



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; SSeibert@pembina.com;
Bbachmeier@Pembina.com

December 12, 2024

Scott Burrows
President and CEO
Aux Sable Liquid Products
4000, 585-8 Avenue SW
Calgary, AB Canada T2P 1G1

CPF 3-2024-053-NOPV

Dear Mr. Armstrong:

From July 18 through August 12, 2022, 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.), conducted an on-site inspection of Aux Sable Liquid Products' (ASLP) procedures and records in Morris, Illinois. ASLP assets are operated by Pembina with the ASLP being a joint venture company.

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

1. **§ 195.452 Pipeline integrity management in high consequence areas**
 - (a)
 - (j) *What is a continual process of evaluation and assessment to maintain a pipeline's integrity?* –
 - (1)
 - (2) *Verifying covered segments.* An operator must verify the risk factors used in identifying pipeline segments that could affect a high consequence area on at least an annual basis not to exceed 15 months (Appendix C of this part provides additional guidance on factors that can influence whether a pipeline segment could affect a high consequence area). If a change in circumstance indicates that the prior

consideration of a risk factor is no longer valid or that an operator should consider new risk factors, an operator must perform a new integrity analysis and evaluation to establish the endpoints of any previously identified covered segments. The integrity analysis and evaluation must include consideration of the results of any baseline and periodic integrity assessments (see paragraphs (b), (c), (d), and (e) of this section), information analyses (see paragraph (g) of this section), and decisions about remediation and preventive and mitigative actions (see paragraphs (h) and (i) of this section). An operator must complete the first annual verification under this paragraph no later than July 1, 2021.

ASLP failed to complete the continual evaluation to assure pipeline integrity on all of its pipelines, which includes pipeline facilities as required by 195.452(j)(2). ASLP considered its entire liquid pipeline system to be capable of affecting High Consequence Areas (HCAs). As a result, the requirement for conducting analytical reviews and integration of all available information affecting the likelihood and consequences of a possible failure along the pipeline applied to all of ASLP's pipeline, to include pipeline facilities. However, it was determined during PHMSA's inspection that the application of the Risk Identification and Assessment (also typically known as Risk or Information Analysis) in the continual evaluation of facilities piping integrity was not adequately conducted subsequent to ASLP's transition to Pembina's approach for Facilities Threat and Risk Assessment and Data Integration on June 13, 2021. Under Pembina's approach, the continual evaluation and assessment process included the development and implementation of effective inspection plans where facilities piping is broken down into piping systems and circuits and inspected in line with the API RP 570 "Piping Inspection Code" and API RP 574 "Inspection Practices for Piping System Components." These inspection plans were still under development since the transition to Pembina's approach, and not fully established at the time of PHMSA inspection. Consequently, there was no associated documentation to indicate that all necessary Facility Integrity Management Program continual evaluations and risk assessments had been completed to assure pipeline system integrity.

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 ASLP. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Response to this Notice

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 for Pipeline Operators in Enforcement Proceedings*. 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 3-2024-053-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: Scott Seibert, Manager, Environment, Operations & Compliance U.S.,
SSeibert@pembina.com

Bob Bachmeier, Sr. Advisor Regulatory, Bbachmeier@Pembina.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 Aux Sable Liquid Products (ASLP) a Compliance Order incorporating the following remedial requirements to ensure the compliance of ASLP with the pipeline safety regulations:

- A. In regard to Item 1 of the Notice, pertaining to continual process of evaluation and assessment to maintain pipeline integrity, ASLP must complete all of its facility integrity evaluations, threat and risk assessments and data integration in accordance with Pembina's United States Facility Integrity Management Program Document (FIMP-US) and implement any required actions as soon as practicable. Within **60 days** of receipt of the Final Order, ASLP must submit a plan with a list of all current facilities and the timing for evaluation, assessment and associated actions to the Region Director for approval. Once the Region Director approves the plan, ASLP must complete the assessments per the approved plan and submit quarterly reports until completion of the plan.

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