

March 2, 2017

Mr. Carlin G. Conner
President and Chief Executive Officer
SemGroup Corporation
6120 South Yale Ave., Suite 700
Tulsa, OK 74136

Re: CPF No. 4-2016-5005

Dear Mr. Conner:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation and assesses a civil penalty of \$600,200 against Rose Rock Midstream, LP, a subsidiary limited partnership of SemGroup Corporation. The penalty payment terms are set forth in the Final Order. This enforcement action closes automatically upon receipt of payment. Service of the Final Order by certified mail is deemed effective upon the date of mailing, or as otherwise provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. R.M. Seeley, Director, Southwest Region, OPS
Mr. Peter L. Schwiering, Chief Operating Officer, Rose Rock Midstream, LP

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

**U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590**

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In the Matter of)	
)	
Rose Rock Midstream, LP, a subsidiary limited partnership of SemGroup Corporation,)	CPF No. 4-2016-5005
)	
Respondent.)	
)	

FINAL ORDER

Pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an investigation of an accident involving the pipeline system operated by Rose Rock Midstream, LP (Rose Rock or Respondent) southeast of Blackwell, Oklahoma. Rose Rock owns and operates more than 1,900 miles of crude oil pipeline and 10.1 million barrels of crude oil storage.¹ Rose Rock is a subsidiary limited partnership of SemGroup Corporation (SemGroup).²

The investigation arose out of an April 2, 2014 crude oil release (Accident) from Rose Rock’s eight-inch crude-oil pipeline running from Blackwell to See, southeast of Blackwell, Oklahoma (Affected Line). On April 2, 2014, Rose Rock notified the National Response Center (NRC) of a release of approximately 160 barrels of crude oil from the Affected Line. The Accident resulted from the use of locks that were not recognized by Respondent’s Maintenance Supervisor, during maintenance work and replacement of a segment of the Affected Line. Accordingly, the Maintenance Supervisor overseeing the maintenance and replacement work did not confirm the operating status of a closed valve. When Rose Rock attempted to restart the system against the closed valve, the Affected Line experienced an overpressure and ruptured.

As a result of the investigation, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated March 29, 2016, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Rose Rock had committed various violations of 49 C.F.R. Part 195, and proposed assessing a

¹ Rose Rock Midstream, LP, website, available at <http://www.semgroupcorp.com/Operations/RoseRock.aspx> (last accessed November 16, 2016).

² SemGroup Corporation, website, available at <http://ir.semgroupcorp.com/our-two-companies/default.aspx> (last accessed November 16, 2016).

civil penalty of \$600,200 for the alleged violations.

Rose Rock responded to the Notice by letter dated April 28, 2016 (Response). The company did not contest the allegations of violation but provided an explanation of its actions and requested that the proposed civil penalty be reduced. Respondent did not request a hearing and therefore has waived its right to one.

FINDINGS OF VIOLATION

In its Response, Rose Rock did not contest the allegations in the Notice that it violated 49 C.F.R. Part 195, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.402(a), which states, in relevant part:

§ 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. ...

The Notice alleged that Respondent violated 49 C.F.R. § 195.402(a) by failing to follow its Lockout/Tagout (LOTO) Standard procedures. Specifically, the Notice alleged that Rose Rock failed to follow Chapter 26, Lockout/Tagout System, Section 4.b. of SemGroup's procedures, which states: "The locks/tags shall be standardized throughout the facility and are the only authorized method used for lockout/tagout of energy sources. These locks and tags shall not be used for any purpose other than equipment isolation."³ The Notice also alleged that Rose Rock failed to follow Chapter 26, Responsibilities, Section 6 of SemGroup's procedures, which states: "Supervisors shall ensure that this standard is implemented and enforced. When required, the corporate environment, health and safety department will provide technical assistance."

The Notice alleged that Rose Rock's technician responsible for LOTO of the Affected Line did not use the locks authorized and standardized by Section 4.b. of SemGroup's procedures. As a result, during the restart of the Affected Line, the Maintenance Supervisor did not recognize the lock and did not confirm the operating status of a valve. The Maintenance Supervisor's failure to follow Section 6 of SemGroup's procedures also contributed to the improper LOTO actions. When the Affected Line was restarted against the closed valve, an overpressure occurred and caused the Accident. Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.402(a) by failing to follow its LOTO Standard procedures.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 195.428(a), which states:

³ Pipeline Safety Violation Report (Violation Report), (May 15, 2015) (on file with PHMSA), at 4-5.

