



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety Administration**

901 Locust Street, Suite 480
Kansas City, MO 64106

**NOTICE OF PROBABLE VIOLATION
and
PROPOSED COMPLIANCE ORDER**

VIA ELECTRONIC MAIL TO: brad.shamla@enbridge.com and
David.Stafford@enbridge.com

October 6, 2020

Mr. Bradley Shamala
Vice President, US Operations
Enbridge Inc.
Express Holdings (USA), LLC
7701 France Ave. S. Suite 600
Edina, MN 55435

CPF 3-2020-5016

Dear Mr. Shamala:

From June 10, 2019 to September 13, 2019, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety, pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected your Express Holdings (USA), LLC (Express Holdings) records and field facilities of the Platte Express System.

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. §195.581 Which pipelines must I protect against atmospheric corrosion and what coating material may I use?**

- (a) You must clean and coat each pipeline or portion of pipeline that is exposed to the atmosphere, except pipelines under paragraph (c) of this section.**
- (b) Coating material must be suitable for the prevention of atmospheric corrosion.**

Express Holdings failed to protect a portion of pipeline exposed to the atmosphere with a coating material suitable for the prevention of atmospheric corrosion. During the inspection, PHMSA discovered that the above ground span 6-2003+72-4000 near MP 605.5 (between Hiawatha and Marysville stations) was coated with only the factory fusion bonded epoxy coating (FBE), which is a below ground coating unsuitable for protection from atmospheric corrosion. Therefore, Express Holding violated §195.581(b) by failing to provide coating material suitable for prevention of atmospheric corrosion on its above ground span 6-2003+72-4000.

Proposed Compliance Order

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.

We have reviewed the circumstances and supporting documents involved in this case, and have decided not to propose a civil penalty assessment at this time.

With respect to item 1 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Express Holdings(USA), LLC. 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. 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).

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 3-2020-5016** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Gregory A. Ochs
Director, Central Region, OPS
Pipeline and Hazardous Materials Safety Administration

Enclosures: *Proposed Compliance Order*
Response Options for Pipeline Operators in Enforcement Proceedings

cc: David Stafford, Manager, US Pipeline Compliance, David.Stafford@enbridge.com

PROPOSED COMPLIANCE ORDER

Pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue to Express Holdings (USA), LLC (Express Holdings) a Compliance Order incorporating the following remedial requirements to ensure the compliance of Express Holdings with the pipeline safety regulations:

1. In regard to Item Number 1 of the Notice pertaining to Express Holdings' failure to protect above ground piping from atmospheric corrosion, Express Holdings must complete the following measures:
 - a. Within 60 days of the issuance of the Final Order: identify all locations on the Platt Express system where the above ground piping is uncoated or is coated with only fusion bonded epoxy (FBE) coating.
 - i. Within 90 days of the issuance of the Final Order: provide to the Director, Central Region, a plan and schedule to coat above ground pipe found uncoated or where coating not suitable for the prevention of atmospheric corrosion was found. The plan and schedule must include a requirement to complete the coating of unprotected above ground piping within 12 months.
2. It is requested (not mandated) that Express Holdings maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Allan Beshore, Director, Central Region, 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.