valves (PSV) were “set too high for thermal over pressure protection of the station [1000] [water oil and gas] WOG valves.” The justification section of the form further stated: “The pressure set points need to be corrected as soon as possible so when we provide the requested 1000 WOG information to PHMSA we can communicate we're in compliance.” Finally, the form noted that all six PSVs had been corrected in March 2014 to a set point of 1100 psig.

However, PHMSA’s review of relief-valve inspection records showed that of the six valves, only Douglas PSV-MP2 had been set correctly in 2014 to 1100 psig. PHMSA inspectors also reviewed Express’s internal Annual DOT Relief Valve Inspection forms, which documented that the pressure set-points on four valves (Yoder and Guernsey) were set to 1300 psig during each subsequent annual inspection, rather than 1100 psig as documented in the March 2014 Facility/Procedure Modification Request. A fifth valve, the Ogallala PSV-MP4 relief valve, was also set during the 2016 annual inspection to 1300 instead of 1100 psig. Express provided no other documentation demonstrating modification of pressure set-points for the PSVs at issue.

4. §195.410 Line Markers

(a) Except as provided in paragraph (b) of this section, each operator shall place and maintain line markers over each buried pipeline in accordance with the following:

(1) Markers must be located at each public road crossing, at each railroad crossing, and in sufficient number along the remainder of each buried line so that its location is accurately known number.

Express violated 49 C.F.R. §195.410(a)(1) by failing to maintain line markers over each buried pipeline in 26 different locations. Specifically, PHMSA inspectors observed during the field inspection that these locations had downed line markers or no line markers. Express also failed to have sufficient number of pipeline markers along the pipeline at one additional location to ensure that the pipeline location was accurately known. For example, Quote Pump Station fence had a marker, however, its right-of-way (ROW) did not have line markers to ensure the location of the pipeline was accurately known.

Five (5) locations are in Unit 195 – Casper to NE State Line (October 31, 2016- November 4, 2016 and November 14, 2016-November 18, 2016);

Locations	Insufficient Number of Line Markers	Line Markers Not Maintained (i.e. downed or missing)
a. At 2-2549+98-1800		X
b. At 2-2845+64-1840		X
c. At 2430		X
d. At 2-2542+41-1790		X
e. At 2-2551+15-1810		X

Twenty-one (21) locations are in Unit 3773 – Salisbury (November 28, 2016 - December 2, 2016 and January 30, 2017 - February 3, 2017);

Locations	Insufficient Number of Line Markers	Line Markers Not Maintained (i.e. downed or missing)
a. At 6637+85		X
b. At 6-1704+42-3890		X
c. At 6-2349+20-4190		X
d. At 6-1453+38-3770		X
e. At the Quote Pump Station	X	
f. At 8-873+26-7890		X
g. Along BB Hwy		X
h. Near Saling Creek		X
i. At 8-3748+32-8480		X
j. At 9-506+26-8830		X
k. At 8-508+67-7640		X
l. At 9-1005+16-9080		X
m. At 9-996+62-9060		X
n. Near US 61 and Bueneman Lane in Troy, Missouri		X
o. At 9-1446+87-9350		X
p. At 38.981609, -91.027997 near Troy, Missouri		X
q. Moore Lane Troy, Missouri		X

r.	305 Mt. Zion Rd. St. Joseph, Missouri		X
s.	2 SE Mt. Zion Rd. St. Joseph, Missouri		X
t.	US 59 Hwy St. Joseph, Missouri		X
u.	Randolph Rd. Marion, Kansas		X

Three (3) locations are in Unit 2553 – Casper (November 15, 2016 -November 18, 2016);

Locations	Insufficient Number of Line Markers	Line Markers Not Maintained (i.e. downed or not present)
a. At 4-3667+49-2140		X
b. At 2070		X
c. Harrisburg NE 41.568719, - 103.463696		X

5. §195.410 Line Markers.

(a) Except as provided in paragraph (b) of this section, each operator shall place and maintain line markers over each buried pipeline in accordance with the following:

(2) The marker must state at least the following on a background of sharply contrasting color:

(ii) The name of the operator and a telephone number (including area code) where the operator can be reached at all times.

Express violated 49 C.F.R. § 195.410(a)(2)(ii) by failing to maintain line markers over each buried pipeline such that the markers included the name of the operator and a telephone number (including area code) where the operator could be reached at all times. Specifically, Express did not ensure that line markers stated the name of the current pipeline operator at six different locations on Unit 3773 – Salisbury (November 28, 2016 - December 2, 2016 and January 30, 2017 - February 3, 2017).

These noncompliant markers were located at:

Location	Incorrect Operator Name
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a. At 9-506+26-8830	X
b. At 9-862+87-8970	X
c. At 9-1005+16-9080	X
d. At 9-996+62-9060	X
e. On Trojan Circle in Troy Missouri	X
f. Troy Elementary School	X

6. §195.412 Inspection of rights-of-way and crossings under navigable waters.

(a) Each operator shall, at intervals not exceeding 3 weeks, but at least 26 times each calendar year, inspect the surface conditions on or adjacent to each pipeline right-of-way. Methods of inspection include walking, driving, flying or other appropriate means of traversing the right-of-way.

