

August 8, 2019

Mr. Mike Prince  
Chief Executive Officer  
Lotus Midstream, LLC  
2150 Town Square Place  
Suite 395  
Sugar Land, Texas 77479

**Re: CPF No. 4-2018-5013**

Dear Ms. Hollub:

Enclosed please find the Final Order issued in the above-referenced case to your subsidiary, Centurion Pipeline, LP. It makes findings of violation, assesses a civil penalty of \$40,300, and specifies actions that need to be taken to comply with the pipeline safety regulations. The penalty payment terms are set forth in the Final Order. When the civil penalty has been paid and the terms of the compliance order completed, as determined by the Director, Southwest Region, this enforcement action will be closed. Service of the Final Order by certified mail is effective upon the date of mailing, as provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Alan K. Mayberry  
Associate Administrator  
for Pipeline Safety

Enclosure

cc: Ms. Mary L. McDaniel, Director, Southwest Region, Office of Pipeline Safety, PHMSA  
Mr. Michael Morgan, GM Operations, Centurion Pipeline, LP

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

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**In the Matter of** )

**Centurion Pipeline, LP,** )  
**a subsidiary of Lotus Midstream, LLC,** )

**Respondent.** )  
\_\_\_\_\_ )

**CPF No. 4-2018-5013**

**FINAL ORDER**

From May 1, 2017, through February 23, 2018, 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 on-site pipeline safety inspection of the facilities and records of Centurion Pipeline, LP (Centurion or Respondent), in Houston and Midland, Texas. Centurion operates approximately 2,900 miles of pipeline extending from southeast New Mexico across the Permian Basin of west Texas to Cushing, Oklahoma.<sup>1</sup> At the time of our pipeline safety inspection, Centurion was a wholly-owned subsidiary of Occidental Petroleum Corporation<sup>2</sup> but is now a subsidiary of Lotus Midstream, LLC.

As a result of the inspection, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated July 23, 2018, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice), which also included a warning pursuant to 49 C.F.R. § 190.205. In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Centurion had committed three violations of 49 C.F.R. Part 195 and proposed assessing a civil penalty of \$40,300 for one of the alleged violations. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violations. The warning items required no further action but warned Centurion to correct the probable violations or face possible future enforcement action.

After requesting and receiving an extension of time to respond, Centurion responded to the Notice by letter dated September 24, 2018 (Response). The company contested several of the allegations of violation, provided an explanation of its actions, and requested that the proposed civil penalty be eliminated. The Southwest Region subsequently held an in-person meeting with Centurion on September 26, 2018, after which Respondent submitted a Supplemental Response

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<sup>1</sup> Centurion Pipeline, LP website, available at <http://www.centurionpipeline.com/about/about-centurion-pipeline.aspx> (last accessed March 7, 2019).

<sup>2</sup> Pipeline Safety Violation Report (Violation Report) (July 23, 2018) (on file with PHMSA), at 1.

dated December 6, 2018, that corrected certain information contained in the initial Response and made additional arguments regarding the proposed compliance order. Respondent did not request a hearing and therefore has waived its right to one.

**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. § 195.583(a), which states:

**§ 195.583 What must I do to monitor atmospheric corrosion control?**

(a) You must inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion, as follows:

If the pipeline is located:	Then the frequency of inspection is:
Onshore .....	At least once every 3 calendar years, but with intervals not exceeding 39 months.
Offshore .....	At least once each calendar year, but with intervals not exceeding 15 months.

The Notice alleged that Respondent violated 49 C.F.R. § 195.583(a) by failing to inspect each onshore pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion at least once every 3 calendar years, but at intervals not exceeding 39 months. Specifically, the Notice alleged that Centurion failed, within the required timeframe, to inspect exposed portions of its pipeline between Bretch and El Reno, Oklahoma, for evidence of atmospheric corrosion. Centurion inspected this pipeline segment for atmospheric corrosion on April 1, 2013, but did not inspect it again until October 2017, exceeding the July 1, 2016 maximum interval date.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.583(a) by failing to inspect each onshore pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion at least once every 3 calendar years, but at intervals not exceeding 39 months.

**Item 3:** The Notice alleged that Respondent violated 49 C.F.R. § 195.452(l)(1)(ii), which states:

**§ 195.452 Pipeline integrity management in high consequence areas.**

(a) . . . .

(1) *What records must an operator keep to demonstrate compliance?*

(1) An operator must maintain, for the useful life of the pipeline, records that demonstrate compliance with the requirements of this subpart. At a

minimum, an operator must maintain the following records for review during an inspection:

- (i) . . .
- (ii) Documents to support the decisions and analyses, including any modifications, justifications, deviations and determinations made, variances, and actions taken, to implement and evaluate each element of the integrity management program listed in paragraph (f) of this section.

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(l)(1)(ii) by failing to maintain, for the useful life of the pipeline, records demonstrating compliance with the requirements of § 195.452(f) and (g). Compliance would include, at a minimum, the maintenance of documents supporting the decisions and analyses, including any modifications, justifications, deviations and determinations made, variances, and actions taken, to implement and evaluate each element of an operator's integrity management program, as listed in 49 C.F.R. § 195.452(f). Specifically, the Notice alleged that during the PHMSA inspection, Centurion was unable to produce records documenting that it had conducted the information analysis required by subparagraph (3) of § 195.452(f)<sup>3</sup> and paragraph (g) to support the company's pipeline integrity-evaluation decisions.<sup>4</sup>

Respondent contested this allegation of violation, arguing that § 195.452(l)(1)(ii) requires an operator to maintain "documents to support the decisions and analyses" made as part of its integrity-management program, but not records "documenting the information analysis" it had conducted under § 195.452(g). The company stated: "Although Centurion believes that its records satisfy both standards, Centurion believes that the plain regulatory language differs from the NOPV's characterization of the requirement. The regulatory language requires records of supporting documentation, while the NOPV contemplates written documentation summarizing the analysis." The company pointed to the various records<sup>5</sup> it had provided during the PHMSA inspection that supported its decisions and analyses made under § 195.452(g) and argued that

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<sup>3</sup> Subparagraph (3) of § 195.452(f) states that operators must include "[a]n analysis that integrates all available information about the integrity of the entire pipeline and the consequences of a failure (see paragraph (g) of this section)..."

<sup>4</sup> Paragraph 195.452(g) states:

"(g) *What is an information analysis?* In periodically evaluating the integrity of each pipeline segment (paragraph (j) of this section), an operator must analyze all available information about the integrity of the entire pipeline and the consequences of a failure. This information includes:

- (1) Information critical to determining the potential for, and preventing, damage due to excavation, including current and planned damage prevention activities, and development or planned development along the pipeline segment;
- (2) Data gathered through the integrity assessment required under this section;
- (3) Data gathered in conjunction with other inspections, tests, surveillance and patrols required by this Part, including, corrosion control monitoring and cathodic protection surveys; and
- (4) Information about how a failure would affect the high consequence area, such as location of the water intake."

<sup>5</sup> Centurion stated that it had provided to PHMSA the following records: "(1) In-line inspection ("ILI") results; (2) Threat analysis documents; (3) Select tool process to inspect threats on pipeline; (4) Process to review ILI results; (5) Calculate corrosion growth rate; (6) Documents showing categorization of needed repairs; (7) Repair plan; and (8) Work journal for the project."

these documents satisfied the record-keeping requirement under § 195.452(l)(1)(ii).<sup>6</sup>

I disagree. Subpart F of Part 195 requires all operators to develop and implement a comprehensive integrity-management program that provides an extra measure of safety and environmental protection for “High Consequence Areas” (HCAs)<sup>7</sup> and neighboring “could-affect” areas along the routes of their hazardous liquid pipelines. This program includes the general record-keeping requirement in § 195.452(l), under which operators must keep records specifically documenting how it made all “decisions and analyses, including any modifications, justifications, deviations and determinations made, variances, and actions taken, to implement and evaluate each element” of their integrity management program.

One of the most important elements of an integrity-management program is the “information analysis” required under § 195.452(g), which involves an engineering analysis that periodically evaluates the integrity of each pipeline segment and analyzes “all available information about the integrity of the entire pipeline and the consequences of a failure.” Such an analysis must include at least four sets of risk data, including the prevention of damage from excavation, ILI data, information gathered through other inspections, tests, surveillance, corrosion control and corrosion-control surveys, and information related to the potential consequences of a pipeline failure on the operator’s HCAs. This analysis then forms the basis for addressing anomalies on the pipeline and developing preventive and mitigative measures to reduce the likelihood and consequences of potential releases. In many ways, this “information analysis” lies at the heart of integrity management because it not merely compiles various risk data, but actually analyzes and integrates *all available information* to identify and address the unique risks affecting the integrity of each pipeline segment.

In this case, Respondent could not produce records showing that this sort of integrative information analysis had actually taken place. For example, Respondent had in-inline inspection results, threat-analysis documents, corrosion-rate calculations, and other data, but there was no record explaining and summarizing how Centurion had actually taken this data to reach certain conclusions about risk and how the company had gone about implementing an effective integrity-management strategy.

Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.452(l)(1)(ii) by failing to maintain, for the useful life of the pipeline, records that demonstrate compliance with the requirements of § 195.452(f) and (g).

**Item 4:** The Notice alleged that Respondent violated 49 C.F.R. § 195.563, which states, in relevant part:

**§ 195.563 Which pipelines must have cathodic protection?**

(a) Each buried or submerged pipeline that is constructed, relocated, replaced, or otherwise changed after the applicable date in § 195.401(c) must have cathodic protection. The cathodic protection must be in

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<sup>6</sup> Response, at 1-2.

<sup>7</sup> See 49 C.F.R. § 194.450 for the definition of “High Consequence Area.”

operation no later than 1 year after the pipeline is constructed, relocated, replaced, or otherwise changed, as applicable.

(b) . . . .

(d) Bare pipelines, breakout tank areas, and buried pumping station piping must have cathodic protection in places where regulations in effect before January 28, 2002 required cathodic protection as a result of electrical inspections. . . .

The Notice alleged that Respondent violated 49 C.F.R. § 195.563 by failing to have cathodic protection (CP) on five of its breakout tanks. Specifically, the Notice alleged that Centurion installed vapor corrosion inhibitors (VCIs) with electric resistance (ER) probes for monitoring the corrosion rate between the floors of five breakout tanks (Tank Nos. 6689, 7264, 7265, 6719, and 1878). The Notice alleged that while Centurion had CP on the old tank floors, the use of VCI with ER probes could not serve as a substitute for CP on the new tank floors.

In its Response, Centurion contested the allegation of violation only with respect to one of its tanks, No. 6719. The company argued that this particular tank was a single-bottom tank that already had CP in place. Subsequently, during a September 26, 2018 in-person meeting with the Region, Centurion demonstrated that Tank Nos. 7264 and 7265 were reconstructed as single-bottom tanks with CP already in place. Respondent did not contest the allegation of violation with respect to Tank Nos. 6689 and 1878, but “[sought] to clarify the proposed compliance order” as discussed below.<sup>8</sup>

Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.563 by failing to have CP on two breakout tanks (Tank Nos. 6689 and 1878), but withdraw the allegation of violation with regard to the remaining three tanks (Tank Nos. 6719, 7264, and 7265).

The above 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 \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any related series of violations.<sup>9</sup> 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; any effect that the penalty may have on its ability to continue doing business; and the good faith of Respondent

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<sup>8</sup> Response, at 2.

<sup>9</sup> These amounts are adjusted annually for inflation. See 49 C.F.R. § 190.223; Revisions to Civil Penalty Amounts, 83 Fed. Reg. 60732, 60744 (Nov. 27, 2018).

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 \$40,300 for the violation cited in Item 1 above.<sup>10</sup>

**Item 1:** The Notice proposed a civil penalty of \$40,300 for Respondent's violation of 49 C.F.R. § 195.583(a), for failing to inspect each onshore pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion at least once every 3 calendar years, but with intervals not exceeding 39 months. In its Response, Centurion noted it had entered annual atmospheric corrosion inspections into its Maximo electronic work-scheduling system that goes beyond the regulatory requirement. In consideration of this corrective action, Centurion requested full mitigation of the proposed penalty. I find that elimination of the penalty for this item is not appropriate because Respondent failed to comply with the regulatory requirement as of the date of the PHMSA inspection and did not come into compliance until after PHMSA had discovered the violation. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of **\$40,300** for violation of 49 C.F.R. § 195.583(a).

Payment of the civil penalty must be made within 20 days of service. Federal regulations (49 C.F.R. § 89.21(b)(3)) require such payment to be made by wire transfer through the Federal Reserve Communications System (Fedwire), to the account of the U.S. Treasury. Detailed instructions are contained in the enclosure. Questions concerning wire transfers should be directed to: Financial Operations Division (AMK-325), Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 S MacArthur Blvd, Oklahoma City, Oklahoma 79169. The Financial Operations Division telephone number is (405) 954-8845.

Failure to pay the \$40,300 civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 31 C.F.R. § 901.9 and 49 C.F.R. § 89.23. Pursuant to those same authorities, a late penalty charge of six percent (6%) per annum will be charged if payment is not made within 110 days of service. Furthermore, failure to pay the civil penalty may result in referral of the matter to the Attorney General for appropriate action in a district court of the United States.

### **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. §§ 195.452(l)(1)(ii) and 195.563, 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.

With regard to the violation of § 195.452(l)(1)(ii) (Item 3), the Director has indicated that

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<sup>10</sup> Although the Notice inadvertently failed to specify that the proposed civil penalty applied to the alleged violation of § 195.583(a) (Item 1) and no other, the Violation Report shows that the penalty was applicable solely to Item 1. (Violation Report, at 6).

Respondent has taken action to satisfy the terms of the proposed compliance order. Therefore, it is unnecessary to include the terms of the proposed compliance order associated with this Item in this Order.

With regard to the violation of § 195.563 (Item 4), Respondent argued that the compliance terms should be withdrawn with respect to Tank Nos. 6719, 7264, and 7265 because they are single-bottom tanks with cathodic protection in place. For the reasons stated above, I withdraw the compliance terms associated with these three tanks.

Additionally, Respondent argued that the remaining compliance terms should be modified to allow Centurion to take periodic CP readings directly around Tank Nos. 6689 and 1878 and not to apply CP directly to the bottom of the tanks. Respondent noted that although many of the CP readings taken on the tanks are below the standard -0.850 volt criteria, they are at least 100 mv more negative than the native reading, demonstrating the safety of the tanks. Respondent also stated that additional CP for these two tanks is unnecessary for the safety of the tanks because of the presence of a vapor corrosion inhibitor (VCI) on the second bottom of the tanks and the deep well anodes in the area of the tanks.

Having considered Respondent's proposal, I find that it must be rejected. These two tanks have double bottoms, with the old bottom forming a shield that prevents CP from reaching the new bottom to protect against corrosion. CP measurements taken around the tanks, as proposed by Respondent, would measure the CP on the old tank bottoms. However, the new tank bottoms are not protected using CP and the presence of the VCI system does not substitute for a sacrificial anode as it is unassociated with the CP system, which is absent on the new bottoms.

Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations:

1. With respect to the violation of § 195.563 (**Item 4**), Respondent must submit a plan to bring Tank Nos. 6689 and 1878 into compliance within 30 days of receipt of the Final Order; and
2. With respect to the violation of § 195.563 (**Item 4**), Respondent must submit to the Director, Southwest Region, records demonstrating compliance with § 195.563 no later than six months from the issuance of the Final Order.

The Director may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent and demonstrating good cause for an extension.

It is requested (not mandated) that Centurion maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director. 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.

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed \$200,000, as adjusted for inflation (49 C.F.R. § 190.223), for each violation for each day the violation continues or in referral to the Attorney General for appropriate relief in a district court of the United States.

### **WARNING ITEMS**

With respect to Items 2 and 5, the Notice alleged probable violations of Part 195 but did not propose a civil penalty or compliance order for these items. Therefore, these are considered to be warning items. The warnings were for:

49 C.F.R. § 195.61 (**Item 2**) — Respondent's alleged failure to submit geospatial data to PHMSA for the 2015 and 2016 calendar years, on or before June 15, representing assets as of December 31, of the previous year; and

49 C.F.R. § 195.505 (**Item 5**) — Respondent's alleged failure to follow its own written operator-qualification program.

Centurion presented information in its Response showing that it had taken certain actions to address the cited items. If OPS finds a violation of any of these items in a subsequent inspection, Respondent may be subject to future enforcement action.

Under 49 C.F.R. § 190.243, Respondent may submit a Petition for Reconsideration of this Final Order to the Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2<sup>nd</sup> Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address, no later than 20 days after receipt of service of this Final Order by Respondent. Any petition submitted must contain a statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.243. The filing of a petition automatically stays the payment of any civil penalty assessed. The other terms of the order, including corrective action, remain in effect unless the Associate Administrator, upon request, grants a stay.

The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

August 8, 2019

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Alan K. Mayberry  
Associate Administrator  
for Pipeline Safety

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Date Issued