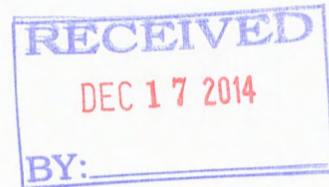




December 17, 2014



VIA HAND AND ELECTRONIC DELIVERY

Mr. R.M. Seeley, Director
U.S. Department of Transportation
Pipeline & Hazardous Materials Safety Administration
Southwest Region
8701 South Gessner, Suite 1110
Houston, TX 77074

RE: CPF 4-2014-5028

Dear Mr. Seeley:

Centurion Pipeline Company L.P. (“Centurion”) acknowledges receipt of and hereby timely responds to the Notice of Probable Violation, Proposed Civil Penalty and Proposed Compliance Order dated November 10, 2014, in the above-referenced matter (the “NOPV”). As set forth below, Centurion contests the allegations and/or proposed civil penalty amounts with respect to Items 1, 2, 3, 5 and 6 of the NOPV.

Centurion respectfully requests a hearing to address certain of the contested items. Without waiving its rights to supplement the Statement of Issues for In-Person Hearing or Issues to Be Presented in Writing Prior to In-Person Hearing included herein and to address all contested items at the hearing, Centurion respectfully intends to (1) submit a detailed written briefing with supporting materials no later than 10 days prior to the scheduled hearing for consideration by the presiding official and Southwest Region staff with respect to Items 1, 2 and 3 of the NOPV and (2) specifically address at the hearing Items 5 and 6 of the NOPV. This approach will expedite the in-person hearing process while ensuring Centurion and PHMSA have adequate opportunity to fully consider the contentions and supporting materials in the record with respect to all contested items.

Request for In-Person Hearing

Pursuant to 49 CFR §§ 190.211(b) and (c), Centurion requests an in-person hearing at the OPS Southwest Region office. Centurion intends to be represented by counsel at the hearing and will arrange transcription of the proceeding at its own expense. The Statement of Issues Centurion intends to raise at the hearing is as follows.

Statement of Issues for In-Person Hearing

Item 5 of NOPV – 195.452(h)(2):

Centurion will address at the hearing the allegations in the NOPV related to the alleged probable violation of 49 CFR § 195.452(h)(2), which provides in pertinent part:

Discovery of a condition occurs when an operator has adequate information about the condition to determine that the condition presents a potential threat to the integrity of the pipeline. An operator must promptly, but no later than 180 days after an integrity assessment, obtain sufficient information about a condition to make that determination, unless the operator can demonstrate that the 180-day period is impracticable.

The testimony and material to be presented by Centurion at the hearing with respect to Item 5 includes evidence regarding the following:

(a) PHMSA's misapplication of the regulatory requirement to the factual circumstances of the integrity assessment at issue, including, but not limited to:

(i) the performance of the integrity assessment using advanced in-line inspection technology from Centurion's vendor, and the characteristics and volume of the highly detailed data resulting from the in-line inspection;

(ii) the occurrence of damage to the in-line inspection tool during the tool run;

(iii) the effect of the damage to the tool on the completion of the integrity assessment, including the availability of acceptable data generated by the tool that could be used to evaluate the integrity of the system;

(iv) the impact of inadequate data on the completion of the integrity assessment such that the "180-day period" to determine conditions on the pipeline had yet to commence on December 3, 2011;

(v) the actions of Centurion in response to the vendor's notification of the failure of the in-line inspection tool to produce salvageable data due to the damage incurred to the tool, including Centurion's communications with the vendor to avoid an outright declaration of a failed tool run and to obtain data as soon as possible to expedite Centurion's evaluation of the integrity of its system; and

(vi) Centurion's proactive methodology employed through its "Rapid Review" program using in-house expertise to assess salvaged data from the compromised in-line inspection and thus expedite its ability to obtain information about conditions on the line, as opposed to declaring a failed tool run;

(b) the industry-wide chilling effect and unintended regulatory consequence that likely would result from PHMSA's finding of violation and imposition of a penalty in the present circumstances, including (i) operators' future hesitance to select advanced in-line inspection tools capable of producing highly sensitive and fully integrated integrity analyses due to the volume of data produced by such tools and the time, effort and expense to process such data, especially given the possibility of adverse events of the nature experienced by Centurion and (ii) operators' having increased incentive to declare a tool run failed and wait to obtain information on pipeline integrity instead of proactively attempting to salvage data to achieve expedited awareness of pipeline conditions; and

(c) as appropriate, clarification or correction of statements contained in the NOPV, the violation report, and/or other documents relied on by PHMSA in support of the alleged probable violation and the assessment of a proposed civil penalty in the amount of \$36,000.

Centurion requests the withdrawal of Item 5 or, if PHMSA makes a finding of violation regarding Item 5, the elimination or reduction of the proposed civil penalty.

