

September 3, 2020

VIA ELECTRONIC MAIL TO: saul flota@wplc.com

Mr. Saul Flota
President
Wolverine Pipe Line Company
8075 Creekside Drive, Suite 210
Portage, Michigan 49024

Re: CPF No. 3-2019-5015M

Dear Mr. Flota:

Enclosed please find the Order Directing Amendment issued in the above-referenced case to Wolverine Pipe Line Company. It makes findings of inadequate procedures, withdraws one allegation, and requires that Wolverine amend certain portions of its operating and maintenance procedures. When the amendment of procedures has been completed, as determined by the Director, Central Region, this enforcement action will be closed. Service of the 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 Beshore, Director, Central Region, Office of Pipeline Safety, PHMSA
Mr. Thomas Morneau, General Counsel, Wolverine Pipe Line Company,
tom_morneau@wplc.com
Mr. Vince Murchison, Esq., Counsel for Respondent, Murchison Law Firm, PLLC,
vince.murchison@pipelinelegal.com

CONFIRMATION OF RECEIPT REQUESTED

FINDINGS OF INADEQUATE PROCEDURES

Item 1: The Notice alleged that Respondent's procedures were inadequate with regard to 49 C.F.R. § 195.402(d), which states:

§ 195.402 Procedural manual for operations, maintenance, and emergencies.

(a)

(d) *Abnormal operation.* The manual required by paragraph (a) of this section must include procedures for the following to provide safety when operating design limits have been exceeded:

(1) Responding to, investigating, and correcting the cause of:

(i) Unintended closure of valves or shutdowns;

(ii) Increase or decrease in pressure or flow rate outside normal operating limits;

(iii) Loss of communications;

(iv) Operation of any safety device;

(v) Any other malfunction of a component, deviation from normal operation, or personnel error which could cause a hazard to persons or property.

(2) Checking variations from normal operation after abnormal operation has ended at sufficient critical locations in the system to determine continued integrity and safe operation.

The Notice alleged that Respondent's procedural manual for operations, maintenance, and emergencies was inadequate with regard to 49 C.F.R. § 195.402 in that it failed to address how controllers respond to abnormal operations and check facilities for integrity before restarting operations. Specifically, Wolverine's *Abnormal Operating Condition Restart Report* did not include all of the required abnormal operations, including increase or decrease in pressure or flow rate outside normal operating limits. In addition, the Notice alleged that the Report did not require controllers to check variations from normal operation to determine continued integrity and safe operation before restarting operations.

Wolverine amended this procedure prior to issuance of the Notice. The Director reviewed the amended procedure and concluded that the inadequacies had been corrected.

Accordingly, based upon a review of all the evidence, I find that Respondent's procedures were inadequate, as alleged in the Notice, but have subsequently been adequately modified. Therefore, no further action is necessary.

Item 2: The Notice alleged that Respondent's procedures were inadequate with regard to 49 C.F.R. § 195.402, which states:

§ 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. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a pipeline system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

(b)

(c) *Maintenance and normal operations.* The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:

(1)

(3) Operating, maintaining, and repairing the pipeline system in accordance with each of the requirements of this subpart and subpart H of this part; ...

§ 195.420 Valve maintenance.

(a) Each operator shall maintain each valve that is necessary for the safe operation of its pipeline systems in good working order at all times.

The Notice alleged that Wolverine's operations and maintenance (O&M) procedures were inadequate with regard to 49 C.F.R. § 195.402 because they failed to provide sufficient guidance on valve maintenance in accordance with § 195.420, which provides that operators must maintain each valve that is necessary for the safe operation of its pipeline systems in good working order. Specifically, the Notice alleged that Respondent's *DOT Operations and Maintenance Manual (dated 10/2002)* failed to define the inspection period for valves that were needed for the safe operation of the system, as required by this regulation.

In its Response and at the hearing, Wolverine did not contest the allegation.

Accordingly, based upon a review of all the evidence, I find that Respondent's procedures were inadequate, as alleged in the Notice. Wolverine is hereby ordered to amend its procedures to define the inspection period for other valves that were needed for safe operation of the system, as required under 49 C.F.R. §195.420(a).

