

WARNING LETTER

ELECTRONIC MAIL - RETURN RECEIPT REQUESTED

October 4, 2021

Matt Ramsey
Chief Operating Officer
Energy Transfer
8111 Westchester Drive
Dallas, Texas 75225

CPF 4-2021-051-WL

Dear Mr. Ramsey:

From June 21, 2021 through June 25, 2021, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code (U.S.C.), inspected DAPL-ETCO Operations Management, LLC's (DAPL) Dakota Access Pipeline Expansion in Shaw, Mississippi.

As a result of the inspection, it is alleged that DAPL has 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. § 195.222 - Welders and welding operators: Qualification of welders and welding operators.

(a) Each welder or welding operator must be qualified in accordance with section 6, section 12, Appendix A or Appendix B of API Std 1104 (incorporated by reference, see § 195.3), or section IX of the ASME Boiler and Pressure Vessel Code (ASME BPVC), (incorporated by reference, see § 195.3) except that a welder or welding operator qualified under an earlier edition than listed in § 195.3, may weld but may not requalify under that earlier edition.

DAPL's welder qualification testing records did not demonstrate compliance with § 195.222(a). Specifically, DAPL's records lacked the welder qualification test details as required by *API STANDARD 1104, Welding of Pipelines and Related Facilities*, 6.8 Records (20th Edition), which states, "A record shall be maintained of the tests given to each welder and of the detailed results of each test. A form similar to that shown in Figure 2 should be used. (This form should be developed to suit the needs of the individual company but must be

sufficiently detailed to demonstrate that the qualification test met the requirements of this standard).”

DAPL’s Welder Qualification Reports ETC-A13A-Shaw Pump Station and Welder Qualification Reports ETC-A112-A-Shaw Pump Station were captured in the operator’s Welder Qualification Database. These test records for welders utilizing welding procedures ETC-A13A, ETC-A13A-F, and ETC-A112A only provided a “Yes” or “No” box to be checked on the database’s electronic form to record if the welding procedure had been followed. None of the actual welding parameters under the control of the welder, such as voltage, amperage, travel speed, et cetera, were documented in the electronic record as shown in “Figure 2-Sample Coupon Test Report” provided by API STD 1104.

Per DAPL personnel, such details were captured in the welding inspectors’ notes and tally books at the time of testing. However, the inspectors’ notes were subsequently condensed to only a “Yes” or “No” level of detail with regard to whether all welding procedure parameters were observed. Without these specific details, the current electronic form does not provide adequate documentation confirming that the welder qualification was performed to the previously qualified procedure as required by API STD 1104. Therefore, DAPL’s welder qualification records do not meet the requirement for “sufficiently detailed” as stated in *API STANDARD 1104, Welding of Pipelines and Related Facilities, 6.8 Records* (20th Edition) or per the requirements of §195.222.

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, DAPL-ETCO Operations Management, LLC is subject to a civil penalty not to 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 violations 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 violations 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 violations 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 could result in DAPL-ETCO Operations Management, 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 4-2021-051-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,

Mary L. McDaniel, P.E.
Director, Southwest Region
Pipeline and Hazardous Materials Safety Administration

cc: Gregory Mcilwain, Senior VP Liquids Operations, Gregory.Mcilwain@energytransfer.com;
Todd Nardozzi, Director Regulatory Compliance, todd.nardozzi@energytransfer.com