§ 195.428 Overpressure safety devices and overfill protection systems.

(a) Except as provided in paragraph (b) of this section, each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, or in the case of pipelines used to carry highly volatile liquids, at intervals not to exceed 7 1/2 months, but at least twice each calendar year, inspect and test each pressure limiting device, relief valve, pressure regulator, or other item of pressure control equipment to determine that it is functioning properly, is in good mechanical condition, and is adequate from the standpoint of capacity and reliability of operation for the service in which it is used.

The Notice alleged that Respondent violated 49 C.F.R. § 195.428(a) by failing to inspect and test its pressure transmitters. Specifically, the Notice alleged that Rose Rock failed to comply with the 15-month inspection interval required by 49 C.F.R. § 195.428(a). The 15-month inspection and test interval is also required by SemGroup's Operations, Maintenance and Emergencies Manual (OME Manual), Section 3.1 Overpressure Protection Procedure. The Notice further alleged that Rose Rock did not have any records for any prior inspection of the pressure transmitter located at Blackwell Junction station on the Affected Line. On April 2, 2014, the date of the Accident, the pressure transmitter was inoperable. Rose Rock indicated that the pressure transmitter was out of calibration, which caused the failure of the transmitter. As a result, no pressure alarm was received by Rose Rock's Supervisory Control and Data Acquisition (SCADA) system to indicate that an overpressure was occurring in the Affected Line. Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.428(a) by failing to inspect and test its pressure transmitters at appropriate intervals. This violation is a repeat violation of CPF 3-2013-5028, Item 3.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 195.406(b), which states:

§ 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.

The Notice alleged that Respondent violated 49 C.F.R. § 195.406(b) by failing to provide adequate controls and protective equipment to prevent the pressure in the Affected Line from exceeding 110% of its operating pressure limit. The Maximum Operating Pressure (MOP) of the Affected Line is 780 psig. Specifically, the Notice alleged that when Rose Rock attempted to restart the Affected Line on April 2, 2014, the pressure reached 1160 psig, more than 110% of 780 psig, before rupturing and causing the Accident. Rose Rock did not have adequate controls or protective equipment to prevent the pressure in the Affected Line from exceeding 110% MOP. Respondent did not contest this allegation of violation. Accordingly, based upon a review of all

of the evidence, I find that Respondent violated 49 C.F.R. § 195.406(b) by failing to provide adequate controls and protective equipment to prevent the pressure in the Affected Line from exceeding 110% of its operating pressure limit. This violation is a repeat violation of CPF 3-2013-5028, Item 2.

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 195.404(a), which states, in relevant part:

§ 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:

(1) ...

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

The Notice alleged that Respondent violated 49 C.F.R. § 195.404(a) by failing to maintain complete records demonstrating the grade of the pipe used in the Affected Line. Specifically, the Notice alleged that Rose Rock initially provided PHMSA with a copy of form DOT 7100.2 that indicated the Affected Line was constructed with Grade B pipeline with a wall thickness of 0.250 inches and a specified minimum yield strength (SMYS) of 35,000 psi. PHMSA requested documentation supporting the indicated pipe grade used in the Affected Line. Following PHMSA's requests, Rose Rock changed the indication on form DOT 7100.2 to show a SMYS of 24,000 psi. Rose Rock was unable to provide records supporting the 35,000 SMYS initially asserted to PHMSA. Rose Rock had established the operating pressure (MOP) of the Affected Line using the 35,000 psi SMYS. Accordingly, Respondent was operating the Affected Line with an MOP established using an unconfirmed or unsupported grade of pipe. Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.404(a) by failing to maintain complete records demonstrating the grade of pipe used in construction of its pipeline.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to an administrative civil penalty not to exceed \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any related series of violations.⁴ In determining the amount of a civil penalty under 49 U.S.C. § 60122 and 49 C.F.R. § 190.225, I must consider the following criteria: the nature, circumstances, and gravity of the violation, including adverse impact on the environment; the degree of Respondent's culpability; the history of Respondent's prior offenses; and any effect that the penalty may have on its ability to continue doing business; and the good faith of Respondent in attempting to comply with the pipeline safety regulations. In addition, I may

⁴ The Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Pub. L. No. 112-90, § 2(a)(1), 125 Stat. 1904, January 3, 2012, increased the civil penalty liability for violating a pipeline safety standard to \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any related series of violations.

consider the economic benefit gained from the violation without any reduction because of subsequent damages, and such other matters as justice may require. The Notice proposed a total civil penalty of \$600,200 for the violations cited in Items 1, 2, and 3, above.

