

VIA ELECTRONIC MAIL TO: wcolyer@contango.com

Wilkie S. Colyer, Jr.
Chief Executive Officer
Contango Resources, LLC
2628 Highway 36 S, PMB 283
Brenham, Texas 77833

Re: CPF No. 5-2023-035-NOPV

Dear Mr. Colyer:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation and specifies actions that need to be taken by Contango Resources, LLC, to comply with the pipeline safety regulations. When the terms of the compliance order have been completed, as determined by the Director, Western 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 (Final Order)

cc: Mr. Dustin Hubbard, Director, Western Region, Office of Pipeline Safety, PHMSA
Ms. Ellen McElrath, Vice President – Rockies, Contango Resources, LLC,
ellen.mcelrath@contango.com
Mr. Greg Westfall, Director, Gas Plants & Midstream, Contango Resources, LLC,
greg.westfall@contango.com

Mr. Caleb Dill, Supervisor, Operations, Contango Resources, LLC,
caleb.dill@contango.com

CONFIRMATION OF RECEIPT REQUESTED

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

	)	
In the Matter of	)	
	)	
Contango Resources, LLC,	)	CPF No. 5-2023-035-NOPV
a subsidiary of Crescent Energy Co.,	)	
	)	
Respondent.	)	
	)	

FINAL ORDER

From July 25 through July 29, 2022, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), inspected Contango Resources, LLC's¹ (Contango or Respondent) control room procedures and records in Midwest, Wyoming.

As a result of the inspection, the Director, Western Region, OPS (Director), issued to Respondent, by letter dated October 25, 2023, a Notice of Probable Violation and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Contango had committed three violations of 49 C.F.R. Part 195 and proposed ordering Respondent to take certain measures to correct the alleged violations.

Contango responded to the Notice by letter dated November 21, 2023 (Response). Contango offered additional information in response to the Notice and requested that Item 2 be withdrawn. 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 195, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.446(c)(3), which states:

§ 195.446 Control room management.

(a)

(c) ***Provide adequate information.*** Each operator must provide its

¹ Contango is an operating subsidiary of Crescent Energy Company. Contango Resources, LLC, website, available at <https://contango.com/about-us> (last accessed August 30, 2024).

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;

The Notice alleged that Respondent violated 49 C.F.R. § 195.446(c)(3) by failing to test and verify its internal communication plan as required. Specifically, the Notice alleged that Contango's *Environment Health, & Safety DOT CO2 Pipeline Control Room Management Plan* (Rev. 0; March 1, 2022), section 5.3 Internal Communication Plan, stated that tabletop drills would be the primary method for testing its internal communications plan. The Notice alleged that the tabletop drills did not test the ability of Contango's employees to communicate with control room personnel from the pipeline right-of-way locations in the event that employees are deployed to manually operate the pipeline. The Notice further alleged that Contango's internal communication plan failed to provide details as to when employees would deploy to the pipeline rights-of-way and how communications between the deployed employees and the control room personnel would occur and failed to provide adequate means for the safe manual operation of the pipeline.

Respondent did not contest this allegation of violation and provided additional information in its Response, including its amended internal communication plan. Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.446(c)(3) by failing to test and verify its 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.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 195.446(c)(4), which states:

§ 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)

(4) Test any backup SCADA systems at least once each calendar year, but at intervals not to exceed 15 months; . . .

The Notice alleged that Respondent violated 49 C.F.R. § 195.446(c)(4) by failing to test its backup supervisory control and data acquisition (SCADA) systems at least once each calendar year, but at intervals not to exceed 15 months as required. Specifically, the Notice alleged that Contango did not have a procedure to test backup SCADA systems and could not provide records that it had tested its backup SCADA systems.

In its Response, Respondent did not deny that it had failed to test its backup SCADA systems,

but explained that it had determined following PHMSA’s inspection that it did not maintain backup SCADA equipment specific to only the pipeline, and therefore could not perform testing as required by § 195.446(c)(4) without significant operational and financial impact. Respondent also stated that it had amended its procedures to remove language regarding backup SCADA testing and added a requirement to manually shut in the pipeline in the event of a SCADA system failure and provided a copy of the revised procedure in its Response. Respondent stated that the additional information provided in its Response warrants a withdrawal of Item 2.

After considering all of the evidence, I find that Respondent failed to test its backup SCADA systems at least once each calendar year, but at intervals not to exceed 15 months. Respondent’s argument that it is not required to test backup SCADA systems because it “does not maintain backup SCADA equipment specific to only the pipeline” and thus testing would cause significant operational and financial impact, does not excuse compliance with the pipeline safety regulations.² Section 195.446(c)(4) requires testing of any backup SCADA systems that an operator maintains. Part 195 defines the term “SCADA system” to mean “a computer-based system or systems used by a controller in a control room that collects and displays information about a pipeline facility and may have the ability to send commands back to the pipeline facility.”³ PHMSA’s control room management FAQs discuss backup SCADA systems as “independent or redundant systems that provide similar functionality to the primary SCADA system.”⁴ Here, Respondent maintains an Allen-Bradley distributed control system (DCS) that is used to monitor and control the pipeline with Human Machine Interfaces (HMIs) at several sites along the pipeline. Each HMI site is identical and can fully control the pipeline; therefore, each HMI site is considered a redundant or backup control room. Respondent, therefore, must have procedures for testing these backup systems. Further, the pipeline safety regulations do not distinguish between SCADA systems that solely operate the pipeline and those that may include other functions. Additionally, the regulations do not waive compliance for testing backup SCADA systems that operators have in place based on its potential financial or operational burden. Accordingly, I find that Respondent violated 49 C.F.R. § 195.446(c)(4) by failing to test its backup SCADA systems.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 195.446(e)(5), which states:

