



U.S. Department
of Transportation

Pipeline and Hazardous Materials
Safety Administration

12300 W. Dakota Ave., Suite 110
Lakewood, CO 80228

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

October 17, 2016

Mr. Dan Borgen
President/CEO
USD Partners LP
811 Main Street, Suite 2800
Houston, TX 77002

CPF 5-2016-6007

Dear Mr. Borgen:

On April 11 through 14, 2016 a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code, inspected your Casper Crude to Rail facility in Casper, Wyoming.

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 violation(s) are:

1. **§195.266 Construction records.**
A complete record that shows the following must be maintained by the operator involved for the life of each pipeline facility:
 - (a) **The total number of girth welds and the number nondestructively tested, including the number rejected and the disposition of each rejected weld.**

During construction of this pipeline USD Partners LP opted to conduct 100% nondestructive testing of all girth welds. USD Partners LP failed to produce a signed result sheet during the inspection showing a repair for weld number MLX 5 rejected by the operator's weld inspector.

On April 28, 2016 USD Partners LP provided via email a report showing weld number MLX5 repair x-ray was inspected by a level II technician on April 22, 2016.

2. §195.436 Security of facilities.

Each operator shall provide protection for each pumping station and breakout tank area and other exposed facility (such as scraper traps) from vandalism and unauthorized entry.

USD Partners LP failed to provide protection for each pumping station, breakout tank area, and other exposed facility from vandalism and unauthorized entry pursuant to 49 C.F.R. §195.436. At the time of the inspection, it was discovered that the Casper terminal facility did not have a fence or other protection around its pumping stations and other exposed facilities. Therefore, by failing to erect a fence or other protection around the Casper terminal and ensure its pumping stations and other exposed facilities are protected from vandalism and unauthorized entry, USD Partners LP violated 49 C.F.R. §195.436.

3. §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 personnel to determine the effectiveness of the procedures used in normal operation and maintenance and taking corrective action where deficiencies are found.

USD Partners LP failed to periodically review the work done by its personnel to determine the effectiveness of its procedures used in normal operation and maintenance, and take corrective action where deficiencies were found pursuant to 49 C.F.R. §195.402(c)(13). Section 11.3 of the Casper Crude to Rail Liquid Pipeline Operations, Maintenance, & Emergency Manual (O&M) contains a 19-step procedure for valve inspection.¹ However, USD Partners LP used the Operator Qualification Task Specific Field Evaluation form to perform valve inspection reviews but the form contained only 5 steps. Therefore, USD Partners LP failed to adequately review its 19-step valve inspection procedure set forth in its O&M to determine its effectiveness and take corrective action where deficiencies were found in violation of 49 C.F.R. §195.402(c)(13).

¹ Casper Crude to Rail Liquid Pipeline Operations, Maintenance, & Emergency Manual, Section 11.3 at p.11-3.

Proposed Compliance Order

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.

We have reviewed the circumstances and supporting documents involved in this case, and have decided not to propose a civil penalty assessment at this time.

With respect to Item 3, pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to USD Partners LP. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Warning Items

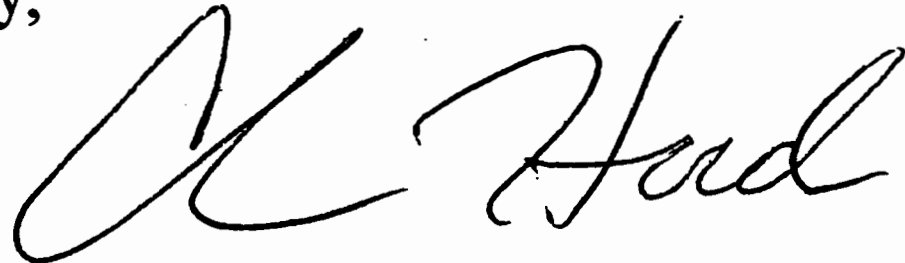
With respect to Items 1 and 2, we have reviewed the circumstances and supporting documents involved in this case and have decided not to conduct additional enforcement action or penalty assessment proceedings at this time. We advise you to promptly correct these Items. Be advised that failure to do so may result in USD Partners LP being subject to 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. 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 5-2016-6007** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Hoidal". The signature is fluid and cursive, with the first name "Chris" written in a large, sweeping loop.

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. Ogirima (#152800)
Mr. Ron Percival, Health, Safety & Environmental Director, USD Partners LP,
811 Main Street, Suite 2800, Houston, TX 77002

PROPOSED COMPLIANCE ORDER

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

1. In regard to Item Number 3 of the Notice pertaining to review of work performance by operating personnel, USD Partners LP must ensure that its 19-step procedure for valve inspection set forth in its Casper Crude to Rail O&M Manual is used during review of work performance of personnel conducting valve inspections.
2. USD Partners LP must respond within 30 days to this notice.
3. It is requested (not mandated) that USD Partners LP 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. 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.