

WARNING LETTER

VIA ELECTRONIC MAIL TO: dwerth@calibermidstream.com and cbutero@calibermidstream.com

June 7, 2021

Daniel Werth
Chief Executive Officer
Caliber Midstream
Caliber Bear Den Interconnect LLC
950 – 17th Street, Suite 1000,
Denver, CO 80202

CPF 3-2021-038-WL

Dear Mr. Werth:

From March 18, 2019 through August 1, 2019, a representative 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 Caliber Bear Den Interconnect LLC (CBDI) pipeline facilities located in North Dakota, near Watford City. This inspection also reviewed associated plans, procedures, and records, some of which were located in the Caliber Midstream headquarters and office located in Denver, CO.

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

1. §195.214 Welding procedures.

(a) Welding must be performed by a qualified welder or welding operator in accordance with welding procedures qualified under section 5, section 12, Appendix A or Appendix B of API Std 1104 (incorporated by reference, see §195.3), or Section IX of the ASME Boiler and Pressure Vessel Code (ASME BPVC) (incorporated by reference, see §195.3). The quality of the test welds used to qualify the welding procedures must be determined by destructive testing.

(b) Each welding procedure must be recorded in detail, including the results of the qualifying tests. This record must be retained and followed whenever the procedure is used.

CBDI failed to have a welding procedure qualified under section 5, section 12, Appendix A or Appendix B of API Std 1104 or Section IX of the ASME Boiler and Pressure Vessel Code as required by § 195.214(a) for the 52,000 psi (also known as X52) material used in CBDI's pipeline during initial pipeline construction.

At the time of the inspection, a welding procedure qualification record (Procedure Specification PE-6010/8010-API-WP1) had identified that it was to be used on pipe that was 42,000 psi (X42), diameter 12", with a wall thickness (wt) greater than 3/4" (later clarified to be less than 3/4"). However, Mill specifications reviewed by PHMSA showed that in addition to X42 material, some X52 material had also been received and used. The operator indicated that due to material shortages prior to and during construction, they accepted the X52 material in place of the X42 material where needed. A welding procedure for X52 material was not found. After notification by PHMSA, the operator contracted for and tested a procedure for welding the X52 material with the same welding parameters used for the X42 material, and thus verified welding during construction was acceptable (see Procedure Specification No. PE-6010/8010-API-WP2, Revision No. 2, dated August 14, 2019).

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 documents involved in this case, and have decided not to conduct additional enforcement action or penalty assessment proceedings at this time.

No reply to this letter is required. If you choose to reply, in your correspondence please refer to **CPF 3-2021-038-WL**. 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).

Sincerely,

Gregory A. Ochs
Director, Central Region, OPS
Pipeline and Hazardous Materials Safety Administration

cc: Ms. Carol Butero, Director of Regulatory, Safety and Compliance, Caliber Midstream,
cbutero@calibermidstream.com