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March 24, 2016

Alan Mayberry
Deputy Associate Administrator for Policy and Programs
Pipeline and Hazardous Material Safety Administration
U.S. Department of Transportation

Comments on Special Permit Application
Docket PHMSA-2016-007

Dear Mr. Mayberry:

Please consider this letter in your deliberations on the special permit request of El Paso Natural Gas for exemption from certain pipeline safety regulations. We have reviewed the application and associated documentation in the Federal Register and have the following concerns.

1) Only in the PHMSA announcement of the permit applications does the fact that the operator's previous class location calculations had been in error appear. The application simply refers to a "change" in methodology without any indication of previous errors, which, we assume, were also regulatory violations. A better evaluation of the application would be possible if the public and the regulator were informed of the previous error and informed as to the length of time that the areas at issue in the permit have been misclassified, when and how the error was identified (was it in a PHMSA inspection or did the operator identify it independently?)

2) As we read the application and Attachment A, there is only one segment containing less than 2 miles that the operator proposes to replace and pressure test. The request for a 5 year waiver to accomplish this seems unreasonably long.

3) The original reason we chose to comment on this application was that we have several concerns with the information presented in the application and the environmental assessment.

First, one of claimed environmental and safety benefits from the granting of the permit is the elimination of the methane emissions that would occur from blowdowns in anticipation of hydrotesting and/or pipe replacement. While we are pleased that El Paso is concerned with the effect of their methane emissions from all sources on the environment, the non-emergency blowdowns necessary before safety-related hydro-testing and pipeline replacement should never be considered a sufficient reason to avoid strength testing and replacing pipe segments where necessary to comply with safety regulations. Moreover, there are a number of mitigation measures that El Paso could undertake to reduce any emissions from non-emergency blowdowns of this nature, including a variety of ways to reduce the pressure in the segment ahead of time, moving some of the gas to an associated loop, where available, among others. The California Public Utilities Commission has an ongoing proceeding to consider the types of mitigation measures that California will begin requiring of all operators in the operations and maintenance activities that require non-emergency blowdowns. El Paso and PHMSA should both be aware of that proceeding and the methods being considered to reduce this type of emissions. While physical constraints of the El Paso system at issue may prevent complete elimination of blowdown emissions, those potential should not be used as an excuse to avoid necessary safety activities.

Second, the EA accompanying the application fails in a couple of instances to provide a complete comparison of the effects of granting or denying the permit: 1) The operator attempts to use the presumably reduced impact on adjacent ROW owners from the granting of an exemption which would allow the operator to leave the existing pipe in service. Given the age of many of these pipe segments and no description of their condition, but with references to stress corrosion cracking direct assessment and relatively thin pipe thicknesses, it is speculative at best to assume that integrity digs, repairs of anomalies and leaks, and SSCDA digs will not be equally disruptive to the ROW owners over the term of the permit. Furthermore, assuming the pipe is eventually replaced sometime after the expiration of the permit, it may be that as a whole, the delay in replacing the pipe results in more disruptions once the years of possible integrity disruptions are added to the disruption of the eventual pipe replacement.

Third, the response to some of the questions asking for a comparison of effects of denial and granting of the permit are less than adequate: In the section on Safety Risks on pages 7-9 of the EA, the operator indicates that the consequence of a failure would be no different if the permit is granted or is denied. But if the permit is denied and the operator chooses to reduce pressure in the affected segments, the consequences, and the PIR (a separate question and response) <u>would</u> be different than if the permit is granted. Without an indication of whether denying the permit would result in a reduction of pressure or pipe replacement, these responses are not sufficient to give PHMSA a complete comparison of potential effects of its decision.

Fourth, there appears to be an inconsistency in the application in that it refers to maintenance of Subpart J hydrotesting records for *each* Special Permit Segment. (page

5 of the EA, labeled paragraph 12.) There appear to be many segments included in the application which have never been tested, in that their MAOP was determined by the grandfather clause relying on pre-1970 operating pressures. If the operator intends to subject at least all of the grandfathered segments to a Subpart J hydrotest, which it would have to do to maintain a record of that test, then why go through the permit process rather than simply comply with the testing requirements of 192.611(3) to establish the appropriate MAOP? We suspect that the answer is that the safety factors in place in 192.611(3) for class 3 locations would require operation of the pipeline at a new, lower MAOP. If that is the case, then the comparison in the EA of possible risks in the two alternatives is also not entirely accurate in that MAOP and the PIR would be different in the two alternatives and the consequences of a failure as well as the probability of a failure would be increased by allowing operation at a higher MAOP under a special permit than under compliance with 192.611.

Finally, in the application itself, the operator fails completely to provide a useful response to what is perhaps the most important requirement in the regulations governing the applications for a special permit found at ***§190.341(4): an explanation of the unique circumstances that the applicant believes make the applicability of that regulation or standard (or portion thereof) unnecessary or inappropriate for its facility.***

Here is the operator's response: *The change in clustering methodology resulted in an upward change in class location for a substantial number of pipeline segments for which pressure testing or pipe replacements are now required, impacting 7.25 miles of EPNG mainline piping as detailed in Attachment A. The special permit would allow EPNG to maintain safety and the environment through the usage of enhanced integrity management procedures that provide equal or greater levels of safety to the public and environment.*

There is nothing in that response that indicates any unique circumstance making the application of the regulation inappropriate or unnecessary. The operator mistakenly misclassified areas (for some unknown period of time) through which 7+ miles of its line run. Those lines were constructed many decades ago, with pipe that either does not meet the design and safety factor requirements for Class 3 areas or has not been strength tested to prove that it will. The operator now seeks to substitute additional integrity monitoring of those segments for compliance with the design standards and strength requirements in the regulations. There is apparently no unique circumstance showing that application of the regulations is unnecessary or inappropriate. If PHMSA chooses to grant special permits without any such showing, it undermines the value of every safety regulation in place, since every operator would seek exemption from application of a regulation it perceived to be too burdensome, without need of any unique justification for such an exemption.

Rather than use the special permit process in a situation like this, where an operator error in classification results in a compliance issue, perhaps PHMSA should consider entering a consent agreement with the operator, with both acknowledging that the operator is out of compliance, and agreeing on a date certain for El Paso to come into compliance. Otherwise PHMSA risks regulating individual operators by special permit, without any justification for why the regulations should not be met.

Thank you for the opportunity to comment.

Rebecca Craven
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Pipeline Safety Trust