



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

8701 S. Gessner, Suite 630
Houston TX 77074

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

ELECTRONIC MAIL - RETURN RECEIPT REQUESTED

April 25, 2022

Pierce Norton
President & CEO
ONEOK NGL Pipeline, LLC
100 West Fifth Street
Tulsa, Oklahoma 74102

CPF 4-2022-008-NOPV

Dear Mr. Norton:

On November 3, 2021, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code (U.S.C.), reviewed ONEOK NGL Pipeline, LLC's (ONEOK) Operator Registry Notification, F-20210211-25309.. The notification, dated February 11, 2021, was filed for the construction of the Big Gulch Pump Station in Dunn County, North Dakota.

As a result of this review, it is alleged that ONEOK has committed a probable violation of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The item investigated and the probable violation is:

1. § 195.64 National Registry of Operators.

(a)...

(c) *Changes.* Each operator must notify PHMSA electronically through the National Registry of Operators at <https://portal.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) Construction or any planned rehabilitation, replacement, modification, upgrade, uprate, or update of a facility, other than a section of line pipe, that costs \$10 million or more. If 60 day notice is not feasible because of an emergency, an operator must notify PHMSA as soon as practicable.

ONEOK failed to notify PHMSA electronically through the National Registry 60 days before the start of construction of the Big Gulch Pump Station (Site 794) in accordance with § 195.64(c)(1)(i). The estimated construction costs associated with the Big Gulch Pump Station were more than \$10 million. ONEOK notified PHMSA of the Big Gulch Pump Station construction project through the National Registry of Operators (Notification F-20210211-25309) on February 11, 2021, with an anticipated start date of February 22, 2021, which was only 11 days prior to the anticipated start date. With the start of construction on February 22, 2021, the notification did not meet the required 60 day notification requirement, it was 49 days late.

After reviewing Notification F-20210211-25309, PHMSA requested documentation regarding the actual construction start date, signed contract/bid agreement between operator and contractor, and daily construction reports of the Big Gulch Pump Station project. Upon request, ONEOK submitted construction activity documentation including a signed contract between Martin Construction Inc. and ONEOK for site grading.

The above-referenced contract (i.e Master Service Agreement/work order) shows that it was executed by both parties on February 25, 2021, 14 days after ONEOK submitted the construction notification to PHMSA. The agreement also shows that work was scheduled to begin on February 22, 2021, which was confirmed in the daily work logs for ONEOK's Big Gulch Pump Station.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to 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 violations 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 violations 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 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.

We have reviewed the circumstances and supporting documentation involved for the above probable violation and recommend that you be preliminarily assessed a civil penalty of \$36,200 as follows:

Item number

1

PENALTY

\$36,200

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 4-2022-008-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

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

Enclosures: *Response Options for Pipeline Operators in Enforcement Proceedings*