



**By Electronic Mail**

April 8, 2022

Ms. Mary McDaniel, P.E.  
Director, Southwest Region  
Pipeline and Hazardous Materials Safety Administration  
US Department of Transportation  
8701 South Gessner, Suite 630  
Houston, Texas 77074

Re: CPF 4-2022-012-NOPV  
Notice of Probable Violation, Proposed Civil Penalty and Proposed Compliance Order

Dear Mrs. McDaniel:

Pursuant to 49 C.F.R. Part 190.208, Florida Gas Transmission (FGT or Company) submits this written response to a Notice of Probable Violation (NOPV), Proposed Civil Penalty (PCP) and Proposed Compliance Order (PCO) issued on February 22, 2022 by the Pipeline and Hazardous Materials Safety Administration (PHMSA). The PHMSA NOPV alleges six (6) violations, three (3) of which were issued as Warning Items, and includes a PCP in the amount of \$19,300, and a PCO proposing remedial requirements to ensure compliance with the pipeline safety regulations.

On March 10, 2022, FGT requested that PHMSA provide the Case File and Civil Penalty Worksheet as allowed by 49 C.F.R. Parts 190.208(c) and 190.209(b)(2) and Docket No. PHMSA 2016-0101 and requested an extension of time until April 8, 2022 to respond to the NOPV. PHMSA approved this request via correspondence dated March 11, 2022 and provided the requested items to FGT.

By way of background, this NOPV was issued following an inspection of the FGT Pipeline System located in Texas, Louisiana, Mississippi, Alabama, and Florida over the dates of March 9, 2020 through July 09, 2021.

The Company appreciates PHMSA's review and consideration of this submission and shares PHMSA's commitment to pipeline safety, public safety, and pipeline integrity. Should you have any questions or concerns please contact me at (713) 989-7126 or via email at [todd.nardozzi@energytransfer.com](mailto:todd.nardozzi@energytransfer.com)

Sincerely,

Todd Nardozzi  
Director – Regulatory Compliance

cc: Eric Amundsen, SVP Operations  
Dave Shellhouse, VP Operations  
Chris Lason, VP Asset Integrity  
Leif Jensen, VP Tech Services  
Heidi Slinkard, Chief Counsel

**1. § 191.5 - Immediate notice of certain incidents.**

**(a) At the earliest practicable moment following discovery, but no later than one hour after confirmed discovery, each operator must give notice in accordance with paragraph (b) of this section of each incident as defined in § 191.3.**

FGT failed to notify the National Response Center (NRC) at the earliest practicable moment following discovery, but no later than one hour after confirmed discovery, of two instances of incident on its pipeline facilities as identified in the table below.

Incident Report Number	Location	Date of Incident	Time Discovered	Date Reported to NRC	Time Reported to NRC	Hours Late
20190047	Pinecrest, Florida	3/21/2019	1721	3/21/2019	1955	1 ½ hours
20190126	Orlando, Florida	11/7/2019	2243	11/8/2019	1025	11 hours

As shown in the table above incident reports 20190047 and 20190126 were reported to the National Response Center (NRC) 1.5 and 11 hours after confirmed discovery, in violation of 49 CFR 191.5.

**FGT Response**

FGT neither admits nor denies the allegation of Probable Violation of 49 C.F.R. § 191.5 described in Item 1 of the NOPV related to timing of notifications to the National Response Center (NRC) regarding the two (2) incidents noted, however the Company is requesting PHMSA reconsider the circumstances and reduce this item to a Warning and withdraw the Proposed Civil Penalty.

FGT has no history of prior violation of 49 C.F.R. § 191.5 and the gravity of the Probable Violation was noted by PHMSA in the Pipeline Safety Violation Report as having a minimal effect on pipeline safety. Further, in both circumstances identified in Item 1 of the NOPV, FGT explained to PHMSA during the inspection and again in the Company response to the Post-Inspection Written Preliminary Findings that the reason for the delays in reporting in both instances involved efforts by the Company to make accurate determinations of whether reporting thresholds had been met prior to making calls to NRC and not intentional efforts to delay or avoid reporting.

FGT understands the importance of the timing of notifications to the NRC as this allows PHMSA and other agencies to quickly be alerted to and understand the initial impact and nature of pipeline failures. This in turn allows the agency to make decisions on whether to dispatch emergency personnel or investigators to assist in mitigation of the event. The Company maintains procedures to comply with the requirements of 49 C.F.R. § 191.5 and to avoid reporting delays in the future will deliver the training included in Attachment A of this submission to FGT operations management.

