

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

November 20, 2018

Graham Bacon
Group Senior VP, Operations & EHS&T
Enterprise Crude Pipeline, LLC
1100 Louisiana Street
Houston, Texas 77002

CPF 4-2018-5011

Dear Mr. Bacon:

From January 9, 2017 to September 29, 2017, 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 Enterprise Crude Pipeline LLC (Enterprise) systems in New Mexico, Oklahoma, and Texas.

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. §194.107 General response plan requirements.

(c) Each response plan must include:

(1) A core plan consisting of-

(x) Plan review and update procedures;

Enterprise failed to follow their OPA 90 Oil Spill Response Plan procedures. Enterprise's latest OPA 90 Oil Spill Response Plan, Section 1.4 Plan Review and Update Procedures states, "At least once each year, review and make appropriate revisions as required by operational or organizational changes."

Enterprise could not verify an annual review was performed on their OPA 90 Oil Spill Response Plan for the years 2013 and 2014.

Enterprise provided the Revision Record-page FWD-v of their OPA 90 Oil Spill Response Plan as record of performing the OPA annual review. The Revision Record only demonstrates revisions have been made to their OPA plan for 2012, 2015 and 2016 years, but did not verify the OPA plan had been reviewed annually as per their OPA plan Section 1.4.

2. §195.56 Filing safety-related condition reports.

(a) Each report of a safety-related condition under §195.55(a) must be filed (received by OPS) within five working days (not including Saturday, Sunday, or Federal Holidays) after the day a representative of the operator first determines that the condition exists, but not later than 10 working days after the day a representative of the operator discovers the condition. Separate conditions may be described in a single report if they are closely related. Reports may be transmitted by electronic mail to InformationResourcesManager@dot.gov, or by facsimile at (202) 366-7128.

Enterprise failed to file safety-related condition reports with PHMSA within five working days after determining conditions existed that met the criteria of a safety-related condition, but not later than 10 working days after Enterprise discovered the conditions. As per 195.55(a)(6), "any safety-related condition that could lead to an imminent hazard and causes (either directly or indirectly by remedial action of the operator), for purposes other than abandonment, a 20 percent or more reduction in operating pressure or shutdown of operation of a pipeline," shall be reported in accordance with §195.56.

On August 3, 2015, Enterprise performed an integrity assessment on their Hobbs to Midland line using a deformation and magnetic flux leakage (MFL) internal tool. The Hobbs to Midland line (Line ID C13) consists of three segments, AID 7361-Hobbs to Frankel, AID 7362-Frankel to Cowboy Station, and AID 7363-Cowboy Station to Midland Station. On September 17, 2015, Enterprise received the preliminary ILI report for the AID 7363 segment and discovered 4 (Dig 1A, 2A, 3A and 3B) anomalies in high consequence areas (HCAs), and categorized the anomalies as immediate conditions due to physical damage to the pipeline. On September 17, 2015,

Enterprise issued a 20% operating pressure reduction on the AID 7363-Cowboy Station to Midland Station segment due to the immediate conditions.

The preliminary report for AID 7363 established a discovery date of September 17, 2015. Enterprise excavated and evaluated anomaly Dig 1A on September 23, 2016 and found to be a depth of 87.2% external metal loss. Enterprise repaired the anomaly with a Type B sleeve on September 25, 2016. Enterprise excavated and evaluated anomaly Dig 2A on September 29, 2016 and found a gouge to be a depth of 69.9%. Anomaly Dig 2A was encased under a road. Enterprise repaired the anomaly with a Type B sleeve on September 29, 2016. Enterprise excavated and evaluated anomalies Dig 3A and 3B on September 12, 2016. During sandblasting, an anomaly developed a leak due the sandblasting. Dig 3A and 3B were not evaluated due to emergency repairs on September 12, 2016.

Digs 1A, 2A, 3A and 3B were found to be within 220 yards from a building intended for human occupancy, and was not repaired within 10 working days of the date of discovery. Dig 2A was also found on the right of way of a paved road. Enterprise failed to file a safety related condition report with PHMSA on all four anomaly digs.

3. §195.452 Pipeline integrity management in high consequence areas.

(h) What actions must an operator take to address integrity issues?

(1) *General requirements.* An operator must take prompt action to address all anomalous conditions the operator discovers through the integrity assessment or information analysis. In addressing all conditions, an operator must evaluate all anomalous conditions and remediate those that could reduce a pipeline's integrity. An operator must be able to demonstrate that the remediation of the condition will ensure the condition is unlikely to pose a threat to the long-term integrity of the pipeline. An operator must comply with §195.422 when making a repair.

(ii) Long-term pressure reduction. When a pressure reduction exceeds 365 days, the operator must notify PHMSA in accordance with paragraph (m) of this section and explain the reasons for the delay. An operator must also take further remedial action to ensure the safety of the pipeline.

Enterprise failed to notify PHMSA in accordance with §195.452(m), of a pressure reduction exceeding 365 days.

Enterprise initiated a temporary reduction of the operating pressure on their Line C13 Hobbs to Midland on September 2, 2015 due to preliminary results of an inline inspection tool identifying anomalies as immediate conditions in a high consequence area. The remediation of the immediate condition was completed on September 29, 2016 as described in Item 2. The pressure reduction exceeded 365 days and no notification to PHMSA was submitted.

4. §195.432 Inspection of in-service breakout tanks.

(b) Each operator must inspect the physical integrity of in-service atmospheric and low-pressure steel above-ground breakout tanks according to API Std 653 (except section 6.4.3, Alternative Internal

Inspection Interval) (incorporated by reference, see §195.3). However, if structural conditions prevent access to the tank bottom, its integrity may be assessed according to a plan included in the operations and maintenance manual under §195.402(c)(3). The risk- based internal inspection procedures in API Std 653, section 6.4.3 cannot be used to determine the internal inspection interval.

Enterprise failed to follow their Engineering Standard: Inspection of Atmospheric and Low-Pressure DOT Breakout Tanks Std. 9503 (STD 9503), referenced in their operations and maintenance procedure Section 1307-Breakout Tanks, by not having accurate monthly tank inspection reports and not using their monthly inspection checklist form in Appendix A as stated in STD 9503, Section 6.1 paragraph (2).

During the PHMSA field inspection at Enterprise's Cushing East Tank Facility on May 3, 2017, the PHMSA inspector found Tanks 1007 and Tank 1008 had no data plates. After reviewing the monthly tank reports, it was found Enterprise inaccurately recorded tank data plates as "ok". Enterprise is utilizing an Oracle Monthly Inspection Report to record monthly tank inspections. The newer Oracle Monthly Inspection Report does not accurately incorporate the checklist questions as the Appendix A Monthly Inspection Form referenced in their STD 9503.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$209,002 per violation per day the violation persists up to a maximum of \$2,090,022 for a related series of violations. 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 \$58,700.

Warning Items

With respect to items 1, 3, and 4, 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 4-2018-5011** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Mary L. McDaniel, P.E.
Director, Southwest Region
Pipeline and Hazardous Materials Safety Administration

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