



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

901 Locust Street, Suite 480  
Kansas City, MO 64106

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

**VIA ELECTRONIC MAIL TO:** [dwerth@calibermidstream.com](mailto:dwerth@calibermidstream.com) and  
[cbutero@calibermidstream.com](mailto:cbutero@calibermidstream.com)

August 20, 2021

Mr. Daniel Werth  
President & CEO  
Caliber Spring Creek LLC  
950 17th Ave, Suite 1000  
Denver, CO 80202  
[dwerth@calibermidstream.com](mailto:dwerth@calibermidstream.com)

**CPF 3-2021-010-NOPV**

Dear Mr. Werth:

On various dates between March 2, 2020, and May 1, 2020, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code (U.S.C.), inspected procedures and records for Caliber Spring Creek LLC's (CSC) Watford Gathering System, virtually, and in person in Denver, Colorado.

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

1. **§ 194.7 Operating restrictions and interim operating authorization.**
  - (a) . . . .
  - (b) **An operator must operate its onshore pipeline facilities in accordance with the applicable response plan.**

CSC failed to operate its facilities in accordance with its response plan as required by § 194.7(b). Operators must have a drill program as part of its response plans under § 194.107(c)(1)(ix). CSC’s drill program required the operator to perform a Qualified Individual drill in the first quarter of 2020. During the virtual inspection, CSC’s Director of Regulatory, Safety and Compliance informed PHMSA inspectors that CSC failed to perform the first quarter 2020 Qualified Individual drill as required. CSC has therefore failed to operate in accordance with its response plan under § 194.7(b).

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 \$19,000 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$19,000

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. 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 the 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 3-2021-010-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Gregory A. Ochs  
Director, Central Region, OPS  
Pipeline and Hazardous Materials Safety Administration

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

cc: Ms. Carol Butero, Director of Regulatory, Safety and Compliance; Caliber Spring Creek; 950 17th Ave, Suite 1000, Denver, CO 80202; [cbutero@calibermidstream.com](mailto:cbutero@calibermidstream.com)