NOTICE OF PROBABLE VIOLATION
PROPOSED CIVIL PENALTY
and
PROPOSED COMPLIANCE ORDER

ELECTRONIC MAIL - RETURN RECEIPT REQUESTED

August 7, 2020

Michael S. Smith
Chairman & CEO
Freeport LNG Development, L. P.
333 Clay Street, Suite 5050
Houston, Texas 77002

CPF 4-2020-3003

Dear Mr. Smith:

On August 7, 2019, 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 the liquefied natural gas (LNG) export facility (Facility) operated by Freeport LNG Development, LP (FLNG), in Quintana, Texas. PHMSA initiated its investigation following an August 1, 2019 unintended release of natural gas after a piping failure occurred at the Facility during commissioning. On that date, FLNG was performing a "cool down" operation as part of the steps to commission Train 1, when it experienced a failure as it attempted to reduce the time required to properly cool down the Facility. FLNG flowed high-pressure, chilled natural gas at approximately 917 pounds per square inch (psig) through bypass piping into piping designed for a maximum operating pressure of 90 psig. The bypass line consequently failed around the area where a branch weld joined the pipes. The failure of the bypass line resulted in an unintended release of roughly 315 million cubic feet of natural gas and an estimated property damage of $76,220.[1]

Separate from this enforcement action, PHMSA issued to FLNG a Notice of Proposed Safety Order (NOPSO) [CPF No. 4-2019-3002S] on August 29, 2019. As a result of the NOPSO and subsequent discussions between PHMSA and FLNG pursuant to 49 CFR §190.239, the parties entered into a Consent Agreement and Order, dated January 21, 2020, whereby FLNG agreed to take corrective measures aimed at addressing certain safety issues raised by the incident. The Consent Agreement and Order remains open.

[1] Exhibit B.4 - PHMSA Form F 7100.3 Incident Report LNG 20190005 at 2.

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. § 193.2011 Reporting.

Incidents, safety-related conditions, and annual pipeline summary data for LNG plants or facilities must be reported in accordance with the requirements of Part 191 of this subchapter.

§ 191.5 Immediate notice of certain incidents.

(a) At the earliest practicable moment following discovery, but no later than one hour after confirmed discovery, each operator must give notice in accordance with paragraph (b) of this section of each incident as defined in §191.3.

(b) Each notice required by paragraph (a) of this section must be made to the National Response Center either by telephone to 800-424-8802 (in Washington, DC, 202 267-2675) or electronically at *http://www.nrc.uscg.mil* and must include the following information: . . .

§ 191.3 Definitions.

As used in this part and the PHMSA Forms referenced in this part-

. . .

***Incident* means any of the following events:**

(1) An event that involves a release of gas from a pipeline, gas from an underground natural gas storage facility, liquefied natural gas, liquefied petroleum gas, refrigerant gas, or gas from an LNG facility, and that results in one or more of the following consequences:

(i) A death, or personal injury necessitating in-patient hospitalization;

(ii) Estimated property damage of $50,000 or more, including loss to the operator and others, or both, but excluding cost of gas lost; or

(iii) Unintentional estimated gas loss of three million cubic feet or more.

(2) An event that results in an emergency shutdown of an LNG facility or an underground natural gas storage facility. Activation of an emergency shutdown system for reasons other than an actual emergency does not constitute an incident.

(3) An event that is significant in the judgment of the operator, even though it did not meet the criteria of paragraph (1) or (2) of this definition.

Freeport LNG Development, L.P. (FLNG) failed to notify the National Response Center (NRC) of an incident that occurred at its liquefied natural gas (LNG) facility on Quintana Island, Texas on August 1, 2019. The release was caused by the failure of a 2-inch bypass pipe at the connection to a 6-inch flare header during initial startup operations. The incident was not reported to the NRC as required by §191.5 that resulted in estimated costs (i.e. cost of repairs) exceeding $50,000 and unintentional gas loss of 300 million cubic feet. FLNG also initiated an emergency shutdown of the facility following discovery of the release. FLNG's own procedures, Appendix L PHMSA Incident Reporting Requirements, require that FLNG notify the NRC following "an event that results in an emergency shutdown of

an LNG facility." PHMSA first learned of the incident from the Federal Energy Regulatory Commission (FERC) on August 6, 2019, five days after the incident occurred. PHMSA further determined that FLNG had reported the incident to FERC on August 1, 2020, in the hours following the failure, as a significant event. Therefore, despite the failure of a 2-inch bypass pipe meeting the requirements of an incident under §191.5, FLNG failed to notify the NRC of the incident within one hour of the release, as required by §191.5 and §193.2011, as well as the requirements of FLNG's own procedures.

