

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

September 1, 2009

Mr. Tad True
Vice President True Oil
Bridger Pipeline, LLC
895 W. River Cross Road
P.O. Drawer 2360
Casper, WY 82602

CPF 5-2009-5034

Dear Mr. True:

On June 15 to June 20, 2008, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code, inspected your Poplar pipeline in eastern Montana.

As a result of the inspection, 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. §195.54 Accident reports.**
 - (a) Each operator that experiences an accident that is required to be reported under §195.50 shall as soon as practicable but not later than 30 days after discovery of the accident, prepare and file an accident report on DOT Form 7000-1, or a facsimile.**
 - (b) Whenever an operator receives any changes in the information reported or additions to the original report on DOT Form 7000-1, it shall file a supplemental report within 30 days.**

Bridger Pipeline (BPL) failed to provide all the information required by DOT Form 7000-1 for a spill that occurred on April 23, 2008. DOT Form 7000-1 for accident report 20080161 – 7153 reported the information regarding this spill on May 13, 2008. The report was designated as a “final” report yet the form is missing a lot of key accident information.

2. §195.202 Compliance with specifications or standards.

Each pipeline system must be constructed in accordance with comprehensive written specifications or standards that are consistent with the requirements of this part.

BPL did not document that the recent construction of regulated piping between the Poplar pipeline and the Poplar station breakout tanks were conducted in accordance with written specifications or standards that are consistent with the requirements of 49 CFR Part 195. BPL installed above ground piping for their breakout tanks (BOTs) at their Poplar station in either 2007 or early 2008, but they were unable to locate the inspection, welding, or material certifications for this project.

3. §195.302 General requirements.

(a) Except as otherwise provided in this section and in §195.305(b) , no operator may operate a pipeline unless it has been pressure tested under this subpart without leakage. In addition, no operator may return to service a segment of pipeline that has been replaced, relocated, or otherwise changed until it has been pressure tested under this subpart without leakage.

BPL failed to perform a pressure test on the Poplar station BOT piping installed in 2007 or early 2008. BPL has no records or knowledge of a pressure test ever being conducted for the Poplar station BOT piping installed during this period.

4. §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 insure that the manual is effective. This manual shall be prepared before initial operations of a pipeline commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

BPL did not review at the required frequency their manuals of written procedures for normal operation and maintenance, handling abnormal operations, and responding to emergencies. It

appears that no procedural manual reviews were completed from February 2005 until June 2008. This interval between reviews exceeded the maximum allowed interval by 25 months. Further, interviews with BPL personnel as well as revision dates shown at the bottom of the pages for the BPL manuals reflect that there has not been a review of BPL procedures since 2005.

5. **§195.402 Procedural manual for operations, maintenance, and emergencies.**
 - (c) **Maintenance and normal operations. The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:**
 - (13) **Periodically reviewing the work done by operator to determine the effectiveness of the procedures used in normal operation and maintenance and taking corrective action where deficiencies are found.**

BPL failed to periodically review the work done by their personnel and contractors in order to determine the effectiveness of procedures used in normal operation and maintenance. BPL Normal Operating Procedures Section 3.8 requires that BPL perform annual reviews of personnel performance to determine the effectiveness of normal operation and maintenance procedures. BPL could not provide any records showing that the required annual reviews were completed.

6. **§195.402 Procedural manual for operations, maintenance, and emergencies.**
 - (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;**
 - (5) **Periodically reviewing the response of operator personnel to determine the effectiveness of the procedures controlling abnormal operation and taking corrective action where deficiencies are found.**

BPL failed to periodically review the procedures used by their personnel and contractors to control abnormal operation and take corrective action where deficiencies are found. BPL Abnormal Operating Procedures Section 6.3 requires a review of personnel responses to abnormal operations to determine the effectiveness of abnormal operating procedures. BPL could not provide records showing there has been periodic review of personnel response to abnormal operations to determine the effectiveness of abnormal operating procedures. Interviews indicate that this has been done informally but there have not been any records kept of these reviews.

7. **§195.402 Procedural manual for operations, maintenance, and emergencies.**
 - (e) **Emergencies. The manual required by paragraph (a) of this section must include procedures for the following to provide safety when an emergency condition occurs;**
 - (9) **Providing for a post accident review of employee activities to determine whether the procedures were effective in each emergency and taking corrective action where deficiencies are found.**

BPL did not perform post accident reviews of their employees' response activities after four (4) accidental releases of hazardous liquid from their Poplar pipeline reported to PHMSA between February 2, 2006 and November 17, 2006. BPL procedures require that post accident reviews be conducted 45 days after an accident is no longer considered an emergency. BPL, however, did not complete any such reviews of the four accidental releases of hazardous liquid noted above.

8. **§195.420 Valve maintenance.**
 - (b) **Each operator shall, at intervals not exceeding 7 1/2 months, but at least twice each calendar year, inspect each mainline valve to determine that it is functioning properly.**

BPL was unable to provide documentation that their Glendive station valves had been inspected in the second half of 2006. To date, BPL has not been able to provide inspection records for seven (7) Glendive station valves that were to be inspected in the latter half of 2006. BPL personnel state that they did complete these inspections but the electronic records had been lost during computer upgrades.

