

4/7/08



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SENT TO COMPLIANCE REGISTRY

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VIA HAND DELIVERY

Chris Hoidal
 Director, Western Region
 Pipeline and Hazardous Materials
 Safety Administration
 12300 W. Dakota Ave., Suite 110
 Lakewood, Colorado 80228

**Re: Windsor Energy LLC's Response to Notice of Probable Violation,
 Proposed Civil Penalty and Proposed Compliance Order
 (CPF 5-2008-5003)**

Dear Mr. Hoidal:

Holland & Hart LLP has been retained to assist Windsor Energy LLC ("Windsor Energy") in responding to the "Notice of Probable Violation, Proposed Civil Penalty and Proposed Compliance Order" (the "NOPV") served on Windsor Energy by the Pipeline and Hazardous Materials Safety Administration ("PHMSA") dated March 4, 2008. Windsor Energy submits this response pursuant to paragraphs I(a)(2) and II(b)(2) of the "Response Options for Pipeline Operators in Compliance Proceedings" attached to the NOPV.

The NOPV concerns a non-rural segment of Windsor Energy's Bennett Creek gravity-flow oil gathering line near Clark, Wyoming (the "Gathering Line"). The Gathering Line is a 4½" line that transports the oil by gravity. Windsor Energy does not artificially induce pressure into the line.

Windsor Energy contracted with Brandon Construction, Inc., to install the Gathering Line from March through June 2006. Brandon Construction is one of the most experienced pipeline installers in the region, and the inspectors and welders responsible for the installation have significant experience with oil and natural gas pipelines. Declarations from the inspectors and welders detailing their training and experience, including their experience with installing the Gathering Line, accompany this letter.

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In general terms, the NOPV contends that the Gathering Line violates 49 CFR Part 195 because it (a) "was not manufactured in accordance with an accepted or known standards," and (b) Windsor Energy does not have the required documentation establishing its procedures for installing the Gathering Line.

Windsor Energy responds to the specific contentions of the NOPV as set forth below. We are doing this to assure you that the Gathering Line was installed properly by appropriately trained personnel and to assure you that the pipe can easily withstand the pressure loads to which we anticipate it will be subjected. Windsor Energy's responses reference documents and data, an expert report confirming the integrity of the Gathering Line prepared by Dr. Jesse Grantham, and declarations from the engineering consultant, inspectors and welders who installed the Gathering Line: G.D. Kuse (the "Kuse Declaration"), Butch Sommerville (the "Sommerville Declaration"), Ray Edwards (the "Edwards Declaration"), Garrett Urick (the "Urick Declaration") and Bill Ozbirn (the "Ozbirn Declaration"). These documents are being provided in hardcopy and on a compact disc.

Before responding to the specific contentions in the NOPV, we would like to raise an issue which may need to be resolved at some point in the future. Our research indicates that PHMSA lacks jurisdiction over the Gathering Line. Part 195.1(b)(2) of Title 49 of the Code of Federal Regulations states that the requirements of Part 195 do not apply to "[t]ransportation of a hazardous liquid through a pipeline by gravity." The Gathering Line runs from Windsor Energy's lease pad and runs four and a half miles to atmospheric storage tanks located at a central station. From the lease pad to the tanks, the Gathering Line drops 763 feet in elevation. The Gathering Line's significant drop in elevation allows Windsor Energy to transport oil through the line by using only gravity. There are no pumps used on the line; the pressure within the line is entirely natural. As a result of this natural pressure and safety mechanisms that further reduce line pressure, the Gathering Line operates at an extremely low pressure: approximately 43 psi. The mechanics of the Gathering Line are described in the Kuse Declaration. Mr. Kuse is president of Sentinel Energy Services, Inc. and the consultant who designed the Gathering Line. The Kuse Declaration confirms the fact that the Gathering Line uses gravity to transport the oil. Consequently, the Gathering Line is non-jurisdictional and the requirements of 49 CFR Part 195 are inapplicable.

Without waiver of this jurisdictional defense, Windsor Energy's specific responses to the NOPV are as follows:

NOPV No. 1: §195.112 New pipe.

Response: The pipe joints used in the Gathering Line were independently analyzed and tested by Dr. Jesse Grantham in connection with Windsor Energy's response to the NOPV. Based on his analysis and testing, Dr. Grantham concludes:



- The Gathering Line is more than able to withstand the internal pressures and external loads and pressures anticipated for it.
- The materials in the Gathering Line are fit for intended service.
- Samples of the pipe used in the Gathering Line exceed the requirements of ASTM A53 Grade B, ERW seam pipe.
- The pipe manufacturer's designation of the pipe used in the Gathering Line as "commercial grade" does not affect the pipe's use in the Gathering Line. Based on Dr. Grantham's testing, he believes it is "most probable" that the pipe was designated "commercial grade" because it did not meet the manufacturer's specification for wall thickness. For reasons explained in Dr. Grantham's report, wall thickness does not present a problem given Windsor Energy's low-pressure use of the Gathering Line.
- The Gathering Line is fully capable of easily maintaining a continuous pressure of 330 psi, the maximum pressure to which the pipe joints would be subjected during day-to-day operations. In fact, Windsor Energy operates the Gathering Line at a much lower pressure, typically around 43 psi.
- The pipe used in the Gathering Line has been successfully hydrotested at 4,150 psi (by the manufacturer) and 1,576 psi (by Windsor Energy after installing the line).
- The Gathering Line has been in operation for about 18 months and has undergone eight "pigging" operations without incident related to pipe integrity.
- The Gathering Line was installed by qualified welders following procedures that complied with Section 5 of API 1104, and Dr. Grantham independently confirmed the quality of welder tests through mechanical (destructive) laboratory testing.
- Every weld was x-rayed and there were "no rejectable indications" for any of them.

