



HUNTER MASALSKI

LLC

(312) 741-0973
darren@huntermasalski.com

July 3, 2020

Mr. Allan C. Beshore
Director, Central Region, OPS
Pipeline and Hazardous Materials Safety Administration
901 Locust Street, Suite 462
Kansas City, MO 64106-2641

Re: CPF 3-2020-5005
Express Holdings (USA), LLC
Request for Hearing and Statement of Issues

Dear Mr. Beshore:

Express Holdings (USA), LLC (“Express”) requests a hearing, pursuant to 49 CFR § 190.211, regarding the above-referenced Notice of Probable Violation and Proposed Civil Penalty (“NOPV”). Express intends to raise the following issues at the hearing:

1. Express respectfully disagrees with PHMSA’s findings with respect to Item 1, states that it complied with Section 195.401(b)(1), and requests that this Item be vacated.
2. In the alternative, Express respectfully disagrees with PHMSA’s proposed civil penalty with respect to Item 1, and requests that the penalty be reduced consistent with Section 190.225.
3. Express respectfully disagrees with PHMSA’s findings with respect to Item 2, states that it complied with Section 195.406(a)(3), and requests that this Item be vacated.
4. In the alternative, Express respectfully disagrees with PHMSA’s proposed civil penalty with respect to Item 2, and requests that the penalty be reduced consistent with Section 190.225.
5. Express respectfully disagrees with PHMSA’s proposed civil penalty with respect to Item 3, and requests that the penalty be reduced consistent with Section 190.225. Express further states that the descriptive language set forth in Item 3 of the NOPV is incorrect, which justifies a further reduction in the penalty.
6. Express respectfully disagrees with PHMSA’s proposed civil penalty with respect to Item 6, and requests that the penalty be reduced consistent with Section 190.225. Express further states that the descriptive language set forth in Item 6 of the NOPV is incorrect, which justifies a further reduction in the penalty.
7. Express respectfully disagrees with PHMSA’s findings with respect to Item 7, states that it complied with Section 195.581(a), and requests that this Item be vacated.
8. In the alternative, Express respectfully disagrees with PHMSA’s proposed civil penalty with respect to Item 7, and requests that the penalty be reduced consistent with Section 190.225.

9. Express respectfully disagrees with PHMSA’s findings with respect to Item 8, states that it complied with Section 195.583(b), and requests that this Item be vacated.
10. In the alternative, Express respectfully disagrees with PHMSA’s proposed civil penalty with respect to Item 8, and requests that the penalty be reduced consistent with Section 190.225.

Following the Spectra Energy Corp. (“Spectra”) merger with Enbridge Inc. (“Enbridge”) in February 2017, Express adopted Enbridge’s Operations and Maintenance procedures and programs over a period of time. As such, Express has since implemented appropriate corrective measures consistent with Enbridge’s procedures prior to the issuance of the NOPV. Therefore, PHMSA did not propose any corrective actions.

Express accepts PHMSA’s findings and the issuance of Warnings with respect to Items 4 and 5, alleging violations of Sections 195.410(a)(1) and (a)(2)(ii), respectively. Express took the following measures to correct those alleged violations: *After the conclusion of the PHMSA inspection, Pipeline Operations replaced the line markers discussed in the exit interviews in each inspection unit. After the Spectra merger with Enbridge, the line markers and signage were rebranded to Enbridge in 2018. Express also adopted the Enbridge LP Book 3 maintenance procedure that includes a standard to inspect 25% of the line markers across their pipelines annually, so it is highly unlikely that there will be a reoccurrence in the future. In addition, after the issuance of the NOPV, Pipeline Operations re-inspected each location to re-verify that the correct line markers are in place.*

Express will be represented by counsel at the hearing.

Darren Hunter
Hunter Masalski LLC
150 N. Michigan Ave., Suite 800
Chicago, IL 60601

Should you have any questions or require any additional information, please do not hesitate to call me at (312) 741-0973 or email me at darren@huntermasalski.com.

Sincerely,



Darren J. Hunter

cc: Michael Kobay
David Stafford