

WARNING LETTER

OVERNIGHT EXPRESS DELIVERY

February 23, 2023

Mr. Paul Bieniawski
Chief Executive Officer
Freebird Gas Storage, LLC
10375 Richmond Avenue, Suite 1900
Houston, Texas 77042

CPF 1-2023-015-WL

Dear Mr. Bieniawski:

From November 15, 2022 through November 17, 2022, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected Freebird Gas Storage, LLC's (FGS) Freebird Storage Facility in Lamar County, Alabama.

As a result of the inspection, it is alleged that you have committed a probable violation of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The item inspected and the probable violation is:

1. § 192.12 Underground natural gas storage facilities.

(a) ...

(d) Integrity management program--

(1) ...

(4) *Integrity management procedures and recordkeeping.* Each UNGSF operator must establish and follow written procedures to carry out its integrity management program under API RP 1171 (incorporated by reference, see § 192.7), section 8 ("Risk Management for Gas Storage Operations"), and this paragraph (d). The operator must also maintain, for the useful life of the UNGSF, records that demonstrate compliance with the requirements of this paragraph (d). This includes records developed and used in support of any identification, calculation, amendment, modification, justification, deviation, and determination made, and any action taken to implement and evaluate any integrity management program element.

FGS failed to follow its Storage Integrity Management Plan (SIMP), Section 2. Specifically, FGS failed to update the risk model with data collected in 2019 in accordance with SIMP, Sections 2.5.4, Data Gathering (Section 2.5.4), item 1 and 2.6, Data Review (Section 2.6).

Section 2.5.4 stated in part:

The Operations Manager shall gather all pertinent data for each storage well. The data that shall be evaluated for the threats is included in the risk analysis model. The data shall be collected from the Company's engineering and construction records, operational and inspection reports, and interviews with SMEs.

Available data applicable to gas storage falls into six broad categories. Following is a description of each category and how that data applies to the design, development, and operation of the storage reservoirs and wells:

- 1) Well Files – Well files are maintained for all injection/withdrawal (I/W), key indicator (KI), and OM wells. These files will be maintained at the corporate office. Common document types include drilling reports, cement reports, completion reports, logs, mud logs, field tickets, regulatory records, tally, geological characterization, reservoir engineering, and schematics.

Section 2.6 stated in part:

The Risk Management Team shall:

- Review the inputted data and the resulting score.
- Select each storage well to compare the data and LOF scores with other storage wells' averages to ensure the data is correct and to understand the factors contributing to various threats in a particular storage well.
- Review the inputted data with SMEs to better understand the analysis and identify potential anomalies in the data. The review should include, but not limited to, the following steps:
 - 1) Review the data for accuracy.
 - 2) Review the data in comparison with other storage wells to determine whether any well's data is outside of expected results.
 - 3) Review the data with the threat scoring to ensure that the data and the individual threat score are rational.
 - 4) Compare the threat score with other storage wells to determine whether any well's score is not in line with expectations.
 - 5) Assess program effectiveness.

The review will be conducted on an annual basis not to exceed 15 months. *OM Form 1300-11* will be completed for each facility to document the review as described above, document the risk assessment results, review changes from previous assessments, recommend actions to be taken, assess effectiveness of review process, and record participants in the review process.

During the inspection, FGS presented its risk analysis model to demonstrate risk determination and the risk analysis model had not been updated with data collected in 2019. The data included casing inspection results for 4 wells.

Therefore, FGS failed to follow its SIMP, Section 2.5.4 and Section 2.6, as required by § 192.12(d)(4).

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$257,664 per violation per day the violation persists, up to a maximum of \$2,576,627 for a related series of violations. For violation occurring on or after March 21, 2022 and before January 6, 2023, the maximum penalty may not exceed \$239,142 per violation per day the violation persists, up to a maximum of \$2,391,142 for a related series of violations. For violation occurring on or after May 3, 2021, and before March 21, 2022, the maximum penalty may not exceed \$225,134 per violation per day the violation persists, up to a maximum of \$2,251,334 for a related series of violations. For violation occurring on or after January 11, 2021, and before May 3, 2021, the maximum penalty may not exceed \$222,504 per violation per day the violation persists, up to a maximum of \$2,225,034 for a related series of violations. For violation occurring on or after July 31, 2019, and before January 11, 2021, the maximum penalty may not 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.

We have 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. We advise you to correct the item identified in this letter. Failure to do so will result in Freebird Gas Storage, LLC 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 1-2023-015-WL**. 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,

Robert Burrough
Director, Eastern Region, Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration