

APR 30 2012

Mr. Bill Boyer
President
Centurion Pipeline, LP
5 Greenway Plaza
Houston, TX 77046

Re: CPF No. 4-2011-5013

Dear Mr. Boyer:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation and assesses a civil penalty of \$39,000. This is to acknowledge receipt of payment of the full penalty amount, by wire transfer, dated September 16, 2011. It further finds that Centurion Pipeline, LP, has completed the actions specified in the Notice to comply with the pipeline safety regulations. Therefore, this enforcement action is now closed. Service of the Final Order by certified mail is deemed effective upon the date of mailing, or as otherwise provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Rod M. Seeley, Director, Southwest Region, OPS
Mr. Alan Mayberry, Deputy Associate Administrator for Field Operations, OPS

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

**U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590**

In the Matter of)

Centurion Pipeline, LP,)

Respondent.)

CPF No. 4-2011-5013

FINAL ORDER

Between October 2010 and July 2011, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an investigation of an accident involving Centurion Pipeline, LP's (Centurion or Respondent) hazardous liquid pipeline system at the company's Slaughter Station near Sundown, Texas. Centurion, a subsidiary of Occidental Petroleum Corporation, operates approximately 2,750 miles of pipelines from southeast New Mexico to Cushing, Oklahoma.¹

The investigation arose out of an October 10, 2010 accident during which approximately 10,000 barrels of crude oil were released at Slaughter Station. As a result of the investigation, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated August 17, 2011, a Notice of Probable Violation, Proposed Civil Penalty and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Centurion had failed to report the accident at the earliest practicable moment, in violation of 49 C.F.R. § 195.52, and had committed various other violations of 49 C.F.R. Part 195. The Notice proposed assessing a civil penalty of \$39,000 and ordering Respondent to take certain measures to correct the alleged violations. The Notice also included a warning item, which required no further action but warned the operator to correct the probable violation or face future possible enforcement action.

Centurion responded to the Notice by letter dated September 16, 2011 (Response). The company did not contest the allegations of violation and paid the proposed civil penalty of \$39,000, as provided in 49 C.F.R. § 190.227. The company also provided information concerning the corrective actions it had taken and submitted copies of its revised procedures. Payment of the penalty serves to close the case with prejudice to Respondent. Centurion did not request a hearing and therefore has waived its right to one.

¹ <http://www.centurionpipeline.com> (last accessed April 20, 2012).

FINDINGS OF VIOLATION

The Notice alleged that Respondent violated 49 C.F.R. Part 195, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.52(a)(3), which states:

§ 195.52 Telephonic notice of certain accidents.

(a) At the earliest practicable moment following discovery of a release of the hazardous liquid or carbon dioxide transported resulting in an event described in § 195.50, the operator of the system shall give notice, in accordance with paragraph (b) of this section, of any failure that:

(1) . . .

(3) Caused estimated property damage, including cost of cleanup and recovery, value of lost product, and damage to the property of the operator or others, or both, exceeding \$50,000.

The Notice alleged that Respondent violated 49 C.F.R. § 195.52(a)(3) by failing to file a telephonic notice with the National Response Center (NRC) at the earliest practicable moment following discovery of a release of product that met the threshold of § 195.50. The Notice alleged that Centurion's accident at Slaughter Station met the reporting criteria of § 195.52 because it caused estimated property damage, including cleanup and recovery, value of lost product, and damage to the property of the operator or others exceeding \$50,000.² The release was discovered at 7:35 a.m. on the morning of October 11, 2010, and was reported to Centurion's Central Control at 7:45 a.m. However, Centurion did not make the telephonic notice to the NRC until 2:16 p.m., almost seven hours later (Report No. 956628).

Section 195.52 requires that operators report accidents meeting the criteria in § 195.50 at the "earliest practicable moment following discovery." Historically, PHMSA has interpreted this as being between 1-2 hours because the circumstances surrounding most liquid pipeline accidents have shown that operators generally have sufficient opportunity within a few hours to make an informed decision as to whether or not they must make an emergency notification to the NRC.

In addition, PHMSA has consistently communicated to the industry its need to evaluate the cause of incidents early on and not to wait until after evidence has become outdated or stale. PHMSA has issued two alert notices, dated April 15, 1991 (ALN-91-01) and August 30, 2002 (ADB-02-04), providing guidance to the industry on PHMSA's understanding of the term "earliest practicable moment."³ This guidance and the interpretation letters preceding the advisory bulletins state that PHMSA interprets the term "earliest practicable moment" as being between 1-2 hours.

In its Response, Centurion did not contest this allegation of violation. Accordingly, after considering all of the evidence, I find that Centurion violated 49 C.F.R. § 195.52(a)(3) by failing to report this accident at the earliest practicable moment.

² Centurion notified the NRC after making the decision that the cleanup costs could exceed \$50,000. Centurion listed the estimated costs to the operator in its initial Accident Report at \$64,130. *See* Report No. 20100240-15363, Pipeline Safety Violation Report (Violation Report), (August 17, 2011) (on file with PHMSA), Exhibit D.

³ *See* <http://www.phmsa.dot.gov/pipeline/regs/advisory-bulletin> for a list of PHMSA advisory bulletins.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 195.505(g), which states:

§ 195.505 Qualification program.

Each operator shall have and follow a written qualification program.

The program shall include provisions to:

(a) . . .

(g) Identify those covered tasks and the intervals at which evaluation of the individual's qualifications is needed.