9. **§195.432 Breakout tanks.**
 - (b) **Each operator shall inspect the physical integrity of in-service atmospheric and low-pressure steel aboveground breakout tanks according to section 4 of API Standard 653. However, if structural conditions prevent access to the tank bottom, the bottom integrity may be assessed according to a plan included in the operations and maintenance manual under §195.402(c)(3).**

Bridger Pipeline, LLC (BPL) did not complete an "out of service" inspection of Tank 403 at the Poplar station after they learned there may be significant corrosion inside this tank. BPL has knowledge that Tank 403 previously stored fluids with high levels of bacteria that potentially can cause corrosion. It appears that storage of these liquids may have been for a substantial period of time and without the use of corrosion inhibitors. API Standard 653 Section 6.2.1 states several factors must be considered when determining inspection intervals for storage tanks including the nature of the product stored. Additionally API Standard 653 Section 6.2.2 states, "The interval between inspections of a tank (both internal and external) should be determined by its service history unless special reasons indicate that an earlier

inspection must be made.” Knowledge that this tank was exposed to a highly corrosive environment should be considered a special reason for conducting an “out-of-service”, internal inspection per API 653.

- 10. §195.440 Public awareness (c) Maintenance and normal operations.**
(i) The operator's program documentation and evaluation results must be available for periodic review by appropriate regulatory agencies.

BPL did not implement their public awareness program. BPL did not develop lists of emergency and public organization contact personnel within the vicinity or along their pipeline’s route. BPL’s Public Awareness Program Supplement A requires that a list of emergency and public organizations be developed for those organizations that are along the route of the pipeline. This list must include those organization’s contact personnel with emergency and business phone numbers and addresses. At the time of inspection, BPL had not yet developed these lists for the Poplar pipeline.

Proposed Civil Penalty

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$100,000 for each violation for each day the violation persists up to a maximum of \$1,000,000 for any related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violations and has recommended that you be preliminarily assessed a civil penalty of \$70,000 as follows:

<u>Item number</u>	<u>PENALTY</u>
4	\$35,000
7	\$35,000

Warning Items

With respect to items 1 and 8, 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 these items. Be advised that failure to do so may result in Bridger Pipeline, LLC (BPL) being subject to additional enforcement action.

Proposed Compliance Order

With respect to items 2, 3, 4, 5, 6, 9, and 10, pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to BPL. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

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. Be advised that all material you submit in response to this enforcement action is subject to being 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 5-2009-5034** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Chris Hoidal
Director, Western Region
Pipeline and Hazardous Materials Safety Administration

Enclosures: *Proposed Compliance Order*
Response Options for Pipeline Operators in Compliance Proceedings

cc: PHP-60 Compliance Registry
PHP-500 G. Davis (#120774)

PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Bridger Pipeline, LLC (BPL) a Compliance Order incorporating the following remedial requirements to ensure the compliance of BPL with the pipeline safety regulations:

1. In regard to Item Number 2 of the Notice pertaining to not having inspection or materials documentation showing that the Poplar Station breakout tank (BOT) piping was constructed in accordance with comprehensive written specifications or standards that are consistent with the requirements of 49 CFR Part 195, BPL must either: 1) provide documentation verifying that the BOT piping was constructed in accordance with comprehensive written specifications or standards that are consistent with the requirements of this 49 CFR Part 195, or 2) they must re-construct this piping and document that the piping is constructed in accordance with comprehensive written specifications or standards that are consistent with the requirements of this 49 CFR Part 195.
2. In regard to Item Number 3 of the Notice pertaining to not pressure testing BOT piping at the Poplar station, BPL must perform and document a pressure test of the BOT piping in accordance with 49 CFR Part 195 Subpart E.
3. In regard to Item 4 of the Notice pertaining to BPL failure to review their manuals of written procedures for normal operation and maintenance, for handling abnormal operations, and for responding to emergencies since February 2005 until the time of this inspection. BPL must review all of their manuals of written procedures for normal operation and maintenance, for handling abnormal operations, and for responding to emergencies and make changes to those procedures that are not effective. BPL must also ensure that records are kept of these reviews as required by Part 195.
4. In regard to Item Number 5 of the Notice pertaining to BPL's failure to periodically review the work done by their personnel and contractors to determine the effectiveness of procedures used in normal operation and maintenance and taking corrective action where deficiencies are found, BPL must immediately review the work done by their personnel and contractors to determine the effectiveness of their operation and maintenance procedures. If deficiencies are found BPL must take corrective action. BPL must document all such reviews and corrective actions taken.
5. In regard to Item Number 6 of the Notice pertaining to BPL's failure to periodically review the response by their personnel and contractors to determine the effectiveness of procedures controlling abnormal operation and taking corrective action where deficiencies are found, BPL must immediately review

the response to emergencies by their personnel and contractors to determine the effectiveness of their emergency response procedures. If deficiencies are found BPL must take corrective action. BPL must document all such reviews and corrective actions taken.

6. In regard to Item Number 9 of the Notice pertaining to not completing an “out of service” inspection of Tank 403 at the Poplar station, BPL must complete an “out of service” inspection in accordance with API Standard 653.
7. In regard to Item Number 10 of the Notice pertaining to not developing a list of fire, police and other public officials for the purpose of contacting for liaison activities as required by BPL procedures, BPL must develop a list of all local fire, police and other public officials for the purpose of liaison along their Poplar pipeline.
8. BPL shall maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Chris Hoidal, Director, Western Region, Pipeline and Hazardous Materials Safety Administration. Costs shall 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.