

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

VIA ELECTRONIC MAIL TO: Pierce.Norton@oneok.com; neal.jones@oneok.com

April 18, 2021

Pierce Norton
CEO
OKTEX Pipeline Company, LLC
100 West Fifth Street
Tulsa, Oklahoma 74103

CPF 3-2022-006-NOPV

Dear Mr. Norton:

From April 21, 2021 through May 27, 2021, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code (U.S.C.), inspected OKTEX Pipeline Company, LLC (OKTEX). The OKTEX inspection was performed on system #2690 and consists of approximately 106.5 miles of natural gas pipelines in El Paso, Texas, and various locations along the Texas/Oklahoma border. Field inspections were completed on pipeline facilities and associated procedures/records, and procedures/records were also reviewed remotely.

As a result of the inspection, it is alleged that OKTEX has committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The items inspected and the probable violations are:

- 1. § 192.465 External corrosion control: Monitoring.**
 - (a) Each pipeline that is under cathodic protection must be tested at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of § 192.463. However, if those tests intervals are impracticable for separately protected short sections of mains or transmission lines, not in excess of 100 feet (30 meters), or separately protected service**

(b) lines, these pipelines may be surveyed on a sampling basis. At least 10 percent of these protected structures, distributed over the entire system must be surveyed each calendar year, with a different 10 percent checked each subsequent year, so that the entire system is tested in each 10-year period.

OKTEX failed to test each pipeline under cathodic protection (CP) at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the cathodic protection met the requirements of § 192.463. When taking potential measurements, OKTEX did not consider IR drop as required. This occurred at 48 test points on six pipeline segments, as shown below, for four years. Per OKTEX staff, the pipelines were purchased without having the capability to take IR free CP readings. None of these line segments are considered separately protected short sections.

- El Paso Unit
 - Line Segment - BNT04A-100
 - Line Segment - BNT04B-100
 - Line Segment - MNT04-1
 - Line Segment - MNT05-1
- Oklahoma/Texas Unit
 - Line Segment - OK-02
 - Line Segment - OK-03

Per § 192.463, a CP system must provide a level of protection that complies with one or more of the applicable criteria contained in Appendix D to Part 192. Section I of Appendix D to Part 192 provides that a negative (cathodic) voltage of at least 0.85 volt, with reference to a saturated copper-copper sulfate half cell, is required for steel, cast iron, and ductile iron structures. Further, it states that determination of this voltage must be made with the protective current applied, and in accordance with Sections II and IV of Appendix D to Part 192. Section II to Appendix D says voltage (IR) drops, other than those across the structure-electrolyte boundary, must be considered for valid interpretation of the voltage measurement in paragraphs A(1) and (2) and paragraph B(1) of Section I of Appendix D to Part 192. When monitoring its CP system for these six pipe segments, OKTEX failed to consider IR drop as required.

2. § 192.709 Transmission lines: Record keeping.

Each operator shall maintain the following records for transmission lines for the periods specified:

(a)

(c) A record of each patrol, survey, inspection, and test required by subparts L and M of this part must be retained for at least 5 years or until the next patrol, survey, inspection, or test is completed, whichever is longer.

OKTEX failed to maintain records indicating the method(s) of patrolling used to observe surface conditions on and adjacent to the right-of-way. Per § 192.705(a) of Subpart M, each operator shall have a program to observe surface conditions on and adjacent to transmission line right-of-way, and § 192.705(c) says methods of patrolling include walking, driving, flying or other appropriate means of traversing the right-of-way. During PHMSA's field inspections there were several right-of-way areas noted with a tree canopy and vegetation overgrown inhibiting the

ability to evaluate surface conditions using aerial methods of patrolling. OKTEX personnel indicated that ground patrols were performed in certain areas. However, the records provided during the inspection failed to delineate which areas received ground patrols and were therefore insufficient to demonstrate compliance with the regulation.

3. § 192.709 Transmission lines: Record keeping.

Each operator shall maintain the following records for transmission lines for the periods specified:

(a)

(c) A record of each patrol, survey, inspection, and test required by subparts L and M of this part must be retained for at least 5 years or until the next patrol, survey, inspection, or test is completed, whichever is longer.

OKTEX failed to maintain records for each inspection for at least 5 years. As identified during the PHMSA inspection of OKTEX's overpressure control records, 34 inspection records were not maintained at the following facilities:

- Canutillo WGI - Missing readings from 2017 on 2 devices;
- Canutillo-Strahan Rd. – Missing readings from 2017 on 2 devices;
- Canutillo-Gillett Rd. – Missing readings from 2017 on 2 devices;
- Canutillo-Gato Rd. – Missing readings from 2017 on 2 devices;
- Anthony City Gate – Missing readings from 2017 on 2 devices;
- Del Norte – Missing readings from 2017 on 4 devices;
- La Tuna – Missing readings from 2017 – 2021 on 2 devices; and
- Canutillo – Missings readings from 2017 – 2021 on 2 devices.