Item 6 of NOPV – 195.452(h)(4):

Centurion will further address at the hearing the allegations in the NOPV related to the alleged probable violation of 49 CFR § 195.452(h)(4), which provides in pertinent part:

(h)(4) Special requirements for scheduling remediation

Immediate repair conditions. An operator's evaluation and remediation schedule must provide for immediate repair conditions. To maintain safety, an operator must temporarily reduce operating pressure or shut down the pipeline until the operator completes the repair of these conditions. An operator must calculate the temporary reduction in operating pressure using the formula in Section 451.6.2.2 (b) of ANSI/ASME B31.4 (incorporated by reference, see § 195.3). An operator must treat the following conditions as immediate repair conditions:

Metal loss greater than 80% of nominal wall regardless of dimensions.

(B) A calculation of the remaining strength of the pipe shows a predicted burst pressure less than the established maximum operating pressure at the location of the anomaly. Suitable remaining strength calculation methods include, but are not limited to, ASME/ANSI B31G ("Manual for Determining the Remaining Strength of Corroded Pipelines" (1991) or AGA Pipeline Research Committee Project PR-3-805 ("A Modified Criterion for Evaluating the Remaining Strength of Corroded Pipe" (December 1989)). These documents are incorporated by reference and are available at the addresses listed in Sec. 195.3.

(C) A dent located on the top of the pipeline (above the 4 and 8 o'clock positions) that has any indication of metal loss, cracking or a stress riser.

(D) A dent located on the top of the pipeline (above the 4 and 8 o'clock positions) with a depth greater than 6% of the nominal pipe diameter.

(E) An anomaly that in the judgment of the person designated by the operator to evaluate the assessment results requires immediate action.

The testimony and material to be presented by Centurion at the hearing with respect to Item 6 includes evidence regarding the following:

- (a) Possible misinterpretation by PHMSA of Centurion's internal labeling of information from raw data salvaged during the aforementioned "Rapid Review" process;
- (b) Centurion's use of the term "immediate repair condition" in its Rapid Review process to prompt its personnel to excavate at identified pipeline segments in order to further investigate the otherwise insufficient or incomplete data regarding potential conditions;
- (c) instances in which Centurion's internal Rapid Review label of "immediate repair condition" was used to trigger excavations at identified pipeline segments that resulted in Centurion ascertaining sufficient information to determine that an immediate repair condition did not exist;

(d) Centurion's revisions to its Rapid Review program terminology to ensure a clear and unmistakable demarcation between instances where it has obtained sufficient information to determine an anomaly exists that triggers the Immediate, 60-day or 180-day remediation requirements and those instances where further investigation is needed to obtain sufficient information about the potential existence (i.e., "discovery") of a condition that could trigger a remediation requirement;

(e) Centurion's actions to shut down line segments immediately following excavation of those segments that revealed an immediate repair condition, thus satisfying the requirement for a pressure reduction or shutdown upon discovery of an immediate repair condition; and

(f) as appropriate, clarification or correction of statements contained in the NOPV, the violation report, and/or other documents relied on by PHMSA in support of the alleged probable violation and the assessment of a proposed civil penalty in the amount of \$40,300.

Centurion requests the withdrawal of Item 6 or, if PHMSA makes a finding of violation regarding Item 6, the elimination or reduction of the proposed civil penalty.

Issues to Be Presented in Writing Prior to In-Person Hearing

In conjunction with its request for an in-person hearing, and in the interest of expediency, Centurion will provide a detailed written briefing on its position with respect to the allegations and/or proposed civil penalties regarding Items 1, 2, and 3 of the NOPV no later than 10 days prior to the date of the hearing. Each of these items concerns 49 CFR § 195.432, "Inspection of in-service breakout tanks." Centurion intends to (a) present information supporting a reduction of the proposed civil penalty of \$42,400 with respect to Item 1, while not contesting the underlying alleged violation; (b) present information supporting a partial elimination of the alleged violation and reduction of the proposed civil penalty of \$23,600 with respect to Item 2; and (c) present information supporting the withdrawal of Item 3 or, if PHMSA makes a finding of violation, the reduction of the proposed civil penalty of \$23,600.

Notably, each of Item 1, 2 and 3 concerns an alleged violation that, if it did exist, was of limited duration and, based on PHMSA's account of the information collected during its integrated inspection, had been corrected by Centurion prior to the initiation of the integrated inspection. Notwithstanding Centurion's challenge to the alleged violations in Items 2 and 3 of the NOPV and other potential considerations under PHMSA's civil penalty assessment criteria, Centurion's proactivity in identifying and addressing potential issues with respect to inspections of its in-service breakout tanks warrants significant reduction of the proposed penalty amounts for each of Items 1, 2 and 3.

Response to Proposed Compliance Order

Centurion does not contest Item 4 of the NOPV and hereby notifies PHMSA that it intends to take the actions contained in the associated Proposed Compliance Order. Centurion will take expedited action to address the items in the compliance order and intends to provide documentation of its compliance in advance of the hearing, if possible.

Reservation of Rights

Centurion reserves its right to supplement this initial response to further address the items in the NOPV or add/withdraw any contention based upon its review of the evidence in this matter, or to amend the Statement of Issues for In-Person Hearing or Issues to Be Presented in Writing Prior to In-Person Hearing, as necessary.

Sincerely,



Melissa G. Freeman
Senior Counsel

cc: Shawn McGovern
Bill Boyer
Gregory Romero
Ahren Tryon