Express violated 49 C.F.R. § 195.412(a) by failing to inspect the surface conditions on or adjacent to the pipeline ROW at intervals not exceeding 3 weeks, but at least 26 times each calendar year by an appropriate means for traversing the ROW. Express conducted aerial patrols to inspect its pipeline ROW along its Unit 3773 – Salisbury, which runs from Illinois to Missouri. However, at 17 locations PHMSA inspectors observed from November 28, 2016 to December 2, 2016 and January 30, 2017 to February 3, 2017 excessive vegetation and/or tree canopy overgrowth preventing a clear view of the ground, preventing observation of the surface conditions on or adjacent to the ROW. Express did not provide additional evidence that it performed any method of inspection other than aerial patrols for these locations:

- a. At span 1452+38
- b. At span 6-3827+00-4640
- c. At span 6-4397+16-4780
- d. At span 4587+73
- e. At Robin Drive, Agency, MO
- f. At span 8-653+31-7760
- g. At span 8-602+16-7730
- h. Near Saling Creek
- i. At span 8-3236+00-8450
- j. At span 9-506+26-8830
- k. At span 9-996+62-9060
- l. On Trojan Circle in Troy, MO
- m. Port Au Prince Ln., Moscow Mills, MO
- n. Monument Rd, Marion, KS
- o. Span 6739+56, Franklin, KS
- p. Span 6-1424+57-3730
- q. Moore Ln, Troy, MO

Additionally, Express failed to use appropriate means of traversing the ROW during inspections of its pipeline ROW between August 6, 2012, and October 21, 2014, near Chain of Rocks, Missouri. A structure (located at 653 Aspen Dr. Chain of Rocks, MO) with a concrete base had been constructed in the ROW directly over the pipeline. There was no note or record of this new structure in Express' inspection-patrol records at the time of the inspection, which is indicative that the operator was unaware of the new surface condition to ensure safe operation of the ROW. Therefore, the patrolling method being used was inappropriate for traversing this section of the pipeline.

Express failed to adequately inspect the surface conditions of the pipeline in the ROW when it did not identify the exposure of its pipeline at three different locations. During the field inspection, PHMSA inspectors located the three exposures which were unknown to Express, at the following locations:

- a. At 39.880515, -96.100578, near Richmond, KS
- b. At 39.602330, -94.247046, near Lawson, MO
- c. At 39.631501 -94.528577, near Atchison, MO

7. §195.581 Which pipelines must I protect against atmospheric corrosion and what coating material may I use?

(a) You must clean and coat each pipeline or portion of pipeline that is exposed to the atmosphere, except pipelines under paragraph (c) of this section.

Express violated 49 C.F.R. §195.581(a) by failing to clean and coat each pipeline or portion of pipeline that was exposed to the atmosphere. During PHMSA's field inspection from November 28, 2016 through December 2, 2016, PHMSA observed disbonded coating on a portion of Express' pipeline that was exposed to the atmosphere. Such exposure and coating condition had caused corrosion to occur on said pipeline. The specific location of exposed portion of the Express' pipeline was at GPS latitude 39.880515, longitude -96.100578, near Richmond, Kansas.

8. §195.583 What must I do to monitor atmospheric corrosion control?

(a) . . .

(b) During inspections you must give particular attention to pipe at soil-to-air interfaces, under thermal insulation, under disbonded coatings, at pipe supports, in splash zones, at deck penetrations, and in spans over water.

Express violated 49 C.F.R. §195.583(b) by failing, in three instances, to give particular attention to atmospheric corrosion found at spans over water. Specifically, Express failed to inspect under all pipe supports of the Meng cable suspended span over water located in Brush Creek near Blair, Kansas between March 12, 2014, and December 2,

2016. Based on the span-inspection reports and verbal communication between PHMSA inspectors and Express, PHMSA learned that only two of nine supports on the Meng span had been removed to permit visual inspection of the pipe underneath the supports.

Additionally, the PHMSA inspection revealed that Express had failed to remove metallic “child guards” from two pipeline spans to allow visual inspection under the mounting brackets during the inspections for atmospheric corrosion. Specifically, during the inspection, PHMSA noted the presence of corrosion under and around the “child guards” at the following two pipeline span locations:

- a. At span 9-1446+87-9350: Operator records indicated this span was inspected on April 28, 2014;
- b. At span 6-5526+67-5260: Operator records indicated this span was inspected on April 7, 2015.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to 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 violation 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 violation 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. For violations occurring prior to November 2, 2015, the maximum penalty may not exceed \$200,000 per violation per day, with a maximum penalty not to exceed \$2,000,000 for a related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violations and has recommended that you be preliminarily assessed a civil penalty of \$346,400 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$46,600
2	\$76,000
3	\$58,400
6	\$77,700
7	\$29,300
8	\$58,400

Warning Items

With respect to items 4 and 5, 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 promptly correct these items. Failure to do so may result in additional enforcement action.

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 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).

Following the receipt of this Notice, you have 30 days to submit written comments, or request a hearing under 49 CFR § 190.211. 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. If you are responding to this Notice, we propose that you submit your correspondence to my office within 30 days from the receipt of this Notice. This period may be extended by written request for good cause.

In your correspondence on this matter, please refer to **CPF 3-2020-5005** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Allan C. Beshore
Director, Central Region
Pipeline and Hazardous Materials Safety Administration

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

Cc: Mr. Bradley Shamlal, Vice President, US Operations, Enbridge Inc.,
Express Holdings (USA), LLC, 5400 Westheimer Court, Houston, TX 77056.
Mr. David Stafford, Manager, US Pipeline Compliance, Enbridge Inc.,
119 N. 25th Street East, Superior, WI 54880