4. § 192.917 How does an operator identify potential threats to pipeline integrity and use the threat identification in its integrity program?

(a)

(b) *Data gathering and integration.* To identify and evaluate the potential threats to a covered pipeline segment, an operator must gather and integrate existing data and information on the entire pipeline that could be relevant to the covered segment. In performing this data gathering and integration, an operator must follow the requirements in ASME/ANSI B31.8S, section 4. At a minimum, an operator must gather and evaluate the set of data specified in Appendix A to ASME/ANSI B31.8S, and consider both on the covered segment and similar non-covered segments, past incident history, corrosion control records, continuing surveillance records, patrolling records, maintenance history, internal inspection records and all other conditions specific to each pipeline.

OKTEX failed to integrate the data from an external corrosion direct assessment (ECDA), performed in 2017 on 4 line segments, with other information on the pipeline. Section 192.925(b) requires that data from an ECDA must be integrated with other information from the data integration required by § 192.917(b). During review of “Procedure 63: Data Integration” it was noted that data from the ECDA was not included in the data integration. ECDA data is relevant to identify and evaluate the potential threat of corrosion on the pipeline.

5. § 192.947 What records must an operator keep?

An operator must maintain, for the useful life of the pipeline, records that demonstrate compliance with the requirements of this subpart. At minimum, an operator must maintain the following records for review during an inspection.

(a)

(d) Documents to support any decision, analysis and process developed and used to implement and evaluate each element of the baseline assessment plan and integrity management program. Documents include those developed and used in support of any identification, calculation, amendment, modification, justification, deviation and determination made, and any action taken to implement and evaluate any of the program elements;

OKTEX failed to document the justifications and determinations made for the tool/assessment methods selected to maintain the pipeline's integrity. Per § 192.937(c), an operator must select the assessment method or methods best suited to address the identified threats. OKTEX did an annual review of the Continual Assessment Plan (CAP) that covers over 700 segments of pipeline. They generated a single brief review document that covers all 700+ segments. This checklist did not show any rationale for assessment methods chosen to address the threats on each segment. For example, Norteno 4 & 5, in both 2019 and 2020, had a risk score at or near 10 (the maximum possible) for internal corrosion, but the planned assessment method in 2024 was listed solely as external corrosion direct assessment (ECDA), but failed to detail, summarize, or otherwise reference how the decision to use that assessment method was selected.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$239,142 per violation per day the violation persists, up to a maximum of \$2,391,412 for a related series of violations. For violation occurring on or after May 3, 2021 and before March 21, 2022, the maximum penalty may not 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 violations and recommend that you be preliminarily assessed a civil penalty of \$12,300 as follows:

Item number
3

PENALTY
\$12,300

Warning Item

With respect to Items 2 and 4 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 promptly correct these items. Failure to do so may result in additional enforcement action.

Proposed Compliance Order

With respect to Items 1 and 5 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to OKTEX Pipeline Company, LLC. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

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 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 3-2022-006-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

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

Enclosures: *Proposed Compliance Order*

Response Options for Pipeline Operators in Enforcement Proceedings

cc: Neal Jones - neal.jones@oneok.com

PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to OKTEX Pipeline Company, LLC a Compliance Order incorporating the following remedial requirements to ensure the compliance of OKTEX Pipeline Company, LLC with the pipeline safety regulations:

- A. In regard to Item number 1 of the Notice pertaining to consideration of IR when completing annual cathodic protection surveys on six pipeline segments, OKTEX Pipeline Company, LLC must perform a close interval cathodic protection survey (CIS), that includes consideration of IR, to demonstrate adequate cathodic protection on those line segments identified in the Notice for Item 2. OKTEX must submit a schedule for the CIS within 30 days of receipt of the Final Order and complete the CIS's required by this paragraph within **180** days of receipt of the Final Order.
- B. In regard to Item number 5 of the Notice pertaining to documentation and technical justification of assessment method(s) chosen for covered segments in the integrity management program, OKTEX Pipeline Company, LLC must review its Continual Assessment Plan (CAP) and submit documentation describing the justification and rationale for each assessment method selected to address the identified threats on the covered pipeline segments within **90** days of receipt of the Final Order.
- C. When Proposed Compliance Order items extend beyond 90 days to complete, OKTEX Pipeline Company, LLC must begin, and continue submitting quarterly reports until all work necessary to implement the Compliance Order items is complete and the Final Order closed. Quarterly reports shall be submitted to Gregory A. Ochs, Director, OPS Central Region, Pipeline and Hazardous Materials Safety Administration.
- D. It is requested that OKTEX Pipeline Company, LLC maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Gregory A. Ochs, Director, Central Region, Pipeline and Hazardous Materials Safety Administration. It is requested that these costs be reported in two categories: 1) total cost associated with preparation/revision of plans, procedures, studies and analyses, and 2) total cost associated with replacements, additions and other changes to pipeline infrastructure.