2. § 193.2503 Operating procedures.

Each operator shall follow one or more manuals of written procedures to provide safety in normal operation and in responding to an abnormal operation that would affect safety. The procedures must include provisions for:

(a) . . .

(b) Startup and shutdown, including for initial startup, performance testing to demonstrate that components will operate satisfactory in service.

FLNG failed to follow its written procedure for the startup of its Quintana Island LNG facility. As noted above, on August 1, 2019, during the commencement of a cooldown process on Train 1, FLNG experienced a failure resulting in a hydrocarbon release at the connection of a 2-inch purging/depressurizing line and a 6-inch flare header.

PHMSA's investigation revealed that FLNG had deviated from its startup procedures by performing an operation for which FLNG did not have a written procedure. Specifically, at the time of the failure, FLNG used the 2-inch line for an operation outside of the design specifications for the piping in an effort to reduce the cool down time. FLNG's written procedure did not account for this operation, nor did it permit FLNG to deviate from the procedures to perform an operation outside the design specifications, during the startup of the LNG facility. Therefore, FLNG failed to follow its written procedures for startup as required by §193.2503.

3. § 193.2515 Investigations of failures.

(a) . . .

(c) If the Administrator or relevant state agency under the pipeline safety laws (49 U.S.C. 60101 et seq.) investigates an incident, the operator involved shall make available all relevant information and provide reasonable assistance in conducting the investigation. Unless necessary to restore or maintain service, or for safety, no component involved in the incident may be moved from its location or otherwise altered until the investigation is complete or the investigating agency otherwise provides. Where components must be moved for operational or safety reasons, they must not be removed from the plant site and must be maintained intact to the extent practicable until the investigation is complete or the investigating agency otherwise provides.

FLNG failed to make available to PHMSA all relevant information and provide reasonable assistance to PHMSA's investigation following the incident that occurred on August 1, 2019. Specifically, on the morning of August 7, 2019, PHMSA communicated to FLNG the agency's intent to investigate the incident via a telephone conversation and follow-up email. However, FLNG removed the failed component from the site just prior to PHMSA's arrival at the site later that same morning. PHMSA had provided no instruction to FLNG to move or otherwise alter the component in order to restore or maintain service or for safety purposes, and neither had FLNG communicated the need to remove the components for those reasons prior to removal. Therefore, FLNG violated §193.2515(c) by failing to provide reasonable assistance while PHMSA conducted its investigation.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to 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. 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. Also, for each violation involving LNG facilities, and additional penalty of not more than $79,875 occurring on or after July 31, 2019 may be imposed. For each violation involving LNG facilities, an additional penalty of not more than $77,910 occurring on or after November 27, 2018 and before July 31, 2019 may be imposed. For each violation involving LNG facilities occurring on or after November 2, 2018 and before November 27, 2018, an additional penalty of not more than $76,352 may be imposed. For each violation involving LNG facilities occurring prior to November 2, 2015, an additional penalty of not more than $75,000 may be imposed. We have reviewed the circumstances and supporting documentation involved for the above probable violation(s) and recommend that you be preliminarily assessed a civil penalty of $263,347 as follows:

Item number	PENALTY
1	$44,700
2	$218,647

Proposed Compliance Order

With respect to item 3, pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Freeport LNG Development, L.P. 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 4-2020-3003** 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 Enforcement Proceedings*

cc: Mr. Mark Mallet, Vice President, Operations & Engineering, Freeport Development, L.P.
Mr. Mark Roscoe, FERC Regulatory Compliance and Warranty Manager, Freeport LNG Development, L.P.

PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Freeport LNG Development, L. P. (FLNG) a Compliance Order incorporating the following remedial requirements to ensure the compliance of FLNG with the pipeline safety regulations:

1. In regard to Item Number 3 of the Notice pertaining to the operator's removal of failed components from the Terminal prior to direction from PHMSA, the operator shall ensure that its procedures for investigations of failures within the LNG facility clearly demonstrate alignment with the requirements of §193.2515. If in its review, the operator determines revision are required, pertinent personnel must be made aware of any changes to the processes.

2. FLNG must submit all procedures and necessary revisions to the PHMSA Southwest Region Director within 30 days of issuance of the Final Order.

3. It is requested (not mandated) that Freeport LNG Development, L. P. maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Mary 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.