

VIA ELECTRONIC MAIL TO: jeff.ramsey@fhr.com; randy.lenz@fhr.com;
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December 30, 2024

Mr. Jeff Ramsey
President and CEO
Flint Hills Resources, LLC
4111 E. 37th Street North
Wichita, Kansas 67220

CPF 3-2024-028-NOPV

Dear Mr. Ramsey:

From April 18, 2022 through December 14, 2022, of the on-site inspection, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), and the Minnesota Office of Pipeline Safety (MNOPS), pursuant to Chapter 601 of 49 United States Code (U.S.C.), inspected the Wisconsin Refined Products Pipeline System, the Wescott LPG System, and the Junction City LPG Pipeline System, located in Minnesota and Wisconsin and operated by Flint Hills Resources, LC, and Flint Hills Resources Pine Bend, LLC (collectively referred to as FHR).

As a result of the inspection, it is alleged that FHR has committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The items inspected, and the probable violations are:

1. § 195.446 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)

(3) **Test and verify an internal communication plan to provide adequate means for manual operation of the pipeline safely, at least once each calendar year, but at intervals not to exceed 15 months;**

FHR failed to test and verify an internal communication plan to provide for adequate means for manual operations to the pipeline safely at least once each calendar not to exceed 15 months for calendar years 2019, 2020 and 2021, per the requirements of § 195.446(c)(3). Specifically, FHR failed to provide an adequate means for safe manual operations of the pipeline and failed to properly test and verify its internal communication plan. PHMSA's review of FHR's records for calendar years 2019, 2020, and 2021 revealed that FHR conducted a table-top drill simulating a SCADA failure. However, the drill was limited in scope and did not demonstrate a valid means of manually operating the pipeline in the event of a SCADA failure. Furthermore, PHMSA determined from records of the drill that FHR's internal communication plan and procedures for manual operation were inadequate to ensure safe operations during such an event.

PHMSA reviewed FHR's procedures, including PRC1490.120, PRC1490.123, PRC1490.225, PRC1490.229, and PRC1490.238, and found they lacked provisions for testing and verifying manual pipeline operation. This deficiency stemmed from FHR's position that they do not manually operate the pipeline (*i.e.*, move product through the pipeline) once it is shut down. In response to PHMSA's Post-Inspection Written Preliminary Findings, FHR stated, "FHR's procedures outline that during a SCADA failure/outage, the company will not operate the pipeline systems manually and would shut down the pipeline systems." Furthermore, FHR asserted, "[i]n the event of a SCADA failure/outage, the operators of the pipeline facility are no longer controllers in a control room. They are not operating a pipeline facility through a SCADA system. §195.446 Control Room Management does not apply when there is a SCADA failure/outage."

PHMSA disagrees with FHR's position because: (1) it does not align with a straightforward application of the regulation for FHR to define the roles and responsibilities of its controllers to comply with § 195.446(c)(3), and (2) a pipeline is in operational status as long as hazardous material is contained in the pipeline system, and therefore an internal communication plan to provide adequate means for manual operation of the pipeline safely is applicable to controllers and control rooms in the event of SCADA failure/outage.¹

Accordingly, procedures for manual operation must be provided to controllers and other operations personnel to ensure safety under all operating conditions, including during no-flow or shutdown scenarios. These procedures must define roles and responsibilities for manual operations, to comply with § 195.446(c)(3), and be integrated with FHR's written procedures as mandated by § 195.402(a).

¹ See Control Room Management FAQs, PHMSA, at FAQ C.07, C.09, and C.14 (explaining that, in the event of SCADA failure/outage, a communication plan for manual, safe operation of the pipeline is necessary, even if just to bring it to shutdown status), <https://www.phmsa.dot.gov/pipeline/control-room-management/control-room-management-faqs> (Issued Jan. 16, 2018).