2. **§ 192.481 - Atmospheric corrosion control: Monitoring.**  
**(a) ...**  
**(c) If atmospheric corrosion is found during an inspection, the operator must provide protection against the corrosion as required by § 192.479.**

**§ 192.479 - Atmospheric corrosion control; General.**

- (a) Each operator must clean and coat each pipeline or portion of pipeline that is exposed to the atmosphere, except pipelines under paragraph (c) of this section.**

FGT failed to provide protection against corrosion found during the atmospheric corrosion control inspection performed under § 192.481. Specifically, FGT failed to clean and coat sections of pipeline at its West Miami Meter Station where areas of corrosion were identified on its aboveground pipeline and components. The pipe and components showed coating deterioration that required remediation, which had not been completed at the time of PHMSA's inspection.

Following PHMSA's on-site inspection, FGT provided a copy of its repair record, GForm ID: 140857, documenting that the pipeline coating was removed, and the section of pipeline was recoated.

**FGT Response**

FGT neither admits nor denies the allegation in the Warning Item described in Item 2 of the NOPV related to atmospheric corrosion control at the West Miami Meter Station. In response to the observation made during the inspection, the Company took prompt action to address the condition(s). As noted by PHMSA, a copy of the repair record (GForm ID: 140857) was provided to the agency as evidence of the actions taken by FGT at the West Miami Meter Station. The Company will continue to follow its applicable procedures for atmospheric corrosion inspection and repair. FGT appreciates the consideration of the prompt action and documentation of such provided to PHMSA by the Company and the agency's determination to issue this item as a Warning.

3. **§ 192.915 - What knowledge and training must personnel have to carry out an integrity management program?**  
**(a) ...**  
**(b) Persons who carry out assessments and evaluate assessment results. The integrity management program must provide criteria for the qualification of any person--**  
**(1) Who conducts an integrity assessment allowed under this subpart; or**  
**(2) Who reviews and analyzes the results from an integrity assessment and evaluation;**  
**or**  
**(3) Who makes decisions on actions to be taken based on these assessments.**

FGT failed to ensure that qualified individuals conducted integrity assessments and reviewed and analyzed integrity assessment and evaluation results on its pipeline facilities. FGT's written Pipeline Integrity In-line Inspection Specification, 7.1.1 Qualification & Certification (Revision Date: 3/15/2019) requires a "Level III Data Analyst" to finalize and approve all material from projects carried out using aMFL, cMFL, and GEO tools, and that the analyst be certified under ANSI/ASNT

ILI-PQ-2010. However, Level III Data Analysts were not used to review and analyze the results of in-line inspections.

PHMSA reviewed FGT's records and found that the Level III Data Analyst qualification requirement was missing from a number of those records, such as the "FLMEB-21 Mainline Loop S21 – V20-5AR" report of tool run from October 2018, and the "FLMEB- 21 - G21-10A to G20 - 8AR" report from November 2018. Following the inspection, FGT provided records showing revisions from the vendor that the data in the FLMEB-21 reports had been reviewed by a Level III ANSI/ASNT Data Analyst and that the records did not require any further revisions.

### **FGT Response**

FGT neither admits nor denies the allegation in the Warning Item described in Item 3 of the NOPV related to qualification of individuals utilized by FGT ILI vendors to review and analyze the results of in-line-inspections (ILI). In response to the observation made during the inspection, the Company took prompt action to address the findings by requesting the ILI vendor have a Level III ANSI/ASNT Data Analyst review the subject ILI reports. As noted by PHMSA, the Company provided records indicating that this review had been completed by a Level III analyst and that there were no changes to the ILI data as a result. The Company will continue to follow its Integrity Management Plan and specifically the Pipeline Integrity In-Line Inspection Specification which requires ILI data reports to be analyzed by a Level III ANSI/ASNT Data Analyst. FGT appreciates the consideration of the prompt action and documentation of such provided to PHMSA by the Company and the agency's determination to issue this item as a Warning.

#### **4. § 192.921 - How is the baseline assessment to be conducted?**

**(a) Assessment methods. An operator must assess the integrity of the line pipe in each covered segment by applying one or more of the following methods for each threat to which the covered segment is susceptible. An operator must select the method or methods best suited to address the threats identified to the covered segment (See § 192.917).**

**(1) Internal inspection tool or tools capable of detecting those threats to which the pipeline is susceptible. The use of internal inspection tools is appropriate for threats such as corrosion, deformation and mechanical damage (including dents, gouges and grooves), material cracking and crack-like defects (e.g., stress corrosion cracking, selective seam weld corrosion, environmentally assisted cracking, and girth weld cracks), hard spots with cracking, and any other threats to which the covered segment is susceptible. When performing an assessment using an in-line inspection tool, an operator must comply with § 192.493. In addition, an operator must analyze and account for uncertainties in reported results (e.g., tool tolerance, detection threshold, probability of detection, probability of identification, sizing accuracy, conservative anomaly interaction criteria, location accuracy, anomaly findings, and unity chart plots or equivalent for determining uncertainties and verifying actual tool performance) in identifying and characterizing anomalies;**

FGT failed to validate its baseline assessment by not conducting excavation digs on its FLMEF-2426 pipeline segment following the 2018 assessment in accordance with § 192.921(a)(1) and its written Pipeline Integrity Management Plan, 7.2.11 Validation of ILI Data (Revision Date: 1/20/2020). FGT's procedure requires that "The Project Manager will conduct a comparison between the final ILI results presented by the vendor and the actual anomalies."

