



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

8701 South Gessner, Suite 1110
Houston, TX 77074

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

March 14, 2016

Leonard Bloom
Director of Pipelines
Western Refining Pipeline, LLC
111 County Road 4990
Bloomfield, New Mexico 87413

CPF 4-2016-5003

Dear Mr. Bloom:

On April 15, 2015, Western Refining Pipeline, LLC (Western) experienced a crude oil release in Eddy County, New Mexico. As a result, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code conducted an accident investigation and reviewed documentation related to the accident at the T-Station.

As a result of the investigation, it appears that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violations are:

1. 195.402 – Procedural Manual for Operations and Maintenance, and Emergencies

- (a) General: Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies**

Western Refining Pipeline, LLC failed to follow its written "February/March, 2015, 16" and 12" TexNewMexX Crude Oil Fill Plan," for the San Ysidro to Placitas to Pecan to Tee Station segment. The plan required all of the pumping of oil and the filling of the pipeline to take place only during daylight hours. (Page 1, Daily line fill operations) Western's failure to follow the plan allowed pumping of oil and filling of the pipeline to take place at all hours of the day. On April 15, 2015, at 6 a.m. MST, the line was overfilled and product was released from a frac tank in the Tee Station in Eddy County, New Mexico.

Western's employee discovered oil spilled from a frac tank at the site location on April 15, 2015. The overfill was not observed immediately in the overnight hours.

2. 195.402 – Procedural Manual for Operations and Maintenance, and emergencies.

- (a) General: Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies.**

Western failed to follow its written Operations and Maintenance Manual Section 3.2.5 and report an accident that occurred on their facility within one hour of discovery. O&M Section 3.2.5 requires a telephonic report within one hour following discovery. On April 25, 2015, Western experienced a reportable accident on their Mesquite Station to Tee Station pipeline system and did not notify the National Response Center until 08:27 am EST to report the spill that was discovered at 06:00 am EST. Western's telephonic notification was made 2 hours and 27 minutes after discovery that the event occurred.

Proposed Civil Penalty

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$200,000 per violation per day the violation persists up to a maximum of \$2,000,000 for a related series of violations. For violations occurring prior to January 4, 2012, the maximum penalty may not exceed \$100,000 per violation per day, with a maximum penalty not to exceed \$1,000,000 for a related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation(s) and has recommended that you be preliminarily assessed a civil penalty of \$106,500 as follows:

<u>Item number</u>	<u>PENALTY</u>
Item #1	\$106,500

Warning Items

With respect to Item 2, we have reviewed the circumstances and supporting documents involved in this case and have decided not to conduct additional enforcement action or penalty assessment proceedings at this time. We advise you to promptly correct this item. Failure to do so may result in additional enforcement action.

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Compliance Proceedings*. Please refer to this document and note the response options. All material 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). 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.

In your correspondence on this matter, please refer to **CPF 4-2016-5003** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,



R. M. Seeley
Director, Southwest Region
Pipeline and Hazardous Materials Safety Administration

Enclosure: *Response Options for Pipeline Operators in Compliance Proceedings*