U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety**

901 Locust Street, Suite 480
Kansas City, MO 64106

# 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 3-2024-042-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.), virtually inspected the liquid 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 a probable violation of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The item inspected and the probable violation is:

1. **§ 195.446 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. . . .**
   **(c) *Provide adequate information*. Each operator must provide its controllers with the information, tools, processes and procedures necessary for the controllers to**

**carry out the roles and responsibilities the operator has defined by performing each of the following:**
**(1) ….**
**(5) Implement section 5 of the API RP 1168 (incorporated by reference, see § 195.3) to establish procedures for when a different controller assumes responsibility, including the content of information to be exchanged.**

Alliance did not record, on the June 9, 2022, day to night Operations Handover Report, an abnormal operating condition (AOC) that occurred during the day shift and was recorded on the event log, due to a failure to establish procedures incorporating section 5 of API RP 1168, as required by § 195.446(c)(5). Specifically, section 5.3.1 applied and it explained, "[i]f an AOC or other abnormal condition exists as defined by the individual operator, it shall be communicated to the incoming shift personnel and any actions taken or planned to remedy the condition shall also be conveyed to the incoming shift personnel and documented." Alliance failed to meet the requirements to establish procedures implementing section 5 of API RP 1168 relating to communicating abnormal operations during shift turnover, per the requirements of § 195.446(c)(5).

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 1 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Alliance Pipeline L.P.. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

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 3-2024-042-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

GREGORY ALAN OCHS Digitally signed by GREGORY ALAN OCHS
Date: 2024.06.03 14:28:42 -05'00'

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*

# <u>PROPOSED COMPLIANCE ORDER</u>

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 1 of the Notice pertaining to failed to record, on the June 9, 2022, day to night, Operations Handover Report, an abnormal operating condition that occurred during the day shift and was recorded on the event log, Alliance Pipeline, L.P., must amend its procedures and forms to include abnormal operating conditions in the shift change documentation and train controllers in the new process within **60** days of receipt of the Final Order.

B. It is requested that Alliance Pipeline L.P. maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Gregory A. Ochs, Director, Central Region, Pipeline 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.