For additional information on the quality of the pipe used in the Gathering Line and the analyses and tests that have been performed on the Gathering Line, please see Dr. Grantham's report and the Kuse Declaration.



NOPV No. 2: §195.202 Compliance with specifications or standards.

Response: When installing the Gathering Line, Windsor Energy followed industry-standard procedures that comply with all applicable regulations for material inspections, pipe location, pipe bending, qualified welding procedures, protection of welding from the weather, repair of arc burns, repair or removal of weld defects, installation of pipe in a trench, coating inspection, coating repair, cover over the pipe, backfilling, and required construction records. There were no arc burns or weld defects that occurred in connection with welding the non-rural segment of the Gathering Line, there are no weld supports or braces on the Gathering Line, and there are no underground structures above or below the pipe.

Please see the Sommerville Declaration (¶¶ 11-42), the Edwards Declaration (¶¶ 5-36), the Ozbirn Declaration (¶¶ 5-11), the Urick Declaration (¶¶ 5-11), written welding procedures followed by Windsor Energy and Brandon Construction when installing the Gathering Line (Bates Nos. WER 0041-47), maps identifying the location of the pipeline (WER 0051-53), and photographs taken during the installation of the Gathering Line that show how the line was installed (WER 0062-70). Windsor Energy also submits a copy of its non-destructive test logs of girth welds on the Gathering Line (WER 0071-176). The x-ray film referenced in the test logs is available for PHMSA's inspection upon request.

NOPV No. 3: §195.204 Inspection - General.

Response: Butch Sommerville and Ray Edwards conducted all necessary inspections surrounding the installation of the Gathering Line, including inspections of the welding process, excavation of the ditch, coatings, pipe placement, and backfill operations. Mr. Sommerville and Mr. Edwards were trained and qualified to conduct these inspections at the time of the installation. There were no welds to the Gathering Line that required repair, and thus there was no need for Mr. Sommerville or Mr. Edwards to conduct an inspection of weld repairs. Had such an inspection been necessary, Mr. Sommerville and Mr. Edwards were trained to inspect the repair and were prepared to do so by following a standard, industry-compliant procedure.

Please see the Sommerville Declaration (¶¶ 2-4, 11-17, 21-25, and 29-42) and the Edwards Declaration (¶¶ 2-4, 5-12, 16-20, and 24-36).



NOPV No. 4: §195.214 Welding procedures.

Response: When installing the Gathering Line, Windsor Energy followed industry-standard welding procedures, and the experienced welders who performed the welding work on the Gathering Line—Garrett Urick and Bill Ozbirn—successfully performed welding qualification tests prior to installing the Gathering Line.

Please see the Sommerville Declaration (¶¶ 15-25), the Edwards Declaration (¶¶ 9-20), the Ozbirn Declaration (¶¶ 4-11), the Urick Declaration (¶¶ 4-11), written welding procedures following by Windsor Energy and Brandon Construction when installing the Gathering Line (Bates Nos. WER 0041-47), and the welding qualification tests performed by Mr. Urick and Mr. Ozbirn (Bates Nos. WER 0030-33A).

NOPV No. 5: §195.234 Welds: Nondestructive testing.

Response: All nondestructive testing followed a written procedure, and those tests revealed no defect in any weld on the non-rural segment of the Gathering Line.

Please see the written procedures followed by the nondestructive testing technician (WER 0049-50), the Sommerville Declaration (¶ 24), and the Edwards Declaration (¶ 19).

NOPV No. 6: §195.266 Construction Records.

Response: Windsor Energy has records concerning the amount and cover over the Gathering Line, the location of each buried utility crossing, and the location of each overhead crossing. The Gathering Line does not cross any other pipeline, and in particular, it does not cross the 10" natural gas pipeline buried adjacent to the Gathering Line. There are no corrosion test stations located within the non-rural segment of the line.

Please see the Sommerville Declaration (¶¶ 5-10 and 38-42), the Edwards Declaration (¶¶ 32-36) and the map indicating the locations of utility lines and overhead power lines that cross the Gathering Line (Bates Nos. WER 0053).



NOPV No. 7: §195.310 Records.

Response: Windsor Energy has calibration data for the hydrotesting performed on the Gathering Line, as well as a survey profile of the test section.

Please see the Kuse Declaration (¶¶ 5-6), calibration data (Bates Nos. WER 0037-40) and the survey profile of the test section (Bates No. WER 0054).

NOPV No. 8: §195.401 General requirements.

Response: As demonstrated above, Windsor Energy has comprehensive written specifications for installing the Gathering Line that are consistent with the requirements of 49 CFR Part 195.

Windsor Energy incorporates by reference its responses to NOPV Nos. 1-7.

Conclusion

At this time, Windsor Energy is not requesting a formal hearing, but reserves the right to do so depending on PHMSA's response to our submissions. We recognize, however, that you may have questions concerning our responses or may need additional information. To that end, we would be happy to meet with you to discuss in detail Windsor Energy's responses to the NOPV and the materials submitted with this letter. We also would be happy to coordinate meetings at your office with Windsor Energy personnel and/or those individuals who have provided written declarations describing the installation of the Gathering Line.

I will call you in a few days to touch base with you to make sure that you have everything you need. In the meantime, if you have any questions or concerns, please do not hesitate to contact me.

Very truly yours,

Anthony J. Shaheen
of
HOLLAND & HART LLP