Item 3: The Notice alleged that Respondent's operations and maintenance procedures were inadequate with regard to 49 C.F.R. § 195.402(a), as quoted above, because they failed to properly define how to maintain each valve that is necessary for the safe operation of its pipeline systems in good working order at all times. Specifically, the Notice alleged that Wolverine's *O&M Manual* failed to explain how to determine the valve position from indicator lights on a valve actuator. During the inspection, OPS inspectors observed light indicators on valves located at the Albion Pump Station and the Lansing Terminal. The Notice alleges that Wolverine's O&M Manual, Section 195.420 failed to define how to determine that OPS alleges that Wolverine's O&M Manual and FIMMS procedure "do not specify nor establish that the

light indicators on the motor-operated valve actuators should not be relied upon for determining the valve position.”

In its Response and at the hearing, Wolverine contested the allegation on several bases, but its primary objection is that Wolverine uses a physical indicator, and not actuator lights, to indicate valve position.

Mr. Murchison: And are you familiar with these indicator lights --

Mr. Caddick: Yes.

Mr. Murchison: -- that are at issue here? What's your reaction to this alleged inadequacy that says that the Wolverine O&M does not define how to determine valve position using actuator lights?

Mr. Caddick: I do not agree with it.

Mr. Murchison: Why do you not agree with that?

Mr. Caddick: Because we do not use indicator lights to determine position.

Mr. Murchison: What do you use?

Mr. Caddick: A physical indicator.

Mr. Murchison: Can you describe a physical indicator?

Mr. Caddick: A physical indicator is as FIMMS program speaks to, an indicator rod or another physical device on the valve that changes position when the valve changes state.²

Mr. Caddick, an area supervisor for Wolverine, testified that all of Wolverine's valves use physical indicators (not actuator lights) to indicate whether its valves are in an open or closed position. Even though there are actuator lights on some of these valves, the lights are not what Wolverine personnel use to determine whether the valves are in the open or closed position. Therefore, Wolverine asserts that it should not amend its procedures to include a reference to indicator lights because they are not used. At the hearing, OPS testified that Wolverine personnel indicated that the actuator lights were used by personnel to determine valve status, which is why the allegation was included in the Notice. In the Region Recommendation, OPS maintains that Wolverine “must amend its procedures to define the purposes of the light indic[a]tors on motor-operated valve actuators in determining valve position in order to ensure safe operation of its pipeline system.”³

I agree that the valve indicator lights should be referenced in Wolverine's O&M Manual, at least to clarify that they are not to be used. Nevertheless, as Wolverine appropriately argues, OPS is restricted to the specific allegation in the Notice, which stated that Wolverine was to “define how to determine the valve position from the indicator lights on a valve actuator.”⁴ Even if such definition simply indicates that the indicator lights should be disregarded, I hereby order Wolverine to clearly state in its O&M Manual that all indicator lights should be disregarded, as they are not used to determine valve position.

² NOA Hearing Transcript, at 66.

³ Region Recommendation, at 4.

⁴ Notice, at 3.

Item 4: The Notice alleged that Respondent's operations and maintenance procedures were inadequate with regard to 49 C.F.R. § 195.452, which states:

§ 195.452 Pipeline integrity management in high consequence areas.

(a)

(f) *What are the elements of an integrity management program?* An integrity management program begins with the initial framework. An operator must continually change the program to reflect operating experience, conclusions drawn from results of the integrity assessments, and other maintenance and surveillance data, and evaluation of consequences of a failure on the high consequence area. An operator must include, at minimum, each of the following elements in its written integrity management program:

(1)

(3) An analysis that integrates all available information about the integrity of the entire pipeline and the consequences of a failure (see paragraph (g) of this section); ...

(g) *What is an information analysis?* In periodically evaluating the integrity of each pipeline segment (paragraph (j) of this section), an operator must analyze all available information about the integrity of the entire pipeline and the consequences of a failure. This information includes:

(1) Information critical to determining the potential for, and preventing, damage due to excavation, including current and planned damage prevention activities, and development or planned development along the pipeline segment;

(2) Data gathered through the integrity assessment required under this section;

(3) Data gathered in conjunction with the other inspections, tests, surveillance and patrols required by this Part, including, corrosion control monitoring and cathodic protection surveys; and

(4) Information about how a failure would affect the high consequence area, such as location of the water intake.

