

WARNING LETTER

VIA ELECTRONIC MAIL TO: mos@everdesk.com and BMcDowell@BOEMidstream.com

November 12, 2021

Mr. Michael O'Shaughnessy
President/CEO
BOE Midstream
8301 E. 21st Street North, Suite 420
Wichita, KS 67206

CPF 3-2021-040-WL

Dear Mr. O'Shaughnessy:

On January 26, March 10-12, March 29-31, April 6, and April 21-22, 2021, 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 BOE Midstream (BOE) records, procedures and facilities virtually and in Dickinson and Killdeer, North Dakota.

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

1. §195.428 Overpressure safety devices and overfill protection systems.

(a) Except as provided in paragraph (b) of this section, each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, or in the case of pipelines used to carry highly volatile liquids, at intervals not to exceed 7½ months, but at least twice each calendar year, inspect and test each pressure limiting device, relief valve, pressure regulator, or other item of pressure control equipment to determine that it is functioning properly, is in good mechanical condition, and is adequate from the standpoint of capacity and reliability of operation for the service in which it is used.

BOE failed to create a record of the 2019 changeout of the thermal relief valve on the 10-inch Tesoro line as noted during the virtual inspection of overpressure protection records.

BOE failed to perform capacity checks of the Farris full flow relief valve at the Killdeer pump station in 2019 and 2020, as noted during the virtual inspection of overpressure device testing and inspection records.

The operator acknowledged in an email they were not aware of this requirement. Subsequent to the inspection, BOE provided to PHMSA offered imbalance records dated April 30, 2021 as evidence of capacity checks for 2019 and 2020. An imbalance check and associated records are not the equivalent of a compliant inspection and test record for determining that a relief valve is functioning properly, is in good mechanical condition, and it adequate from the standpoint of capacity and reliability of operation for the service for which a relief valve is used. BOE failed to provide any records to show that it had performed a capacity check on the Farris full flow relief valve at the Killdeer pump station for the years 2019 and 2020, as required by the regulation.

2. §195.438 Smoking or open flames

Each operator shall prohibit smoking and open flames in each pump station area and each breakout tank area where there is a possibility of the leakage of a flammable hazardous liquid or of the presence of flammable vapors.

BOE Midstream failed to post a “No Smoking” sign at the Killdeer pump station and tank farm. This deficiency was noted by the PHMSA inspector during the April 6, 2021 field inspection. Operator corrected by April 30, 2021 as noted in a data response.

3. §195.505 Qualification program.

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

(b) Ensure through evaluation that individuals performing covered tasks are qualified;

(c) Evaluate an individual if the operator has reason to believe that the individual is no longer qualified to perform a covered task;

§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:

BOE Midstream incorrectly classified surface oxidation as pitting in the September 26, 2019 atmospheric corrosion inspection records based on several pictures of classification surface oxidation on different assets reviewed during the inspection interview.

4. §195.507 Recordkeeping.

Each operator shall maintain records that demonstrate compliance with this subpart.

(a) Qualification records shall include:

(1) Identification of qualified individual(s);

(2) Identification of the covered tasks the individual is qualified to perform;

(3) Date(s) of current qualification; and

(4) Qualification method(s).

(b) Records supporting an individual's current qualification shall be maintained while the individual is performing the covered task. Records of prior qualification and records of individuals no longer performing covered tasks shall be retained for a period of five years.

BOE Midstream failed to provide a qualification record for the technician who performed the September 1, 2019 monthly tank inspection task on Tank 1001. The records provided shows a qualification date of May 14, 2020 after the date of the task performance.

5. §195.573 What must I do to monitor external corrosion control?

(a) Protected pipelines. You must do the following to determine whether cathodic protection required by this subpart complies with § 195.571:

(1) Conduct tests on the protected pipeline at least once each calendar year, but with intervals not exceeding 15 months. However, if tests at those intervals are impractical for separately protected short sections of bare or ineffectively coated pipelines, testing may be done at least once every 3 calendar years, but with intervals not exceeding 39 months.

Based on the inspection interview, BOE failed to conduct the November 5, 2020 annual cathodic protection monitoring within 15 months of the July 12, 2019 monitoring. Specifically, the time lapse between monitoring cycles was 482 days or 15.9 months.

