

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

June 16, 2014

Mr. Tad LeBlanc
Vice President, HSE and Compliance
Black Elk Energy LLC
11451 Katy Freeway, Suite 500
Houston, TX 77079

CPF 4-2014-5014

Dear Mr. LeBlanc:

On multiple occasions from July through November 2013, 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 inspected your Black Elk Energy, LLC (Black Elk) offshore pipeline facilities and records in Conroe, TX.

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

- 1. §195.402 Procedural manual for operations, maintenance, and emergencies.**
 - (a) General. Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies.**

This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a pipeline system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

Black Elk failed to follow their procedures on more than one occasion. In one case, Black Elk failed to follow their procedures specific to rectifier inspection. During the PHMSA field

inspection, Black Elk's contractor responsible for monitoring rectifiers was asked to demonstrate how he inspects the rectifier at Tank Battery 45. He performed the inspection by reading the amps and volts gauge on the rectifier. When PHMSA asked if he ever checks the amps and volts with a multimeter he answered "not all the time". Black Elk's procedure 10.6 Rectifier And Interference Bond Inspections states: [Step 4] "Measure the rectifier output voltage and current readings using the multimeter." The contractor did not perform this task and records cannot demonstrate that the voltage and current are checked with a multimeter during the rectifier surveys.

Black Elk also failed to follow their corrosion control procedures. Procedure 10.5 Cathodic Protection, states that:

"... when examining results of coupon monitoring, any rate less than 1.0 mpy (mils per year) shall be considered nominal ... Any corrosion rate higher than 1.0 mpy (mils per year) will require additional investigation to determine if the appropriate actions needed in reducing corrosive effects to the pipeline."

On three different occasions, specifically on September 8, 2012 (Coupon D8482), October 5, 2012, (Coupon D8487), and August 10, 2013, (Coupon D7800) the corrosion coupon weight loss was greater than 1.0 mpy which required further investigation to determine the appropriate action needed to reduce the corrosive effect of the pipeline. Black Elk did not have any records to demonstrate that any appropriate action or investigation was taken to reduce the corrosive effect on the pipeline.

2. §195.404 Maps and Records.

(a) Each operator shall maintain current maps and records of its pipeline systems that include at least the following information;

(4) The diameter, grade, type and nominal wall thickness of all pipe.

Black Elk failed to maintain current maps and records of its pipeline system to identify the diameter, grade, type, and nominal wall thickness of the pipe. During the inspection Black Elk provided transcribed records which could not be verified with original records of their Sabine Pass 13 (SA 13) 8 inch pipeline to verify the pipeline specifications. The pipeline was constructed in 1981 and no original or copies of the manufacturer specification records (MTR), pipe mill records, purchase requisitions, or as built documentation indicating pipe yield strength, seam type, wall thickness and diameter. Due to the pipeline being constructed after the regulations became in effective, Black Elk should have acquired the records and documents from the previous owner to be in compliance with §195.404.

Proposed Compliance Order

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 4, 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. Also, for LNG facilities, an additional penalty of not more than \$50,000 for each violation may be imposed.

We have reviewed the circumstances and supporting documents involved in this case, and have decided not to propose a civil penalty assessment at this time.

With respect to items 1 and 2 pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Black Elk. 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 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 4-2014-5014** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

R. M. Seeley
Director, Southwest Region
Pipeline and Hazardous Materials Safety Administration

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

PROPOSED COMPLIANCE ORDER

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

1. In regard to Item Number 1 of the Notice pertaining to not following their procedures to electrically check rectifiers for proper performance at least six times each calendar year, but with intervals not exceeding 2 ½ months. Black Elk shall review the current procedures and make any amendments as necessary then review the final procedures will all personal that perform rectifier inspections.
2. In regard to Item Number 1 of the Notice pertaining to not following their procedures dealing with conducting further investigation to determine the appropriate actions needed in reducing corrosive effects to the pipeline, Black Elk shall review the current procedures and make any amendments as necessary then review the final procedures will all personal who are responsible for coupon monitoring.
3. In regard to Item Number 2 of the Notice pertaining to failing to maintain current maps and records of the Sabine Pass 13 pipeline system to identify the diameter, grade, type, and nominal wall thickness of the pipe, Black Elk must:
 - a. Verify flange and pipe fittings on pipeline system at the platform and onshore facilities to commensurate with the MOP.
 - b. Verify pipe wall thickness of the piping on the platform and at the onshore facility by measuring the thickness at quarter points around the pipe.
 - c. Degrade pipeline yield strength to 24,000 psi or verify pipeline yield strength by performing all of the tensile tests of API Specification 5L on randomly selected specimens at every 100 feet of pipe.
 - d. Degrade pipe seam joint factor to .8 or verify type of seam by testing portions of the seam at various locations.
4. Black Elk shall provide documentation of completing the above items within 30 days after receipt of the Final Order.
5. It is requested (not mandated) that Black Elk Energy maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to R. M. Seeley, Director, Southwest Region, 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.