

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

VIA ELECTRONIC MAIL TO: jmcclure@nnogc.com and jrobertson@nnogc.com

March 1, 2022

Mr. James McClure, CEO
Navajo Nation Oil and Gas
PO Box 4439
Window Rock, AZ 86515

CPF 3-2022-037-NOPV

Dear Mr. McClure:

From May 24 to 28, 2021, 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 your Control Room Management Procedures and Records in Montezuma Creek, Utah.

This Notice is in response to PHMSA's Control Room Management (CRM) Initiative, which is a national level program that includes inspectors from every region. As a result, you may have received this Notice from a different Regional Director than typical because the CRM Initiative inspections are currently separate from the standard inspection program. Notices and correspondence from other types of inspections will remain unchanged.

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

1. 195.446 Control room management.

(a) *General.* This section applies to each operator of a pipeline facility with a controller working in a control room who monitors and controls all or part of a pipeline facility through a SCADA system. Each operator must have and follow written control room management procedures that implement the requirements of this section. The procedures required by this section must be integrated, as appropriate with the operator's written procedures required by § 195.402...

NNOG Running Horse Pipeline failed to provide an adequate procedure to verify correct safety related set point values during the calibration of overfill protection systems as required by Sections §195.446(e)(3) and §195.428(d). Following Review of test records of tank overfill protection systems, it was identified that the field inspections were not completed to compare with the SCADA values during the overfill protection systems for LT-1430, LT-1431, LT-1432 for 2019 and 2020. The reason given was because "getting the test was unsafe." Section 195.428(d) requires inspection and testing of overfill protection systems to determine that it is functioning properly, is in good mechanical condition, and is adequate from the standpoint of capacity and reliability of operation for the service in which it is used.

The operator tested tank overfill alarms for tanks LT-1430, LT-1431, LT-1432 on 11/22/2021.

2. 195.446 Control room management.

(a)...

(c) *Provide adequate information.* Each operator must provide its controllers with the information, tools, processes and procedures necessary for the controllers to carry out the roles and responsibilities the operator had defined by performing each of the following:

(1)...

(2)...

(3) *Test and verify an internal communication plan to provide adequate means for manual operation of the pipeline safely, at least once each calendar year, but at intervals not to exceed 15 months.*

NNOG Running Horse Pipeline failed to test and verify their internal communication plan for manual operation of the pipeline safely at least once each calendar year, but at intervals not exceeding 15 months for the years 2019 and 2020. There was a test performed on April 17, 2021.

3. 195.446 Control room management.

(a)...

(e) *Alarm management.* Each operator using a SCADA system must have a written alarm management plan to provide for effective controller response to alarms. An

operator's plan must include provisions to:

(1) Review SCADA safety-related alarm operations using a process that ensures alarm are accurate and support safe pipeline operations.

NNOG Running Horse Pipeline failed to implement safety related points and alarms in its SCADA system. The CRM plan, in Section 500-3.2 states, "[A]ll points are considered potential safety related points." This statement, outside Table 1's identification of safety related points, is the only other definition of safety related points. A comparison of the UCOS Master Data Base and Table 1, in the Alarm Management Plan, identified differences between what was listed as shut down pressure in Table 1 and the HiHi and Hi Set Point Pressures in SCADA. Set points, for multiple points, were different than what was indicated for shut down temperatures or pressures. The set points appeared to be different from the procedure and did not provide a consistent alarming strategy.

A further review of the SCADA data base identified several pressure tags, which were identified in Table 1 but not listed with set points. Other points provided set points in the data base but did not appear in Table 1. Implementation of safety related points is not consistent.

Additionally, safety-related alarms were not identified in the UCOS SCADA data base. There was no indication in the description that the alarm nor data point was safety related.

4. 195.446 Control room management.

(a)...

(h) Training. Each operator must establish a controller training program and review the training program content to identify potential improvements at least once each calendar year, but at intervals not to exceed 15 months. An operator's program must provide for training each controller to carry out the roles and responsibilities defined by the operator. In addition, the training program must include the following elements:

NNOG Running Horse Pipeline failed to develop a structured training program with content to implement CRM Plan procedure 500-8. The procedure described structured on the job training OJT. However, during the inspection, it was identified that OJT was not structured, and the operator had not developed a formal training program with defined plans, milestones, assessments and training content.

Additionally, the operator failed to provide records for the review of their training content for the years 2018, 2019 and 2020.

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 \$22,800 as follows:

<u>Item number</u>	<u>PENALTY</u>
2	\$22,800

Proposed Compliance Order

With respect to items 1, 3, 4 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Navaho Nation Oil and Gas. 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 3-2022-037-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

cc: Joe Robertson, Director Operations jrobertson@nnohc.com

Enclosures: *Proposed Compliance Order*
Response Options for Pipeline Operators in Enforcement Proceedings

PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Navajo Nation Oil and Gas (NNOG Running Horse Pipeline) a Compliance Order incorporating the following remedial requirements to ensure the compliance of NNOG Running Horse Pipeline with the pipeline safety regulations:

- A. In regard to Item number 1 of the Notice pertaining to failing to provide an adequate procedure to verify correct safety related set points during the calibration of overfill protection systems, NNOG Running Horse Pipeline must develop a procedure to calibrate the overfill protection systems to complete the calibration and verification of tanks LT-1430, LT-1431, LT-1432. The procedure must also include coordination with the control room to verify correct alarm set points and alarm descriptions in SCADA. Alleged safety concerns that restricted employees from conducting the tank overfill protection system test must be addressed. With the procedure in place, complete the calibration and verification test for all related tanks. This must be completed within **60** days of receipt of the Final Order.

- B. In regard to Item number 3 of the Notice pertaining to NNOG Running Horse Pipeline's failure to implement safety related points and alarms in its SCADA system, NNOG Running Horse Pipeline must identify all safety related points and alarms, rationalized all alarms to establish the appropriate set points and verify the alarm descriptions are correct. Part of the process must be to apply, in the database, the appropriate alarm priority level as defined by procedure, along with verification of the color presentation and any audible alerts and animation (flashing) for alarms. Additionally, safety related points and alarms must be defined in the SCADA master database (if capabilities for this exist) and, at a minimum, distinguish in the alarm description if the alarm is safety related. This must be completed within **90** days of receipt of the Final Order.

- C. In regard to Item number 4 of the Notice pertaining to failing to develop a structured training program with content to implement CRM Plan procedure 500-8, NNOG Running Horse Pipeline must implement a structured on the job training plan that includes, at a minimum: identification specific training content, web based or instructor led training, assessments for training courses and periodic progress. This must be provided for all positions, defined in the control room, who will maintain operator qualification to operate a console for either assigned shift rotation or to fill a temporary vacancy. The training plan should be developed so that the individual trainee, mentor, and supervisor understand the requirements and can track progress. This must be completed within **180** days of receipt of the Final Order.

- D. It is requested that NNOG Running Horse Pipeline 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.