



March 10, 2022

U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration (PHMSA)
Greg Ochs
Director, Central Region, OPS
901 Locust Street, Suite 480
Kansas City, Missouri 64106-2641

**RE: Response of Caliber North Dakota, LLC
CPF 3-2021-080**

Dear Mr. Ochs,

This letter constitutes the response of Caliber North Dakota, LLC (“Caliber”) to the Notice of Proposed Violation (“NOPV”) and Proposed Compliance Order (“PCO”) (collectively, the NOPV and the PCO are referred to as the “Notice”) issued by the Pipeline and Hazardous Materials Safety Administration (“PHMSA”) on December 22, 2021, in Docket No. CPF 3-2021-080.

PHMSA issued the Notice after a records and procedure inspection conducted February 10, March 8-9, March 19, April 12-13 and August 31, 2021. The Notice included four proposed violations. By this response, Caliber does not contest NOPV 1 through 4 but does wish to provide additional information on NOPV 1 and 4 for PHMSA consideration. Caliber also requests that PHMSA withdraw or clarify the PCO requirement A.i. as described below.

Response to Specific NOPV

NOPV 1 — PHMSA’s Findings

1. 1. § 195.406 Maximum operating pressure

(a)

(b) No operator may permit the pressure in a pipeline during surges or other variations from normal operations to exceed 110 percent of the operating pressure limit established under paragraph (a) of this section. Each operator must provide adequate controls and protective equipment to control the pressure within this limit.

Caliber failed to maintain pressure within the maximum operating pressure (MOP) plus 10 % from March 8, 2019 to May 15, 2019 on a pump skid that was locked and tagged out with product in the line. The thermal overprotection device had been removed allowing pressure to reach 126 % of MOP. This violation is a repeat of violations found in CPF 3-2019-6001, Item No. 2.



Event Date	Location	Pressure Transmitter	Recorded Pressure	Calc Pressure @ Low Point	%	Comments	MOP
3/8/19 - 5/15/19	Hay Butte Crude Oil LACT	PIT-4017A	631.34	NA	126%	High pressure noted during this event was contained to ANSI 300 skid piping, pipeline was isolated with LOTO during event	500

NOPV 1 – Caliber’s Response

Upon review of the Notice, Caliber has reviewed and documented the high-pressure events referenced in the PHMSA finding. Enclosed with this letter is the explanation and circumstances surrounding the event titled “2019-2020 Rawson Pump Discharge Records.pdf” and “D-12034-PID-4010 REV 5_PHMSA Markup.pdf”.

Caliber requests PHMSA either remove the NOPV 1 based upon this evidence or reduce the civil penalty associated with this item.

NOPV 4 — PHMSA’s Findings

§ 195.507 Recordkeeping.

(a)

(b) Records supporting an individual's current qualification shall be maintained while the individual is performing the covered task. Records of prior qualification and records of individuals no longer performing covered tasks shall be retained for a period of five years.

Caliber failed to provide operator qualification records for the technician who performed the July 19, 2019 tank inspection, which is a qualified task as identified by Caliber.

NOPV 4 – Caliber’s Response

Upon review of the Notice, we have determined that the operator in question has since passed away and Caliber has been unable to obtain OQ qualifications for the individual. It appears that he was previously qualified for the tasks he performed under a separate program for another company. He performed the tasks during a transition in employment and Caliber fully believed he was qualified for the task. He was later qualified under the Caliber OQ program, but we are unable to provide documentation of the timeline. Under the circumstance and inability to obtain records for a deceased individual, I would like to request consideration in a reduction of the civil penalty.

PCO A.i. — PHMSA’s Findings

i. Pertaining to preventative and mitigative measures, Caliber must update its IMP to comply with the requirements of § 195.452(f)(6), and maintain the required documentation of such updates;

PCO A.i – Caliber’s Response

The PCO item which PHMSA appears to be referencing appears in NOPV 3 as the third finding associated with 195.452. The NOPV references a violation of 195.452(l)(ii) for failure to submit documentation in 2017, 2018, 2019 and 2020 to show that the annual reviews for preventative and mitigative (P&M) measures from Section 9.1 of the IMP plan were done. It also states that Caliber did not have documentation of any review, consideration or reasons for implementing, or not, the P&M recommendations in sections 5.4, 6.4 and 7.4 of the IMP plan. It is unclear based upon the NOPV findings the updates to its IMP which need to be made to comply with the requirements of § 195.452(f)(6).



950 17th Street • Suite 1000
Denver, CO 80202
Phone: 303-628-1410 • Fax: 303-628-1420
www.calibermidstream.com

Caliber requests that PHMSA either remove the reference PCO or update the requirement to clarify the specific updates which are needed to comply with the requirements of § 195.452(f)(6).

Conclusion

Caliber stresses, and will continue to stress, the importance of pipeline safety. Caliber requests that PHMSA either withdraw or reduce the civil penalties associated with NOPV 1 and 4. In addition, Caliber requests that PHMSA either remove PCO A.i or clarify the specific updates which are needed to comply with the PCO.

If there are any questions concerning this response, please contact the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel Werth", written in a cursive style.

Daniel Werth
President and CEO
Caliber Midstream