

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

VIA ELECTRONIC MAIL TO: sburrows@pembina.com; hcburns@pembina.com;
bbachmeier@pembina.com

June 3, 2024

Mr. Scott Burrows
President and CEO
Pembina Cochin, LLC
4000 585-8 Avenue SW
Calgary, Alberta, Canada

CPF 3-2024-030-NOPV

Dear Mr. Burrows:

From July 26 to September 14, 2023, 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.), remotely inspected the natural gas operations of Alliance Pipeline, L.P.'s (Alliance) Control Room Management (CRM) procedures and records in Calgary, Alberta, Canada. On April 1, 2024, Enbridge sold the Alliance Pipeline to Pembina which included operations of the Control Room.

As a result of the inspection, it is alleged that Alliance 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. **§ 192.631 Control room management.**
 - (a) ***General.*** This section applies to each operator of a pipeline facility with a controller working in a control room who monitors and controls all or part of a pipeline facility through a SCADA system. Each operator must have and follow written control room management procedures that implement the requirements of this section. . . .
 - (b)
 - (d) ***Fatigue mitigation.*** Each operator must implement the following methods to reduce the risk associated with controller fatigue that could inhibit a controller's ability to carry out the roles and responsibilities the operator has defined:

(1)

(3) **Train controllers and supervisors to recognize the effects of fatigue.**

Alliance failed to maintain appropriate records to demonstrate that it had trained controllers to recognize the effects of fatigue as required by § 192.631(j)(1). Additionally, Alliance failed to follow its procedures in its CRM Plan section 4.3.5.1.1 that required fatigue management training once per calendar year, at intervals not to exceed 15 months. A review of Alliance's records identified five employees who were not recorded as completing the required refresher fatigue training: one in 2020 and four in 2022. Alliance indicated during the inspection that in 2022, while the individuals did take the Learning Management System (LMS) course, they did not complete the associated test, so the training was not completed pursuant to the CRM Plan. As a result, Alliance was not able to demonstrate that it had trained controllers and supervisors to recognize the effects of fatigue, in violation of § 192.631(d)(3).

2. § 192.631 Control room management.

(a) **General.** This section applies to each operator of a pipeline facility with a controller working in a control room who monitors and controls all or part of a pipeline facility through a SCADA system. Each operator must have and follow written control room management procedures that implement the requirements of this section. . . .

(b)

(e) **Alarm management.** Each operator using a SCADA system must have a written alarm management plan to provide for effective controller response to alarms. An operator's plan must include provisions to:

(1) **Review SCADA safety-related alarm operations using a process that ensures alarms are accurate and support safe pipeline operations;**

Alliance failed to identify specific points as safety-related points in its CRM Plan section 3-4.3.3.3, and failed to implement them in its SCADA master database to ensure that alarms are accurate and support safe pipeline operations.

Alliance was granted a Special Permit in 2006^a to operate under an Alternative Maximum Operating Pressure (AMAOP). The waiver was subject to, and conditional on 29, supplemental safety criteria (SSC). The SSC "address the life cycle management of the subject pipeline and require the operator to adhere to maintenance, inspection, monitoring, control, and reporting standards exceeding regulatory requirements." Four SSCs relate to information that is monitored through an Alliance SCADA system; therefore, these SSCs should have been identified as points affecting safety and have safety-related alarms associated with them. These were SSC numbers "(1) Fracture Control Plan," "(4) Temperature Control," "(12) Gas Quality Monitoring," and "(29) Potential Impact Radius." The elements included in these SSC elements are pressures, temperatures, and gas qualities specific to hydrogen sulfide, carbon dioxide, and water, and gas composition. A review of the CRM Plan section 3-4.3.3.3 revealed that Alliance failed to include considerations for temperature, gas composition, and gas quality related to hydrogen sulfide, carbon dioxide, and water. A review of the SCADA master database identified that Alliance did identify compressor discharge temperatures as safety-related and provided a Hi shutdown set

^a 71 Fed. Reg. 39,145 (July 11, 2006).

point at 120.2° F. However, Alliance failed to include any gas quality or gas composition values in its SCADA master database.

In addition to the Special Permit SSC elements, Alliance also failed to consider in its procedure power failure considerations (AC Power and battery voltage), as well as communication failures. A review of the master database identified that AC power failures were not considered safety-related points, but battery voltage was. It should be noted that not all battery voltages were identified as safety-related. Additionally, Alliance was inconsistent with its consideration of safety-related points. For example, communication failures were safety-related but communication status was not. Also, Alliance failed to consider all ESD points safety-related in the SCADA database, even though ESD points were identified in the procedure.

Alliance failed to identify specific points as safety-related points in its CRM Plan, and to implement them in its SCADA master database to assure alarms are accurate and support safe pipeline operations, in violation of § 192.631(e)(1).

3. § 192.631 Control room management.

(a) General. This section applies to each operator of a pipeline facility with a controller working in a control room who monitors and controls all or part of a pipeline facility through a SCADA system. Each operator must have and follow written control room management procedures that implement the requirements of this section. . . .

(b)

(h) Training. Each operator must establish a controller training program and review the training program content to identify potential improvements at least once each calendar year, but at intervals not to exceed 15 months. An operator's program must provide for training each controller to carry out the roles and responsibilities defined by the operator. In addition, the training program must include the following elements:

Alliance failed to complete its review of the controller training program content to identify potential improvements at least once each calendar year, but at intervals not to exceed 15 months, per § 192.631(h). Specifically, Alliance's 2021 annual review was completed on October 26, 2021, and its 2022 annual review was completed on January 4, 2023. Alliance failed to complete a review in calendar year 2022. Alliance indicated it was having difficulty scheduling various groups to support the review. This caused them to fail the interval requirement prescribed in § 192.631(h).

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$266,015 per violation per day the violation persists, up to a maximum of \$2,660,135 for a related series of violations. For violation occurring on or after January 6, 2023, and before December 28, 2023, the maximum penalty may not 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 \$2,391,412 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.

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.

Proposed Compliance Order

With respect to Item 2 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Alliance. 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 3, 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 this item. Failure to do so may result in additional enforcement action.

Response to this Notice

This Notice is issued in accordance with 49 C.F.R. § 190.207(c). Any response you may have submitted to the original Notice is no longer applicable. You must respond as set forth below.

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Enforcement Proceedings*. Please refer to this document and note the response options. All material you submit in response to this enforcement action may be 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).

Following your receipt of this Notice, you have 30 days to respond as described in the enclosed *Response Options*. 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. If you are responding to this Notice, we propose that you submit your correspondence to my office within 30 days from receipt of this Notice. The Region Director may extend the period for responding upon a written request timely submitted demonstrating good cause for an extension.

In your correspondence on this matter, please refer to **CPF 3-2024-030-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

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

cc: Heather Christie-Burns, Pembina US, Vice President, Transmission Pipelines,
hcburns@pembina.com
Bob Bachmeier, Senior Advisor Regulatory Pembina US, bbachmeier@pambina.com

Enclosures: *Proposed Compliance Order*
Response Options for Pipeline Operators in Enforcement Proceedings

PROPOSED COMPLIANCE ORDER

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

- A. In regard to Item 2 of the Notice, pertaining to Alliance's failure to identify specific points as safety-related points in its CRM Plan Section 3-4.3.3.3 and to implement them in its SCADA master database to assure alarms are accurate and support safe pipeline operations. Alliance must review the SCADA points to determine which apply to the Special Permit and develop SCADA monitoring points if they are not currently available. These safety-related points must be identified in its procedure and implemented in the SCADA master database. A review of all points must be conducted to verify consistent implementation of points in the SCADA master database, as well as inclusion of points related to power and communication failure within **120** days of receipt of the Final Order. Documentation of compliance must be provided to the Director for review upon completion.
- B. It is requested that Alliance maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Gregory A. Ochs, Director, Central Region, 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.