



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: michael.koby@enbridge.com and
david.stafford@enbridge.com

April 12, 2022

Michael Koby
Vice President, US Operations
North Dakota Pipeline Company LLC
5400 Westheimer Ct.
Houston, Texas 77056

CPF 3-2022-022-NOPV

Dear Mr. Koby:

From March 16 through October 6, 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 Enbridge Energy LP's (Enbridge) North Dakota, Southern Lights, and Express system assets and records in North Dakota, Wisconsin, Minnesota, Montana, and Wyoming.

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

- 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 established under paragraph (a) of this section. Each operator must provide adequate controls and protective equipment to control the pressure within this limit.**

Enbridge failed to limit the pressure in a pipeline during surges or other variations from normal operations such that it would not exceed 110 percent of operating pressure. On Friday, September 21, 2018, the line blockage protection for Line 81 failed to activate, resulting in a line pressure of 114.01 percent of operating pressure.

2. § 195.505 Qualification Program.

Each operator shall have and follow a written qualification program. The program shall include provisions to:

(a)

(b) Ensure through evaluation that individuals performing covered tasks are qualified;

Enbridge did not ensure that the individual performing OQ Task 83 Overfill protection device inspection was qualified to perform the task. At the time of the operator’s inspection in July of 2019, the individual who performed the overfill protection device inspections on tanks 9800, 9801, 9802, 9803, 9804, and 9805 in Berthold was not qualified to perform this task per the records.

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 violations and recommend that you be preliminarily assessed a civil penalty of \$44,800, as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$22,400
2	\$22,400

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 3-2022-022-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

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

cc: Dave Stafford, Manager, US Pipeline Compliance, 119 N. 25th Street East,
Superior, Wisconsin 54880 david.stafford@enbridge.com