6. §195.575 Which facilities must I electrically isolate and what inspections, tests, and safeguards are required?

(a) ...

(b) You must install one or more insulating devices where electrical isolation of a portion of a pipeline is necessary to facilitate the application of corrosion control.

Based on field inspection observations at the Killdeer pump stations, BOE failed to separate the carrier pipe from the supports by a dielectric isolator (these are suitable for the prevention of corrosion cell formation). The absence of a dielectric isolator has allowed the formation of surface rust at these locations.

7. §195.589 What corrosion control information do I have to maintain?

(c) You must maintain a record of each analysis, check, demonstration, examination, inspection, investigation, review, survey, and test required by this subpart in sufficient detail to demonstrate the adequacy of corrosion control measures or that corrosion requiring control measures does not exist. You must retain these records for at least 5 years, except that records related to Secs. 195.569, 195.573(a) and (b), and 195.579(b)(3) and (c) must be retained for as long as the pipeline remains in service.

§195.569 Do I have to examine exposed portions of buried pipelines?

Whenever you have knowledge that any portion of a buried pipeline is exposed, you must examine the exposed portion for evidence of external corrosion if the pipe is bare, or if the coating is deteriorated. If you find external corrosion requiring corrective action under § 195.585, you must investigate circumferentially and longitudinally beyond the exposed portion (by visual examination, indirect method, or both) to determine whether additional corrosion requiring remedial action exists in the vicinity of the exposed portion.

BOE Midstream failed to produce accurate records of inspection of exposed underground pipe coating and external corrosion inspections. Specifically:

- Feature 733 (ILI run data 2.1 % dent - bottom of pipe not on weld and not on seam) was dug 10-26-20. Exposed pipe report from Feature 733 states disbondment at feature with no corrosion. Pictures show coating holidays but no disbondment. The exposed pipe report is incorrectly checked disbonded.
- ACVG dig anomaly 5 exposed pipe report shows that coating bond is good with no corrosion. Defects 1 and 2 from anomaly 5 show metal wall loss of 1.67 % and 2.70 % yet the form marked no corrosion

8. §195.589 What corrosion control information do I have to maintain?

(c) You must maintain a record of each analysis, check, demonstration, examination, inspection, investigation, review, survey, and test required by this subpart in sufficient detail to demonstrate the adequacy of corrosion control measures or that corrosion requiring control measures does not exist. You must retain these records for at least 5 years, except that records related to Secs. 195.569, 195.573(a) and (b), and 195.579(b)(3) and (c) must be retained for as long as the pipeline remains in service.

§195.573 What must I do to monitor external corrosion control?

(c) Rectifiers and other devices. You must electrically check for proper performance each device in the first column at the frequency stated in the second column. Rectifier -At least six times each calendar year, but with intervals not exceeding 2 ½ months

Based on the inspection interview, BOE failed to provide records proving inspection of the following rectifiers within the stated inspection frequency:

- Killdeer piping, 31st St and 14 St Rectifiers – each over 2.5 months between following readings
 - April 7, 2017 & July 24, 2017, 108 days or 3.55 months
 - August 7, 2018 & October 22, 2018, 76 days or 2.5 months
 - April 22, 2019 & July 11, 2019, 80 days or 2.63 months
- Tank 1001 rectifier inspection over 2.5-month interval
 - April 7, 2017 & August 9, 2017, 124 days or 4.08 months

- August 7, 2018 & October 22, 2018, 76 days or 2.5 months

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$225,134 per violation per day the violation persists, up to a maximum of \$2,251,334 for a related series of violations. For violation occurring on or after January 11, 2021 and before May 3, 2021, the maximum penalty may not exceed \$222,504 per violation per day the violation persists, up to a maximum of \$2,225,034 for a related series of violations. For violation occurring on or after July 31, 2019 and before January 11, 2021, the maximum penalty may not 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. We advise you to correct the items identified in this letter. Failure to do so will result in BOE Midstream being subject to additional enforcement action.

No reply to this letter is required. If you choose to reply, in your correspondence please refer to **CPF 3-2021-040-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: Mr. Brandon McDowell, Director – ND Operations & Regulatory Compliance, 8301 E. 21st Street North, Suite 420, Wichita, KS 67206, BMcDowell@BOEMidstream.com