



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

12300 W. Dakota Ave., Suite 110
Lakewood, CO 80228

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

VIA ELECTRONIC MAIL TO: Ellen.mcelrath@contango.com

October 25, 2023

Ms. Ellen McElrath
Vice President – Rockies
Contango Resources
1717 South Boulder, Suite 900
Tulsa, OK 74119

CPF 5-2023-035-NOPV

Dear Ms. McElrath:

From July 25 through July 29, 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.), inspected your control room procedures and records of Contango Resources (Contango) in Midwest, Wyoming.

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

1. § 195.446 Control room management.

(a) ...

(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) ...

(3) Test and verify an internal communication plan to provide adequate means for manual operation of the pipeline safely, at least once each calendar year, but at intervals not to exceed 15 months; ...

Contango failed to test and verify its internal communication plan as required. Specifically, the Contango Environment, Health & Safety DOT CO2 Pipeline Control Room Management Plan section 5.3 states that tabletop drills will be the primary method for testing the internal communications plan. Tabletop drills do not test the ability of Contango staff to communicate with the control room from pipeline right-of-way locations, which would be required for manual operation of the pipeline. This is because manual operation of a pipeline requires operator personnel to be physically located at predetermined points along the right-of-way so they can communicate with the control room staff and provide pipeline operations data. Additionally, the plan fails to provide detail as to when the staff will deploy to the pipeline right-of-way, and how staff will communicate with each other and the control room. Further, the plan fails to provide instructions for documenting the test results to verify that the plan provides adequate means for manual operation of the pipeline safely.

Therefore, Contango failed to test and verify its internal communication plan to provide adequate means for manual operation of the pipeline safely, per § 195.446(c)(3).

2. § 195.446 Control room management.

(a) ...

(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) ...

(4) Test any backup SCADA systems at least once each calendar year, but at intervals not to exceed 15 months; ...

Contango failed to test its backup SCADA systems at least once each calendar year, but at intervals not to exceed 15 months as required. Specifically, during the inspection, a review of Contango's procedures revealed Contango did not have a procedure to test backup SCADA systems. Further, Contango could not provide any records that it had tested its backup SCADA systems.

Therefore, Contango failed to test any backup SCADA systems at least once a calendar year as required pursuant to § 195.446(c)(4).

3. § 195.446 Control room management.

(a) ...

(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) ...

(5) Monitor the content and volume of general activity being directed to and required of each controller at least once each calendar year, but at intervals not exceeding 15 months, that will assure controllers have sufficient time to analyze and react to incoming alarms; ...

Contango failed to monitor the content and volume of general activity being directed to and required of each controller at least once each calendar year, but at intervals not exceeding 15 months, that will assure controllers have sufficient time to analyze and react to incoming alarms. Specifically, during inspection, Contango could not provide any records that demonstrated it monitored the content and volume of general activity being directed to and required of each controller at least once each calendar year, but at intervals not exceeding 15 months, in order to verify controllers have sufficient time to analyze and react to incoming alarms.

Therefore, Contango failed to monitor the content and volume of general activity being directed to and required by each controller as required per § 195.446(e)(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 \$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. For violation 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 documents involved in this case, and have decided not to propose a civil penalty assessment at this time.

Proposed Compliance Order

With respect to items 1, 2 and 3 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Contango Resources.

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*. 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 5-2023-035-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Dustin Hubbard
Director, Western Region, Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration

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

cc: PHP-60 Compliance Registry
PHP-500 J. Dunphy (#22-239214)
Caleb Dill, Supervisor, Operations – Caleb.Dill@contango.com

PROPOSED COMPLIANCE ORDER

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

- A. In regard to Item 1 of the Notice pertaining to Contango's failure to test and verify the internal communications plan at least once each calendar year, but at intervals not to exceed 15 months. Contango Resources must amend its procedures to provide for the dispatching of pipeline staff to sites along the pipeline to test and verify the internal communications plan and the ability of staff to communicate with the control room from the field locations. Contango must amend the internal communications plan, conduct a test of the internal communications plan using the amended procedures and submit both the amended procedures and documentation of the test to PHMSA within **60** days of receipt of the Final Order.
- B. In regard to Item 2 of the Notice pertaining to Contango's failure to test any backup SCADA systems at least once each calendar year, but at intervals not to exceed 15 months. Contango must amend its procedures to provide detailed instructions for the testing of each backup SCADA system and documenting each test. Contango must test each backup SCADA system using the amended procedures and submit both the amended procedures and documentation of each test to PHMSA within **60** days of receipt of the Final Order.
- C. In regard to Item 3 of the Notice pertaining to Contango's failure to monitor the content and volume of general activity being directed to and required of each controller. Contango must amend its procedures to provide detailed instructions for reviewing and documenting the analysis of the content and volume of general activity being directed to and required of each controller that will assure controllers have sufficient time to analyze and react to incoming alarms. Contango shall conduct a review and analysis of the content and volume of general activity being directed to and required of each controller using the amended procedures and submit both the amended procedures and documentation of the review and analysis to PHMSA within **60** days of receipt of the Final Order.
- D. It is requested (not mandated) that Contango maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Dustin Hubbard, Director, Western 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.