



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

901 Locust Street, Suite 480  
Kansas City, MO 64106

## **NOTICE OF PROBABLE VIOLATION PROPOSED CIVIL PENALTY**

**VIA ELECTRONIC MAIL TO:** [ekessenich@usoil.com](mailto:ekessenich@usoil.com), [dmorrill@usoil.com](mailto:dmorrill@usoil.com) and [mbriggs@usoil.com](mailto:mbriggs@usoil.com)

August 25, 2021

Eric Kessenich  
President of U.S. Oil  
U.S. Venture, Inc.  
425 Better Way  
Appleton, WI 54915

**CPF 3-2021-036-NOPV**

Dear Mr. Kessenich:

From October 5 through October 8, 2020, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected your U.S. Venture, Inc. Green Bay Products System in Green Bay, WI.

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

1. **§ 195.505 Qualification program.**  
**Each operator shall have and follow a written qualification program. The program shall include provisions to:**
  - (a) . . . .
  - (b) **Ensure through evaluation that individuals performing covered tasks are qualified;**

U.S. Venture failed to identify covered tasks and to qualify seven terminal technicians responsible for performing monthly rectifier readings and/or rectifier calibrations until late October 2020. It was the understanding of U.S. Venture that all cathodic protection work was being completed by its CP contractor.

Once U.S. Venture determined that it was their technicians performing the monthly rectifier inspections, they prepared a Standard Operating Procedure (SOP) for reading rectifiers and for performing rectifier calibrations & adjustments. SSOPs for reading rectifiers and performing rectifier calibration & adjustment were issued on 10-07-2020 and revised on 10-22-2020. The technicians were then qualified to the SOPs on October 27th and 28th, 2020. However, all rectifier readings and rectifier adjustments made prior to the operator qualification date were done by non-qualified technicians.

### Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to 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 documentation involved for the above probable violation and recommend that you be preliminarily assessed a civil penalty of \$81,900 as follows:

Item Number	Penalty
1	\$81,900

### Response to this Notice

Enclosed as part of this Notice is a document entitled Response Options for Pipeline Operators in Compliance 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 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 3-2021-036-NOPV and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Gregory Ochs  
Director, Central, Office of Pipeline Safety  
Pipeline and Hazardous Materials Safety Administration

Enclosures:

*Proposed Compliance Order*

*Response Options for Pipeline Operators in Enforcement Proceedings*

cc: Dan Morrill, Vice President Terminal Operations, [dmorrill@usoil.com](mailto:dmorrill@usoil.com)  
Melodie Briggs, Compliance Manager, [mbriggs@usoil.com](mailto:mbriggs@usoil.com)