

WARNING LETTER

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

October 1, 2021

Mr. Daniel Werth
Chief Executive Officer
Caliber North Dakota, LLC
950 17th Street, Suite 1000,
Denver, CO 80202

CPF 3-2021-077-WL

Dear Mr. Werth:

On February 10, March 8-9, March 19, April 12-13 and August 31, 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 your records, procedures and Caliber Hay Butte (CHB) unit facilities virtually and in Alexander, North Dakota.

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. §194.117 Training

(b) Each operator shall maintain a training record for each individual that has been trained as required by this section. These records must be maintained in the following manner as long as the individual is assigned duties under the response plan;

(1) Records for operator personnel must be maintained at the operator's headquarters; and

(2) Records for personnel engaged in response, other than operator personnel, shall be maintained as determined by the operator.

(c) Nothing in this section relieves an operator from the responsibility to ensure that all response personnel are trained to meet the Occupational Safety and Health Administration (OSHA) standards for emergency response operations in 29 CFR 1910.120, including volunteers or casual laborers employed during a response who are subject to those standards pursuant to 40 CFR part 311.

§194.107 General response plan requirements

(c) Each response plan must include:

(1) A core plan consisting of-

(ix) Drill program-an operator will satisfy the requirement for a drill program by following the National Preparedness for Response Exercise Program (PREP) guidelines. An operator choosing not to follow PREP guidelines must have a drill program that is equivalent to PREP. The operator must describe the drill program in the response plan and OPS will determine if the program is equivalent to PREP.

CHB failed to provide adequately documented PREP drill records to identify whether 2017 and 2019 tabletop exercises had been completed. Specifically, operator may have performed the tabletops in 2017 and 2019 as part of larger equipment deployment exercises but exercise documentation reflects only equipment deployment type check and not tabletop also.

2. §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:

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

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

§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:

(7) Starting up and shutting down any part of the pipeline system in a manner designed to assure operation within the limits prescribed by §195.406, consider the hazardous liquid or carbon dioxide in transportation, variations in altitude along the pipeline, and pressure monitoring and control devices.

On three occasions in 2019 and 2020, as shown in the table below, pressure exceeded MOP on the NorthStar launcher. CHB failed to recognize these occurrences as abnormal operations since some of the occurrences occurred while maintenance was being performed. Event 3 occurred when North Star shut down the line to prevent overfilling their tank and Caliber personnel were not close enough to ramp pumps down slowly to prevent surge. CHB has submitted revised abnormal operations procedures and conducted personnel training covering the fact that overpressure during maintenance is still an abnormal operation.

Event Date	Location	Pressure Transmitter	Elevation	Recorded Pressure	Calc Pressure @ Low Point	%	Pressure Designation	Comments	Lowpoint	Elevation	MOP
7/19/2019	6" Northstar Launcher	PIT-612	2288	297.03	302.39	106.10%	MOP	Maintenance Work at Alex	Lee Bore	1972	500
10/8/2019	6" Northstar Launcher	PIT-612	2288	292.07	297.43	104.36%	MOP	Maintenance Work at Alex	Enbridge	2269	500
1/18/2020	6" Northstar Receiver	PIT-614	2299	302	311	109%	MOP	Northstar High Tank Levels	Northstar	2273	285

3. §195.404 Maps and records.

(c) Each operator shall maintain the following records for the periods specified;

(3) A record of each inspection and test required by this subpart shall be maintained for at least 2 years or until the next inspection or test is performed, whichever is longer.

§195.403 Emergency response training.

(a) Each operator shall establish and conduct a continuing training program to instruct emergency response personnel to:

(1) Carry out the emergency procedures established under 195.402 that relate to their assignments;

- (2) Know the characteristics and hazards of the hazardous liquids or carbon dioxide transported, including, in case of flammable HVL, flammability of mixtures with air, odorless vapors, and water reactions;
- (3) Recognize conditions that are likely to cause emergencies, predict the consequences of facility malfunctions or failures and hazardous liquids or carbon dioxide spills, and take appropriate corrective action;
- (4) Take steps necessary to control any accidental release of hazardous liquid or carbon dioxide and to minimize the potential for fire, explosion, toxicity, or environmental damage; and
- (5) Learn the potential causes, types, sizes, and consequences of fire and the appropriate use of portable fire extinguishers and other on-site fire control equipment, involving, where feasible, a simulated pipeline emergency condition.

