

September 20, 2024

VIA ELECTRONIC MAIL TO: scott.smith@spireenergy.com

Scott Smith
President - Spire Storage West, LLC
Clear Creek Storage Company, LLC
3773 Richmond Ave, Suite 300
Houston, Texas 77046

Re: CPF No. 5-2023-048-NOPV

Dear Mr. Smith:

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 Clear Creek Storage Company, LLC¹ 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
Mr. Craig Hoferlin, Vice President, Operations Services and SMS, Clear Creek Storage Company, LLC, craig.hoferlin@spireenergy.com

¹ Clear Creek Storage Company, LLC was acquired by Spire Storage West, LLC in 2018.

Mr. Randy Wilson, Director, Pipeline and System Integrity, Clear Creek Storage
Company, LLC, randy.wilson@spireenergy.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	)	
	)	
Clear Creek Storage Company, LLC,	)	CPF No. 5-2023-048-NOPV
	)	
Respondent.	)	
	)	

FINAL ORDER

From September 26 through 30, 2022, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the facilities and records of Clear Creek Storage Company, LLC's (Clear Creek or Respondent)² control room procedures and records for the control room located at the Clear Creek Storage field north of Evanston, Wyoming.

As a result of the inspection, the Director, Western Region, OPS (Director), issued to Respondent, by letter dated November 2, 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 Clear Creek had committed three violations of 49 C.F.R. Part 192, and proposed ordering Respondent to take certain measures to correct the alleged violations. The Notice also included a warning item pursuant to 49 C.F.R. § 190.205, which warned the operator to correct the probable violation or face possible future enforcement action.

After requesting and receiving an extension of time to respond, Respondent responded on February 2, 2024 (Response).³ 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 192, as follows:

² Clear Creek was acquired by Spire Storage West, LLC in 2018.

³ Letter from Randy Wilson, Dir. Pipeline & Sys. Integrity, Clear Creek Storage Co., LLC, to Dustin Hubbard, Dir. Western Region, PHMSA, RE: CPF 5-2023-048-NOPV (Feb. 2, 2024) (on file with PHMSA) [hereinafter Response].

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 192.631(c)(3), which states:

§ 192.631 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;

The Notice alleged that Respondent violated 49 C.F.R. § 192.631(c)(3) by failing to test and verify its internal communications plan at least once each calendar year, but at intervals not to exceed 15 months, to provide adequate means for manual operation of the pipeline safely. Specifically, the Notice alleged that, during the inspection, Clear Creek could not provide documentation demonstrating it had tested and verified its internal communications plan for the years 2019, 2020, and 2021.

In its Response, Respondent did not contest the allegation of violation. Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 192.631(c)(3) by failing to test and verify its internal communications plan at least once each calendar year, but at intervals not to exceed 15 months, to provide adequate means for manual operation of the pipeline safely.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 192.631(c)(4), which states:

§ 192.631 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. § 192.631(c)(4) by failing to complete the required test of any backup supervisory control and data acquisition (SCADA) systems at least once each calendar year, but at intervals not to exceed 15 months. Specifically, the Notice alleged that Clear Creek could not provide any documentation demonstrating it had tested the backup SCADA system, which is collocated with the primary server, at least once each calendar year, but at intervals not to exceed 15 months for the years 2019, 2020, and 2021.

Respondent contested this allegation of violation. In its Response, Respondent stated that it

“does not currently have a back-up control room for Clear Creek Storage.”⁴ Respondent did state that after receiving the Notice that it has included the required test of any backup SCADA systems in its updated Control Room Management (CRM) Plan, and, once its new control room at Clear Creek is operational (anticipated in November 2024), it will update its CRM Plan “to reflect this operational setup upon completion.”⁵

After reviewing the evidence, I find that Respondent does have a backup SCADA system. Part 192 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.”⁶ While Part 192 does not define the term “backup SCADA system,” PHMSA’s CRM FAQs discuss backup SCADA systems as “independent or redundant systems that provide similar functionality to the primary SCADA system.”⁷ During PHMSA’s inspection of the Clear Creek control room, Respondent’s staff described its SCADA system as having a two-server architecture that auto switches between the two servers. The second server is a backup SCADA system because it includes all redundant devices and software used to control the pipeline system and facilities. Respondent did not demonstrate in its Response that it did not have a backup SCADA system, and thus failed to establish that 49 C.F.R. § 192.631(c)(4) did not apply.

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 192.631(c)(4) by failing to complete the required test of any backup SCADA systems at least once each calendar year, but at intervals not to exceed 15 months.

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 192.631(e), which states:

§ 192.631 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.

The Notice alleged that Respondent violated 49 C.F.R. §192.631(e) by failing to develop a written alarm management plan as required. Specifically, the Notice alleged that PHMSA’s review of the Clear Creek CRM Plan demonstrated that the manual did not contain a written alarm management plan.

In its Response, Clear Creek did not contest the allegation of violation. Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 192.631(e) by failing

⁴ Response, at 3.

⁵ *Id.*

⁶ 49 C.F.R. § 192.3.

⁷ 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 develop a written alarm management plan as required.

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 2, 3, and 4 in the Notice for violations of 49 C.F.R. §§ 192.631(c)(3), (c)(4), and (e), respectively. Under 49 U.S.C. § 60118(a), each person who engages in the transportation of natural gas 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 regard to the violation of § 192.631(e) (**Item 4**), Respondent did not contest the proposed compliance order. Respondent provided Western Region with an amended CRM Plan (Revised January 22, 2024, Version 1.1), per the terms of the proposed compliance order. Western Region reviewed the documentation provided and determined that Respondent has adequately revised its procedures.

Accordingly, I find that compliance has been achieved with respect to this violation. Therefore, the compliance terms proposed in the Notice for Item 4 are not included in this Order.

As for the remaining compliance terms, 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 § 192.631(c)(3) (**Item 2**), Respondent must develop and test an internal communications plan to manually operate the pipeline during a SCADA failure or outage. Respondent must also submit the internal communication plan and test documentation to PHMSA within **60 days** of receipt of the Final Order.
2. With respect to the violation of § 192.631(c)(4) (**Item 3**), Respondent must develop a procedure to test any backup SCADA systems. Additionally, Respondent must conduct tests of all backup SCADA systems and submit the procedure and test documentation 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 the 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.

WARNING ITEM

With respect to Item 1, the Notice alleged probable violation of Part 191, but identified it as a warning item pursuant to § 190.205. The warning was for:

49 C.F.R. § 191.22(c)(1) (**Item 1**) — Respondent’s alleged failure to notify PHMSA not later than 60 days before the start of construction of the Clear Creek Storage Company Expansion Project, as required. Specifically, the Notice alleged that during the inspection, the PHMSA inspector observed various construction activities at the Clear Creek Storage plant site, including moving dirt and welding. However Clear Creek did not file the National Registry Notification, until December 9, 2022⁸ which was 78 days after the observed commencement of construction activities, and at least 138 days after the time § 191.22(c)(1) requires.

Respondent did not contest this warning item, but did provide the following comment, “For the noted construction project, [Clear Creek] had not considered the preparatory dirt work in the area as basis of the physical well and pipeline project. For any future construction notifications, [Clear Creek] will include the project preparatory work as a basis for the notification date.”⁹ If OPS finds a violation of this provision in a subsequent inspection, Respondent may be subject to future enforcement action.

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 20, 2024

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued

⁸ See National Registry Notification.

⁹ Response, at 2.