

May 10, 2018

Mr. David Scobel
Chief Executive Officer
Caliber Midstream Partners, LP
1200 17th Street, Suite 2100
Denver, Colorado 80202

Re: CPF No. 3-2017-6012

Dear Mr. Scobel:

Enclosed please find the Final Order issued in the above-referenced case. It makes one finding of violation and assesses a civil penalty of \$22,400 against Caliber North Dakota, LLC, a subsidiary of Caliber Midstream Partners, LP. This is to acknowledge receipt of payment of the full penalty amount, by wire transfer, dated November 3, 2017. This enforcement action is now closed. Service of the Final Order by certified mail is effective upon the date of mailing, as provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Allan C. Beshore, Director, Central Region, Office of Pipeline Safety, PHMSA

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

**U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590**

In the Matter of)	
)	
Caliber North Dakota, LLC,)	
 a subsidiary of Caliber Midstream Partners, LP,)	CPF No. 3-2017-6012
)	
Respondent.)	
)	

FINAL ORDER

From April 10 through April 12, 2016, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of Caliber North Dakota, LLC’s (Caliber) Hay Butte pipeline system in Alexander, North Dakota. Caliber is a subsidiary of Caliber Midstream Partners, LP (Caliber Midstream) which operates crude-oil and natural-gas gathering and processing facilities in the Bakken and Three Forks shale oil fields of North Dakota.¹

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Caliber, by letter dated September 29, 2017, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Caliber had violated 49 C.F.R. § 195.563 and assessing a civil penalty of \$22,400 for the alleged violation.

Caliber Midstream, on behalf of Caliber (collectively, Respondent), responded to the Notice by letter dated November 1, 2017 (Response). The company did not contest the allegation of violation and paid the proposed civil penalty of \$22,400. In accordance with 49 C.F.R. § 190.208(a)(1), such payment authorizes the Associate Administrator to make a finding of violation and to issue this final order without further proceedings.

FINDING OF VIOLATION

In its Response, Respondent did not contest the allegation in the Notice that it violated 49 C.F.R. Part 195, as follows:

¹ Caliber Midstream Partners, LP, *website, available* at <http://www.calibermidstream.com/about> (last accessed December 18, 2017).

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.563(a), which states:

§ 195.563 Which pipelines must have cathodic protection?

(a) Each buried or submerged pipeline that is constructed, relocated, replaced, or otherwise changed after the applicable date in § 195.401(c) must have cathodic protection. The cathodic protection must be in operation not later than 1 year after the pipeline is constructed, relocated, replaced, or otherwise changed, as applicable.

The Notice alleged that Respondent violated 49 C.F.R. § 195.563(a) by failing to have a cathodic protection system in operation no later than one year after the construction of its pipeline. Specifically, the Notice alleged that Caliber's pipeline system began operations in August 2014, but Respondent failed to operate the cathodic protection system until October 2015.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.563(a) by failing to have a cathodic protection system in operation no later than one year after the construction of its pipeline.

This finding of violation will be considered a prior offense in any subsequent enforcement action taken against Respondent.

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to an administrative civil penalty not to exceed \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any related series of violations.²

In determining the amount of a civil penalty under 49 U.S.C. § 60122 and 49 C.F.R. § 190.225, I must consider the following criteria: the nature, circumstances, and gravity of the violation, including adverse impact on the environment; the degree of Respondent's culpability; the history of Respondent's prior offenses; and any effect that the penalty may have on its ability to continue doing business; and the good faith of Respondent in attempting to comply with the pipeline safety regulations. In addition, I may consider the economic benefit gained from the violation without any reduction because of subsequent damages, and such other matters as justice may require. The Notice proposed a total civil penalty of \$22,400 for the violation cited above.

Item 1: The Notice proposed a civil penalty of \$22,400 for Respondent's violation of 49 C.F.R. § 195.563(a), for failing to have a cathodic protection system in operation no later than one year after the construction of its pipeline. Caliber neither contested the allegation nor presented any evidence or argument justifying a reduction in or elimination of the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess

² These amounts are adjusted annually for inflation. *See, e.g.*, Pipeline Safety: Inflation Adjustment of Maximum Civil Penalties, 82 Fed. Reg. 19325 (April 27, 2017).

Respondent a civil penalty of **\$22,400** for violation of 49 C.F.R. § 195.563(a). Caliber paid the full penalty amount by wire transfer on November 3, 2017.

The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

May 10, 2018

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued