

WARNING LETTER

VIA ELECTRONIC MAIL TO: Brad.Barron@nustarenergy.com and
Gary.Koegeboehn@nustarenergy.com

June 13, 2023

Mr. Brad Barron
President and Chief Executive Officer
NuStar Pipeline Operating Partnership, L.P.
19003 IH-10 West
San Antonio, TX 78257

RE: NuStar Logistics, L.P.

CPF 3-2023-019-WL

Dear Mr. Barron:

From May 18, 2022, through December 14, 2022, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code (U.S.C.), inspected NuStar Logistics, L.P.'s (NuStar) South Texas petroleum products pipeline facilities in South Texas.

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. **§ 195.428 Overpressure safety devices and overfill protection systems.**
 - (a) . . .
 - (c) **Aboveground breakout tanks that are constructed or significantly altered according to API Std 2510 (incorporated by reference, see § 195.3) after October 2, 2000, must have an overfill protection system installed according to API Std 2510, section 7.1.2. Other aboveground breakout tanks with 600 gallons (2271 liters) or more of storage capacity that are constructed or significantly**

(d) altered after October 2, 2000, must have an overfill protection system installed according to API RP 2350 (incorporated by reference, see § 195.3). However, an operator need not comply with any part of API RP 2350 for a particular breakout tank if the operator describes in the manual required by § 195.402 why compliance with that part is not necessary for safety of the tank.

NuStar failed to comply with the regulation because it did not have overfill protection at Brownsville Junction on each of the four 12F breakout surge-relief tanks as prescribed by API RP 2350, incorporated by reference.

Specifically, during the on-site inspection of Brownsville Junction, PHMSA observed that overfill protection devices for the four 400-barrel (16,800 gal.) 12F tanks did not protect each tank. Records indicated the tanks were commissioned in 2019, with overfill protection installed on only three tanks.

NuStar's Operations and Maintenance Manual procedures (O&M) did not explain why compliance with API RP 2350 is unnecessary for the safety of the four 12F tanks at Brownsville Junction. In addition, NuStar did not have documentation stating why overfill protection was not required for each individual 12F tank, or site-specific procedures ensuring that the tank inlet valves remain open during normal operations. Further, procedures did not describe how to operate the pipeline system when one or more of the tanks is closed off from the surge protection, such as during maintenance activities.

After PHMSA discovered the deficiency, NuStar added additional overfill protection to ensure each of the four 12F tanks had overfill protection systems in place, which was completed on April 4, 2023.

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$257,664 per violation per day the violation persists, up to a maximum of \$2,576,627 for a related series of violations. For violation occurring on or after March 21, 2022 and before January 6, 2023, the maximum penalty may not exceed \$239,142 per violation per day the violation persists, up to a maximum of \$2,391,142 for a related series of violations. For violation occurring on or after May 3, 2021 and before March 21, 2022, the maximum penalty may not 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 item identified in this letter. Failure to do so will result in NuStar 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 3-2023-019-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

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