Item 1: The Notice proposed a civil penalty of \$164,100 for Respondent's violation of 49 C.F.R. § 195.402(a), for failing to follow its LOTO Standard procedures. In its response, Respondent requested a reduction in the amount of the proposed penalty under two arguments. First, Respondent argued that Rose Rock made a good-faith effort to comply with the regulation. Respondent made no argument as to how Rose Rock's failure to follow its LOTO Standard procedures constituted a "credible justification for its actions or lack of actions." Rather, Respondent's "good faith" argument suggested that Rose Rock's level of culpability for the violation was less than that asserted in the Violation Report. Specifically, Respondent argued that Rose Rock "found the noncompliance, [and] took documented action to address the cause," whereas PHMSA alleged that Rose Rock "failed to take appropriate action to comply with a requirement that was clearly applicable."⁵ Respondent cites several post-Accident corrective actions taken to address Rose Rock's failure to follow its LOTO Standard procedures.

With regard to the first argument, Respondent does not contest the allegation that Rose Rock failed to take appropriate action to comply with its LOTO Standard procedures on the day of the Accident, a clearly-applicable requirement under 49 C.F.R. § 195.402 that was a causal factor of the Accident. The post-Accident corrective actions undertaken by Rose Rock, after the Company had already committed the violation, to prevent a recurrence of the violation do not constitute actions that warrant reducing the penalty.⁶ Accordingly, I find no reason to reduce the penalty under this argument.

Second, Respondent argued that Rose Rock "discovered, reported and corrected the violation before PHMSA learned of it," whereas the Violation Report alleged that PHMSA discovered the violation.⁷ In its required Accident Report, Form PHMSA F 7000.1 (Accident Report), dated May 1, 2014, Rose Rock did note that "LO/TO procedure was not followed." Rose Rock's violation of 49 C.F.R. § 194.402(a) is not further addressed in the Accident Report or any other pre-Notice filing from Respondent. Pursuant to 49 C.F.R. § 195.54, "[e]ach operator that experiences an accident that is required to be reported under § 195.50 must, as soon as practicable, but not later than 30 days after discovery of the accident, file an accident report on DOT Form 7000-1." Thus, Rose Rock was required to submit the Accident Report within 30 days of the Accident. It can hardly be argued that Rose Rock should be given credit for self-reporting a violation when that report consists of a single isolated mention in a 13-page Accident Report that Respondent was required, by regulation, to file after an accident caused by that same violation.

⁵ Violation Report, at 10.

⁶ See, e.g., Florida Gas Transmission Co., CPF No. 4-2013-1019, 2015 WL 9943167, at *5 (Dec. 14, 2015) (finding that actions to remediate a violation after the violation was already discovered does not warrant reducing the penalty because the operator already had an affirmative duty to correct known compliance issues).

⁷ Violation Report, at 8.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$164,100 for violation of 49 C.F.R. § 195.402(a).

Item 2: The Notice proposed a civil penalty of \$236,100 for Respondent's violation of 49 C.F.R. § 195.428(a), for failing to inspect and test its pressure transmitters. In its Response, Respondent requested a reduction in the amount of the proposed penalty under two arguments. First, Respondent argues that the Violation Report inaccurately states the violation occurred over "[a] number of years" between the installation of the pressure transmitter in 2010 or 2011 and the discovery of the violation in 2014. Respondent notes that the Affected Line did not become PHMSA-jurisdictional until February 7, 2013, approximately 14 months prior to the Accident, which would indicate that Rose Rock missed only a single required inspection during calendar-year 2013.

With regard to the first argument, the Violation Report inaccurately stated that Rose Rock was in violation of 49 C.F.R. § 195.428(a) for "[a] number of years." Because the Affected Line only became PHMSA-jurisdictional in February 2013, the first inspection and test of the pressure transmitters at issue in this Item was not due until the end of calendar-year 2013. Accordingly, the duration of Rose Rock's violation was approximately three months from December 31, 2013, to April 2, 2014. However, the proposed civil penalty assessed in Item 2 of the Notice was calculated based on a duration of only ten days.⁸ Thus, correcting the above-mentioned inaccuracy in the Violation Report does not support a reduction in the proposed civil penalty.

