

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

VIA ELECTRONIC MAIL TO: heath.deneke@summitmidstream.com and
MStratmann@summitmidstream.com

December 30, 2021

Mr. Heath Deneke
President/CEO
Summit Midstream Partners, LLC (SMP)
910 Louisiana Street, Suite 4200
Houston, TX 77002

CPF 3-2021-070-NOPV

Dear Mr. Deneke:

On March 23, April 26 through 29, May 10 through 12, and June 8 through 10, 2021, a representative 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.) inspected your procedures, records and field assets virtually and in Epping, North Dakota.

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

1. **§ 195.264 Impoundment, protection against entry, normal/emergency venting or pressure/vacuum relief for aboveground breakout tanks.**
 - (a)
 - (b) **After October 2, 2000, compliance with paragraph (a) of this section requires the following for the aboveground breakout tanks specified:**
 - (1) **For tanks built to API Spec 12F, API Std 620, and others (such as API Std 650 (or its predecessor Standard 12C)), the installation of impoundment must be in accordance with the following sections of NFPA-30 (incorporated by reference, see § 195.3);**
 - (i) **Impoundment around a breakout tank must be installed in accordance with section 22.11.2;**

As observed by a PHMSA inspector during the field inspection, SMP failed to establish a 1% slope away from the Stampede tank, as required. Specifically, NFPA 30, Section 22.11.2.1, requires a 1% or greater slope for the first 50 feet away from the tank, or to the dike base, whichever is less.

2. **§ 195.404 Maps and records.**
 - (a)
 - (c) **Each operator shall maintain the following records for the periods specified;**
 - (3) **A record of each inspection and test required by this subpart shall be maintained for at least 2 years or until the next inspection or test is performed, whichever is longer.**

SMP failed to produce procedure effectiveness records for 2019 and 2020. Section 195.402(c)(13) requires that operators periodically review work done by its personnel to determine the effectiveness of the procedures used in normal operation and maintenance and taking corrective action where deficiencies are found. The effectiveness review is an inspection and/or test under subpart 195, and thus records of such a test are required to be kept for at least 2 years or until the next test is performed, whichever is longer. In response to PHMSA's request for records of such tests, SMP responded as follows;

Summit performs procedure effectiveness in various methods. Most commonly this is performed in a classroom setting such as monthly safety, during routine O&M tasks when a work order is generated and during OQ performance verifications. Please refer to Form 601A from the Summit Liquid O&M for other methods available to perform the procedure effectiveness review. Operations personnel has performed these reviews at safety meetings and during OQ performance verifications but did not record and document the review on Form 601A for 2019 and 2020. This gap has been identified and Operations has recorded the 2021 procedure effectiveness reviews utilizing Form 601A.

As such, SMP failed to comply with the requirements of § 195.404(c)(3) for the calendar years 2019 and 2020.

3. § 195.404 Maps and records

(a)

(c) Each operator shall maintain the following records for the periods specified;

(3) A record of each inspection and test required by this subpart shall be maintained for at least 2 years or until the next inspection or test is performed, whichever is longer.

SMP failed to maintain all of the required valve inspection records on the short pipeline connecting the Polar Divide unit to Energy Transfer's DAPL pipeline, 42 in total, for calendar year 2020.

4. § 195.436 Security of facilities.

Each operator shall provide protection for each pumping station and breakout tank area and other exposed facility (such as scraper traps) from vandalism and unauthorized entry.

During the field inspection, the inspector observed that the Stampede breakout tank facility was not secure. Specifically, there was no fence or other means to prevent access to the tank.

5. § 195.452 Pipeline integrity management in high consequence areas.

(a)

(l) What records must an operator keep to demonstrate compliance?

(1) An operator must maintain, for the useful life of the pipeline, records that demonstrate compliance with the requirements of this subpart. At a minimum, an operator must maintain the following records for review during an inspection:

(ii) Documents to support the decisions and analyses, including any modifications, justifications, deviations and determinations made, variances, and actions taken, to implement and evaluate each element of the integrity management program listed in paragraph (f) of this section.