The Notice alleged that Respondent violated 49 C.F.R. § 195.505(g) by failing to follow its own operator qualification (OQ) program. Specifically, it alleged that Centurion failed to re-qualify control center personnel as frequently as prescribed by the company's OQ program, which stated that the re-evaluation interval for Task O-1, "Operate Pipeline System from Control Center," was one year. PHMSA inspectors discovered, however, that Centurion had only been re-evaluating control center personnel every three to four years.

In its Response, Centurion did not contest the alleged violation and confirmed that it had re-qualified all Control Center operators as of May 25, 2011. Centurion also reviewed and revised its procedures to ensure that the required annual frequency of review was consistently applied. Accordingly, I find that Respondent violated 49 C.F.R. § 195.505(g) by failing to follow its own written OQ program.

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 195.54(b), which states:

§ 195.54 Accident reports.

(a) Each operator that experiences an accident that is required to be reported under § 195.50 shall as soon as practicable, but not later than 30 days after discovery of the accident, prepare and file an accident report on DOT Form 7000-1, or a facsimile.

(b) Whenever an operator receives any changes in the information reported or additions to the original report on DOT Form 7000-1, it shall file a supplemental report within 30 days.

The Notice alleged that Respondent violated 49 C.F.R. § 195.54(b) by failing to file a supplemental accident report within 30 days of receiving changes in the information originally reported. Specifically, it alleged that Centurion failed to update the release amount for its October 10, 2010 accident after learning of revised spill estimates. The original report filed on November 10, 2010 (report # 20100240-15363) indicated that 10,000 barrels had been released. Centurion filed three supplemental accident reports (report #s 20100240-15375, 20100240-15436, and 20100240-15454) yet provided no updated release amount in any of these reports.

During the investigation, PHMSA reviewed Centurion's Supervisory Control and Data Acquisition (SCADA records and determined that the leak most likely occurred at 5:00 p.m. on October 10, 2010, and that approximately 18,600 barrels had most likely been released. PHMSA inspectors also discovered that the vacuum trucks deployed for cleanup of the accident had removed approximately 11,750 barrels of product, which exceeded Centurion's original 10,000-barrel release estimate.

Centurion did not contest the probable violation but stated that it had made its best estimate of the release amount using data from its Control Center and volumetric calculations from the amount of oil recovered and the amount of product in the remediated soil. Centurion also stated that in its experience, vacuum trucks usually picked up 4-8% sediment and therefore the 11,750 barrel estimate may not have been accurate.

After considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.54(b) by failing to submit a supplemental accident report (DOT Form 7000-1) with an updated spill amount.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to an administrative civil penalty not to exceed \$100,000 per violation for each day of the violation, up to a maximum of \$1,000,000 for any related series of violations. In determining the amount of a civil penalty under 49 U.S.C. § 60122 and 49 C.F.R. § 190.225, I must consider the following criteria: the nature, circumstances, and gravity of the violation, including adverse impact on the environment; the degree of Respondent's culpability; the history of Respondent's prior offenses; the Respondent's ability to pay the penalty and any effect that the penalty may have on its ability to continue doing business; and the good faith of Respondent in attempting to comply with the pipeline safety regulations. In addition, I may consider the economic benefit gained from the violation without any reduction because of subsequent damages, and such other matters as justice may require. The Notice proposed a total civil penalty of \$39,000 for the violations cited above.

Item 1: The Notice proposed a civil penalty of \$7,500 for Respondent's violation of 49 C.F.R. § 195.52, for failing to submit a telephonic notice at the earliest practicable moment after discovering a crude oil release at its facility. Centurion did not contest either the allegation of violation or the proposed penalty amount. Accordingly, having reviewed the record and considered the penalty assessment criteria, I assess Respondent a civil penalty of \$7,500 which has already been remitted.

Item 3: The Notice proposed a civil penalty of \$31,500 for Respondent's violation of 49 C.F.R. § 195.505(g), for failing to follow the company's own OQ procedures for re-qualifying personnel. Centurion did not contest either the allegation of violation or the proposed penalty amount. Accordingly, having reviewed the record and considered the penalty assessment criteria, I assess Respondent a civil penalty of \$31,500, which has already been remitted.

In summary, upon review of all the evidence and consideration of the assessment criteria for each of the Items cited above, I assess Respondent a total civil penalty of \$39,000, which has already been remitted.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 3 and 4 in the Notice for violations of 49 C.F.R. §§ 195.505 and 195.54, respectively. Under 49 U.S.C. § 60118(a), each person who engages in the transportation of hazardous liquids or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. The Director has indicated that Respondent has taken the following actions to address the cited violations:

Item 3: Centurion has made revisions to its OQ program and supporting documents to ensure that personnel are annually re-qualified for Task O1, “Operate Pipeline System from Control Center.” In addition, on May 25, 2011, Centurion completed re-qualification of all Control Center operators as required by the Proposed Compliance Order.

Item 4: Centurion has revised the release volume stated in the DOT 7000-1 Supplemental Accident Form for the October 10, 2010 accident.

Accordingly, I find that compliance has been achieved with respect to these violations. Therefore, the compliance terms proposed in the Notice are not included in this Order.

WARNING ITEM

With respect to Item 2, the Notice alleged a probable violation of Part 195 specifically considered to be a warning item. The warning was for:

49 C.F.R. § 195.402(a) (**Item 2**) — Respondent’s alleged failure to follow its own written procedure for the inspection of in-service breakout tanks (P#195.432(b)). Specifically, the Notice alleged that Respondent failed to conduct a monthly inspection of tank #6688 for August 2009. In its Response, Centurion acknowledged that although it should have completed the inspection in August 2009, it conducted this particular tank inspection on September 2, 2009.

If OPS finds a violation of this provision in a subsequent inspection, Respondent may be subject to future enforcement action.

The terms and conditions of this Final Order are effective upon receipt of service.

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued