

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

VIA E-MAIL TO MR. KEITH WENAL

May 9, 2022

Mr. Keith Wenal
Chief Compliance Officer
Beacon West Energy Group, LLC
1145 Eugenia Place, Suite 101
Carpinteria, CA 93013

CPF 5-2022-041-NOPV

Dear Mr. Wenal:

From November 16 through 17, 2021, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code (U.S.C.), inspected the Beacon West Energy Group, LLC (Beacon West) Ellwood Gas Sale Line in Goleta, California.¹

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

¹ During the inspection, PHMSA was informed that Beacon West is in the process of abandoning the pipeline under the contract with California State Lands Commission.

1. §192.605 Procedural manual for operations, maintenance, and emergencies

(a) General. Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

Beacon West failed to follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities. Specifically, Beacon West failed to follow its Gas Pipeline Operations & Maintenance (O&M) Manual, Procedure 9.01 v2020, Pipeline Repair Procedures (Repair Procedures). Table 9.01-A of its Repair Procedures sets forth the acceptable types of repairs for various damage and defects present on the pipeline.² For localized corrosion pitting (internal or external) with no leak, the company must repair onshore pressurized pipelines using one of three methods: (1) Full encirclement, welded split sleeve of appropriate design; (2) Cutting out a cylindrical piece of pipe and replacing it with pretested pipe of similar or greater design strength; or (3) Establish a new maximum operating pressure based on the actual remaining wall thickness.³ On January 23, 2020, Beacon West repaired its onshore, pressurized pipeline with internal localized corrosion pitting resulting in 68% wall loss, by installing a ClockSpring Viperskin Composite Wrap.⁴ However, Table 9.01-A of its Repair Procedures do not list composite wraps as an acceptable method of repair for onshore, pressurized pipelines with internal/external localized corrosion pitting with no leak.

2. §192.807 Recordkeeping.

Each operator shall maintain records that demonstrate compliance with this subpart.

(a)...

(b) Records supporting an individual's current qualification shall be maintained while the individual is performing the covered task. Records of prior qualification and records of individuals no longer performing covered tasks shall be retained for a period of five years.

Beacon West failed to retain for a period of five years records supporting an individual's prior qualification. On January 23, 2020, Beacon West repaired its pipeline as noted in Item 1 above. Repairs are considered to be covered tasks pursuant to § 195.501(b), and therefore must be

² See Pipeline Safety Violation Report (Violation Report) at Exhibit B_O&M Section 9.01 Repairs v2020, Table 9.01-A at pg. 10 (on file with PHMSA).

³ The procedure also allows for a Plidco sleeve or equivalent for pipelines that are located offshore or submerged. *Id.*

⁴ See Violation Report at Exhibit A_Ell sales gas inspection 2020.

completed by qualified individuals.⁵ At the time of the inspection, Beacon West failed to provide to PHMSA qualification records of the third-party contractor who installed the ClockSpring Viperskin Composite Wrap.⁶

3. §192.939 What are the required reassessment intervals?

An operator must comply with the following requirements in establishing the reassessment interval for the operator's covered pipeline segments.

(a)...

(b) *Pipelines Operating below 30% SMYS.* An operator must establish a reassessment interval for each covered segment operating below 30% SMYS in accordance with the requirements of this section. The maximum reassessment interval by an allowable reassessment method is 7 calendar years. Operators may request a 6-month extension of the 7-calendar-year reassessment interval if the operator submits written notice to OPS in accordance with §192.18. The notice must include sufficient justification of the need for the extension. An operator must establish reassessment by at least one of the following...

Beacon West failed to establish a reassessment interval for its pipeline operating below 30% SMYS in accordance with the requirements set forth in § 192.939. In 2012, Beacon West conducted a reassessment using In-Line Inspection (ILI) tools⁷ and a pressure test assessment.⁸ Since then, Beacon West has not conducted another reassessment, despite extending well beyond the seven year requirement.⁹

Proposed Compliance Order

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$239,142 per violation per day the violation persists, up to a maximum of \$2,391,142 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

⁵ Section 192.801(b) defines “covered task” as “an activity, identified by the operator, that: (1) Is performed on a pipeline facility; (2) Is an operations or maintenance task; (3) Is performed as a requirement of this part; and (4) Affects the operation or integrity of the pipeline.” Pipeline repairs qualify as covered tasks.

⁶ Section 192.807 requires each *operator* to maintain records that demonstrate compliance with OQ requirements.

⁷ See Violation Report at Exhibit C_Ell gas PL ILI 2012 page 1.

⁸ See Violation Report at Exhibit D_VQ gas PL HT Rpt 2012 page 1.

⁹ During the inspection, Beacon West did not provide any records to PHMSA evidencing completion of a reassessment. Section 192.947 requires operators to maintain, for the useful life of the pipeline, records that demonstrate compliance with Subpart O of Part 192.

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.

With respect to item 3 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Beacon West Energy Group, LLC. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Warning Items

With respect to items 1 and 2, 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 these items. 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. Be advised that all material you submit in response to this enforcement action is subject to being 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 the receipt of this Notice, you have 30 days to submit written comments, or request a hearing under 49 CFR § 190.211. 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. This period may be extended by written request for good cause.

In your correspondence on this matter, please refer to **CPF 5-2022-041-NOPV** and, for each

document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Dustin Hubbard
Director, Western Region, Office of Pipeline Safety
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 T. Nguyen (#21-219864)
Jennifer Lucchesi, Executive Officer, California State Lands Commission

PROPOSED COMPLIANCE ORDER

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

- A. In regard to Item 3 of the Notice pertaining to the failure to establish a reassessment interval within 7 calendar years from the last assessment, Beacon West must conduct one of the reassessment methods listed in § 192.939(b) or submit a request for a Special Permit pursuant to the requirements set forth in § 190.341, within **1 year** of receipt of the Final Order. If Beacon West chooses to request a Special Permit, it must inform the Director in writing when it submits its request to PHMSA.

In the alternative, if Beacon West abandons the pipeline pursuant to the requirements set forth in § 192.727 within **1 year** of the receipt of the Final Order, Beacon West need not comply with the requirements set forth in the paragraph above.

- B. It is requested (not mandated) that Beacon West Energy Group, LLC 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.