

## **WARNING LETTER**

### **CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

January 23, 2019

Mr. Bradley Shamla  
Vice President, US Operations  
Express Holdings (USA), LLC  
5400 Westheimer Court  
Houston, TX 77056

**CPF 5-2019-5004W**

Dear Mr. Shamla:

On October 16, 2018, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code (U.S.C.) received information from Express Holdings (USA), LLC representatives in Lakewood, Colorado about compliance issues they had discovered about the breakout tanks designated as Tanks 301 and 302 at the Edgar Terminal in Montana.

During Express Holdings self-disclosure, it was confirmed that the tank inspections were not completed within the specified timeframe in Title 49, Code of Federal Regulations (CFR). At PHMSA's request, Express Holdings submitted inspection records on December 17, 2018, for Tanks 301 and 302. Western Region staff reviewed the records pursuant to Chapter 601 of 49 United States Code (U.S.C.). The records reviewed confirmed the following probable violations occurred:

**1. § 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.**

Express Holdings did not conduct physical integrity inspections of their breakout tanks in accordance with §195.432. Following your self-disclosure of compliance issues with two breakout tanks at your Edgar, Montana facility and an independent PHMSA review of the Express Holdings records submitted, we confirmed the noncompliance. Two breakout tanks, Tanks 301 and 302, were placed in-service on December 22, 2005 and October 29, 2005, respectively. These tanks are PHMSA-regulated above-ground breakout tanks and must be externally and internally inspected at intervals in accordance with API 653. Prior to March 2017, Express Holdings and their previous parent company, Spectra, performed risk based inspections of these two tanks on March 16, 2016. In-service external inspections of Tanks 301 and 302 were conducted on September 21, 2011 and again on March 16, 2016. After the merger with Express Holdings, an out-of-service internal inspection was performed on Tank 302 between August 23 and September 18, 2018. Information from the Tank 302 inspection, including corrosion rate data, was used for a Similar Service Assessment of Tank 301.

For Tanks 301 and 302, Express Holdings exceeded the maximum interval of 10 years by three (3) years for establishing corrosion rates for the bottom plates as specified by 195.432(b) and API 653, 6.4.2.2. Furthermore, Express Holdings exceeded the maximum external inspection interval of five (5) years by approximately one year (with thickness inspections) for the first round of external inspections of Tanks 301 and 302 which were conducted in 2011. External inspection intervals are specified by 195.432(b) and API 653, 6.3.3.2.

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$213,268 per violation per day the violation persists, up to a maximum of \$2,132,679 for a related series of violations. 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. We 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. The self-disclosure coupled with the fact that an unsafe condition did not exist (albeit indeterminate for 3

years per regulations) were considered in our determination to not issue additional enforcement actions.

We advise you to correct the items identified in this letter and establish ongoing processes to prevent recurrence. Failure to do so will result in Express Holdings being subject to additional enforcement action.

No reply to this letter is required. If you choose to reply, in your correspondence please refer to **CPF 5-2019-5004W**. Be advised that all material you submit in response to this enforcement action is subject to being 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).

Sincerely,

Chris Hoidal  
Acting Director, Western Region  
Pipeline and Hazardous Materials Safety Administration

cc: PHP-60 Compliance Registry  
PHP-500 C. Allen (#163430)