

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

ELECTRONIC MAIL - RETURN RECEIPT REQUESTED

February 11, 2021

Michael Morgan
Vice President, Operations & Engineering
Centurion Pipeline L.P.
3600 West Sam Houston Parkkway, Suite 500
Houston, Texas 77042

CPF 4-2021-005-NOPV

Dear Mr. Morgan:

From April 6, 2020 through September 11, 2020, representatives 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 Centurion Pipeline L.P.'s (Centurion) hazardous liquid pipeline located throughout West Texas, Oklahoma, and New Mexico.

As a result of the inspection, it is alleged that you have committed propable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The items inspected and the probable violations are:

1. § 195.452 Pipeline integrity management in high consequence areas.

(a) ...

(f) *What are the elements of an integrity management program?* An integrity management program begins with the initial framework. An operator must continually change the program to reflect operating experience, conclusions drawn from results of the integrity assessments, and other maintenance and surveillance data, and evaluation of consequences of a failure on the high consequence area. An operator must include, at minimum, each of the following elements in its written integrity management program:

(1) ...

(3) An analysis that integrates all available information about the integrity of the entire pipeline and the consequences of a failure (see paragraph (g) of this section);

Centurion failed to conduct an analysis to integrate all available information about the integrity of the entire pipeline and the consequences of a failure. Specifically, Centurion's risk analysis process failed to identify and evaluate the risks of facilities that can affect high consequence areas (HCA).

During the inspection, PHMSA reviewed the risk analysis process outlined in "Section 4" of Centurion's *Integrity Management Program Manual* (Rev. 9, June 2020) and found that the process failed to require consideration of consequences applicable to facilities that could affect an HCA and may be different from pipeline consequences on the right-of-way.

Additionally, PHMSA reviewed the "Pipeline & Facility Integrity Manager" (PFIM) algorithm used by Centurion for its risk analysis and the results for various HCA segments for calendar years 2017, 2018, and 2019. The records show that Centurion only considered the *pipeline* component in the risk analysis algorithm. Centurion did not consider *facility* components like breakout and pumps located in facilities that could affect HCA.

2. § 195.64 National Registry of Pipeline and LNG Operators.

(a) ...

(c) Changes. Each operator must notify PHMSA electronically through the National Registry of Pipeline and LNG Operators at <http://opsweb.phmsa.dot.gov>, of certain events.

(1) An operator must notify PHMSA of any of the following events not later than 60 days before the event occurs:

(i) ...

(ii) Construction of 10 or more miles of a new or replacement hazardous liquid or carbon dioxide pipeline;

Centurion failed to notify PHMSA electronically through the National Registry of Pipeline and LNG Operators 60 days prior to the construction of 10 or more miles of new or replacement hazardous liquid or carbon dioxide pipeline as required by §195.64(1)(ii).

PHMSA reviewed records of recent projects completed by Centurion between 2017 and 2019. Based on Centurion's records, inspectors found that Centurion did not submit a notification to PHMSA for a new 10-mile construction project for a 10-inch pipeline between Sand Dunes South and its JAL Station located in Lea County New Mexico, in addition to the installation of a new pump station with a connection from adjacent Oxy tank battery. Information gathered during the inspection indicates that Centurion completed this new construction project and the in-service date of the pipeline was July 2018. However, there is no evidence that Centurion notified PHMSA of this new pipeline construction project.

3. § 195.573 What must I do to monitor external corrosion control?

(a) ...

(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).

Centurion failed to take corrective action to address identified deficiencies in corrosion control on its 12-inch Cedar Canyon to JAL pipeline segment, a non-HCA pipeline segment located in Lea County, New Mexico. Under § 195.573(e), operators must correct any identified deficiencies in corrosion control as required by § 195.401(b)(1), which states that whenever an operator discovers a condition that could adversely affect the safe operation of a non-HCA pipeline, it must correct the condition within a reasonable time.

PHMSA reviewed Centurion's annual "CPDM Survey Report" for the 12-inch Cedar Canyon to JAL line segment for calendar years 2018, 2019, and 2020. The records show that the cathodic protection criteria established by Centurion was not achieved during the three inspection cycles for twenty-two test points. The "CPDM Survey Report" indicates that cathodic protection potential readings for these test points were low, and failed to meet the established negative 0.85 volt Pipe-to-Soil "ON" criteria.

Per Centurion's Corrosion Control manual, Section 10.2: Cathodic Protection Criteria (Revision date: 12/2018) states, "pipe-to-soil reading must be at least negative 0.85-volts, with reference to a saturated copper-copper sulfate reference half-cell, while the protective current is applied. Whenever negative 0.85-volts pipe-to-soil is not achieved, the 100 millivolt shift criteria should be applied, until corrective actions are planned to remediate the low potential." PHMSA observed that Centurion did not apply any other criteria to determine the adequacy of cathodic protection for the pipeline segment. And Centurion did not provide any evidence to demonstrate that actions were taken to correct the deficiencies observed in cathodic protection of the pipeline segment.

