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November 27, 2024

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

RE: Comments on Special Permit Application
Rockies Express Pipeline (REX)
Docket PHMSA-2024-0011

Dear Mr. Mayberry:

Please consider this letter in your deliberations on the special permit request of Rockies Express Pipeline request for exemption from 49 CFR § 192.179(a)(4) related to valve spacing in a class one location. The Pipeline Safety Trust is the only national non-profit organization that focuses on pipeline safety. We do this through education and advocacy, increasing access to information, and building partnerships with residents, safety advocates, government, and industry to promote safe communities and a healthy environment. We have reviewed the application and associated documentation in the Federal Register and encourage the agency to deny this special permit request because of the following concerns.

First, the application provides no description of the unique circumstances of seeking this exemption. The applicant discusses their lack of responsibility for the placement of the valves because the design and construction were completed under previous ownership. REX provides no discussion of the alternative actions they could take which would result in the appropriate valve spacing. Would it be too cost-prohibitive or technically infeasible to add additional valves? As the new owner, REX LLC. takes on the risks and liability of its assets and is still responsible for protecting public safety and following the regulations.

As discussed throughout the application by the operator and PHMSA, this segment of pipe was constructed out of compliance and has been operating as such since it was constructed in 2008/2009. PST would like to know if PHMSA will be issuing enforcement for this apparent violation. Additionally, why was this error not discovered in any of the previous 15 years of inspections?

Furthering PST's concern with this application is the fact that this segment is already part of an existing special permit[1] that was issued in 2023 with stronger conditions than are proposed for this special permit. The 2023 conditions would provide the most safety, if the special permit must be approved, PST urges PHMSA to update the conditions to be consistent with the previously issued special permit.

[1] Pipeline and Hazardous Material Safety Administration, Special Permit PHMSA-2022-0044, https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2024-08/2022-0044-Rockies-Express-Pipeline-Tallgrass-SPAF.pdf.

Most critical of the previous conditions is Condition 12 which required RMVs *"be able to "Closure of the appropriate valves following a pipeline leak or rupture must occur "as soon as practicable" and must not exceed 30 minutes from the "notification of potential rupture."* The ability to close RMVs and provide notification of incidents within 30 minutes is critical to protecting public safety and minimizing any potential impacts from a failure.

PST is concerned about this pipeline's construction and operation. The Tallgrass/ Rockies Express Pipeline has had documented issues and failures since its construction. Most notably, there was a significant failure in November of 2009 on a segment in Southeastern Ohio which was the result of improper welding procedures that resulted in longitudinal cracking and Corrective Action Order 3-2019-1024H.[2] Through the Corrective Action Order (CAO) process, it was found that the parent company at the time, Kinder Morgan, continued to use the same written operating procedures for installation despite it being the cause of a failure.[3]

The CAO states: *"...the practices Kinder Morgan used in constructing Spread I show that the operation of that "facility is or would be hazardous to life, property, or the environment[.]"*[4] and additional testimony from PHMSA inspectors stated the company continued to use the same written operating procedure after the November 2009 failure.

PHMSA also issued a Notice of Probable Violation (NOPV) to Tallgrass in 2022 in regard to the Rockies Express Pipeline alleging a probable violation of the safety regulations, specifically 49 CFR § 192.611 Change in class location. Tallgrass agreed to a finding of violation in a Consent Agreement. Failing to comply with safety regulations as critical as the maximum pressure allowed on pipe located in a designated class location is a serious violation. Special permits to allow a pipeline to operate below minimum safety standards should be reserved for operators who have demonstrated an ability to operate their pipeline systems at a high level of safety and have demonstrated a lack of other options within the regulations, not those that have a history of faulty girth welds and a failure to meet basic safety standards. Especially when the operator has been apparently operating the pipeline out of compliance for years and now seeks a retroactive exemption from the standard they are in apparent violation of.

Finally, in October of 2021, Kinder Morgan was issued a Notice of Proposed Safety Order (CPF No. 5-2021-056-NOPSO) which identified extensive concerns regarding Kinder Morgan's integrity management program and identified thousands of unremediated anomalies along hundreds of miles of Kinder Morgan pipelines across the U.S. While we do recognize that this safety order is isolated to hazardous liquid lines, it causes concern to the lasting impacts of Kinder Morgan's integrity management practices and safety culture. This trend of failing to adopt new operating procedures and learn from mistakes is the crux of PST's concerns with waiving more regulations for this operator. While Kinder Morgan is no longer the operator or owner, the previous corrective actions on this specific pipeline are extremely worrisome, given the possibility of additional failures from unidentified construction issues or bad operating procedures.

[2] Pipeline and Hazardous Material Safety Administration, Corrective Action Order: CAO 2-2019-1024H.
[3] Supra.
[4] Pipeline and Hazardous Material Safety Administration, Corrective Action Order: CAO 2-2019-1024H at page 8.

Thank you for the opportunity to comment. If you have any questions or would like to discuss, please contact Hailey Duncan, Policy Advisor at hailey@pstrust.org or (360) 543-5686 x108.

Sincerely,



Hailey Duncan
Policy Advisor