

June 26, 2020

**VIA ELECTRONIC MAIL TO: everard@marksexplorer.com**

Mr. Everard W. Marks III  
Chief Executive Officer  
Empire Pipeline, LLC  
601 Poydras Street, Suite 1725  
New Orleans, Louisiana 70130

**Re: CPF No. 4-2020-7002**

Dear Mr. Marks:

Enclosed please find the Final Order issued in the above-referenced case. It makes a finding of violation and specifies actions that need to be taken to comply with the pipeline safety regulations. When the terms of the compliance order are completed, as determined by the Director, Southwest Region, this enforcement action will be closed. Service of the Final Order by electronic mail is effective upon the date of transmission as 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

Enclosures (Final Order and NOPV)

cc: Ms. Mary McDaniel, Director, Southwest Region, Office of Pipeline Safety, PHMSA  
Ms. Maryanne Ward, Compliance and Regulatory Manager, Empire Pipeline, LLC,  
maryanne@empirepipelinellc.com

**CONFIRMATION OF 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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<b>In the Matter of</b> )	
)	
<b>Empire Pipeline, LLC,</b> )	<b>CPF No. 4-2020-7002</b>
<b>a subsidiary of Marks Holding Corp.,</b> )	
)	
<b>Respondent.</b> )	
_____ )	

**FINAL ORDER**

On February 11, 2020, pursuant to 49 C.F.R. § 190.207, the Director, Southwest Region, Office of Pipeline Safety (OPS), issued a Notice of Probable Violation and Proposed Compliance Order (Notice) to Empire Pipeline, LLC (Respondent), a subsidiary of Marks Holding Corporation.<sup>1</sup> The Notice proposed finding that Respondent had violated the pipeline safety regulations in 49 C.F.R. Part 195. The Notice also proposed certain measures to correct the violation. Respondent did not contest the allegation of violation or corrective measures.

Based upon a review of all of the evidence, pursuant to § 190.213, I find Respondent violated the pipeline safety regulations listed below, as more fully described in the enclosed Notice, which is incorporated by reference:

49 C.F.R. § 195.402(c)(13) (**Item 1**) — Respondent failed to have a written procedure to periodically review the work done by its personnel to determine the effectiveness of its procedures used in normal operation and maintenance activities.

This finding of violation will be considered a prior offense in any subsequent enforcement action taken against Respondent.

**COMPLIANCE ACTIONS**

Pursuant to 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the actions proposed in the enclosed Notice to correct the violation. The Director may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent and demonstrating good cause for an extension. Upon completion of ordered actions, Respondent may request that the Director close the case. Failure to comply

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<sup>1</sup> Marks Holding Corporation website, *Affiliates/Subsidiaries*, available at <https://www.marksholding.com/subsidiaries> (last accessed June 17, 2020)

with this Order may result in the assessment of civil penalties under 49 C.F.R. § 190.223 or in referral to the Attorney General for appropriate relief in a district court of the United States.

**WARNING ITEM**

With respect to Item 2, the Notice alleged a probable violation of 49 C.F.R. § 195.420(b), but did not propose a civil penalty or compliance order for this item. Therefore, this is considered to be a warning item. If OPS finds a violation of this provision in a subsequent inspection, Respondent may be subject to future enforcement action.

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

June 26, 2020

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Alan K. Mayberry  
Associate Administrator  
for Pipeline Safety

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Date Issued