SMP failed to maintain records to demonstrate the completeness of the ILI run validation process, as required by §§ 195.452(c)(1)(i)(A), and 195.591, and SMP's integrity management (IM) program. Section 195.452(c)(1)(i)(A) requires compliance with § 195.591 when performing an assessment using an In-Line Inspection Tool. Section 195.591, in turn, mandates that an operator must follow the requirements and recommendations of API Std 1163. Section 8 of API 1163 requires that an operator perform a process verification or quality control to confirm

the accuracy of the ILI results to “verify that the reported inspection results have been met and are consistent with the performance specification for the pipeline being inspection. In addition, SMP’s IM program, section 6.7.1, provides examples of events which might cause the Integrity Manager to deem the ILI tool run results unsatisfactory.

SMP did not produce any records to establish that the verification or quality control process was performed. Most of the records provided were data records such as ILI run final reports and dig job books. Missing from what was provided were any records to demonstrate that the Integrity Manager had performed a quality control check or approved the accuracy of the ILI records, as required. Such records constitute “documents to support the decisions and analyses, including any modifications, justifications, deviations and determinations made, variances, and actions taken, to implement and evaluate each element of the integrity management program listed in paragraph (f) of this section”, which are required to be maintained for the useful life of a pipeline.

6. § 195.452 Pipeline integrity management in high consequence areas.

(a)

(i) What records must an operator keep to demonstrate compliance?

(1) An operator must maintain, for the useful life of the pipeline, records that demonstrate compliance with the requirements of this subpart. At a minimum, an operator must maintain the following records for review during an inspection:

(ii) Documents to support the decisions and analyses, including any modifications, justifications, deviations and determinations made, variances, and actions taken, to implement and evaluate each element of the integrity management program listed in paragraph (f) of this section.

SMP failed to maintain records of its annual HCA assessment, as required by the regulation and section 11.6 of its IM plan, which requires recording annual HCA search findings on SMP developed Form Article 15. Specifically, the 2018 and 2020 Article 15 form records were not located for the Divide, Polar, Stampede, DAPL and Little Muddy segments that comprise the Polar Divide unit inspected. Also, based on a review of 2017 through 2019 Article 15 forms, there were no forms completed for four facilities (Epping, Divide, Little Muddy and Stampede).

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to 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 violation 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 violation 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 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.

We have reviewed the circumstances and supporting documentation involved for the above probable violations and recommend that you be preliminarily assessed a civil penalty of \$108,400 as follows:

<u>Item number</u>	<u>PENALTY</u>
2	\$24,500
3	\$34,600
5	\$24,100
6	\$25,200

Proposed Compliance Order

With respect to items 1 and 4 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Summit Midstream Partners, LLC. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Enforcement 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).

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 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 3-2021-070-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Gregory A. Ochs, Director, Central Region, Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration

Enclosures: *Proposed Compliance Order*
Response Options for Pipeline Operators in Enforcement Proceedings

CC: Mr. Matthew Stratmann, Senior Director, Integrity and Health & Safety, Summit
Midstream Partners, LLC, 910 Louisiana Street, Suite 4200, Houston, TX 77002,
(MStratmann@summitmidstream.com)

PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Summit Midstream Partners, LLC a Compliance Order incorporating the following remedial requirements to ensure the compliance of Summit Midstream Partners, LLC (SMP) with the pipeline safety regulations:

- A. In regard to 1 of the Notice pertaining to slope around Stampede tank, SMP must re-slope to a 1% grade away from tank to 50 feet away or to berm whichever is closer within **180** days of receipt of the Final Order.
- B. In regard to 4 of the Notice pertaining to security around Stampede tank, SMP, LLC must secure the facility within **180** days of receipt of the Final Order.
- C. It is requested that SMP maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Gregory A. Ochs, Director, Central Region Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration. 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.