§ 195.446 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)

(5) Monitor the content and volume of general activity being directed

² Response, at 1.

³ 49 C.F.R. § 195.2.

⁴ PHMSA CRM FAQ C.08. Examples of backup SCADA systems described in FAQ C.08 include redundant servers, and entire backup control rooms with duplicate SCADA and communication systems. FAQ C.08 also explains that backup SCADA systems do not have to duplicate the performance and functionality of the primary system in order to be considered a backup system.

to and required of each controller at least once each calendar year, but at intervals not exceeding 15 months, that will assure controllers have sufficient time to analyze and react to incoming alarms; and

The Notice alleged that Respondent violated 49 C.F.R. § 195.446(e)(5) by failing to monitor the content and volume of general activity being directed to and required of each controller at least once each calendar year, but at intervals not exceeding 15 months, that will ensure controllers have sufficient time to analyze and react to incoming alarms. Specifically, the Notice alleged that Respondent could not provide any records demonstrating that it monitored the content and volume of general activity being directed to and required of each controller at least once each calendar year, but at intervals not exceeding 15 months, in order to verify controllers have sufficient time to analyze and react to incoming alarms.

Respondent did not contest this allegation of violation and provided additional information in its Response, including its amended control room management procedure. Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.446(e)(5) by failing to monitor the content and volume of general activity being directed to and required of each controller at least once each calendar year, but at intervals not exceeding 15 months.

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

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 1, 2, and 3 in the Notice for violations of 49 C.F.R. §§ 195.446(c)(3), 195.446(c)(4), and 195.446(e)(5), respectively. Under 49 U.S.C. § 60118(a), each person who engages in the transportation of hazardous liquid or carbon dioxide or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. The Director has indicated that Respondent has taken the following actions to address some of the cited violations:

With respect to the violation of § 195.446(c)(3) (Item 1), Respondent has amended its *Standard Operating Guideline for: Execution of the Internal Communication Plan* (PL-General-005, Rev. 0), section 4 Testing Protocol, to provide for dispatching employees to pipeline locations to test and verify the ability for communications between the control room and field locations. The Director indicated that the amended procedure satisfied the terms of the proposed compliance order in part, therefore, compliance actions for Item 1 are modified.

With respect to the violation of § 195.446(c)(4) (Item 2), Respondent amended its *Environment Health, & Safety DOT CO2 Pipeline Control Room Management Plan*, section 5.4 Backup SCADA System, to indicate that backup SCADA systems are currently not applicable and that in the event of a SCADA system failure, the pipeline would be manually shut down. The Director indicated that the amended procedure did not satisfy the terms of the proposed compliance order. For the reasons discussed above that found Respondent in violation of § 195.446(c)(4), I find that Respondent has not taken the necessary actions to address the cited

violation, and therefore the compliance actions for Item 2 are not modified.

With respect to the violation of § 195.446(e)(5) (Item 3), Respondent has amended its *Environment Health, & Safety DOT CO2 Pipeline Control Room Management Plan*, Appendix B Alarm Management Plan, to add a new section 4.0 Information Content & Volume to provide detailed instructions for reviewing and documenting the analysis of the content and volume of general activity being directed to and required of each controller that will ensure controllers have sufficient time to analyze and react to incoming alarms. The Director indicated that the amended procedure satisfied the terms of the proposed compliance order in part, and therefore compliance actions for Item 3 are modified.

For the above reasons, the Compliance Order is modified as set forth below.

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 § 195.446(c)(3) (**Item 1**), Respondent must conduct a test of the internal communications plan using its amended procedure and submit documentation of the test to PHMSA within 60 days of receipt of the Final Order.
2. With respect to the violation of § 195.446(c)(4) (**Item 2**), Respondent must amend its procedures to provide detailed instructions for the testing of each backup SCADA system, as well as documenting each test. Respondent must test each backup SCADA system using its amended procedures and submit its amended procedure and records documenting each backup SCADA system test to PHMSA within 60 days of receipt of the Final Order.
3. With respect to the violation of § 195.446(e)(5) (**Item 3**), Respondent must conduct a review and analysis of the content and volume of general activity being directed to and required of each controller using its amended procedure and submit documentation of the review and analysis to PHMSA within 60 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 administrative assessment of civil penalties not

to exceed \$200,000, as adjusted for inflation (*see* 49 C.F.R. § 190.223 for adjusted amounts), 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.

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 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.

September 24, 2024

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued