



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

8701 S. Gessner, Suite 630
Houston TX 77074

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

VIA ELECTRONIC MAIL TO: hugo.guerrero@summitmidstream.com

November 19, 2024

Hugo Guerrero
Senior Vice President - Operations
Summit Midstream Permian 2, LLC
910 Louisiana St, Ste 4200
Houston, TX 77002

CPF 4-2024-020-NOPV

Dear Mr. Guerrero:

From March 2021 through February 2022, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected Summit Midstream Permian 2, LLC's (Summit) Double E pipeline construction project in Eddy County in New Mexico through Loving, Ward, and Reeves Counties in Texas.

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

- 1. § 192.303 Compliance with specifications or standards.**
Each transmission line or main must be constructed in accordance with comprehensive written specifications or standards that are consistent with this part.

Summit failed to construct its Double E pipeline system in accordance with comprehensive written specifications or standards consistent with Part 192 in accordance with § 192.303. Specifically, Summit failed to follow its written specification, *Double E Pipeline Project Hydrostatic Test Plan*,

6885.01-PL-PLN-0003 (Rev D, 6/10/2021) which specifies test equipment shall be rated for a specified range of accuracy.

On October 5, 2021, PHMSA's inspection of construction records indicated that the dead weight testers, pressure records and temperature recorders used during the hydrotest of test sections 1, 2, 3, 4, 6 and 7 were not calibrated according to the requirements of Summit's written procedures as shown below:

Equipment type	Accuracy range per specification	Accuracy range per hydrotest records
Dead Weight Testers	+/- 0.05%	+/- 0.10%
Pressure Recorders	+/- 0.5%	+/- 1.0%
Temperature Recorders	+/- 0.5%	+/- 1.0%

When PHMSA raised this issue, Summit modified its procedure to allow for less accurate calibration on November 8, 2021, after the hydrostatic testing had already been completed. The calibration procedures in place at the time of the testing were not followed.

Therefore, Summit failed to construct its Double E pipeline project in accordance with comprehensive written specifications or standards that are consistent with the requirements of Part 192 in accordance with § 192.303.

2. § 192.303 Compliance with specifications or standards.

Each transmission line or main must be constructed in accordance with comprehensive written specifications or standards that are consistent with this part.

Summit failed to construct its Double E pipeline system in accordance with comprehensive written specifications or standards consistent with Part 192 in accordance with § 192.303. Specifically, Summit failed to follow its written specification, *Double E Pipeline Project Hydrostatic Test Plan, 6885.01-PL-PLN-0003* (Rev D, 6/10/2021). Section 7.4 states that the “[c]ontractor shall provide equipment and supplies necessary to make permanent hydrostatic test records including dead weight testers, pressure recorders, thermometers, ambient and test media (ground) temperature recorders and test gauges.” Section 3 of contractor's Preliminary Hydrotest Plan lists the following equipment associated with hydrotesting operations:

- (1) Barton Dual Pen Pressure / Temp Recorder (3000 psi / 0°-150°)
 - Serial # 265-11955
- (3) 12” Barton Temp Recorder 0° - 150°
 - Serial # 242#-44001,
 - Serial # 202E,3764617,
 - Serial # 112319246003

- (1) Set of Chandler Deadweights (50-3000 psi)
 - Serial # 5232

The equipment used for the section 7 hydrotest had different serial numbers than those listed in the contractor's hydrotest plan, as shown below:

	Equipment Type	Serial # Preliminary Hydrotest Plan (10-05-2021)	Serial # Hydrotest observed (10-06-2021)	Serial #s from hydrotest records (10-25-2021)	Serial # Revised Hydrotest Test Plan (11-10-2021)
1	Barton Dual Pen Recorder (0° - 150°F X 3000 psi)	265-11955		202A-235178	265-11955
				202E-3764617	242E-42656
					242E-67103
2	12" Barton Single Pen Recorder (Pressure only- 3000 psi)		242E-67103	242E-67103/EID#014178	
3	12" Barton Pressure Recorder (0-3000 psi)		242E-42656	242E-42656	
4	12" Barton Temp Recorder (0° - 150°F)	242#-44001	32851	242-118590	
		202E,3764617	32857	6640	6640
		112319246003		32851	32851
				32857	32857
					202A-235178
					32379
					242-118590
					202E-3764617
					265-14133
5	Deadweight gauge (50-3000 psi)	5232	4698	4698	4698

These hydrostatic testing records and documentation required by Summit's procedures are a critical part of establishing the Maximum Allowable Operating Pressure (MAOP) for the pipeline and are part of the permanent pipeline records required by § 192.517. Consequently, the accuracy of the records is paramount. When PHMSA raised this issue, Summit submitted a revised hydrostatic test plan procedure on November 10, 2021. However, this modification was made

after the hydrostatic testing was completed. The hydrostatic test plan in place when the test was performed specified different equipment than was actually used to perform the test.

Therefore, Summit failed to construct its Double E pipeline project in accordance with comprehensive written specifications or standards that are consistent with the requirements of Part 192 in accordance with § 192.303.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$266,015 per violation per day the violation persists, up to a maximum of \$2,660,135 for a related series of violations. For violation occurring on or after January 6, 2023 and before December 28, 2023, the maximum penalty may not exceed \$257,664 per violation per day the violation persists, up to a maximum of \$2,576,627 for a related series of violations. For violation occurring on or after March 21, 2022 and before January 6, 2023, the maximum penalty may not exceed \$239,142 per violation per day the violation persists, up to a maximum of \$2,391,412 for a related series of violations. For violation occurring on or after May 3, 2021 and before March 21, 2022, the maximum penalty may not 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 violation 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 violation 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 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.

We have reviewed the circumstances and supporting documentation involved for the above probable violations and recommend that you be preliminarily assessed a civil penalty of \$66,900 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$44,600
2	\$22,300

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 Summit Midstream Permian 2, 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. 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 4-2024-020-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Bryan Lethcoe
Director, Southwest Region, Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration

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

cc: Robert Hurt, Lead Pipeline Compliance Specialist, Summit Midstream Permian 2, LLC,
robert.hurt@summitmidstream.com
Reagan Nguyen, Compliance Specialist, Summit Midstream Permian 2, LLC,
reagan.nguyen@summitmidstream.com

PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Summit Midstream Permian 2, LLC a Compliance Order incorporating the following remedial requirements to ensure the compliance of Summit Midstream Permian 2, LLC with the pipeline safety regulations:

- A. In regard to Item Number 1 of the Notice pertaining to failure to follow its written specifications to rate the hydrotest equipment for a specified range of accuracy, Summit Midstream Permian 2, LLC must submit to the Southwest Region Director, a written report showing the failure to calibrate their test equipment to prescribed accuracy did not result in a significant error in the MAOP that was established for the Double E pipeline, within thirty (30) days of receipt of the Final Order.

- B. It is requested (not mandated) that Summit Midstream Permian 2, LLC maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Bryan Lethcoe, Director, Southwest Region, Office of Pipeline Safety, 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.