The actual size and description of the anomalies are typically received during the excavation digs, and corrections are applied to the results based on the findings. FGT did not conduct any excavation digs following the 2018 assessment, but rather chose to validate the results from the 2018 assessment against the “As-Called” data (rather than against the “As-Found” data) from calendar year 2011, as shown on the “Unity Plot” record.

In the response to PHMSA’s Post-Inspection Written Preliminary Findings Report received on October 1, 2021, FGT stated that it used its pseudo dig data from 2011 for previously excavated anomalies to carry out the validation. The records clearly show that the 2018 “As-Called” data from the tool assessment was plotted against the 2011 “As- Called” data, rather than the “As-Found” data. There was no field excavation carried out in 2018 to use in the validation of the tool performance. Additionally, the results of the “Unity Plot” from the assessment conducted in 2011 presented that more than half of the data plotted were outside the tool tolerance. FGT relied on the tools in 2011 and 2018 performing as required, even when the data from the records reviewed proved the tool performance to be questionable.

### **FGT Response**

FGT neither admits nor denies the allegation in the Warning Item described in Item 4 of the NOPV related to validation of ILI results. The Company uses a combination of actual digs following a tool run and a “pseudo dig” process for validation of ILI data. That pseudo dig process uses the results of previously excavated anomalies, i.e., ones that are recoated or repaired with methods that allow future evaluation in subsequent ILI runs, such as composite repairs. When the future tool runs occur, those anomalies that were already evaluated on the pipeline from previous excavations can be used to determine the validity of the current tool run.

During the PHMSA inspection, FGT did demonstrate a specific instance of the pseudo dig process for the FLMEF-2426 pipeline. The 2018 ILI run reported a total of 28 metal loss anomalies with the deepest called at 17%. The previous ILI was run in 2011 resulting in 24 excavations in 2012 to validate and respond to the ILI data. The results of these digs were used as pseudo digs for the 2018 ILI validation and the resultant Unity Plot was shown to PHMSA during the inspection.

## **5. § 192.935 What additional preventive and mitigative measures must an operator take?**

**(a) ...**

**(b) Third party damage and outside force damage-**

**(1) ...**

**(1) Outside force damage. If an operator determines that outside force (e.g., earth movement, loading, longitudinal, or lateral forces, seismicity of the area, floods, unstable suspension bridge) is a threat to the integrity of a covered segment, the operator must take measures to minimize the consequences to the covered segment from outside force damage. These measures include increasing the frequency of aerial, foot or other methods of patrols; adding external protection; reducing external stress; relocating the line; or inline inspections with geospatial and deformation tools.**

FGT failed to take appropriate measures to minimize the consequences to its pipelines from outside force damage. Specifically, FGT limited its evaluation of outside force damage to only right-of-way (ROW) patrols for identifying potential preventative and mitigative measures. Since 2003, PHMSA has issued five Advisory Bulletins providing guidance to identify potential preventive and mitigative measures for third party and outside force damage prevention, which include:

1. Conducting depth of cover surveys in areas where the pipeline crosses a navigable waterway that is exposed to flooding (this can include underwater surveys to detect any exposures);
2. Extending regulator vents and relief stacks above the level of anticipated flooding as appropriate where needed; and
3. Communicating with local and state officials to address their concerns regarding observed pipeline exposures, localized flooding, ice dams, debris dams, and extensive bank erosion that may affect the integrity of pipeline crossings.

In its response to PHMSA's Post-Inspection Written Preliminary Findings Report received on October 1, 2021, FGT stated that it "has multiple SOP's [Standard Operating Practice] that address the potential threats of outside force damage including SOPs I.16 River Crossing Inspections and Post Flood Surveys, I.24 Management of Depth of Cover and Evaluation, I.25 Pipeline Spans and Aerial Crossing Inspections, I.26 Mining Subsidence and Soil Slippage, [and] I.42 Geohazard Management Guidelines."

Based on a review of the records provided after the inspection, only the ROW patrols are being carried out to address the threat of outside forces.

### **Proposed Compliance Order**

In regard to Item 5 of the Notice pertaining to taking appropriate measures to minimize the consequences to its pipelines from outside force damage, FGT must review records associated with the various programs listed in its October 1, 2021 response, including SOPs I.16 River Crossing Inspections and Post Flood Surveys, I.24 Management of Depth of Cover and Evaluation, I.25 Pipeline Spans and Aerial Crossing Inspections, I.26 Mining Subsidence and Soil Slippage, and I.42 Geohazard Management Guidelines, and integrate data where found into FGT's Integrity Management Plan records within 90 days of receipt of the Final Order.