The Notice alleged that Respondent's written integrity management process was inadequate with regard to 49 C.F.R. § 195.452 because it failed to include an information analysis that analyzes all available information about the integrity of the entire pipeline and the consequences of a failure. Specifically, the Notice alleged that Wolverine's Integrity Management Program in High Consequence Areas, Version 2014-1 (IMP Manual) did not define an information analysis process that addressed all threats for each pipeline, including not identifying any threats for the Kennedy to Niles pipeline segment.

Wolverine licenses and uses TIARA (Threat Identification and Risk Assessment Manual), a process of threat identification and risk assessment that was developed by ExxonMobil Pipeline Company. The Notice alleges and OPS continues to argue that this "TIARA process" inadequately implements the requirement that Wolverine conduct an information analysis that integrates all information about the integrity of its pipeline system, as evidenced by fact that the

TIARA process did not identify any threats for the Kennedy to Niles pipeline segment.

In its Response and at the hearing, Wolverine argues that the Region Recommendation alters the original allegation in the Notice.⁵ The Notice states that Wolverine must “define an information analysis process that address[es] all threats for each pipeline,” then goes on to state the inadequacies of the information analysis conducted for the Kennedy to the Niles pipeline segment. In the Region Recommendation, OPS states that the process used by Wolverine only accounts for the highest consequence threats, and inappropriately eliminate[s] threats that did not meet Wolverine’s definition of a significant threat.” Even if this is true, it remains unclear, from the allegation in the Notice, what OPS wants the Respondent to change. The Region Recommendation makes a fair argument that the TIARA process does not meet the standards required of an information analysis that is compliant with OPS regulations. However, it still does not state with specificity what changes the agency is seeking. 49 C.F.R. § 190.206 states that a Notice of Amendment will “specify the alleged inadequacies and the proposed revisions of the plans or procedures.” Without more specificity regarding what needs to change in the Respondent’s procedures, I cannot order the Respondent to amend their procedures. Accordingly, based upon a review of all the evidence, I am withdrawing this allegation.

Item 5: The Notice alleged that Respondent’s operations and maintenance procedures were inadequate with regard to 49 C.F.R. § 195.452, which states:

§ 195.452 Pipeline integrity management in high consequence areas.

(a)

(f) *What are the elements of an integrity management program?* An integrity management program begins with the initial framework. An operator must continually change the program to reflect operating experience, conclusions drawn from results of the integrity assessments, and other maintenance and surveillance data, and evaluation of consequences of a failure on the high consequence area. An operator must include, at minimum, each of the following elements in its written integrity management program:

(1)

(4) Criteria for remedial actions to address integrity issues raised by the assessment methods and information analysis (see paragraph (h) of this section); ...

(h) *What actions must an operator take to address integrity issues?*

(1) *General requirements.* An operator must take prompt action to address all anomalous conditions in the pipeline that the operator discovers through the integrity assessment or information analysis. In addressing all conditions, an operator must evaluate all anomalous conditions and remediate those that could reduce a pipeline's integrity, as required by this part. An operator must be able to demonstrate that the remediation of the

⁵ “The NOA alleges that Respondent's IMP15 did not address "all threats for each pipeline"; however, the agency now argues that the IMP "was inadequate to integrate all available information about the integrity of pipeline segments by excluding threats of the pipeline integrity that were not deemed 'significant.'" Operator Response to the Region Recommendation, at 5.

condition will ensure that the condition is unlikely to pose a threat to the long-term integrity of the pipeline. An operator must comply with §195.422 when making a repair.

The Notice alleged that Respondent's IMP Manual for operations, maintenance, and emergencies was inadequate with regard to 49 C.F.R. § 195.452(f) in that it failed to address criteria for remedial actions to address integrity issues raised by the assessment methods and information analysis. Specifically, Wolverine's IMP Manual, Section 4, did not address how assessment tool tolerances were considered for corrosion anomalies.

