October 17, 2022

VIA ELECTRONIC MAIL TO: shawn.patterson@southernstar.com

Mr. Shawn L. Patterson
President and Chief Executive Officer
Southern Star Central Gas Pipeline, Inc.
4700 State Route 56
P.O. Box 20010
Owensboro, Kentucky 42304

Re: CPF No. 3-2022-045-NOPV

Dear Mr. Patterson:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation, assesses a civil penalty of $27,900, and specifies actions that need to be taken by Southern Star Central Gas Pipeline, Inc., to comply with the pipeline safety regulations. This is to acknowledge receipt of payment of the full penalty amount, by wire transfer, dated May 27, 2022. When the terms of the compliance order are completed, as determined by the Director, Central Region, this enforcement action will be closed. Service of the Final Order by e-mail is effective upon the date of transmission and acknowledgement of receipt 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

Enclosure

cc: Mr. Gregory E. Ochs, Director, Central Region, Office of Pipeline Safety, PHMSA
Mr. Craig Thomas, Manager, Integrity Management and PHMSA Compliance, Southern Star Central Gas Pipeline, Inc., craig.thomas@southernstar.com

Mr. Mark Luckett, Lead Attorney, Southern Star Central Gas Pipeline, Inc., mark.luckett@southernstar.com

<u>CONFIRMATION OF RECEIPT REQUESTED</u>

U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590

In the Matter of	)	
	)	
Southern Star Central Gas Pipeline, Inc.,	)	**CPF No. 3-2022-045-NOPV**
	)	
Respondent.	)	

FINAL ORDER

From October 18 through November 8, 2021, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted a pipeline safety inspection of the control room records and procedures of Southern Star Central Gas Pipeline, Inc. (Southern Star or Respondent) in Owensboro, Kentucky. Southern Star operates approximately 5,800 miles of natural gas transmission pipelines in the central United States.[1]

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated April 28, 2022, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Southern Star had committed four violations of 49 C.F.R. Part 192, proposed assessing a civil penalty of $55,800 for the alleged violations, and proposed ordering Respondent to take certain measures to correct the alleged violations. The Notice also included an additional warning item pursuant to 49 C.F.R. § 190.205, which warned the operator to correct the probable violation or face possible future enforcement action

Southern Star responded to the Notice by letter dated May 27, 2022 (Response). The company contested one of the allegations and offered additional information in response to the Notice. Respondent did not request a hearing and therefore has waived its right to one.

FINDINGS OF VIOLATION

The Notice alleged that Respondent violated 49 C.F.R. Part 192, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 192.631(b)(5), which states:

[1] *See* Southern Star website, *available at* https://www.southernstar.com/ (last accessed Oct. 5, 2022).

> **§ 192.631 Control room management.**
> (a) . . .
> (b) *Roles and responsibilities*. Each operator must define the roles and responsibilities of a controller during, normal, abnormal, and emergency operator conditions. To provide for a controller's prompt and appropriate response to operating conditions, an operator must define each of the following:
> (1) . . .
> (5) The roles, responsibilities and qualifications of others with the authority to direct or supersede the specific technical actions of a controller.

The Notice alleged that Respondent violated 49 C.F.R. § 192.631(b)(5) by failing to define the roles, responsibilities, and qualifications of others with the authority to direct or supersede the specific technical actions of a controller. Specifically, the Notice alleged that Southern Star's written control room management procedures and controller training provided conflicting information on who could direct or supersede the specific technical actions of controllers.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.631(b)(5) for failing to define the roles, responsibilities, and qualifications of others with the authority to direct or supersede the specific technical actions of a controller.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 192.631(c)(1), which states:

> **§ 192.631 Control room management.**
> (a) . . .
> (c) *Provide adequate information.* Each operator must provide its controllers with the information, tools, processes and procedures necessary for the controllers to carry out the roles and responsibilities the operator has defined by performing each of the following:
> (1) Implement section 1, 4, 8, 9, 11.1, and 11.3 of API RP 1165 (incorporated by reference, *see* § 192.7) whenever a SCADA system is added, expanded or replaced, unless the operator demonstrates that certain provisions of sections 1, 4, 8, 9, 11.1 and 11.3 of API RP 1165 are not practical for the SCADA system used;

The Notice alleged that Respondent violated 49 C.F.R. § 192.631(c)(1) by failing to implement sections 1, 4, 8, 9, 11.1, and 11.3 of API RP 1165 on its SCADA system, or demonstrating that certain provisions of these sections are not practical for the SCADA system used. Specifically, the Notice alleged that although Southern Star developed and built its SCADA system to API RP 1165, it failed to perform an audit to verify that the SCADA operating system met the section requirements set forth in § 192.631(c)(1).

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.631(c)(1) for failing to implement the requisite sections of API RP 1165 on its SCADA system.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 192.631(e)(2), which states:

> **§ 192.631 Control room management.**
> (a) . . .
> (e) *Alarm management.* Each operator using a SCADA system must have a written alarm management plan to provide for effective controller response to alarms. An operator's plan must include provisions to:
> (1) . . .
> (2) Identify at least once each calendar month points affecting safety that have been taken off scan in the SCADA host, have had alarms inhibited, generated false alarms, or that have had forced or manual values for periods of time exceeding that required for associated maintenance or operating activities;

The Notice alleged that Respondent violated 49 C.F.R. § 192.631(e)(2) by failing to identify at least once each calendar month points affecting safety that have been taken off scan in the SCADA host, have had alarms inhibited, generated false alarms, or that have had forced or manual values for periods of time exceeding that required for associated maintenance or operating activities. Specifically, the Notice alleged that Southern Star failed to review false alarms for the years 2019 and 2020.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.631(e)(2) for failing to identify at least once each calendar month points affecting safety that have generated false alarms for associated maintenance or operating activities.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