### **FGT Response**

The Company disagrees with the PHMSA finding of Probable Violation of 49 C.F.R. § 192.935(b)(2) and the Proposed Compliance Order associated with the same. FGT has reviewed the NOPV and the Pipeline Safety Violation Report, including its supporting exhibits, and found that PHMSA has not made available any clear examples, supporting discussions or exhibits that substantiate the allegation that a violation of 49 C.F.R. § 192.935(b)(2) existed at the time of the inspection.

Pipeline right-of-way (ROW) patrols are one of the tools available to an operator by which indicators of potential outside force damage is identified but the PHMSA assertion that FGT limited its evaluation of outside force damage to only ROW patrols for identifying preventive and mitigative measures is not supported by any evidence.

PHMSA Enforcement Guidance for 49 C.F.R. § 192.935(b) states that an operator must have procedures to determine if outside forces are a credible threat to their pipeline i.e., land movement, floods, sinkholes, high or low water levels, etc. which *may* [emphasis added] require preventive and mitigative measures.

As PHMSA notes, FGT has multiple SOPs that address the potential threats of outside force damage including the following Standard Operating Procedures (SOPs):

- I.16 River Crossing Inspections and Post Flood Surveys
- I.24 Management of Depth of Cover and Evaluation
- I.25 Pipeline Spans and Aerial Crossing Inspections
- I.26 Mining Subsidence and Soil Slippage
- I.42 Geohazard Management Guidelines

Copies of these procedures were provided to PHMSA during the inspection and in response to the Post-Inspection Written Preliminary Findings. The existence of these clearly demonstrates that the Company maintains procedures which it follows that directly address monitoring and mitigating outside force damages; should such forces be present.

Many of these procedures have been enhanced or, in the case of I.42 Geohazard Management Guidelines, developed in response to the Advisory Bulletins that PHMSA references in the NOPV<sup>1</sup>.

PHMSA has not demonstrated that any specific threat(s) of outside force damage existed to which preventive and mitigative measures would have been required or necessary to have been developed and implemented by FGT.

FGT will continue to follow its procedures including its Integrity Management Program (IMP) to evaluate location-specific threats and develop preventive and mitigative measures to address the most significant threats to pipeline integrity.

For the reasons identified above, the Company requests that PHMSA withdraw the Probable Violation of 49 C.F.R. § 192.935(b)(2) and the Proposed Compliance Order associated with the same.

**6. § 192.935 - What additional preventive and mitigative measures must an operator take?**

**(a) ...**

**(c) Automatic shut-off valves (ASV) or Remote control valves (RCV). If an operator determines, based on a risk analysis, that an ASV or RCV would be an efficient means of adding protection to a high consequence area in the event of a gas release, an operator must install the ASV or RCV. In making that determination, an operator must, at least, consider the following factors—swiftness of leak detection and pipe shutdown capabilities, the type of gas being transported, operating pressure, the rate of potential release, pipeline profile, the potential for ignition, and location of nearest response personnel.**

FGT failed to conduct an evaluation, based on a risk analysis, regarding the use of automatic shut-off valves on its pipeline system. FGT could not provide its evaluation in determining the need or lack of need for automatic shut-off valves on its pipeline system.

**Proposed Compliance Order**

In regard to Item 6 of the Notice pertaining to FGT's evaluation, based on a risk analysis, that an ASV or RCV would be an efficient means of adding protection to a high consequence area in the event of a gas release, FGT must conduct this evaluation for the high consequence areas and provide documentation or records of any evaluations within 90 days of receipt of the Final Order.

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<sup>1</sup> ADB-19-02 Potential for Damage to Pipeline Facilities Caused by Earth Movement and Other Geological Hazards

**FGT Response**

FGT neither admits nor denies the allegation of Probable Violation of 49 C.F.R. § 192.935(c) described in Item 6 of the NOPV related to automatic shut-off valves (ASV) or remote-control valves (RCV). FGT has established an RCV and ASV philosophy for its pipelines and has conducted a response time study across the FGT asset. As a result, FGT has installed, primarily, ACVs on its mainline valves that could not be responded to within 60 minutes, in order to add protection to HCAs by decreasing the time required to isolate these segments in the event of a gas release. FGT provided this study to PHMSA in response to the Post-Inspection Written Preliminary Findings.

FGT believes that the actions taken by the Company following performance of the response time study have increased the level of protection to HCAs on the pipeline system. However, FGT will reevaluate this study per the directive of the Proposed Compliance Order associated with Item 5 of the NOPV and provide resultant documentation to PHMSA.