Second, Respondent argues that Rose Rock discovered, reported, and corrected the violation before PHMSA learned of it. While Rose Rock may have discovered and corrected the violation before PHMSA's inspection, Respondent provides no support for its assertion that Rose Rock reported the violation. The Accident Report contains no mention of the missed pressure transmitter inspection. Thus, I find no reason to reduce the penalty under this argument. Lastly, Respondent summarily asserts, but provides no support for, Rose Rock's supposed "good faith" in the instant violation. No aspect of the record supports a finding of good faith.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$236,100 for violation of 49 C.F.R. § 195.428(a).

Item 3: The Notice proposed a civil penalty of \$200,000 for Respondent's violation of 49 C.F.R. § 195.406(b), for failing to provide adequate controls and protective equipment to prevent the pressure in the Affected Line from exceeding 110% of its operating pressure limit. In its response, Respondent requested a reduction in the amount of the proposed penalty under two arguments. First, Respondent argued that the violation described in Item 3 was "arguably duplicative of Items 1 and 2." Respondent provided no support for that assertion. Item 1 addresses Rose Rock's failure to follow LOTO Standard Procedures, Item 2 addresses Rose Rock's failure to inspect and test pressure transmitters, and the instant violation addresses Rose Rock's failure to provide adequate protections to prevent the Affected Line from exceeding 110% of its operating pressure limit. All three violations are alleged under wholly-separate

⁸ Proposed Civil Penalty Worksheet (March 11, 2016), on file with PHMSA, at 2. Where an exact duration of violation cannot be determined but evidence suggests a duration of 10 or more days, the proposed civil penalty is calculated using an estimate of 10 days. *Id.*

sections of 49 C.F.R. Part 195, and address three distinct failures on the part of Rose Rock. The only unifying aspect of the three violations is their common connection to the Accident. I find no reason to reduce the penalty under this argument.

Second, Respondent argues that Rose Rock discovered, reported, and corrected the violation before PHMSA learned of it. While Rose Rock may have discovered and corrected the violation before PHMSA's inspection, Respondent provides no support for its assertion that Rose Rock reported the violation. The Accident Report contains no mention of Rose Rock's failure to provide adequate controls and protective equipment to prevent the pressure in the Affected Line from exceeding 110% of its operating pressure limit. Thus, I find no reason to reduce the penalty under this argument.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$200,000 for violation of 49 C.F.R. § 195.406(b).

In summary, having reviewed the record and considered the assessment criteria for each of the Items cited above, I assess Respondent a total civil penalty of **\$600,200**.

Payment of the civil penalty must be made within 20 days of service. Federal regulations (49 C.F.R. § 89.21(b)(3)) require such payment to be made by wire transfer through the Federal Reserve Communications System (Fedwire), to the account of the U.S. Treasury. Detailed instructions are contained in the enclosure. Questions concerning wire transfers should be directed to: Financial Operations Division (AMK-325), Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 S MacArthur Blvd, Oklahoma City, Oklahoma 79169. The Financial Operations Division telephone number is (405) 954-8845.

Failure to pay the \$600,200 civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 31 C.F.R. § 901.9 and 49 C.F.R. § 89.23. Pursuant to those same authorities, a late penalty charge of six percent (6%) per annum will be charged if payment is not made within 110 days of service. Furthermore, failure to pay the civil penalty may result in referral of the matter to the Attorney General for appropriate action in a district court of the United States.

WARNING ITEM

With respect to Item 4, the Notice alleged a probable violation of Part 195 but did not propose a civil penalty or compliance order for this item. Therefore, this is considered to be a warning item. The warning was for:

49 C.F.R. § 195.404(a) (**Item 4**) — Respondent's alleged failure to maintain complete records demonstrating the grade of the pipe used in the Affected Line.

Rose Rock requested withdrawal of the warning item, based on the fact that the Affected Line was not considered PHMSA-jurisdictional until 2013. PHMSA does not adjudicate warning items to determine whether a probable violation occurred.⁹ Rose Rock presented information in its preliminary responses to PHMSA inquiries showing that it had taken certain actions to address the cited item. If OPS finds a violation of this provision in a subsequent inspection, Respondent may be subject to future enforcement action.

Under 49 C.F.R. § 190.243, Respondent has the right to submit a Petition for Reconsideration of this Final Order. The petition must be sent to: Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2nd Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address. PHMSA will accept petitions received no later than 20 days after receipt of service of the Final Order by the Respondent, provided they contain a brief statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.243. The filing of a petition automatically stays the payment of any civil penalty assessed but does not stay any other provisions of the Final Order, including any required corrective actions. If Respondent submits payment of the civil penalty, the Final Order becomes the final administrative decision and the right to petition for reconsideration is waived.

The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

March 2, 2017

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued

⁹ § 190.205.