



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

12300 W. Dakota Ave., Suite 110
Lakewood, CO 80228

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

VIA E-MAIL TO MR. CRAIG COLLINS

March 7, 2022

Mr. Craig Collins
Chief Operations Officer and
Senior Vice President
Western Midstream Partners, LP
9950 Woodloch Forest Dr., Suite 2800
The Woodlands, TX 77380

CPF 5-2022-019-NOPV

Dear Mr. Collins:

From November 1 through 5, 2021, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code, inspected Western Midstream Partners, LP (Western) procedures and records for the control room located in Platteville, Colorado.

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

1. § 195.446 - Control room management.

(a) . . .

(c) ***Provide adequate information.*** Each operator must provide its controllers with the information, tools, processes and procedures necessary for the controllers to carry out the roles and responsibilities the operator has defined by performing each of the following:

(1) . . .

(4) **Test any backup SCADA systems at least once each calendar year, but at intervals not to exceed 15 months...**

Western Midstream failed to provide its controllers with the information, tools, processes, and procedures necessary for the controllers to carry out the roles and responsibilities the operator has defined by failing to test three of its five backup SCADA servers at least once each calendar year, but at intervals not to exceed 15 months.

Western maintains three sets of two servers (six servers in total, each is a discrete unit capable of running SCADA): one set at the primary control room located in Platteville, Colorado; one set at the Secondary control room located in Platteville, Colorado; and one set at its corporate offices located in The Woodlands, Texas. Each of the five backup servers is a replicated copy of the primary server and requires a technician to change the SCADA system over to the backup server. Western tested one server at its backup control room facility in Platteville, Colorado and one server at its corporate offices in Texas. During the control room inspection, Western informed PHMSA that the other three backup SCADA servers had not been tested with a representative sample of pipeline operations within the requisite intervals pursuant to § 195.446(c)(4).

2. § 195.446 - Control room management.

(a) . . .

(c) ***Provide adequate information.*** Each operator must provide its controllers with the information, tools, processes and procedures necessary for the controllers to carry out the roles and responsibilities the operator has defined by performing each of the following:

(1) **Implement API RP 1165 (incorporated by reference, *see* § 195.3) whenever a SCADA system is added, expanded or replaced, unless the operator demonstrates that certain provisions of API RP 1165 are not practical for the SCADA system used...**

Western failed to provide its controllers with the information, tools, processes, and procedures necessary for the controllers to carry out the roles and responsibilities the operator has defined by failing to implement API RP 1165 or demonstrate that certain provisions of API RP 1165 are not practical for its SCADA system. During the control room inspection, Western was unable to produce records or other evidence demonstrating that it implemented API RP 1165.¹ Instead,

¹ See 49 C.F.R. § 195.446(j)(1) (requiring operators maintain for review during inspection records that demonstrate compliance with the requirements of § 195.446).

Western produced records indicating that it evaluated the SCADA system according to ANSI/ISA-18.2-2016, Management of Alarm Systems for the Process Industries, rather than API RP 1165.

3. § 195.446 - Control room management.

(a) . . .

(j) *Compliance and deviations.* An operator must maintain for review during inspection:

(1) Records that demonstrate compliance with the requirements of this section; ...

Western failed to maintain for review during inspection records that demonstrated compliance with the requirements set forth in § 195.446. Specifically, during the control room inspection, Western could not provide records to PHMSA from the previous operator of its system, Occidental Petroleum, for 2018 & 2019.

Proposed Compliance Order

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 documents involved in this case, and have decided not to propose a civil penalty assessment at this time.

With respect to Item 2 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Western Midstream Partners, LP. 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 3 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 5-2022-019-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 J. Dunphy (#21-201443)

PROPOSED COMPLIANCE ORDER

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

- A. In regard to Item 2 of the Notice pertaining to Western's failure to implement API RP 1165, Western must conduct an evaluation of its SCADA system to determine compliance with API RP 1165. This evaluation must identify any compliance gaps and include a workplan to bring the system into full compliance. This evaluation must be submitted to the Director within 30 days of receipt of the Final Order.

- B. It is requested (not mandated) that Western 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.