

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

_____)
In the Matter of)
)
Centurion Pipeline, LP,)
a subsidiary of Occidental Petroleum Corp.,)
)
Respondent.)
_____)

CPF No. 4-2014-5025

CONSENT AGREEMENT AND ORDER

The U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA), and Centurion Pipeline, LP (Centurion or Respondent) have engaged in settlement discussions regarding the resolution of the enforcement action listed above and the Petition for Review filed by Centurion in the U.S. Court of Appeals for the Fifth Circuit, Case No. 17-60775. Having concluded those discussions, PHMSA and Centurion (collectively, Parties) agree that a settlement of this matter is in the best interests of the Parties and the public and will avoid further administrative proceedings or litigation. The Parties further agree that the entry of this Consent Agreement and Order (Agreement) is the most appropriate means of accomplishing that objective.

I. Procedural History

On September 30, 2014, PHMSA issued to Centurion a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice). The Notice alleged that Centurion had committed violations of 49 C.F.R. §§ 195.404 and 195.442 and proposed an administrative civil penalty of \$165,600 for the alleged violations. The Notice also proposed ordering certain compliance measures to correct the alleged violations.

Centurion responded to the Notice by letter dated October 30, 2014, contested the allegations, and requested a hearing. A hearing was held on April 29, 2015, in Houston, Texas, with an attorney from the Office of Chief Counsel, PHMSA, presiding. After the hearing, Centurion provided post-hearing statements for the record on June 26, 2015, and August 14, 2015. Pursuant to § 190.209(b)(7), the Director of the Southwest Region, Office of Pipeline Safety, PHMSA, submitted a written evaluation of Centurion’s response material on July 9, 2015.

On March 31, 2017, pursuant to 49 C.F.R. § 190.213, PHMSA issued a Final Order in this proceeding, finding that Centurion committed violations of § 195.404(a) (Item 1) and § 195.442 (Item 2), as alleged in the Notice. The Final Order assessed a reduced civil penalty of \$122,400, and ordered corrective action with respect to Item 1, as set forth in the Compliance Order.

In accordance with 49 C.F.R. § 190.243, Centurion filed a timely Petition for Reconsideration of the Final Order on April 27, 2017, seeking reconsideration of the violations, civil penalties, and Compliance Order. The filing automatically stayed payment of the assessed civil penalty pursuant to § 190.243(c), but did not stay the corrective actions required to be completed under the Compliance Order. On October 24, 2017, PHMSA issued a Decision on Petition for Reconsideration, denying the Petition and affirming the Final Order without modification.

On November 17, 2017, Centurion filed a petition for review in the United States Court of Appeals for the Fifth Circuit challenging the Associate Administrator's findings of violation, in a case styled Centurion Pipeline, L.P. v. TRAN, *et al.*, Agency No. 4-2014-5025, Case No. 17-60775 (Petition). Under the terms and conditions set forth in this Agreement, the Parties have now resolved the issues underlying the Notice, Final Order, and Petition, and Centurion will dismiss its Petition as provided in Paragraph 13 of this Agreement.

II. General Provisions.

1. Respondent acknowledges that its pipeline system is subject to the jurisdiction of the federal Pipeline Safety Laws, 49 U.S.C. §§ 60101, *et seq.*, and the regulations and administrative orders issued thereunder. As used in this Agreement, the term "pipeline system" shall be defined as in 49 C.F.R. Part 195. Respondent acknowledges that it received proper notice of PHMSA's action in this proceeding and that the Notice states claims upon which relief may be granted pursuant to 49 U.S.C. §§ 60101, *et seq.*, and the regulations and orders issued thereunder.

2. Respondent consents to the issuance of this Agreement and hereby waives any further procedural requirements with respect to its issuance. Respondent waives all rights to contest the adequacy of notice or the validity of this Agreement, including all rights to administrative or judicial hearings, reviews, or appeals.

3. This Agreement constitutes the final, complete, and exclusive agreement and understanding between the Parties with respect to the settlement embodied in this Agreement, and the Parties acknowledge that there are no representations, agreements, or understandings relating to the settlement other than those expressly contained in this Agreement.

4. Nothing in this Agreement affects or relieves Respondent of its responsibility to comply with all applicable requirements of the federal Pipeline Safety Laws, 49 U.S.C. §§ 60101, *et seq.*, and the regulations and orders issued thereunder. Nothing in this Agreement alters PHMSA's right of access, entry, inspection, and information-gathering or its authority to bring any enforcement action against Respondent pursuant to the federal Pipeline Safety Laws, the regulations and orders issued thereunder.

5. This Agreement does not waive or modify any federal, state, or local laws or regulations that are applicable to Respondent or its pipeline system. This Agreement is not a permit, or a modification of any permit, under any federal, state, or local laws or regulations. Respondent remains responsible for achieving and maintaining compliance with all applicable federal, state, and local laws, regulations and permits.

6. This Agreement does not create rights in, or grant any cause of action to, any third party not a party to this Agreement.

7. This Agreement shall apply to and be binding on PHMSA and Centurion, its officers, directors, employees, successors and assigns, including, but not limited to, any subsequent purchaser of the at issue pipelines.

III. Amendments to Final Order and Related Provisions

8. By entry of this Agreement, PHMSA amends the provisions in the Final Order as they relate to Item 1, the alleged violation of 49 C.F.R. § 195.404(a). PHMSA amends Item 1 to a Warning Item pursuant to 49 C.F.R. § 190.205. PHMSA's determination that Centurion violated 49 C.F.R. § 195.442(c)(5) (Item 2) is not amended in any way, and remains in place. PHMSA may choose to consider Item 1 and Item 2 to be prior findings of violation in future PHMSA enforcement actions brought against Centurion.

9. By entry of this Agreement, PHMSA amends the Final Order to assess a total civil penalty of Ninety-Two Thousand Dollars (\$92,000.00).

10. Centurion will pay the civil penalty amount in Paragraph 10 within 30 calendar days of the Effective Date of this Agreement. Payment shall be made by wire transfer through the Federal Reserve Communications System (Fedwire), to the account of the U.S. Treasury, as outlined in the Final Order.

11. Centurion stipulates that the facts as alleged in the Notice are true and correct, but denies that it violated the Federal pipeline safety regulations.

12. PHMSA finds that Centurion has completed all compliance measures contained in the Compliance Order.

IV. Dismissal of Petition for Review

13. Within three (3) business days after the Effective Date of this Agreement, Centurion shall file with the U.S. Court of Appeals for the Fifth Circuit a motion to dismiss the Petition pursuant to Rule 42(b) of the Federal Rules of Appellate Procedure, specifying that the Parties will bear their own costs and fees.

V. Effective Date

14. The "Effective Date," as used herein, is the date on which this Agreement is signed by both Respondent and PHMSA.

The Parties hereby agree to all conditions and terms of this Agreement:

For PHMSA:



Alan K. Mayberry
Associate Administrator for
Pipeline Safety, PHMSA

For Centurion Pipeline, LP:



Jennifer Fontenot
LOO
Centurion Pipeline, LP TRD