



**U.S. Department  
of Transportation  
Pipeline and Hazardous  
Materials Safety  
Administration**

**1200 New Jersey Avenue, SE  
Washington, DC 20590**

April 24, 2020

Mr. Ronald C. Kraemer  
President  
Empire Pipeline, Inc.  
6363 Main Street  
Williamsville, New York 14221-5887

**Ref: Special Permit Renewal - May 20, 2020 to May 20, 2030**

**Docket No. PHMSA-2008-0213**

Dear Mr. Kraemer:

On November 22, 2019, pursuant to 49 Code of Federal Regulations (CFR) § 190.341, the Empire Pipeline, Inc. (Empire) applied to the Pipeline and Hazardous Materials Safety Administration (PHMSA) for the renewal of the special permit, PHMSA-2008-0213, originally issued on May 20, 2010 and renewed on May 20, 2015. On August 19, 2016, Empire applied to PHMSA for an extension of an additional segment to the special permit. On March 3, 2017, special permit segment six (6) was added and the expiration date of all segments was kept as May 20, 2020. The special permit waives compliance with 49 CFR § 192.611(a) for six (6) pipeline segments where the class location has changed from a Class 1 to a Class 3 location.

The six (6) special permit segments total 10,475 feet of 24-inch diameter pipe on the Empire State Pipeline located in Genesee, Monroe, Niagara, and Wayne Counties, New York. The special permit allows Empire to continue operation of the original Class 1 pipe in Class 3 locations, subject to the conditions set forth in the special permit.

On March 9, 2020, PHMSA published a Federal Register notice (85 FR 13703) announcing the special permit renewal request. The special permit renewal request letter and all other pertinent documents are available for review in Docket No. PHMSA-2008-0213 in the Federal Docket Management System located at [www.regulations.gov](http://www.regulations.gov).

One comment was submitted to the docket on April 7, 2020, stating that the counties that the six (6) pipeline segments are in are home to Iroquois tribes.<sup>1</sup> The commenter did not object to the proposed renewal or any aspect of the proposed renewal. Instead, the commenter cited various judicial opinions resulting from Native American challenges to other government agencies dealing with pipeline construction. This special permit is for continuing the safe operation and maintenance of an existing pipeline. Furthermore, PHMSA has not received a request for tribal consultation related to this special permit renewal.

PHMSA has reviewed all operational and maintenance data submitted by Empire for the special permit segments. PHMSA finds that there has been no material change in conditions and that Empire continues to meet the terms of the special permit. Based on the information provided by Empire, PHMSA has determined that renewal of the special permit would not be inconsistent with pipeline safety. Furthermore, PHMSA is modifying the special permit renewal timing interval from 5 years to 10 years in Limitation 7. The modifications to Limitation 7 are *italicized* and underlined below.

**Limitation 7:** PHMSA grants this special permit for a period of no more than *ten (10)* years from the grant date. If Empire elects to seek renewal of this special permit, a renewal request must be submitted at least 180 days prior to expiration of the *ten-year* period, to the PHMSA Associate Administrator, with copies to the Director, Division of Engineering and *Research*, and Director, Office of Pipeline Safety, Eastern Region. PHMSA may seek additional information from Empire prior to granting a request for special permit renewal.

**Accordingly, pursuant to 49 CFR § 190.341, by this Order, and as outlined in the existing special permit, PHMSA grants the renewal of PHMSA-2008-0213, from May 20, 2020, through May 20, 2030, to Empire to continue its operation of the Empire State Pipeline in Genesee, Monroe, Niagara, and Wayne Counties, New York. This special permit renewal Order continues to waive compliance with certain Federal regulations in 49 CFR § 192.611(a)(1).**

My staff would be pleased to discuss this special permit or any other regulatory matter with you. Senth White, Director of Engineering and Research Division, may be contacted at 202-366-2415, for technical matters; and Robert Burrough, Director, Office of Pipeline Safety, Eastern Region may be contacted at 609-771-7809, for operational matters specific to the renewal of this special permit.

Sincerely,

ALAN  
KRAMER  
MAYBERRY

A digital signature block with a red scribble. The text reads: "Digitally signed by ALAN KRAMER MAYBERRY Date: 2020.04.24 15:20:19 -04'00'".

Alan K. Mayberry,  
Associate Administrator for Pipeline Safety

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<sup>1</sup> <https://www.regulations.gov/searchResults?rpp=25&po=0&s=PHMSA-2008-0213>