WITHDRAWAL OF ALLEGATION

The Notice alleged that Respondent violated 49 C.F.R. Part 192, as follows:

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 192.631(h)(6), which states:

> **§ 192.631 Control room management.**
> (a) . . .
> (h) *Training.* Each operator must establish a controller training program and review the training program content to identify potential improvements at least once each calendar year, but at intervals not to exceed 15 months. An operator's program must provide for training each controller to carry out the roles and responsibilities defined by the operator. In addition, the training program must include the following elements:
> (1) . . .
> (6) Control room team training and exercises that include both

> controllers and other individuals, defined by the operator, who would reasonably be expected to operationally collaborate with controllers (control room personnel) during normal, abnormal or emergency situations. Operations must comply with the team training requirements under this paragraph by no later than January 23, 2018.

The Notice alleged that Respondent violated 49 C.F.R. § 192.631(h)(6) by failing to conduct control room team training and exercises that included both controllers and other individuals, defined by the operator, who would reasonably be expected to operationally collaborate with controllers during normal, abnormal or emergency situations. Specifically, the Notice alleged that Southern Star failed to conduct control room team training that included at least one controller or control room representative during six training sessions in 2018 and 2019.

In its Response, Southern Star contested this item and submitted additional information. Specifically, the company provided additional documentation demonstrating that control room personnel were present during team training in 2018 and 2019.[2]

In a recommendation for final action submitted pursuant to § 190.209(b)(7), the Director recommended withdrawing the alleged violation of § 192.631(h)(6) based on this additional information. Accordingly, after considering all of the evidence, I find no basis for finding a violation of § 192.631(h)(6). Based upon the foregoing, I hereby order that Item 4 be withdrawn.

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to an administrative civil penalty not to exceed $200,000 per violation for each day of the violation, up to a maximum of $2,000,000 for any related series of violations.[3]

In determining the amount of a civil penalty under 49 U.S.C. § 60122 and 49 C.F.R. § 190.225, I must consider the following criteria: the nature, circumstances, and gravity of the violation, including adverse impact on the environment; the degree of Respondent's culpability; the history of Respondent's prior offenses; any effect that the penalty may have on its ability to continue doing business; the good faith of Respondent in attempting to comply with the pipeline safety regulations; and self-disclosure or actions to correct a violation prior to discovery by PHMSA. In addition, I may consider the economic benefit gained from the violation without any reduction because of subsequent damages, and such other matters as justice may require. The Notice proposed a total civil penalty of $55,800 for the violations cited above.

Item 3: The Notice proposed a civil penalty of $27,900 for Respondent's violation of 49 C.F.R. § 192.631(e)(2), for failing to review false alarms for the years 2019 and 2020. Southern Star neither contested the allegation nor presented any evidence or argument justifying a reduction in

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[2] *See* Response, at Attachments 1-5. Southern Star further explained in its Response that it did not hold a team training on one of the dates cited in the Notice. *Id.*, at 2.

[3] These amounts are adjusted annually for inflation. *See* 49 C.F.R. § 190.223 for adjusted amounts.

or elimination of the proposed penalty. Although this violation minimally impacted pipeline safety, the operator failed to comply with an applicable requirement and did not provide a reasonable justification for the noncompliance. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of $27,900 for violation of 49 C.F.R. § 192.631(e)(2).

Item 4: The Notice proposed a civil penalty of $27,900 for Respondent's alleged violation of 49 C.F.R. § 192.631(h)(6). Since this alleged violation has been withdrawn, the proposed penalty is not assessed.

In summary, having reviewed the record and considered the assessment criteria for each of the Items cited above, I assess Respondent a total civil penalty of **$27,900**, which amount was paid in full by wire transfer on May 27, 2022.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 1 and 2 in the Notice for violations of 49 C.F.R. §§ 192.631(b)(5) and 192.631(c)(1), respectively. Under 49 U.S.C. § 60118(a), each person who engages in the transportation of gas or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations:

1. With respect to the violation of § 192.631(b)(5) (**Item 1**), Respondent must provide records of completed training for controllers and those identified as "others" on the policy of disallowing others who have authority to direct or supersede the specific technical actions of a controller within 90 days of receipt of the Final Order.

2. With respect to the violation of § 192.631(c)(1) (**Item 2**), Respondent must verify through audit or other means that its SCADA system complies with sections 1, 4, 8, 9, 11.1, and 11.3 of API RP 1165 within 90 days of receipt of the Final Order.

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.

PHMSA requests that Respondent maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director. 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.

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed $200,000, as adjusted for inflation (*see* 49 C.F.R. § 190.223), for each violation for each day the violation continues or in referral to the Attorney General for appropriate relief in a district court of the United States.

WARNING ITEM

With respect to Item 5, the Notice alleged probable violation of Part 192, but identified it as a warning item pursuant to § 190.205. The warning was for:

> 49 C.F.R. § 192.631(j)(1)(**(Item 5)** ─ Respondent's alleged failure to maintain for review during inspection records that demonstrate compliance with the requirements of § 192.631.

If OPS finds a violation of this provision in a subsequent inspection, Respondent may be subject to future enforcement action.

Under 49 C.F.R. § 190.243, Respondent may submit a Petition for Reconsideration of this Final Order to the Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2nd Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address. The written petition must be received no later than 20 days after receipt of the Final Order by Respondent. Any petition submitted must contain a statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.243. The filing of a petition automatically stays the payment of any civil penalty assessed. The other terms of the order, including corrective action, remain in effect unless the Associate Administrator, upon request, grants a stay.

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

	October 17, 2022
Alan K. Mayberry Associate Administrator for Pipeline Safety	Date Issued