

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

June 25, 2010

Mr. Steve Pankhurst
President, BP Pipelines (North America), Inc.
28100 Torch Parkway
Warrenville, IL 60555

CPF 3-2010-5007

Dear Mr. Pankhurst:

On May 6, 2009, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected your procedures, records, and field operations during an accident investigation of a leak that occurred on your Sugar Creek to Council Bluffs 8-inch pipeline at milepost 116.5 in Page County, IA. Thirty-six (36) barrels of diesel fuel were spilled as a result of the accident.

As a result of the inspection, it appears that you have committed a probable violation of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The item inspected and the probable violation is:

- 1. §195.402 Procedural manual for operations, maintenance, and emergencies.**
 - (a) General. Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies.**

A BP Pipelines North America, Inc. (“BP”) contractor did not follow BP’s procedures during excavation. While stripping out the line, backhoe excavation was conducted closer to the pipeline than the 8 inches allowed by BP procedures, striking a 2-inch valve attached to the line. The BP Operations and Maintenance procedure SP 107, “Specification For Lowering In-Service Pipelines”, states:

2.2 PROCEDURES FOR EXCAVATING AROUND LINES

.... A BP Pipelines “best practice” is for the backhoe bucket to never be closer to the pipeline than 8 inches for initial stripping out of the line. This practice must be followed and has proven to prevent striking unknown fittings and flanges that may be attached to the line.

The valve was struck 6-1/2 inches away from the pipe body, breaking it completely off, causing approximately 36 barrels of diesel fuel to be released. Even though the equipment operator and inspector were aware of the prohibition against stripping out a line within 8 inches of the pipe per SP 107, they did not follow the procedure.

Proposed Civil Penalty

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$100,000 for each violation for each day the violation persists up to a maximum of \$1,000,000 for any related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation and has recommended that you be preliminarily assessed a civil penalty of \$90,000 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$90,000

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. 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). 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.

In your correspondence on this matter, please refer to **CPF 3-2010-5007** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

David Barrett
Director, Central Region
Pipeline and Hazardous Materials Safety Administration

Enclosure: *Response Options for Pipeline Operators in Compliance Proceedings*