Wolverine amended this procedure prior to its Response. The Director reviewed the amended procedure and concluded that the inadequacies had been corrected. Accordingly, based upon a review of all the evidence, I find that Respondent's procedures were inadequate, as alleged in the Notice, but have subsequently been adequately modified. Therefore, no further action is necessary.

Item 6: The Notice alleged that Respondent's operations and maintenance procedures were inadequate with regard to 49 C.F.R. § 195.452, which states:

§ 195.452 Pipeline integrity management in high consequence areas.

(a) ...

(f) *What are the elements of an integrity management program?* An integrity management program begins with the initial framework. An operator must continually change the program to reflect operating experience, conclusions drawn from results of the integrity assessments, and other maintenance and surveillance data, and evaluation of consequences of a failure on the high consequence area. An operator must include, at minimum, each of the following elements in its written integrity management program:

(1) ...

(4) Criteria for remedial actions to address integrity issues raised by the assessment methods and information analysis (see paragraph (h) of this section); ...

(h) *What actions must an operator take to address integrity issues?*

(1) *General requirements.* An operator must take prompt action to address all anomalous conditions in the pipeline that the operator discovers through the integrity assessment or information analysis. In addressing all conditions, an operator must evaluate all anomalous conditions and remediate those that could reduce a pipeline's integrity, as required by this part. An operator must be able to demonstrate that the remediation of the condition will ensure that the condition is unlikely to pose a threat to the long-term integrity of the pipeline. An operator must comply with §195.422 when making a repair.

The Notice alleged that Respondent failed to develop a pipeline repair manual that addressed the repair methods that were used by Wolverine. Specifically, Wolverine's IMP Manual, Section

4.4.2 listed in the Repair and Modification table conflicted with the repair methods used on Wolverine's pipeline system.

Wolverine amended this procedure prior to its Response. The Director reviewed the amended procedure and concluded that the inadequacies had been corrected. Accordingly, based upon a review of all the evidence, I find that Respondent's procedures were inadequate, as alleged in the Notice, but have subsequently been adequately modified. Therefore, no further action is necessary.

Item 7: The Notice alleged that Respondent's operations and maintenance procedures were inadequate with regard to 49 C.F.R. § 195.402, which states:

§ 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. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a pipeline system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

(b)

(c) *Maintenance and normal operations.* The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:

(1)

(3) Operating, maintaining, and repairing the pipeline system in accordance with each of the requirements of this subpart and subpart H of this part.

§ 195.559 What coating material may I use for external corrosion control?

(a) Coating material for external corrosion control under § 195.557 must –Be designed to mitigate corrosion of the buried or submerged pipeline; ...

The Notice alleged that Respondent's IMP Manual for operations, maintenance, and emergencies was inadequate with regard to 49 C.F.R. § 195.402 in that it failed to address the coating material that may be used for external corrosion control. Specifically, Wolverine's Facilities Inspection and Maintenance Manual Pipe Coating Program, Revision 1.10 did not address the application of RD6 coating that was utilized at the Darden Road ILI dig site.

Wolverine amended this procedure prior to its Response. The Director reviewed the amended procedure and concluded that the inadequacies had been corrected. Accordingly, based upon a

review of all the evidence, I find that Respondent's procedures were inadequate, as alleged in the Notice, but have subsequently been adequately modified. Therefore, no further action is necessary.

Pursuant to 49 U.S.C. § 60108(a) and 49 C.F.R. § 190.206, Wolverine is ordered to revise its procedures as specified in Item 3 above. Respondent must submit the amended procedures to the Director, Central Region, within 30 days following receipt of this Order.

The Director may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent and demonstrating good cause for an extension. Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed \$200,000, as adjusted for inflation (49 C.F.R. § 190.223), for each violation for each day the violation continues or in referral to the Attorney General for appropriate relief in a district court of the United States.

Under 49 C.F.R. § 190.243, Respondent may submit a Petition for Reconsideration of this Order Directing Amendment to the Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2nd Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address, no later than 20 days after receipt of service of this Order Directing Amendment by Respondent. Any petition submitted must contain a statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.243. The terms of the order, including required amendment to procedures, remain in effect unless the Associate Administrator, upon request, grants a stay.

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

September 3, 2020

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued