

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

ELECTRONIC MAIL- RETURN RECEIPT REQUESTED

April 9, 2020

Ed Cimaroli
Director, Southwest Gathering
Western Refining Logistics, LP
19100 Ridgewood Parkway
San Antonio, Texas 78259

CPF 4-2020-5008

Dear Mr. Cimaroli:

On September 11-12, 2018 and July 1-2, 2019, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected your Hospah Station Pump Station in Hospah, New Mexico, following a reportable accident that occurred on September 7, 2018.

As a result of the inspection, it is alleged that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The items inspected and the probable violations are:

1. §195.402 Procedural manual for operations, 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. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to ensure that the manual is effective. This manual shall be prepared before initial operations of a pipeline system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

(d) *Abnormal operation.* The manual required by paragraph (a) of this section must include procedures for the following to provide safety when operating design limits have been exceeded:

(1) Responding to, investigating, and correcting the cause of:

(ii) Increase or decrease in pressure or flow rate outside normal operating limits...

Western Refining Logistics, LP, (Western) failed to follow its written procedures for responding to, investigating, and correcting the cause of an increase in pressure or flow rate outside its normal operating limits. The controllers for Tex-New Mex Pipeline North failed to follow Western's procedures when they received pressure deviation alarms. As a result, the controllers contributed to the quantity of the crude released in the accident due to the delay in discovery time and line shutdown.

Western's written procedure, TLP-SCC-CAO-1001, Operations Control Center Abnormal Operations-Abnormal Pressure/Flow Deviations, Section 6.1 Abnormal Pressure/Flow Deviations, requires the operator to "Ensure the cause of the deviation is understood." Additionally, TLP-SCC-CAO-1007, Control Room Management-Leak Indication Procedure, Section 4 Leak Indication Procedure, states "If at any time the controller is unsure of the actions needed to be taken, shutdown and isolate the pipeline."

At 2200 on September 7, 2018, the nightshift controller for Tex-New Mex Pipeline North noticed a flow increase at the Hospah Station. Over the next eight hours the controller lowered the pipeline set pressure at least nine times in an effort to maintain the flow rate within the target range. According to Western, the controller believed that the field operator had increased the Drag Reducing Agent (DRA) injection rate without communicating change to the control room, when in fact, the pipeline had experienced a leak. At 09:45 am on September 8, 2018, the dayshift controller phoned his supervisor and notified him of the situation regarding the pressure deviation and he instructed the controller to shut all pumps down. The cause of the pressure deviation was not understood by the controller and the pipeline was remained in operation for 15 hours despite a lack of certainty how to proceed resulting in an additional quantity of crude oil release.

2. §195.505 Qualification program.

Each operator shall have and follow a written qualification program. The program shall include provisions to:

(d) Evaluate an individual if the operator has reason to believe that the individual's performance of a covered task contributed to an accident as defined in Part 195;

Western failed to follow its written procedures, and did not evaluate individuals whose performance of a covered task contributed to an accident as defined in Part 195. Western failed to follow its written procedures, which required that the two Bloomfield controllers that contributed to the accident that occurred on September 7, 2018, be removed and requalified. The controllers involved in the oversight of the controls were allowed to continue performing the same covered task without requalification following the accident.

Western’s written procedures TLP-DOT-LOM-1801, Operator Qualification Program, Section 4.5 Re-Evaluation, states “A requalification shall occur for an individual to continue performing a covered task when any of the following apply: There is reason to believe the individual’s performance of a covered task contributed to an accident or incident.” Two controllers that were on duty while the events of the September 7, 2018, accident unfolded were not removed from their duties and were not requalified prior to resuming their duties as controllers on the pipeline.

During the change over from night to day shift (06:00 am on September 8, 2018), the Bloomfield controllers received a leak detection alarm for Tex-New Mex Pipeline North, which stayed in alarm mode until approximately 11:00 am . The Bloomfield controllers did not contact the San Antonio controller of the leak detection alarm as required.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$218,647 per violation per day the violation persists, up to a maximum of \$2,186,465 for a related series of violations. For violation occurring on or after November 27, 2018 and before July 31, 2019, the maximum penalty may not exceed \$213,268 per violation per day, with a maximum penalty not to exceed \$2,132,679. For violation occurring on or after November 2, 2015 and before November 27, 2018, the maximum penalty may not exceed \$209,002 per violation per day, with a maximum penalty not to exceed \$2,090,022. For violations occurring prior to November 2, 2015, the maximum penalty may not exceed \$200,000 per violation per day, with a maximum penalty not to exceed \$2,000,000 for a related series of violations. We have reviewed the circumstances and supporting documentation involved for the above probable violations and has recommended that you be preliminarily assessed a civil penalty of \$236,602 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$ 209,002
2	\$ 27,600

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Enforcement 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).

Following the receipt of this Notice, you have 30 days to submit written comments, or request a hearing under 49 CFR § 190.211. 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. If you are responding to this Notice, we propose that you submit your correspondence to my office within 30 days from the receipt of this Notice. This period may be extended by written request for good cause.

In your correspondence on this matter, please refer to **CPF 4-2020-5008** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Mary L. McDaniel, P.E.
Director, Southwest Region
Pipeline and Hazardous Materials Safety Administration

Cc: Dave Richards, Western Refining Logistics, LP

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