From the inspection interview, CHB failed to adequately document training of personnel in emergency response for 2019 and 2020. Specifically, per their training procedure 2.2.2.3 which requires annual review of critical procedures, CHB trained to 195.403 (a) by review of their Part 195 emergency response procedures (O&M Section 4) but training slides used in 2019 show no slides pertinent to Section 4 and training slides used in 2020 show insufficient detail in regards to coverage of Section 4. Drill records indicate adequate coverage of carrying out emergency procedures but the plan specific requirement of reviewing critical procedures has an inadequate record. On August 19, 2021 CHB submitted a procedure data response to demonstrate proactive efforts to prevent reoccurrence.

4. §195.404 Maps and records.

(c) Each operator shall maintain the following records for the periods specified;

(3) A record of each inspection and test required by this subpart shall be maintained for at least 2 years or until the next inspection or test is performed, whichever is longer.

§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.

Based on the inspection interview and a data response, Caliber Hay Butte failed to provide annual capacity checks for their one crude oil PSV-105 full flow over-pressure protection device for 2019 and 2020. CHB has a plan in place to prevent reoccurrence.

5. §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 system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

(b)...

(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:

(3) Operating, maintaining, and repairing the pipeline system in accordance with each of the requirements of this subpart and subpart H of this part.

§195.432 Inspection of in-service breakout tanks.

(a) Except for breakout tanks inspected under paragraphs (b) and (c) of this section, each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, inspect each in-service breakout tank.

CHB failed to follow procedures in inspection breakout tanks in two areas:

- During the tank inspections, investigation of whether the level controls on both tanks were working was incomplete as faulty level controls were reported from May 2, 2019

through August 2, 2020 whereas the level controls were working properly on September 1, 2019 according to CHB management.

- CHB personnel documenting tank inspection did not perform this covered task as required as the level controls were incorrectly documented as not working.

6. §195.452 Pipeline integrity management in high consequence areas

(l) What records must an operator keep to demonstrate compliance?

(1) An operator must maintain, for the useful life of the pipeline, records that demonstrate compliance with the requirements of this subpart. At a minimum, an operator must maintain the following records for review during an inspection:

(ii) Documents to support the decisions and analyses, including any modifications, justifications, deviations and determinations made, variances, and actions taken, to implement and evaluate each element of the integrity management program listed in paragraph (f) of this section.

Based on the inspection interview, CHB failed to produce the annual HCA review required by their integrity management plan section 4.10 for the years 2017 and 2018.

7. §195.573 What must I do to monitor external corrosion control?

(e) Corrective action. You must correct any identified deficiency in corrosion control as required by § 195.401(b). However, if the deficiency involves a pipeline in an integrity management program under § 195.452, you must correct the deficiency as required by § 195.452(h).

Based on the inspection interview, CHB failed to correct pipe to soil potentials which were below criteria at reference cells C1, Z1 and Z2 on Tank 300. Potentials were below criteria for two monitoring cycles in a row (2018 and 2019). CHB provided a data response showing corrective procedures put in place to prevent reoccurrence.

8. §195.581 Which pipelines must I protect against atmospheric corrosion and what coating material may I use?

(b) Coating material must be suitable for the prevention of atmospheric corrosion.

Based on field inspection observations, CHB failed to properly install the Polyguard RD 6 transition zone wrap as no UV protection was installed as noted on the product data sheet. CHB has a corrective action plan developed to mitigate this issue.

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

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 Caliber North Dakota, LLC 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 3-2021-077-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, Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration

CC: Ms. Carol Butero, Director of Regulatory, Safety and Compliance, 950 17th Street, Suite 1000, Denver, CO 80202, (cbutero@calibermidstream.com)