As a result of FHR's stated operating beliefs and practices, its procedures for testing and verifying an internal communication plan for manual operations at least once each calendar year (not exceeding 15 months) were found to be inadequate, and FHR failed to comply with § 195.446(c)(3).

2. § 195.505 Qualification program.

Each operator shall have and follow a written qualification program. The program shall include provisions to:

(a)

(b) Ensure through evaluation that individuals performing covered tasks are qualified;

FHR failed to ensure that an individual performing a covered task was qualified, per the requirements of § 195.505(b). In response to PHMSA's request for dig repair records, FHR disclosed that after internally reviewing its repair records, it had found that on January 16, 2020, two grind-out repairs (pipe defect removal by grinding) were completed by a contractor individual who was not qualified to FHR's Operator Qualification Program (OQ) Covered Task 1004, "Repair of Steel Pipe by Grinding." Therefore, FHR failed to ensure that individuals performing covered tasks were qualified on two occasions, contrary to the requirements of § 195.505(b).

Proposed Compliance Order

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 FHR. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Warning Item

With respect to Item 2, 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 promptly correct this item. Failure to do so may result in additional enforcement action.

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. All material you submit in response to this enforcement action may be 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 your receipt of this Notice, you have 30 days to respond as described in the enclosed *Response Options*. 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. The Region Director may extend the period for responding upon a written request timely submitted demonstrating good cause for an extension.

In your correspondence on this matter, please refer to **CPF 3-2024-028-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

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

cc: Randy Lenz, Senior VP Operations, Flint Hills Resources, LLC, randy.lenz@fhr.com
Kelley Cabrera, Senior Compliance Specialist, Flint Hills Resources, LC,
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Kim Gerold, Manager Pipeline Safety, Flint Hills Resources, LC, kim.gerold@fhr.com

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

PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Flint Hills Resources, LC, and Flint Hills Resources Pine Bend, LLC (collectively referred to as FHR) a Compliance Order incorporating the following remedial requirements to ensure the compliance of FHR with the pipeline safety regulations:

A. In regard to Item 1 of the Notice, pertaining to the failure to test manual operation of the pipeline in the event of a SCADA system failure, FHR must:

(1) Within **90** days of receipt of the Final Order, submit to the Region for review a finalized procedure(s) and communication plan applicable to all jurisdictional pipelines. The procedure(s) must ensure controllers and appropriate personnel have adequate information and guidance to perform manual operations of the pipeline safely during a SCADA system failure. This submission must demonstrate compliance with regulatory requirements and ensure the safe and effective operation of the pipeline system during SCADA system failures, including a robust internal communication plan that is tested and verified pursuant to the requirements of § 195.446(c)(3). The plan must address at least the following elements:

- i) Procedures for shutting down the pipeline system, including idling operations, during a SCADA system failure.
- ii) Processes for monitoring pipeline systems to ensure safety under each flow condition.
- iii) A process for maintaining pipeline system normal operations to allow the manual delivery and receipt of product.
- iv) Methods for conducting manual leak detection and verifying system integrity.
- v) Identification of abnormal operating parameters and corresponding actions.
- vi) Emergency response specific to manual operations.
- vii) Requirements for recording and documenting information during manual operation scenarios.
- viii) Personnel and shift requirements necessary to sustain manual pipeline operations.
- ix) Annual testing and verification of the internal communication plan, with intervals not to exceed 15 months.

(1) Within **180** days of receipt of the Final Order:

- i) Conduct initial training or retraining for all applicable control room and other operational personnel involved in manual operation.
- ii) Schedule a test to be conducted not later than **270** days after receipt of the Final Order, to verify an internal communication plan to provide an adequate means for manual operation of the pipeline safely.
- iii) Notify the Central Region of the date and details for the test, to provide for potential observation/inspection by PHMSA.

(2) Within **30** days of completion of the test, review the internal communication plan and test and submit to PHMSA a record of the results of the review.

- B. It is requested (not mandated) that FHR maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Gregory A. Ochs, 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.