

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

VIA ELECTRONIC MAIL TO: Craig.Hoeferlin@spireenergy.com

November 2, 2023

Mr. Craig Hoeferlin
Vice President, Operations Services and SMS
Clear Creek Storage Company, LLC
700 Market Street
St. Louis, MO 63101

CPF 5-2023-048-NOPV

Dear Mr. Hoeferlin:

From September 26 through 30, 2022, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code, inspected the Clear Creek Storage Company, LLC (Clear Creek) 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, 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 violation(s) are:

1. § 191.22 National Registry of Operators.

(a) ...

(c) *Changes.* Each operator of a gas pipeline, gas pipeline facility, UNGSF, LNG plant, or LNG facility must notify PHMSA electronically through the National Registry of Operators at <https://portal.phmsa.dot.gov> of certain events.

(1) An operator must notify PHMSA of any of the following events not later than 60 days before the event occurs:

(i) Construction of any planned rehabilitation, replacement, modification, upgrade, uprate, or update of a facility, other than a section of line pipe, that costs \$10 million or more. If 60-day notice is not feasible because of an emergency, an operator must notify PHMSA as soon as practicable;

(ii) Construction of 10 or more miles of a new pipeline;

Clear Creek failed to notify PHMSA not later than 60 days before the start of construction of the Clear Creek Storage Company Expansion Project, as required. During the control room inspection that took place from September 26 to 30, 2023, 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, 2022¹ which was 78 days after the observed commencement of construction activities, and at least 138 days after the time § 191.22(c)(1) requires.

Therefore, Clear Creek failed to notify PHMSA 60 days prior to the start of construction on the Clear Creek Storage Company Expansion Project as required.

2. § 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;

Clear Creek failed 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, during inspection, Clear Creek could not provide documentation demonstrating it had tested and verified its internal communications plan for the years 2019, 2020 and 2021.

Therefore, Clear Creek failed to test and verify its internal communication plan as required pursuant to § 192.631(c)(3).

3. § 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;

¹ See National Registry Notification

Clear Creek failed to complete the required test of any backup SCADA systems at least once each calendar year, but at intervals not to exceed 15 months. Specifically, 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.

Therefore, Clear Creek failed to test its backup SCADA systems at least once a calendar year, at intervals not to exceed 15 months, as required.

4. § 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.

Clear Creek failed to develop a written alarm management plan as required by §192.631(e). Specifically, a review of the Clear Creek Control Room Management manual demonstrated that the manual did not contain a written alarm management plan.² Clear Creek utilizes a SCADA system to operate the natural gas storage field including wells, pipelines, gas plant and all other associated equipment.

Therefore Clear Creek failed to develop and use a written alarm management plan as required per § 192.631(e).

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to 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. 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 propose a civil penalty assessment at this time.

² See Spire Control Room Management Manual

Proposed Compliance Order

With respect to Items 2, 3 and 4 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Clear Creek Storage Company, LLC. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Warning Item(s)

With respect to Item 1 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 promptly correct this item. Failure to do so may result in additional enforcement action.

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 5-2023-048-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Dustin Hubbard
Director, Western Region
Pipeline and Hazardous Materials Safety Administration

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

cc: PHP-60 Compliance Registry
PHP-500 J. Dunphy (#22-239215)
Randy Wilson, Director, Pipeline & System Integrity – Randy.Wilson@spireenergy.com

PROPOSED COMPLIANCE ORDER

Pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Clear Creek Storage Company, LLC (Clear Creek) a Compliance Order incorporating the following remedial requirements to ensure the compliance of Clear Creek with the pipeline safety regulations:

- A. In regard to Item 2 of the Notice regarding Clear Creek's Failure to test and verify its internal communications plan, Clear Creek must develop and test an internal communications plan to manually operate the pipeline during a SCADA failure or outage. Clear Creek must submit the internal communication plan and test documentation to PHMSA within **60** days of receipt of the Final Order.
- B. In regard to Item 3 of the Notice regarding Clear Creek's failure test of any backup SCADA systems, Clear Creek must develop a procedure to test any backup SCADA systems. Additionally Clear Creek 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.
- C. In regard to Item 4 of the Notice regarding Clear Creek's failure to develop a written alarm management plan. Clear Creek must develop an alarm management plan and submit a copy of the plan to PHMSA within **60** days of receipt of the Final Order.
- D. It is requested (not mandated) that Clear Creek maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Dustin Hubbard, Director, Western Region, 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.