

## WARNING LETTER

VIA ELECTRONIC MAIL TO: [ekessenich@usoil.com](mailto:ekessenich@usoil.com), [dmorrill@usoil.com](mailto:dmorrill@usoil.com) and [mbriggs@usoil.com](mailto:mbriggs@usoil.com)

August 25, 2021

Eric Kessenich  
President of U.S. Oil  
U.S. Venture, Inc.  
425 Better Way  
Appleton, WI 54915

**CPF 3-2021-035-WL**

Dear Mr. Kessenich:

From October 5 through October 8, 2020, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected your U.S. Venture, Inc. Green Bay Products System in Green Bay, WI.

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

1. **§ 195.432 - Inspection of in-service breakout tanks.**

**(b) Each operator must inspect the physical integrity of in-service atmospheric and low-pressure steel above-ground breakout tanks according to API Std 653 (except section 6.4.3, Alternative Internal Inspection Interval) (incorporated by reference, see § 195.3). However, if structural conditions prevent access to the tank bottom, its integrity may be assessed according to a plan included in the operations and maintenance manual under § 195.402(c)(3). The risk-based internal inspection procedures in API Std 653, section 6.4.3 cannot be used to determine the internal inspection interval.**

US Ventures failed to perform an internal re-inspection of tank #1428 at the required interval as specified in API 653. Specifically, section 6.4.2.2 of API 653 states: When corrosion rates are not known and similar service experience is not available to estimate the bottom plate minimum thickness at the next inspection, the internal inspection interval shall not exceed 10 years.

The tank is used to supply a the truck rack and utilization rates are high. U.S. Oil extended the out-of-service (OOS) inspection for 1 year to 5/2021 based on their consultants estimated corrosion rate. The OOS internal inspection for the tank was performed in May of 2010 and since the actual corrosion rates were not known, the next internal inspection should have been conducted in May of 2020.

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to 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. For violations occurring prior to November 2, 2015, the maximum penalty may not exceed \$200,000 per violation per day, with a maximum penalty not to exceed \$2,000,000 for a related series of violations. 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 correct the item(s) identified in this letter. Failure to do so will result in U.S. Venture, Inc. being subject to additional enforcement action.

No reply to this letter is required. If you choose to reply, in your correspondence please refer to CPF 3-2021-035-WL. 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).

Sincerely,

Gregory Ochs  
Director, Central, Office of Pipeline Safety  
Pipeline and Hazardous Materials Safety Administration

cc: Dan Morrill, Vice President Terminal Operations, [dmorrill@usoil.com](mailto:dmorrill@usoil.com),  
Melodie Briggs, Compliance Manager, U.S. Oil, [mbriggs@usoil.com](mailto:mbriggs@usoil.com)