4. § 195.440 Public awareness

(a) Each pipeline operator must develop and implement a written continuing public education program that follows the guidance provided in the American Petroleum Institute's (API) Recommended Practice (RP) 1162 (incorporated by reference, see § 195.3).

(b) ...

(c) The operator must follow the general program recommendations, including baseline and supplemental requirements of API RP 1162, unless the operator provides justification in its program or procedural manual as to why compliance with all or certain provisions of the recommended practice is not practicable and not necessary for safety.

Centurion failed to follow the general program recommendations, including baseline and the supplemental requirements of API RP 1162, in measuring its *Public Awareness Plan* program effectiveness. Specifically, Centurion failed to measure the bottom-line results of the program by tracking third-party incidents and consequences including: (1) near misses; (2) excavation damage resulting in pipeline failures; and (3) excavation damages that do not result in pipeline failures.

According to *API RP 1162, Section 8.4.4, Measure 4 – Achieving Bottom-line Results*:

“One measure of the bottom-line results is the damage prevention effectiveness of an operator’s Public Awareness Program (PAP) and the change in the number and consequences of third-party incidents. As a baseline, the operator should track the number of incidents and consequences caused by third-party excavators. This should include reported near misses; reported pipeline damage occurrences that did not result in a release; and third-party excavation events that resulted in pipeline failures...”

Based on the record reviewed during the inspection, Centurion completed its *Four-Year Effectiveness Review* for its pipeline system through a third-party contractor, Enertech, on July 12, 2019. However, according to this report, Centurion did not consider the requirements of API RP 1162, Section 8.4.4, “Measure 4 – Achieving Bottom-Line Results,” including tracking the third-party incidents and the consequences of such incidents, in its four-year effectiveness review.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to 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 violations 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 violations 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. For violations occurring prior to November 2, 2015, the maximum penalty may not exceed \$200,000 per violation per day, with a maximum penalty not to exceed \$2,000,000 for a related series of violations. PHMSA has reviewed the circumstances and supporting documentation involved for the above probable violations and recommend that you be preliminarily assessed a civil penalty of \$96,200 as follows:

<u>Item number</u>	<u>PENALTY</u>
Item 3	\$96,200

Warning Item

With respect to Item 2, we have reviewed the circumstances and supporting documents involved in this case and determined not to conduct additional enforcement action or penalty assessment proceedings at this time. We advise you to correct this item promptly. Failure to do so may result in additional enforcement action.

Proposed Compliance Order

With respect to Items 1, 3, and 4, pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Centurion Pipeline L.P. 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 the receipt of this Notice, you have **30** days to submit written comments, or request a hearing under 49 CFR § 190.211. 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. This period may be extended by written request for good cause.

In your correspondence on this matter, please refer to **CPF 4-2021-005-NOPV**, and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Mary McDaniel, P.E.
Director, Southwest Region
Pipeline and Hazardous Materials Safety Administration

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 Centurion Pipeline L.P. (Centurion) a Compliance Order incorporating the following remedial requirements to ensure the compliance of Centurion with the pipeline safety regulations:

- A. In regards to Item 1 of the Notice pertaining to Centurion's failure to identify and evaluate the risks of facilities that could affect high consequence areas (HCAs), Centurion must develop and perform risk analysis to identify and evaluate the risks of facilities that could affect HCAs within **30** days of receipt of the Final Order.
- B. In regard to Item 3 of the Notice pertaining to Centurion's failure to take corrective action to address identified deficiencies in corrosion control and provide an adequate level of cathodic protection for its 12-inch Cedar Cayon to JAL pipeline, Centurion must take corrective action to address identified deficiencies in corrosion control within **90** days of receipt of the Final Order.
- C. In regard to Item 4 of the Notice pertaining to Centurion's failure to include baseline and supplemental requirements of API RP 1162 in measuring its *Public Awareness Plan* program effectiveness, Centurion must conduct an effectiveness review of its *Public Awareness Plan* program and follow the general recommendations, including baseline and supplemental requirements of API RP 1162 within **30** days of receipt of the Final Order.
- D. It is requested (not mandated) that Centurion maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Mary McDaniel, Director, Southwest Region, Pipeline and Hazardous Materials Safety Administration. It is requested that these costs be reported in two categories: 1) the total cost associated with preparation/revision of plans, procedures, studies, and analyses; and 2) the total cost associated with replacements, additions, and other changes to pipeline infrastructure.