

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

September 13, 2018

Tim Moore
Vice President, Crude & Pipeline Operations
BKEP Pipeline, LLC
2110 South Linwood Avenue
Cushing, Oklahoma 74023

CPF 4-2018-5017

Dear Mr. Moore:

On February 13 through 16, 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 BKEP Red River System in 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. § 195.446 Control room management.

(h) *Training.* Each operator must establish a controller training program and review the training program content to identify potential improvements at least once each calendar year, but at intervals not to exceed 15 months. An operator's program must provide for training each controller to carry out the roles and responsibilities defined

by the operator. In addition, the training program must include the following elements:

(1) Responding to abnormal operating conditions likely to occur simultaneously or in sequence;

BKEP failed to establish the controller training program to include scenarios for responding to abnormal operating conditions (AOC) likely to occur simultaneously or in sequence.

During the inspection, PHMSA requested BKEP to provide the records of the controller's training elements to ensure they are trained on multiple abnormal operating conditions likely to occur simultaneously or in sequence. BKEP provided sign-in sheets (monthly training), new controller (trainee) training sheets, and Blue Knight Energy Partners Controller System Review Reports. The documentation did not include a provision for scenarios that may have occurred simultaneously or in sequence. There were no AOC training scenarios mentioned in the provided documentation.

2. §195.452 Pipeline integrity management in high consequence areas

(e) What are the risk factors for establishing an assessment schedule (for both the baseline and continual integrity assessments)?

(1) An operator must establish an integrity assessment schedule that prioritizes pipeline segments for assessment (see paragraphs (d)(1) and (j)(3) of this section). An operator must base the assessment schedule on all risk factors that reflect the risk conditions on the pipeline segment. The factors an operator must consider include, but are not limited to:

- (i) Results of the previous integrity assessment, defect type and size that the assessment method can detect, and defect growth rate;**
- (ii) Pipe size, material, manufacturing information, coating type and condition, and seam type;**
- (iii) Leak history, repair history and cathodic protection history;**
- (iv) Product transported;**
- (v) Operating stress level;**
- (vi) Existing or projected activities in the area;**
- (vii) Local environmental factors that could affect the pipeline (e.g., corrosivity of soil, subsidence, climatic);**
- (viii) geo-technical hazards; and**
- (ix) Physical support of the segment such as by a cable suspension bridge.**

BKEP failed to base their integrity assessment schedule on all risk factors that reflect the risk conditions on the pipeline segment as required by §195.452(e)(1).

During the inspection, PHMSA requested BKEP to provide the integrity assessment schedule that prioritizes pipeline segments considering all the risk factors listed in their Integrity Management Plan Section 3.7 Threat Analysis. BKEP provided the risk assessment of all segments of the Red River Pipeline for 2016. Based on the provided risk assessment, only four (4) threats (3rd party damage, weather/outside force, external corrosion and internal corrosion for each line segment were considered. The remaining threats (stress corrosion cracking, manufacturing defect threats, construction threat, equipment malfunction and incorrect operation) were not included in the risk assessment. BKEP failed to provide the information or perform an integration of the data into their risk algorithm calculation to support the requirements of §195.452(e).

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 violation(s) and has recommended that you be preliminarily assessed a civil penalty of \$65,600 as follows:

<u>Item number</u>	<u>PENALTY</u>
Item 1	\$19,000
Item 2	\$46,600

Proposed Compliance Order

With respect to item 1 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to BKEP Pipeline, 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 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).

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 4-2018-5017** 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

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 BKEP Pipeline, LLC. a Compliance Order incorporating the following remedial requirements to ensure the compliance of BKEP Pipeline, LLC with the pipeline safety regulations:

1. In regard to Item Number 1 of the Notice pertaining to BKEP failing to provide training scenarios for responding to abnormal operating conditions likely to occur simultaneously or in sequence, BKEP must establish additional training scenarios in their controller training program and retain records of the training conducted in accordance with 195.446(h)(1).
2. BKEP must revise the training program within 60 days following receipt of the Final Order and submit to the PHMSA Southwest Region office.
3. It is requested (not mandated) that BKEP Pipeline, LLC maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Mary L. McDaniel, Director, Southwest, 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.